

CHAPTER 22

DEPARTMENT OF LOCAL AFFAIRS AND DEVELOPMENT

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22.03 Organization of department. (1) PURPOSES. The purposes of this chapter are to recognize the need in an increasingly complex and technical society for closer co-operation and co-ordination between state and local governments so they may continue to fulfill their traditional roles in our system of government; to foster and encourage a pattern of state-local relationships that facilitate effective development and utilization of state and local resources in meeting citizen needs; to promote the development and maximum wise use of the natural and human resources of the state so as to provide a balanced and dynamic economy; and to insure that the state is prepared to cope with the emergencies resulting from enemy action and natural disaster.

(2) LIBERAL CONSTRUCTION OF STATUTES. Statutes applicable to the department of local affairs and development shall be construed liberally in aid of the purposes declared in sub. (1).

22.04 Definitions. In ch. 22, unless the context clearly indicates otherwise:

(1) "Department" means the department of local affairs and development.

(2) "Secretary" means the secretary of local affairs and development.

22.05 Purposes. The department of local affairs and development shall carry out the purposes of this chapter by advising the governor and legislature on the role of the state in state-local affairs; making continuing studies of the problems affecting state and local government relations and recommendations for relieving these problems; coordinating state agency activities affecting local governments and local government participation in and utilization of federal aid programs; and functioning in any other

reasonable manner that will accomplish the stated purposes of this chapter.

22.06 Secretary. The secretary shall:

(1) Direct the faithful execution of the statutory duties and powers assigned to the department and shall advise the governor and legislature with respect to matters affecting urban affairs and intergovernmental relations generally and especially on the role of the state in these matters.

(2) Establish an office in Milwaukee under a special assistant who shall be selected under the classified service. The special assistant shall administer the department's Milwaukee office and be directly concerned, as the secretary's representative, with urban and metropolitan problems.

(3) Delegate any of his powers and duties to such officers and employes of the department as he may designate and may authorize such successive redelegations of such powers and duties as he deems desirable.

(4) Submit and adopt all necessary plans; enter into contracts; accept gifts, grants and federal funds; make rules and do all things necessary and proper to carry out this chapter.

(5) Appoint, subject to s. 230.08 (4) (a), a person to be the head of the housing function. If such person is appointed in the unclassified service, he or she shall serve at the pleasure of the secretary.

History: 1971 c. 125; 1977 c. 418.

22.11 Coordinating community development programs. The successful discharge of this chapter demands that all activities and programs of state agencies which have an impact on community affairs be fully coordinated. State agencies shall cooperate fully with the secretary and the governor in fulfilling this chapter.

22.13 The department of local affairs and development. (1) PURPOSE. The legislature determines that a pattern of state-local relations be established that will facilitate closer coordination and co-operation between state and local governments. Through careful study the department shall recommend methods of financing local government operation as the foundation for an improved pattern of state-local relations.

(2) DUTIES. The department of local affairs shall:

(a) Carry out continuing studies and analyses of the urban problems faced by Milwaukee and other urban areas within the state and develop such recommendations for administrative or legislative action as appear necessary. In carrying out such studies and analyses, particular attention should be paid to the development of financing methods and programs which will effectively supplement local effort.

(b) Carry out continuing studies and analyses of the problems faced by local governments within the state and develop such recommendations for administrative or legislative action as appear necessary.

(c) Study existing legal provisions that affect the structure and financing of local government and those state activities which involve significant relations with local government units; recommend such changes in these provisions and activities as appear necessary to strengthen local government.

(d) Review proposed changes in local government boundaries and evaluate and recommend to communities involved those changes which are in the best interest of the state and the communities involved.

(e) Cooperate with and provide technical assistance to county, town, village, city and regional planning commissions, parks or recreation boards, community development groups, community action agencies, and similar agencies created for the purposes of aiding and encouraging an orderly, productive and coordinated development of the state, and may charge for its services to the requesting entity.

(f) Assist the governor in co-ordinating the activities of state agencies which have an impact on the solution of community development problems and the implementation of community plans.

(g) Encourage and, when requested, assist the efforts of local governments to develop mutual and co-operative solutions to their common problems.

(h) Serve as a clearinghouse for information, data and other materials which may be helpful

or necessary to local governments to discharge their responsibilities.

(i) Assist and co-operate with other state agencies, organizations of elected officials in the state, local governments, federal agencies, and any other appropriate agency or organization in carrying out assigned functions and duties; to facilitate the local affairs function of the department, the bureau of community development and other appropriate units of the extension division of the university of Wisconsin shall coordinate their activities with the department, and the department shall co-operate with them in providing facts and information necessary in the conduct of research or the providing of professional advice in their respective fields.

(j) Consult with and encourage participation by private groups, individuals, and organizations in carrying out the purposes of the department.

(k) Develop and with the consent of the community involved, test or demonstrate model programs and projects, contract to administer certain functions or services within a community of the state for such purposes, or to otherwise provide a program of practical research in the solution of community problems.

(m) Assist in the development and implementation of human resource programs through technical assistance, administration of state and federal grant programs in support of governmental or private activities that serve the needs of disadvantaged persons, particularly lower income persons, youth and members of minority groups, and coordinate activities in conjunction with the federal economic opportunity act of 1964, as amended.

(n) Administer state grant programs to strengthen local government through support of experimental, cooperative activities and inter-governmental relations, supplementation of local revenue sources, training of local government officials and staff personnel, and other activities consistent with the purposes of this chapter.

(o) Provide personnel management consultative assistance to towns, villages, cities and counties and may provide such assistance to other local public bodies, boards, commissions, departments or agencies.

(3) HOUSING ASSISTANCE. (a) *Grants.* The department shall establish and administer programs of grants to sponsors of low and moderate income housing projects. Eligible sponsors may include housing authorities under ss. 59.075, 61.73 and 66.40 to 66.404, nonstock and non-profit corporations. Grants may be approved for the support of organizational expenses, administrative costs, social services, technical services and training expenses incurred or expected to be

incurred by eligible sponsors when such costs and expenses are not reimbursable from other private or public loan, grant or mortgage sources.

(b) *Loans.* The department may make loans from the appropriation made under s. 20.545 (2) (j) to sponsors of low and moderate income housing projects. No loan may be made unless the secretary may reasonably anticipate that a federally aided mortgage or grant may be obtained for permanent financing of the project. The loan money may be used only to defray the organizational expenses of such housing project including, without limitation because of enumeration:

1. Payments for options, deposits or contracts to purchase properties on the proposed housing project site.

2. Legal and organizational expenses, including attorney and consultant fees and salaries, office rent and other incidental expenses for a project manager and clerical staff.

3. Fees for preliminary feasibility studies, planning advances, borings, surveys, engineering and architectural work.

4. Expenses for tenant surveys and market analyses.

(c) *Energy assistance grants.* The department may make grants for energy assistance payments to community action agencies, counties and units of local government to alleviate immediate threats to life or health. Community action agencies and units of local government may use the grants under this paragraph solely to provide financial assistance and loans and may not use the grants for the costs of administration. Assistance provided from the appropriation under s. 20.545 (2) (f) shall be allocated to community action agencies for use in specifically designated counties. The department shall designate the amounts to be used in each county according to a formula including the following factors: the percentage of population having incomes below the poverty level, the number of degree days and the percentage of the population which is both low-income and elderly. The community action agencies may make financial assistance and loans to low-income persons and families who are ineligible for or who are unable to be aided by general relief programs, local voluntary agencies, categorical programs, crisis intervention programs operated by community action agencies and all other assistance programs. The community action agencies shall limit the financial assistance to one episode for each family and may make the financial assistance available only if no other source of financial assistance or loans is available to the family.

History: 1971 c. 125; 1973 c. 243 s. 82; 1975 c. 39, 224; 1977 c. 2.

Note: Chapter 2, laws of 1977, section 6, provides that (3) (c) shall be in effect until June 30, 1977.

22.14 Department of local affairs and development. (1) **PURPOSE.** The legislature determines that the proper development of the state as an attractive place to live and work will be enhanced through the development and expansion of comprehensive planning programs by local government units and metropolitan and regional areas.

(2) **DUTIES.** The department shall:

(a) Encourage, assist and advise regional, county and local agencies or bodies responsible for planning and zoning in the programs they administer or may wish to initiate.

(b) Help local units of government to plan and initiate development projects.

(c) Provide planning assistance to public planning agencies including, without limitation because of enumeration, cities, villages, towns, counties, regional planning agencies and councils of government, including such entities, when operating or cooperating under s. 66.30, which have the resources and administrative personnel to carry out such planning.

(d) Encourage and promote the formation of metropolitan and regional planning agencies and provide assistance to such agencies so that integrated area-wide comprehensive plans will be developed.

(e) As necessary prepare plans for any entity or planning agency referred to under par. (c) at the request of such entity or planning agency, and shall charge the cost of its services to the requesting entity or planning agency.

(f) Assist planning for metropolitan or regional areas, or areas where rapid urbanization has resulted or is expected to result, including areas extending into adjoining states.

(g) Administer state platting regulations in accordance with ch. 236.

(h) Administer state and federal grant programs to assist and strengthen local and regional planning.

(i) At the request of a town, village, city or county, call a meeting of all appropriate state and local agencies to communicate to each agency involved what each other agency is undertaking to do in a given planning area and provide an opportunity for all agencies to coordinate their activities in the given area.

(j) Provide for continuing communication between all agencies involved in, and for additional agencies as they become involved in, planning or operating in a given planning area.

History: 1971 c. 125.

22.16 Emergency government. (1) **DECLARATION OF POLICY.** To prepare the state and

its subdivisions to cope with emergencies resulting from enemy action and natural or man-made disasters, it is declared to be necessary to establish an organization for emergency government, conferring upon the governor and others specified the powers and duties provided by ss. 22.16 to 22.22.

(2) DEFINITIONS. (a) "Emergency government" includes "civil defense" and means all measures undertaken by or on behalf of the state and its subdivisions:

1. To prepare for and minimize the effect of enemy action and natural or man-made disaster upon the civilian population.

2. To effectuate emergency repairs to, or the emergency restoration of, vital public utilities and facilities destroyed or damaged by such action or disaster.

(b) "Civil defense" means all measures undertaken by or on behalf of the state and its subdivisions to prepare for and minimize the effect of enemy action upon the civilian population.

(c) "Enemy action" means hostile action by a foreign power which threatens the security of this state or a portion thereof.

(3) POWERS AND DUTIES OF THE GOVERNOR.

(a) The governor shall:

1. Review orders establishing or altering emergency government areas.

2. Review state emergency government plans and modifications thereof.

3. Employ the division of emergency government during a state of emergency proclaimed by him, issue orders and delegate such authority as is deemed necessary to the administrator.

4. Determine responsibilities of state departments and independent agencies in respect to emergency government and by order direct such departments and agencies in utilizing personnel, facilities, supplies and equipment before and during a state of emergency.

(b) The governor may:

1. Proclaim a state of emergency for the state or any portion thereof if he determines that an emergency resulting from enemy action or natural or man-made disaster exists. The duration of such state of emergency shall not exceed 60 days as to emergencies resulting from enemy action or 30 days as to emergencies resulting from natural or man-made disaster, unless either is extended by joint resolution of the legislature. A copy of the proclamation shall be filed with the secretary of state. The proclamation may be revoked at the discretion of either the governor by written order or the legislature by joint resolution.

2. On behalf of the state, enter into mutual aid agreements concerning emergency government with other states.

3. Accept from any source gifts and grants including services for emergency government purposes and may authorize state, county, town and municipal officers to receive such gifts and grants. When grants require county, town or municipal participation, the state may transfer title to equipment acquired through such agreement to participating counties, towns and municipalities.

4. During a state of emergency, declare priority of emergency government contracts over other contracts, allocate materials and facilities in his discretion, and take, use and destroy private property for emergency government purposes. Such taking, use or destruction shall be in the name of the state. Records shall be kept of such action and such records shall be evidence of a claim against the state. Payment of such claim shall be made under s. 16.53 (8).

5. During a state of emergency, issue such orders as he deems necessary for the security of persons and property.

6. During a state of emergency, contract on behalf of the state with any person to provide equipment and services on a cost basis to be used in disaster relief.

(4) POWERS AND DUTIES OF THE SECRETARY.

(a) The secretary shall:

1. Subject to approval by the governor, develop and promulgate a state plan of emergency government for the security of persons and property which shall be mandatory during a state of emergency.

2. Prescribe and carry out state-wide training programs and exercises to develop emergency government proficiency, disseminate information including warnings of enemy action, serve as the principal assistant to the governor in the direction of emergency government activities and coordinate emergency government programs between counties.

3. Furnish guidance and develop and promulgate standards for emergency government programs for counties, towns and municipalities, and prescribe nomenclature for all levels of emergency government.

4. Withhold or recover grants under sub. (14).

(b) The secretary may:

1. Divide the state into emergency government areas composed of whole counties by general or special written orders subject to approval by the governor, and modify the boundaries thereof as changed conditions warrant. Such areas shall be classified and designated in accordance with standards promulgated under the federal civil defense act of 1950, as amended.

2. Appoint a head of emergency government for each area established in accordance with subd. 1 under the classified service on either a

part-time or full-time basis, or may request the governor to designate any state officer or employe as acting area head on a part-time basis.

3. Designate and post highways as emergency government routes closed to all but authorized vehicles when required for training programs and exercises.

4. Prescribe traffic routes and control traffic during a state of emergency.

5. Organize and train state mobile support units to aid any area during a state of emergency. Such units may participate in training programs and exercises both within and outside the state.

6. Act to alleviate immediate threats to life or health caused by the unavailability or scarcity of energy, by drought conditions or by natural disasters. Such actions may include, but are not limited to, supporting the operation and use of alternate living arrangements, and transportation to such living arrangements.

(5) POWERS AND DUTIES OF AREA HEADS. Area heads of emergency government may exercise such powers as are delegated and shall perform such duties as are assigned to them by the secretary.

(6) POWERS AND DUTIES OF COUNTIES AND MUNICIPALITIES. (a) The governing body of each county, town and municipality shall adopt an effective program of emergency government consistent with the state plan of emergency government and, except at the county level in counties having a county executive, shall appoint a head of emergency government services. Each such governing body may appropriate funds and levy taxes for this program.

(b) In counties having a county executive under s. 59.031, the county board shall designate the county executive or confirm his appointee as county head of emergency government services.

(c) Each county board shall designate a committee of the board as a county emergency government committee whose chairman shall be the chairman of the county board. The committee, in counties having a county executive under s. 59.031, shall retain policy-making and rule-making powers in the establishment and development of county emergency government plans and programs.

(d) During the continuance of a state of emergency proclaimed by the governor the county board of each county situated within the area to which the governor's proclamation applies may employ the county emergency government organization and the facilities and other resources of said organization to cope with the problems of the emergency, and the governing body of each municipality and town situated

within said area shall have similar authority with respect to municipal emergency government organizations, facilities and resources. Nothing in ss. 22.16 to 22.22 shall be construed to prohibit counties and municipalities from employing their emergency government organizations, facilities and resources to cope with the problems of local public emergencies except where restrictions are imposed by federal regulations on property donated by the federal government.

(7) POWERS AND DUTIES OF HEAD OF EMERGENCY GOVERNMENT SERVICES. (a) The head of emergency government services in each county, town and municipality shall for his respective county, town or municipality, develop and promulgate emergency government plans consistent with state plans, direct the emergency government program and perform such other duties related to emergency government as are required by the governing body and the emergency government committee of the governing body when applicable.

(b) The head of emergency government services in each county shall coordinate and assist in developing town and municipal emergency government plans within the county, integrate such plans with the county plan, advise the department of all emergency government planning in the county and submit to the secretary such reports as he requires, direct and coordinate emergency government activities throughout the county during a state of emergency, and direct countywide emergency government training programs and exercises.

(c) The head of emergency government services in each town and municipality shall direct local emergency government training programs and exercises, direct participation in emergency government programs and exercises ordered by the county head of emergency government services and the secretary, and advise the county head of emergency government services on local emergency government programs and submit to him such reports as he requires.

(d) During the continuance of a state of emergency proclaimed by the governor, the head of emergency government services in each county, town and municipality, on behalf of his or her respective county, town or municipality, may contract with any person to provide equipment and services on a cost basis to be used in disaster relief.

(7m) EMERGENCY USE OF VEHICLES. In responding to an official request for help during any state of emergency, any person may operate any vehicle without regard for motor vehicle registration laws and without being subject to arrest under s. 341.04.

(8) COOPERATION. (a) Counties, towns and municipalities may cooperate under s. 66.30 to furnish services, combine offices and finance emergency government services.

(b) Counties, towns and municipalities may contract for emergency government services with political subdivisions, emergency government units and civil defense units of this state, and upon prior approval of the secretary, with such entities in bordering states. A copy of each such agreement shall be filed with the secretary within 10 days after execution thereof.

(c) The state and its departments and independent agencies and each county, town and municipality shall furnish whatever services, equipment, supplies and personnel are required of them under ss. 22.16 to 22.22.

(9) PERSONNEL. (a) No emergency government organization established under this section shall participate in any form of political activity or be employed directly or indirectly for any political activity.

(b) No emergency government organization established under this section shall be employed to interfere with the orderly process of a labor dispute.

(c) No person shall be employed or associated in any capacity in any emergency government organization under this section who advocates a change by force or violence in the constitutional form of government of the United States or this state or who has been convicted of or is under indictment or information charging any subversive act against the United States.

(d) Employees of municipal and county emergency government units are employees of the municipality or county to which the unit is attached for purposes of worker's compensation benefits. Employees of the area and state emergency government units are employees of the state for purposes of worker's compensation benefits. Volunteer emergency government workers are employees of the emergency government unit with whom duly registered in writing for purposes of worker's compensation benefits. An emergency government employee or volunteer who engages in emergency government activities upon order of any echelon in the emergency government organization other than that which carries his or her worker's compensation coverage shall be eligible for the same benefits as though employed by the governmental unit employing him or her. Any employment which is part of an emergency government program including but not restricted because of enumeration, test runs and other activities which have a training objective as well as emergency government activities during an emergency proclaimed in accordance with ss. 22.16 to 22.22 and which

grows out of, and is incidental to, such emergency government activity is covered employment. Members of an emergency government unit who are not acting as employees of a private employer during emergency government activities are employees of the emergency government unit for which acting. If no pay agreement exists or if the contract pay is less, pay for worker's compensation purposes shall be computed in accordance with s. 102.11.

(e) Emergency government employees as defined in par. (d) shall be indemnified by their sponsor against any tort liability to third persons incurred in the performance of emergency government activities while acting in good faith and in a reasonable manner. Emergency government activities constitute a governmental function.

(f) If the total liability for worker's compensation benefits under par. (d), indemnification under par. (e) and loss from destruction of equipment under sub. (10), incurred in any calendar year exceeds \$1 per capita of the sponsor's population, the state shall reimburse the sponsor for the excess. Payment shall be made from the appropriation in s. 20.545 (1) (a) on certificate of the secretary.

(g) Emergency government employees as such shall receive no pay unless specific agreement for pay is made.

(10) BEARING OF LOSSES. Any loss arising from the damage to or destruction of government-owned equipment utilized in any authorized emergency government activity shall be borne by the owner thereof.

(11) EXEMPTION FROM LIABILITY. No person who provides equipment or services under the direction of the governor, the secretary or the head of emergency government services in any county, town or municipality during a state of emergency declared by the governor is liable for the death of or injury to any person or damage to any property caused by his or her actions, except where the trier of fact finds that the person acted intentionally or with gross negligence. This subsection does not affect the right of any person to receive benefits to which he or she would otherwise be entitled under the worker's compensation law or under any pension law, nor does it affect entitlement to any other benefits or compensation authorized by state or federal law.

(12) POWERS OF PEACE OFFICERS. During any state of emergency proclaimed by the governor or during any training program or exercises authorized by the secretary, any peace officer or traffic officer of the state, or of a county, city, village or town, when legally engaged in traffic control, escort duty or protective service,

may carry out such functions at any point within the state but shall be subject to the direction of the secretary through the sheriff of the county in which an assigned function is performed.

(13) RED CROSS NOT AFFECTED. Nothing contained in this section shall limit or in any way affect the responsibility of the American National Red Cross as authorized by the congress of the United States.

(14) AUTHORITY TO WITHHOLD GRANTS. If the secretary finds that any political subdivision of the state has not complied with the requirement of this section that it establish and maintain an operating emergency government organization, he may refuse to approve grants of funds or items of equipment to such political subdivision until it complies. If such political subdivision fails to use funds or items of equipment granted to it through the secretary in accordance with the agreement under which the grant was made, the secretary may refuse to make any additional grants to such political subdivision until it has complied with the conditions of the prior grant, and he may start recovery proceedings on the funds and items of equipment which have not been used in accordance with the conditions of the grant.

(15) PENALTIES. Whoever intentionally fails to comply with the directives of emergency government authorities promulgated under this section during a state of emergency or during any training program or exercises may be fined not more than \$200 or imprisoned not more than 90 days or both.

History: 1971 c. 211 s. 126; 1975 c. 147 s. 54; 1975 c. 199; 1977 c. 2; 1977 c. 397.

A disaster training exercise is covered employment for workmen's compensation purposes under (9) (d), a person remaining the employe of his or her initial emergency government unit for the duration of an emergency government activity. Sub. (9) (f) also construed. 62 Atty. Gen. 217.

22.165 State traffic patrol and conservation warden duties during civil disorder.

Without proclaiming a state of emergency, the governor may, in writing filed with the secretary of state, determine that there exists a condition of civil disorder or a threat to the safety of persons on state property or damage or destruction to state property. Upon such filing, he may call out the state traffic patrol or the conservation warden force or members thereof for use in connection with such threat to such life or property. For the duration of such threat, as determined by the governor, such officers shall have the powers of a peace officer as set forth in s. 59.24, except that such officers shall not be used in or take part in any dispute or controversy between employer or employe concerning wages, hours, labor or working conditions.

22.17 Emergency seat of state government. (1) DESIGNATION OF EMERGENCY TEMPORARY LOCATION. Whenever, during a state of emergency it becomes imprudent, inexpedient or impossible to conduct the affairs of state government at the state capital, the governor shall, as often as the exigencies of the situation require, by proclamation designate an emergency temporary location for the seat of government at such place within or without this state as he deems advisable, and shall take such action and issue such orders as are necessary for an orderly transition of the affairs of state government to such emergency temporary location. If practicable, the emergency temporary location so designated by the governor shall conform to that provided for in the current emergency government plan authorized by s. 22.16. Such emergency temporary location shall remain as the seat of government until the governor establishes a new location under this section, or until the emergency is ended under s. 22.16 and the seat of government is returned to its normal location.

(2) EXERCISE OF GOVERNMENTAL AUTHORITY. While the seat of government remains at such temporary location all official acts required by law to be performed at the seat of government by any officer, independent agency, department or authority of this state, including the convening and meeting of the legislature in regular or special session, shall be as valid and binding when performed at such emergency temporary location as if performed at the normal location.

22.18 Emergency temporary locations of government for counties, towns and municipalities. (1) DESIGNATION OF EMERGENCY TEMPORARY LOCATIONS.

Whenever during a state of emergency it becomes imprudent, inexpedient or impossible to conduct the affairs of local government at the regular or usual place or places thereof, the governing body of each county, town and municipality of this state may meet at any place within or without the territorial limits of such political subdivision on the call of the presiding officer or his successor, and shall proceed to establish and designate by ordinance, resolution or other manner, alternate or substitute sites or places as the emergency temporary locations of government where all, or any part, of the public business may be transacted and conducted during the emergency situation. Such alternate or substitute site or places may be within or without the territorial limits of such county, town or municipality and may be within or without those of the state. If practicable, they shall be the sites or places designated as the

emergency temporary locations of government in the current emergency government plan.

(2) EXERCISE OF GOVERNMENTAL AUTHORITY. While the public business is being conducted at an emergency temporary location, the governing body and other officers of a county, town or municipality of this state shall have, possess and exercise, at such location, all of the executive, legislative, administrative and judicial powers and functions conferred upon such body and officers under state law. Such powers and functions, except judicial, may be exercised in the light of the exigencies of the emergency situation without regard to or compliance with time-consuming procedures and formalities prescribed by law and pertaining thereto. All acts of such body and officers shall be as valid and binding as if performed within the territorial limits of their county, town or municipality.

(3) PRIORITY OF LEGISLATION. This section shall control notwithstanding any statutory, charter or ordinance provision to the contrary or in conflict herewith.

22.19 Succession to local offices. The governing body of any county, town or municipality may enact such ordinances and resolutions as are necessary to provide for the continuity of government in the event of and throughout the duration of a state of emergency resulting from enemy action. Such ordinances and resolutions shall provide a method by which temporary emergency appointments to public office are made, except as limited by express constitutional provisions and shall define the scope of the powers and duties which may be exercised, and shall provide for termination of the appointment so made. This section shall control notwithstanding any statutory provision to the contrary or in conflict herewith.

22.20 Succession to office. (1) DECLARATION OF POLICY. Because of the possibility of enemy attack upon the United States, it is determined and declared to be necessary to assure the continuity and effective operation of the government of this state and of its political subdivisions in the event of such attack, by providing for additional persons who can temporarily exercise the powers and discharge the duties of state and local offices.

(2) DEFINITIONS. As used in this section unless the context clearly requires otherwise:

(a) "Unavailable" means that during a state of emergency resulting from enemy action, either a vacancy in office exists and there is no deputy authorized to exercise all of the powers and discharge the duties of the office, or that the

lawful incumbent of the office and his duly authorized deputy are absent or unable to exercise the powers and discharge the duties of the office.

(b) "Emergency interim successor" means a person designated under this section, if the officer is unavailable, to exercise the powers and discharge the duties of an office until a successor is appointed or elected and qualified as provided by law or until the lawful incumbent is able to resume the exercise of the powers and discharge the duties of the office.

(c) "Office" includes all state and local offices, the powers and duties of which are defined by law, except the office of governor, and except those in the legislature and the judiciary. An "officer" is a person who holds an office.

(d) "Attack" means any action taken by an enemy of the United States causing or threatening to cause, substantial damage or injury to persons or property in the state in any manner.

(e) "Political subdivision" includes counties, towns, municipalities, special districts, authorities, and other public corporations and entities whether organized and existing under charter or general law.

(3) EMERGENCY INTERIM SUCCESSORS TO OFFICE OF GOVERNOR. If the governor is unavailable, and if the lieutenant governor and the secretary of state are unavailable, the attorney general, state treasurer, speaker of the assembly, and the president pro tempore of the senate shall in the order named if the preceding named officers are unavailable, exercise the powers and discharge the duties of the office of governor until a new governor is elected and qualified, or until a preceding named officer becomes available; but no emergency interim successor to the aforementioned offices may serve as governor.

(4) EMERGENCY INTERIM SUCCESSORS FOR STATE OFFICERS. All state officers, subject to such regulations as the governor (or other official authorized under the constitution or this section to exercise the powers and discharge the duties of the office of governor) may issue, shall, in addition to any deputy authorized to exercise all of the powers and discharge the duties of the office, designate by title emergency interim successors and specify their order of succession. The officer shall review and revise, as necessary, designations made pursuant to this section to ensure their current status. The officer shall designate a sufficient number of such emergency interim successors so that there will be not less than 3 nor more than 7 such deputies or emergency interim successors or any combination thereof, at any time. If any state officer is unavailable following an attack, and if his deputy, if any, is also unavailable, the powers of his office shall be exercised and the duties of his

office shall be discharged by his designated emergency interim successors in the order specified. Such emergency interim successors shall exercise said powers and discharge said duties only until such time as the governor under the constitution or authority other than this section or other official authorized under the constitution or this section to exercise the powers and discharge the duties of the office of governor may, where a vacancy exists, appoint a successor to fill the vacancy or until a successor is otherwise appointed, or elected and qualified as provided by law; or an officer or his deputy or a preceding named emergency interim successor becomes available to exercise, or resume the exercise of, the powers and discharge the duties of his office.

(5) ENABLING AUTHORITY FOR EMERGENCY INTERIM SUCCESSORS FOR LOCAL OFFICES. With respect to local offices for which the governing bodies of political subdivisions may enact resolutions or ordinances relative to the manner in which vacancies will be filled or temporary appointments to office made, such governing bodies are hereby authorized to enact resolutions or ordinances providing for emergency interim successors to offices of the aforementioned governmental units. Such resolutions and ordinances shall not be inconsistent with this section.

(6) EMERGENCY INTERIM SUCCESSORS FOR LOCAL OFFICERS. This section applies to officers of all political subdivisions not included in sub. (5). Such officers, subject to such regulations as the executive head of the political subdivision issues, shall designate by title, if feasible, or by named person, emergency interim successors and specify their order of succession. The officer shall review and revise, as necessary, designations made pursuant to this section to ensure their current status. The officer shall designate a sufficient number of persons so that there will be not less than 3 nor more than 7 deputies or emergency interim successors or any combination thereof at any time. If any officer of any political subdivision or his deputy provided for pursuant to law is unavailable, the powers of the office shall be exercised and duties shall be discharged by his designated emergency interim successors in the order specified. The emergency interim successor shall exercise the powers and discharge the duties of the office to which designated until such time as a vacancy which may exist is filled in accordance with the constitution or statutes or until the officer or his deputy or a preceding emergency interim successor again becomes available to exercise the powers and discharge the duties of his office.

(7) STATUS AND QUALIFICATIONS OF DESIGNEES. No person shall be designated or serve as an emergency interim successor unless he is eligible under the constitution and statutes to hold the office to which powers and duties he is designated to succeed, but no constitutional or statutory provision prohibiting local or state officials from holding another office shall be applicable to an emergency interim successor.

(8) FORMALITIES OF TAKING OFFICE. Emergency interim successors shall take such oath as may be required for them to exercise the powers and discharge the duties of the office to which they may succeed. No person, as a prerequisite to the exercise of the powers or discharge of the duties of an office to which he succeeds, shall be required to comply with any other provision of law relative to taking office.

(9) PERIOD IN WHICH AUTHORITY MAY BE EXERCISED. Officials authorized to act as governor pursuant to this section and emergency interim successors are empowered to exercise the powers and discharge the duties of an office as herein authorized only during the continuance of an emergency resulting from enemy action in the form of an attack. The legislature, by joint resolution, may at any time terminate the authority of said emergency interim successors to exercise the powers and discharge the duties of office as herein provided.

(10) REMOVAL OF DESIGNEES. Until such time as the persons designated as emergency interim successors are authorized to exercise the powers and discharge the duties of an office in accordance with this section, said persons shall serve in their designated capacities at the pleasure of the designating authority.

(11) DISPUTES. Any dispute concerning a question of fact arising under this section with respect to an office in the executive branch of the state government, except a dispute of fact relative to the office of governor, shall be adjudicated by the governor or other official authorized under the constitution or this section to exercise the powers and discharge the duties of the office of governor and his decision shall be final.

22.21 Public shelters; immunity from civil liability.

(1) Any person owning or controlling real estate or other premises who voluntarily and without compensation grants to the state or any of its political subdivisions a license or privilege, or otherwise permits the state or any of its political subdivisions to inspect, designate and use the whole or any part thereof for the purpose of sheltering persons during an actual, impending, mock or practice attack shall, together with his successors in interest, if any, not be civilly

liable for negligently causing the death of or injury to any person on or about such real estate or premises under such license, privilege or permission or for loss or damage to the property of such person, if the owner or controller has complied with sub. (2).

(2) Any person owning or controlling real estate or other premises who gratuitously grants the use thereof for the purposes stated in sub. (1) shall make known to the licensee any hidden dangers or safety hazards which are known to the owner or occupant of said real estate or premises which might possibly result in death or injury or loss of property to any person making use thereof.

22.22 Preservation of public records. The public records board shall establish a system for the preservation of essential state public records necessary for the continuity of governmental functions in the event of enemy action. The board shall:

(1) Determine what records are essential for operation during a state of emergency and thereafter through consultation with all state departments and independent agencies and the administrator of emergency government, establish the manner in which such records shall be preserved, and provide therefor.

(2) Require every state department and independent agency to establish and maintain a records preservation program.

(3) Provide for security storage of essential state records.

(4) Furnish state departments and independent agencies with copies of the final plan for preservation of essential public records.

(5) Advise all political subdivisions on preservation of records.

22.41 Additional powers to provide facilities. (1) As used in this section unless the context requires otherwise:

(a) "Existing building" in relation to any conveyance, lease or sublease made under sub. (2) means all administrative buildings, all storage facilities and garages, all buildings used for exhibition or promotional events for agricultural, industrial, educational, recreational or athletic purposes and such other buildings, structures, facilities and permanent improvements as in the judgment of the department are needed or useful and all equipment therefor and all improvements and additions thereto which were erected, constructed or installed prior to the making of such conveyance, lease or sublease.

(b) "New building" in relation to any conveyance, lease or sublease made under sub. (2)

means all administrative buildings, all storage facilities and garages, all buildings used for exhibition or promotional events for agricultural, industrial, educational, recreational or athletic purposes and such other buildings, structures, facilities and permanent improvements as in the judgment of the department are needed or useful and all equipment therefor and all improvements and additions thereto which are erected, constructed or installed after the making of such conveyance, lease or sublease.

(c) The term "corporation" in relation to any conveyance, lease or sublease made under sub. (2) means a nonstock, nonprofit corporation organized under ch. 181 or any law amendatory thereof or supplemental thereto.

(2) In order to provide new buildings and to enable the construction and financing thereof, to refinance indebtedness hereafter created by a corporation for the purpose of providing new buildings or additions or improvements thereto which are located on land owned by or owned by the state and held for the department or by a corporation or for any one or more of said purposes but for no other purpose unless authorized by law, the department has the following powers and duties:

(a) Without limitation by reason of any other provisions of the statutes, the power to sell and to convey title in fee simple to a corporation any land and any existing buildings thereon owned by or owned by the state and held for the department for such consideration and upon such terms and conditions as in the judgment of the department are in the public interest.

(b) The power to lease to a corporation for terms not exceeding 50 years each any land and any existing buildings thereon owned by or owned by the state and held for the department upon such terms and conditions as in the judgment of the department are in the public interest.

(c) The power to lease or sublease from a corporation and to make available for public use any such land and existing buildings conveyed or leased to such corporation under pars. (a) and (b) and any new buildings erected on such land or on any other land owned by such corporation, upon such terms, conditions and rentals, subject to available appropriations, as in the judgment of the department are in the public interest.

(d) The duty to submit the plans and specifications for all such new buildings and all conveyances, leases and subleases made under this section to the department of administration and the governor for written approval before they are finally adopted, executed and delivered.

(e) The power to pledge and assign all or any part of the revenues derived from the operation

of such new buildings as security for the payment of rentals due and to become due under any lease or sublease of such new buildings under par. (c).

(f) The power to covenant and agree in any lease or sublease of such new buildings made under par. (c) to impose fees, rentals or other charges for the use and occupancy or other operation of such new buildings in an amount calculated to produce net rentals sufficient to pay the rentals due and to become due under such lease or sublease.

(g) The power to covenant and agree in any lease or sublease made under par. (c) to impose fees, rentals or other charges for the use and occupancy or other operation of existing buildings in an amount calculated to produce net rentals sufficient to pay the rentals due and to become due under such lease or sublease.

(h) The power and duty, upon receipt of notice of any assignment by a corporation of any lease or sublease made under par. (c), or of any of its rights under any such sublease, to recognize and give effect to such assignment, and to pay to the assignee thereof rentals or other payments then due or which may become due under any such lease or sublease which has been so assigned by such corporation.

(3) The state shall be liable for accrued rentals and for any other default under any lease or sublease made under sub. (2) (c) and may be sued therefor on contract as in other contract actions under ch. 285, except that it shall not be necessary for the lessor under any such lease or sublease or any assignee of such lessor or any person or other legal entity proceeding on behalf of such lessor to file any claim with the legislature prior to the commencement of any such action.

(4) Nothing in this section empowers the department to incur any state debt.

(5) All conveyances, leases and subleases made pursuant to this section shall be made, executed and delivered in the name of the department and shall be signed by the secretary.

(6) All laws conflicting with this section are, insofar as they conflict with this section and no further, superseded by this section.

22.42 Housing rehabilitation. (1) DEFINITIONS. In this section:

(a) "Authority" means the Wisconsin housing finance authority.

(b) "Authorized lender" means any lender authorized under sub. (2) (a) 4 to make or service housing rehabilitation loans.

(c) "Eligible beneficiary" means any person or family who or which falls within the income limits specified in par. (f).

(d) "Eligible rehabilitation" means additions, alterations or repairs of housing to maintain it in a decent, safe and sanitary condition or to restore it to that condition, to reduce the cost of owning or occupying dwelling units, to conserve energy and to extend the economic or physical life of structures.

(e) "Housing" means real property used primarily for residential purposes, having one to 4 dwelling units in which at least one of such units is occupied by the owner of such property as a principal residence.

(f) "Housing rehabilitation loan" means a loan to finance eligible rehabilitation. The maximum amount of any such loan outside of designated reinvestment neighborhoods or areas as defined in s. 66.465 may not exceed \$7,500 for a structure with one dwelling unit and \$5,000 per dwelling unit for a structure with 2 to 4 dwelling units, and the maximum amount of any such loan in designated reinvestment neighborhoods or areas may not exceed \$10,000 for a structure with one dwelling unit and \$7,500 per dwelling unit for a structure with 2 to 4 dwelling units, except that the department may increase such limits in any calendar year after May 19, 1978 by an amount not exceeding a 10% annual rate of increase. The term of any loan to finance eligible rehabilitation, the repayment of which is made in monthly or other periodic instalments, may not exceed 15 years. Housing rehabilitation loans include:

1. "Deferred payment loans" which are secured loans bearing no interest which are repayable upon transfer of the property. The property is not transferred if it is inherited by a member of the immediate family of the owner and if the person inheriting the property occupies it as a principal residence and meets the income eligibility requirements for a deferred payment loan. No deferred payment loan may be made to a person or family whose income exceeds 50% of median income in the person's or family's county of residence for a family of 4, except that the department may increase or decrease the income limit by no more than 5% of median income for each person more or less than 4.

2. "Low interest loans" which are loans that meet or exceed the rate of interest required to pay the costs incurred by the authority for making and servicing such loans, but do not exceed the rate of interest specified in sub. (2) (a) 6. No low interest or other loan may be made to a person or family whose income exceeds the median income for a family of 4 in the person's or family's county of residence, except that in a designated reinvestment neighborhood or area as defined in s. 66.465 no low interest loan at the highest rate of interest authorized by this subdivision may be made to a person or family whose

income exceeds 120% of the median income for a family of 4 in the person's or family's county of residence, and except that the department may increase or decrease the income limit for low interest loans by no more than 10% of the limit for each person more or less than 4.

3. "Negative interest loans" which are loans that bear a rate of interest, including a zero rate, less than the rate required to pay the costs incurred by the authority for making and servicing such loans. No negative interest loan may be made to a person or family whose income exceeds 80% of median income in the person's or family's county of residence for a family of 4, except that the department may increase or decrease the income limit by no more than 10% of the limit for each person more or less than 4.

(g) "Median income" means median family income as determined annually by the U.S. department of housing and urban development for each county in the state.

(h) "Owner" means the holder of the title or the vendee of a land contract of housing which is otherwise eligible for a housing rehabilitation loan.

(i) "Sponsor" means any town, city, village or county in this state, or any community action agency or housing authority under s. 59.075, 66.395 or 66.40. A community action agency or housing authority may be a sponsor for the unincorporated area of a county if the board of supervisors of that county adopts a resolution authorizing it to be a sponsor. A community action agency or housing authority may be a sponsor for an incorporated municipality if the governing body of the municipality adopts a resolution authorizing it to be a sponsor.

(2) POWERS OF DEPARTMENT. (a) The department has the following powers for the purpose of implementing this section, in addition to all other powers granted by this chapter:

1. To make grants to sponsors for the purpose of making deferred payment loans and paying reasonable administrative costs incurred in making such loans out of the grant received from the appropriation under s. 20.545 (2) (d). Grants shall be made to sponsors so that the total dollars granted in any uniform state district established by executive order number 22, August 24, 1970, are equal to that percentage of funds appropriated under s. 20.545 (2) (d) that the number of owners eligible for deferred payment loans in any such district bears to the total number of eligible owners in the state.

2. To certify to the authority that a housing rehabilitation loan was or will be made by an authorized lender, to an eligible beneficiary, for an eligible rehabilitation, at an approved rate of interest and otherwise on acceptable terms, and

whether or not such a loan is in a designated re-investment neighborhood or area. Such certification shall be in such form as the department and the authority may agree. The authority is entitled to rely upon such a certification as conclusive as to the facts and standards underlying such certification. The certification is valid notwithstanding any defects or irregularities, however patent, other than constitutional, including without limitation any procedures or findings pursuant to s. 66.465.

3. To maintain a current list of lenders who are authorized to make or service housing rehabilitation loans. The department shall establish standards governing the performance of authorized lenders in making and servicing housing rehabilitation loans and shall periodically monitor such performance.

4. To designate as an authorized lender any bank, savings and loan institution or credit union which has a demonstrated history or potential of ability to adequately make and service housing rehabilitation loans.

5. To enter into contracts with the authority or authorized lenders, or both, authorizing the authority or authorized lenders to process applications and service housing rehabilitation loans. The contracts may include the responsibilities of the authority or authorized lenders with respect to credit evaluations, financial eligibility determinations, valuation of the housing for which the loan is to be made, collection procedures in the event of delinquent loan repayments and other functions which the department may require. Such contracts may provide for the payment of a fee for originating such loans or for servicing such loans.

6. To enter into contracts or agreements with authorized lenders, sponsors, and the authority providing for the maximum and minimum acceptable rates of interest to be charged for various classifications of housing rehabilitation loans, including a zero rate, in accordance with sub. (1) (f). In no event may the stated rate of interest on any housing rehabilitation loan under this section exceed the greater of 8% per annum or 2% plus the rate necessary to fully repay interest and principal on housing rehabilitation loan program bonds issued pursuant to s. 234.50.

7. To enter into contracts or agreements with authorized lenders, sponsors and the authority providing for the maximum acceptable amount, duration and other terms of housing rehabilitation loans in accordance with sub. (1) (f).

8. To set such other standards and devise such forms as are necessary to effectuate the rehabilitation program.

(b) In implementing this section, the department shall:

1. Require that any sponsor receiving a grant use moneys received upon repayment of loans for funding additional deferred payment housing rehabilitation loans or for funding other housing-related activities if the sponsor is not actively involved in housing rehabilitation at the time the loan is repaid.

2. Require that sponsors receiving grants assist beneficiaries of deferred payment loans in determining needed repairs and that sponsors inspect housing upon completion of the rehabilitation paid for under this section to assure that repairs have been satisfactorily completed.

3. Inspect a representative sample of housing for which housing rehabilitation loans have been provided under this section.

4. Promulgate such rules as may be necessary for the administration of deferred payment loans.

(c) In addition to the powers specified in par. (a), the department has all those powers necessary to implement this subsection.

(3) This section does not apply after June 30, 1981, or the general effective date of the 1981 biennial budget act, whichever is later. The application of this subsection does not affect the validity and continuance of the pledge and agreement of the state under s. 234.19, or any agreements or contracts of the department in respect to or in connection with any outstanding housing rehabilitation loan.

History: 1977 c. 418.