CHAPTER 66

GENERAL MUNICIPALITY LAW

66.01 Home rule; manner of exercise. (1) Pursuant to section 3 of article XI of the constitution, the method of determination of the local affairs and government of cities and villages shall be as prescribed in this section.

(2) (a) A "charter ordinance" is any ordinance which enacts, amends or repeals the whole or any part of the charter of a city or village, or makes the election mentioned in subsection (4) of this section. Such charter ordinance shall be so designated, shall require a two-thirds vote of the members-elect of the legislative body of such city or village, and shall be subject to referendum as hereinafter prescribed.

(b) Every charter ordinance which amends or repeals the whole or any part of a city or village charter shall designate specifically the portion of the charter so amended or repealed, and every charter ordinance which makes the election mentioned in subsection (4) of this section shall designate specifically each enactment of the legislature or portion thereof, made inapplicable to such city or village by the election mentioned in subsection (4) of this section.

(3) Every enactment, amendment or repeal of the whole or any part of the charter of any city or village shall be published as a class 1 notice, under ch. 985, shall be recorded by the clerk in a permanent book kept for that purpose, with a statement of the manner of its adoption, and a certified copy thereof shall be filed by said clerk with the secretary of state. The secretary of state shall keep a separate index of all charter ordinances, arranged alphabetically by city and village and summarizing each ordinance, and annually shall issue such a list of charter ordinances filed during the 12 months prior to July 1.

(3a) Every charter ordinance enacted pursuant to s. 66.01, which charter ordinance was adopted by the governing body prior to December 31, 1944, and which has also been published prior to such date in the official newspaper of such city or village, or if there be none in a newspaper having general circulation therein, shall be valid as of the date of such original publication notwithstanding the failure to publish such ordinance as provided in s. 10.43 (5) and (6) [Stats. 1963].

(4) Any city or village may elect in the manner prescribed in this section that the whole or any part of any laws relating to the local

affairs and government of such city or village other than such enactments of the legislature of state-wide concern as shall with uniformity affect every city or every village shall not apply to such city or village, and thereupon such laws or parts thereof shall cease to be in effect in such city or village.

(5) Any city or village by charter ordinance may make the election mentioned in sub. (4) of this section, or enact, amend or repeal the whole or any part of its charter; but such ordinance shall not take effect until 60 days after its passage and publication. If within such 60 days a petition signed by a number of electors of the city or village equal to not less than 7% of the votes cast therein for governor at the last general election shall be filed in the office of the clerk of said city or village demanding that such ordinance be submitted to a vote of the electors it shall not take effect until submitted to a referendum and approved by a majority of the electors voting thereon. Said petition and the proceedings for its submission shall be governed by s. 9.20 (2) to (6).

(6) Any charter ordinance may be initiated in the manner provided in s. 9.20 (1) to (6), but alternative adoption thereof by the legislative body shall be subject to referendum as provided in sub. (5) of this section.

(7) Any charter ordinance may be submitted to a referendum by the legislative body, in the manner prescribed in s. 9.20 (4) to (6), without initiative petition, and shall become effective when approved by a majority of the electors voting thereon.

(8) Every charter, charter amendment or charter ordinance enacted or approved by a vote of the electors shall control and prevail over any prior or subsequent act of the legislative body of the city or village. Whenever the electors of any city or village by a majority vote have adopted or determined to continue to operate under either ch. 62 or 64, or have determined the method of selection of members of the governing board, the question shall not again be submitted to the electors, nor action taken thereon within a period of 2 years. Any election to change or amend the charter of any city or village, other than a special election as provided in s. 9.20 (4), shall be held at the time provided by statute for holding the spring election.

(9) The legislative body of any city or village, by resolution adopted by a two-thirds vote of its members-elect may, and upon petition complying with s. 9.20 shall, submit to the electors in the manner prescribed in s. 9.20 (4) to (6) of said section the question of holding a charter convention under one or more plans proposed in said resolution or petition.

(10) The ballot shall be in substantially the following form:

Shall a charter convention be held?

YES □ NO □

If a charter convention be held what plan do you favor?

PLAN 1 □ PLAN 2 □

Repeat for each plan proposed.

Mark an [X] in the square of the one you vote for.

If a majority of the electors voting thereon vote for a charter convention such convention shall be held pursuant to the plan favored by a majority of the total votes cast for all plans. If no plan receives a majority, the two plans receiving the highest number of votes shall be again submitted to the electors and a convention shall thereupon be held pursuant to the plan favored by a majority of the votes cast.

(11) Such charter convention shall have power to adopt a charter or amendments to the existing charter. Such charter or charter amendments adopted by such convention shall be certified, as soon as may be, by the presiding officer and secretary thereof to the city or village clerk and shall thereupon be submitted to the electors in the manner prescribed in s. 9.20 (4) to (6), without the alternative mentioned therein, and shall take effect only when approved by a majority of the electors voting thereon.

(12) Nothing in this section shall be construed to impair the right of cities or villages under existing or future authority to enact ordinances or resolutions other than charter ordinances.

(14) All laws relating to public instruction, pursuant to sections 1, 2, 3, 4 and 5 of article X of the constitution, remain and shall continue in force for the establishment, administration and government of the district schools as heretofore, until amended or repealed by the legislature. The term "district schools" as here used, in addition to common schools includes, among others, any and all public high schools, trade or vocational schools, auxiliary departments for instruction of pupils who are deaf or of impaired speech or blind, and truancy or parental schools.

(15) The provisions of section 62.13 and chapter 589 of the Laws of 1921 and chapter 423, Laws of 1923, and chapter 586 of the Laws of 1911, shall be construed as an enactment of state-wide concern for the purpose of providing a uniform regulation of police and fire departments.

(16) Any village having a population of 1,000 or more may proceed under this section to organize as a city of the appropriate class. Such village may by charter or charter ordinance

adopted hereunder elect not to be governed by ch. 62 or 66 in whole or in part or may create such system of government as is deemed by the village to be most appropriate for its situation. Such charter or charter ordinance may include provision for the following, without limitation because of enumeration: method of election of members of the council by districts, at-large or by a combination of methods, procedure for election of the first common council, creation and selection of all administrative officers, departments, boards and commissions, powers and duties of all officers, boards and commissions and terms of office. Such charter or charter ordinance shall not alter those provisions of ch. 62 dealing with police and fire departments or Title XIV dealing with education. Any village incorporated after August 12, 1959 may not become a city under this subsection unless it meets the standards for incorporation in ss. 66.015 and 66.016.

History: 1971 c. 211; 1977 c. 83 s. 26

The city of Milwaukee cannot, by charter ordinance, adopt 62.13 (5) (b), Stats. 1967, since 62.13 deals with a subject of state-wide concern; it cannot do so under 62.03 since that requires the adoption of whole sections. 58 Atty. Gen. 59.

66.013 Incorporation of villages and cities; purpose and definitions. (1) PURPOSE. It is declared to be the policy of this state that the development of territory from town to incorporated status proceed in an orderly and uniform manner and that toward this end each proposed incorporation of territory as a village or city be reviewed as provided in ss. 66.013 to 66.019 to assure compliance with certain minimum standards which take into account the needs of both urban and rural areas.

(2) DEFINITIONS. As used in ss. 66.013 to 66.019 unless the context requires otherwise:

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

(b) "Population" means the population of a local unit as shown by the last federal census or by any subsequent population estimate certified as acceptable by the department.

(c) "Metropolitan community" means the territory consisting of any city having a population of 25,000 or more, or any 2 incorporated municipalities whose boundaries are within 5 miles of each other whose populations aggregate 25,000, plus all the contiguous area which has a population density of 100 persons or more per square mile, or which the department has determined on the basis of population trends and other pertinent facts will have a minimum density of 100 persons per square mile within 3 years.

(d) "Metropolitan municipality" means any existing or proposed village or city entirely or partly within a metropolitan community.

(e) "Isolated municipality" means any existing or proposed village or city entirely outside any metropolitan community at the time of its incorporation.

History: 1977 c. 29.

66.014 Procedure for incorporation of villages and cities. (1) NOTICE OF INTENTION. At least 10 days and not more than 20 days before the circulation of an incorporation petition, a notice setting forth that the petition is to be circulated and including an accurate description of the territory involved shall be published within the county in which said territory is located as a class 1 notice, under ch. 985.

(2) PETITION. (a) The petition for incorporation of a village or city shall be in writing signed by 50 or more persons who are both electors and freeholders in the territory to be incorporated if the population of the proposed village or city includes 300 or more persons; otherwise by 25 or more such electors and freeholders.

(b) The petition shall be addressed to and filed with the circuit court of a county in which all or a major part of the territory to be incorporated is located; and the incorporation petition shall be void unless filed within 6 months of the date of publication of the notice of intention to circulate.

(c) The petition shall designate a representative of the petitioners, and an alternate, who shall be an elector or freeholder in the territory, and state his address; describe the territory to be incorporated with sufficient accuracy to determine its location and have attached thereto a scale map reasonably showing the boundaries thereof; specify the current resident population of the territory by number in accordance with the definition given in s. 66.013 (2) (b); set forth facts substantially establishing the standards for incorporation required herein; and request the circuit court to order a referendum and to certify the incorporation of the village or city when it is found that all requirements have been met.

(e) No person who has signed a petition shall be permitted to withdraw his name therefrom. No additional signatures shall be added after a petition is filed.

(f) The circulation of the petition shall commence not less than 10 days nor more than 20 days after the date of publication of the notice of intention to circulate.

(3) HEARING; COSTS. (a) Upon the filing of the petition the circuit court shall by order fix a time and place for a hearing giving preference to

such hearing over other matters on the court calendar.

(b) The court may in its discretion by order allow costs and disbursements as provided for actions in circuit court in any proceeding under this subsection.

(c) The court may in its discretion, upon notice to all parties who have appeared in the hearing and after a hearing thereon, order the petitioners or any of the opponents to post bond in such amount as it deems sufficient to cover such disbursements.

(4) NOTICE. (a) Notice of the filing of the petition and of the date of the hearing thereon before the circuit court shall be published in the territory to be incorporated, as a class 2 notice, under ch. 985, and given by certified or registered mail to the clerk of each town in which the territory is located and to the clerk of each metropolitan municipality of the metropolitan community in which the territory is located. The mailing shall be not less than 10 days prior to the time set for the hearing.

(b) The notice shall contain:

1. A description of the territory sufficiently accurate to determine its location and a statement that a scale map reasonably showing the boundaries of the territory is on file with the circuit court.

2. The name of each town in which the territory is located.

3. The name and post-office address of the representative of the petitioners.

(5) PARTIES. Any governmental unit entitled to notice pursuant to sub. (4), any school district which lies at least partly in the territory or any other person found by the court to be a party in interest may become a party to the proceeding prior to the time set for the hearing.

(6) ANNEXATION RESOLUTION. Any municipality whose boundaries are contiguous to the territory may also file with the circuit court a certified copy of a resolution adopted by a two-thirds vote of the elected members of the governing body indicating a willingness to annex the territory designated in the incorporation petition. The resolution shall be filed at or prior to the hearing on the incorporation petition, or any adjournment granted for this purpose by the court.

(7) ACTION. (a) No action to contest the validity of an incorporation on any grounds whatsoever, whether procedural or jurisdictional shall be commenced after 60 days from the date of issuance of the charter of incorporation by the secretary of state.

(b) Any action contesting an incorporation shall be placed at the head of the circuit court calendar for an early hearing and determination. The time within which a writ of error may be issued or an appeal taken to obtain review by the court of appeals of any judgment or order in any action or proceeding contesting an incorporation is limited to 30 days from the date of the filing of such judgment or order.

(8) FUNCTION OF THE CIRCUIT COURT. (a) After the filing of the petition and proof of notice, the circuit court shall conduct a hearing at the time and place specified in the notice, or at a time and place to which the hearing is duly adjourned.

(b) On the basis of the hearing the circuit court shall find if the standards under s. 66.015 are met. If the court finds that the standards are not met, the court shall dismiss the petition. If the court finds that the standards are met the court shall refer the petition to the department and thereupon the department shall determine whether or not the standards under s. 66.016 are met.

(9) FUNCTION OF THE DEPARTMENT. (a) Upon receipt of the petition from the circuit court the department shall make such investigation as may be necessary to apply the standards under s. 66.016.

(b) Within 20 days after the receipt by the department of the petition from the circuit court, any party in interest may request a hearing. Upon receipt of the request, the department shall schedule a hearing at a place in or convenient to the territory sought to be incorporated.

(c) Notice of the hearing shall be given in the territory to be incorporated by publishing a class 2 notice, under ch. 985, and by mailing the notice to the designated representative of the petitioners or any 5 petitioners and to all town and municipal clerks entitled to receive mailed notice of the petition under sub. (4).

(d) Unless the court sets a different time limit, the department shall prepare its findings and determination citing the evidence in support thereof within 90 days after receipt of the reference from the court. The findings and determination shall be forwarded by the department to the circuit court. Copies of the findings and determination shall be sent by certified or registered mail to the designated representative of the petitioners, and to all town and municipal clerks entitled to receive mailed notice of the petition under sub. (4).

(e) The determination of the department made in accordance with the standards under ss. 66.015, 66.016 and 66.021 (11) (c) shall be either:

1. The petition as submitted shall be dismissed;

2. The petition as submitted shall be granted and an incorporation referendum held;

3. The petition as submitted shall be dismissed with a recommendation that a new petition be submitted to include more or less territory as specified in the department's findings and determination.

(f) If the department determines that the petition shall be dismissed, the circuit court shall issue an order dismissing the petition. If the department grants the petition the circuit court shall order an incorporation referendum as provided in s. 66.018.

(g) The findings of both the court and the department shall be based upon facts as they existed at the time of the filing of the petition.

(h) Except for an incorporation petition which describes the territory recommended by the department under s. 66.014 (9) (e) 3, no petition for the incorporation of the same or substantially the same territory may be entertained for one year following the date of the denial of the petition or the date of any election at which incorporation was rejected by the electors.

History: 1973 c. 37; 1977 c. 29; 1977 c. 187 s. 134.

Denial referred to in (9) (h) is denial by the department under (9) (e), not dismissal of subsequent court appeal. In re Petition of Tp. of Campbell, 78 W (2d) 246, 254 NW (2d) 241.

66.015 Standards to be applied by the circuit court. Before referring the incorporation petition as provided in s. 66.014 (2) to the department, the court shall determine whether the petition meets the formal and signature requirements and shall further find that the following minimum requirements are met:

(1) ISOLATED VILLAGE. Area, one-half square mile; resident population, 150.

(2) ISOLATED CITY. Area, one square mile; resident population, 1,000; density, at least 500 persons in any one square mile.

(3) METROPOLITAN VILLAGE. Area, 2 square miles; resident population, 2,500; density, at least 500 persons in any one square mile.

(4) METROPOLITAN CITY. Area, 3 square miles; resident population, 5,000; density, at least 750 persons in any one square mile.

(5) STANDARDS WHEN NEAR FIRST, SECOND OR THIRD CLASS CITY. Where the proposed boundary of a metropolitan village or city is within 10 miles of the boundary of a city of the first class or 5 miles of a city of the second or third class, the minimum area requirements shall be 4 and 6 square miles for villages and cities, respectively.

History: 1977 c. 29.

Four square mile requirement of (5) was met where 4.2 square miles of village land were proposed for annexation, although 2.5 square miles of that were within floodway lines. In re Petition of Tp. of Campbell, 78 W (2d) 246, 254 NW (2d)241.

66.016 Standards to be applied by the department. (1) The department may approve for referendum only those proposed incorporations which meet the following requirements:

(a) *Characteristics of territory.* The entire territory of the proposed village or city shall be reasonably homogeneous and compact, taking into consideration natural boundaries, natural drainage basin, soil conditions, present and potential transportation facilities, previous political boundaries, boundaries of school districts, shopping and social customs. An isolated municipality shall have a reasonably developed community center, including some or all of such features as retail stores, churches, post office, telephone exchange and similar centers of community activity.

(b) *Territory beyond the core.* The territory beyond the most densely populated one-half square mile specified in s. 66.015 (1) or the most densely populated square mile specified in s. 66.015 (2) shall have an average of more than 30 housing units per quarter section or an assessed value, as defined in s. 66.021 (1) (b) for real estate tax purposes, more than 25% of which is attributable to existing or potential mercantile, manufacturing or public utility uses. The territory beyond the most densely populated square mile as specified in s. 66.015 (3) or (4) shall have the potential for residential or other urban land use development on a substantial scale within the next 3 years. The department may waive these requirements to the extent that water, terrain or geography prevents such development.

(2) In addition to complying with each of the applicable standards set forth in sub. (1) and s. 66.015, any proposed incorporation in order to be approved for referendum must be in the public interest as determined by the department upon consideration of the following:

(a) *Tax revenue.* The present and potential sources of tax revenue appear sufficient to defray the anticipated cost of governmental services at a local tax rate which compares favorably with the tax rate in a similar area for the same level of services.

(b) *Level of services.* The level of governmental services desired or needed by the residents of the territory compared to the level of services offered by the proposed village or city and the level available from a contiguous municipality which files a certified copy of a resolution as provided in s. 66.014 (6).

(c) *Impact on the remainder of the town.* The impact, financial and otherwise, upon the remainder of the town from which the territory is to be incorporated.

(d) *Impact on the metropolitan community.* The effect upon the future rendering of governmental services both inside the territory proposed for incorporation and elsewhere within the metropolitan community. There shall be an express finding that the proposed incorporation will not substantially hinder the solution of governmental problems affecting the metropolitan community.

History: 1977 c. 29.

Delegation of legislative power under (2) (d) is constitutional. Westring v. James, 71 W (2d) 462, 238 NW (2d) 695.

See note to 66.015, citing In re Petition of Tp. of Campbell, 78 W (2d) 246, 254 NW (2d) 241.

66.017 Review of the action. (1) The order of the circuit court made under s. 66.014 (8) or (9) (f) may be appealed to the court of appeals.

(2) The decision of the department made under s. 66.014 (9) shall be subject to judicial review under ch. 227.

(3) Where a proceeding for judicial review is commenced under sub. (2), appeal under sub. (1) shall not be taken, and the time in which such appeal may be taken and perfected shall not commence to run until judgment is entered in the said proceeding for judicial review.

(4) Where an incorporation referendum has been ordered by the circuit court under s. 66.014 (9) (f), the referendum shall not be stayed pending the outcome of further litigation, unless the court of appeals or the supreme court, upon appeal or upon the filing of an original action in supreme court, concludes that a strong probability exists that the order of the circuit court or the decision of the department will be set aside.

History: 1977 c. 29, 187.

66.018 Referendum procedure. (1) ORDER. The circuit court's order for an incorporation referendum shall specify the voting place and the date of the referendum, which shall be not less than 6 weeks from the date of the order, and name 3 inspectors of election. If the order is for a city incorporation referendum the order shall further specify that 7 aldermen shall be elected at large from the proposed city. The city council at its first meeting shall determine the number and boundaries of wards in compliance with s. 5.15 (intro.) to (2), and the combination of wards into aldermanic districts. The number of aldermen per aldermanic district shall be determined by charter ordinance.

(2) NOTICE OF REFERENDUM. Notice of the referendum shall be given by publication of the order of the circuit court in a newspaper having general circulation in the territory. Such publication shall be once a week for 4 successive weeks, the first publication to be not more than 4 weeks before the referendum.

(3) RETURN. An incorporation referendum shall be conducted in the same manner as an annexation referendum under s. 66.021 (5) insofar as applicable, and the form of the ballot shall be "for a city [village]" or "against a city [village]". The inspectors shall make a return to the circuit court.

(4) COSTS. If the referendum is against incorporation, the costs of the election shall be borne by the towns involved in the proportion that the number of electors of each town within the territory proposed to be incorporated, voting in the referendum, bears to the total number of electors in the territory voting in the referendum. If the referendum is for a village or city, the costs shall be charged against the municipality in the apportionment of town assets.

(5) CERTIFICATION OF INCORPORATION. If a majority of the votes in an incorporation referendum are cast in favor of a village or city, the clerk of the circuit court shall certify the fact to the secretary of state and supply the secretary of state with a copy of a description of the legal boundaries of the village or city and the associated population and a copy of a plat thereof. Within 10 days of receipt of the description and plat, the secretary of state shall forward 2 copies to the department of transportation, one copy to the department of administration, one copy to the department of revenue and one copy to the department of local affairs and development. The secretary of state shall issue a certificate of incorporation and record the same.

History: 1971 c. 304; 1973 c. 37, 90; 1977 c. 29 s. 1654 (8) (c); 1977 c. 273.

66.019 Powers of new village or city: elections; adjustment of taxes; reorganization as village. (1) VILLAGE OR CITY POWERS. Every village or city incorporated under this section shall be a body corporate and politic, with powers and privileges of a municipal corporation at common law and conferred by these statutes.

(2) EXISTING ORDINANCES. Ordinances in force in the territory incorporated or any part thereof, insofar as not inconsistent with chs. 61 and 62, shall continue in force until altered or repealed.

(3) INTERIM OFFICERS. All officers of the village or town embracing the territory thus incorporated as a village or city shall continue in their powers and duties until the first meeting of the board of trustees or common council at which a quorum is present. Until a village or city clerk is chosen and qualified all oaths of office and other papers shall be filed with the circuit court, with whom the petition was filed,

who shall deliver them with the petition to the village or city clerk when he qualifies.

(4) FIRST VILLAGE OR CITY ELECTION. (a) Within 10 days after incorporation of the village or city, the clerk of the circuit court with whom the petition was filed shall fix a time for the first election, and where appropriate designate the polling place or places, and name 3 inspectors of election for each place. The time for the election shall be fixed no less than 40 nor more than 50 days after the date of the certificate of incorporation issued by the secretary of state, irrespective of any other provision in the statutes. Nomination papers shall conform to ch. 8 insofar as applicable. Such papers shall be signed by not less than 5% nor more than 10% of the total votes cast at the referendum election, and be filed no later than 15 days before the time fixed for the election. Ten days' previous notice of the election shall be given by the clerk of the circuit court by publication in the newspapers selected under s. 66.018 (2) and by posting notices in 3 public places in such village or city, but failure to give such notice shall not invalidate the election.

(b) The election shall be conducted as prescribed by ch. 6, except that no registration of voters shall be required. The inspectors shall make returns to the clerk of the circuit court who shall, within one week after such elections, canvass the returns and declare the result. The clerk shall notify the officers-elect and issue certificates of election. If the first election is on the first Tuesday in April the officers so elected and their appointees shall commence and hold their offices as for a regular term. Otherwise they shall commence within 10 days and hold their offices until the regular village or city election and the qualification of their successors and the terms of their appointees shall expire as soon as successors qualify.

(5) TAXES LEVIED BEFORE INCORPORATION; HOW COLLECTED AND DIVIDED. Whenever a village or city is incorporated from territory within any town or towns, after the assessment of taxes in any year and before the collection of such taxes, the tax so assessed shall be collected by the town treasurer of the town or the town treasurers of the different towns of which such village or city formerly constituted a part, and all moneys collected from the tax levied for town purposes shall be divided between the village or city and the town or the towns, as provided by s. 66.03, for the division of property owned jointly by towns and villages.

(6) REORGANIZATION AS VILLAGE. If the population of the city falls below 1,000 as determined by the United States census, the council may upon petition of 15 per cent of the electors submit at any general or city election the question whether the city shall reorganize as a village. If three-fifths of the votes cast on the question are for reorganization the mayor and council shall file a certified copy of the return in the office of the register of deeds and the clerk of the circuit court, and shall immediately call an election, to be conducted as are village elections, for the election of village officers. Upon the qualification of such officers, the board of trustees shall declare the city reorganized as a village, whereupon the reorganization shall be effected. The clerk shall forthwith certify a copy of such declaration to the secretary of state who shall file the same and indorse a memorandum thereof on the record of the certificate of incorporation of the city. Rights and liabilities of the city shall continue in favor of or against the village. Ordinances, so far as within the power of the village, shall remain in force until changed.

History: 1977 c. 203 s. 106

66.02 Consolidation. Any town, village or city may be consolidated with a contiguous town, village or city, by ordinance, passed by a two-thirds vote of all the members of each board or council, fixing the terms of the consolidation and ratified by the electors at a referendum held in each municipality. The ballots shall bear the words, "for consolidation", and "against consolidation", and if a majority of the votes cast thereon in each municipality are for consolidation, the ordinances shall then be in effect and have the force of a contract. The ordinance and the result of the referendum shall be certified as provided in s. 66.018 (5); if a town the certification shall be preserved as provided in ss. 60.05 and 66.018 (5), respectively. Consolidation shall not affect the preexisting rights or liabilities of any municipality and actions thereon may be commenced or completed as though no consolidation had been effected. Any consolidation ordinance proposing the consolidation of a town and another municipality shall, within 10 days after its adoption and prior to its submission to the voters for ratification at a referendum, be submitted to the circuit court and the department of local affairs and development for a determination whether such proposed consolidation is in the public interest. The circuit court shall determine whether the proposed ordinance meets the formal requirements of this section and shall then refer the matter to the department of local affairs and development, which shall find as prescribed in s. 66.014 whether the proposed consolidation is in the public interest in accordance with the standards in s. 66.016. The department's findings shall have the same status

as incorporation findings under ss. 66.014 to 66.019.

History: 1977 c 29

66.021 Annexation of territory. (1) DEFINITIONS. In this section, unless the context clearly requires otherwise:

(a) "Owner" means the holder of record of an estate in possession in fee simple, or for life, in land or real property, or a vendee of record under a land contract for the sale of an estate in possession in fee simple or for life but does not include the vendor under a land contract. A tenant in common or joint tenant shall be considered such owner to the extent of his interest.

(b) "Assessed value" means the value for general tax purposes as shown on the tax roll for the year next preceding the filing of any petition for annexation.

(c) "Real property" means land and the improvements thereon.

(d) "Petition" includes the original petition and any counterpart thereof.

(2) METHODS OF ANNEXATION. Territory contiguous to any city or village may be annexed thereto in the following ways:

(a) *Direct annexation.* A petition for direct annexation may be filed with the city or village clerk signed by:

1. A majority of the electors residing in such territory and either a. the owners of one-half of the land in area within such territory, or b. the owners of one-half of the real property in assessed value within such territory; or

2. If no electors reside in such territory, by a. the owners of one-half of the land in area within such territory, or b. the owners of one-half of the real property in assessed value within such territory.

(b) *Annexation by referendum.* A petition for a referendum on the question of annexation may be filed with the city or village clerk signed by 20 per cent of the electors residing in the territory and the owners of 50 per cent of the real property either in area or assessed value.

(3) NOTICE. (a) The annexation shall be initiated by publishing in the territory proposed for annexation a class 1 notice, under ch. 985, of intention to circulate an annexation petition. The notice shall contain:

1. A statement of intention to circulate an annexation petition.

2. A description of the territory proposed to be annexed, sufficiently accurate to determine its location.

3. The name of the city or village to which the annexation is proposed.

4. The name of the town or towns from which the territory is proposed to be detached.

5. The name and post-office address of the person causing the notice to be published who shall be an elector or owner in the area proposed to be annexed.

(b) The person who causes the notice to be published shall serve a copy of such notice, together with a copy of the scale map required under sub. (4) (a), upon the clerk of each municipality affected and upon the clerk of each school district affected within 5 days of the date of publication of the notice. Such service may be either by personal service or by registered mail with return receipt requested.

(4) PETITION. (a) The petition shall state the purpose of the petition and contain a description of the territory proposed to be annexed, sufficiently accurate to determine its location, and have attached thereto a scale map reasonably showing the boundaries of such territory and the relation of the territory to the municipalities involved. The petition shall also specify the current population of the territory by number in accordance with the definition given in s. 66.013 (2) (b).

(b) No person who has signed a petition shall be permitted to withdraw his name therefrom. No additional signatures shall be added after a petition is filed.

(c) The circulation of the petition shall commence not less than 10 days nor more than 20 days after the date of publication of the notice of intention to circulate. The annexation petition shall be void unless filed within 6 months of the date of publication of the notice.

(5) REFERENDUM. (a) *Notice.* Within 60 days after the filing of the petition, the common council or village board may accept or reject the petition and if rejected no further action shall be taken thereon. Acceptance may consist of adoption of an annexation ordinance. Failure to reject the petition shall obligate the city or village to pay the cost of any referendum favorable to annexation. If the petition is not rejected the clerk of the city or village with whom the annexation petition is filed shall give written notice thereof by personal service or registered mail with return receipt requested to the clerk of any town from which territory is proposed to be detached and shall give like notice to any person who files a written request therefor with the clerk. Such notice shall indicate whether the petition is for direct annexation or whether it requests a referendum on the question of annexation. If the notice indicates that the petition is for a referendum on the question of annexation, the town clerk shall give notice as provided in par. (c) of a referendum of the electors residing in the area proposed for annexation to be held within 30 days after the date of personal service or mailing of the notice

required under this paragraph. If the notice indicates that the petition is for direct annexation, no referendum shall be held unless within 30 days after the date of personal service or mailing of the notice required under this paragraph, a petition requesting a referendum is filed with the town clerk signed by 20 per cent of the electors residing in the area proposed to be annexed. If such a petition is filed, the clerk shall give notice as provided in par. (c) of a referendum of the electors residing in the area proposed for annexation to be held within 30 days of the receipt of the petition and shall mail a copy of such notice to the clerk of the city or village to which the annexation is proposed. Any referendum shall be held at some convenient place within the town to be specified in the notice.

(b) *Clerk to act.* If more than one town is involved, the city or village clerk shall determine as nearly as is practicable which town contains the most electors in the area proposed to be annexed and shall indicate in the notice required under par. (a) such determination. The clerk of the town so designated shall perform the duties required hereunder and the election shall be conducted in such town as are other elections conducted therein.

(c) *Publication of notice.* The notice shall be published in a newspaper of general circulation in the area proposed to be annexed on the publication day next preceding the referendum election and one week prior to such publication.

(d) *How conducted.* The referendum shall be conducted by the town election officials but the town board may reduce the number of such officials for that election. The ballots shall contain the words "For annexation" and "Against annexation" and shall otherwise conform to the provisions of s. 5.64 (2). The election shall be conducted as are other town elections in accordance with chs. 6 and 7 insofar as applicable.

(e) *Canvass; statement to be filed.* The election inspectors shall make a statement of the holding of the election showing the whole number of votes cast, and the number cast for and against annexation, attach thereto their affidavit and immediately file it in the office of the town clerk. They shall file a certified statement of the results in the office of the clerk of each other municipality affected.

(f) *Costs.* If the referendum is against annexation, the costs of the election shall be borne by the towns involved in the proportion that the number of electors of each town within the territory proposed to be annexed, voting in the referendum, bears to the total number of electors in such territory, voting in the referendum.

(g) *Effect.* If the result of the referendum is against annexation, all previous proceedings shall be nullified. If the result of the referendum is for annexation, failure of any town official to perform literally any duty required by this section shall not invalidate the annexation.

(6) QUALIFICATIONS. Qualifications as to electors and owners shall be determined as of the date of filing any petition, except that all qualified electors residing in the territory proposed for annexation on the day of the conduct of a referendum election shall be entitled to vote therein. Residence and ownership must be bona fide and not acquired for the purpose of defeating or invalidating the annexation proceedings.

(7) ANNEXATION ORDINANCE. (a) An ordinance for the annexation of the territory described in the annexation petition may be enacted by a two-thirds vote of the elected members of the governing body not less than 20 days after the publication of the notice of intention to circulate the petition and not later than 120 days after the date of filing with the city or village clerk of the petition for annexation or of the referendum election if favorable to the annexation. If the annexation is subject to sub. (11) the governing body shall first review the reasons given by the department of local affairs and development that the proposed annexation is against the public interest. Such ordinance may temporarily designate the classification of the annexed area for zoning purposes until the zoning ordinance is amended as prescribed in s. 62.23 (7) (d). Before introduction of an ordinance containing such temporary classification, the proposed classification shall be referred to and recommended by the plan commission. The authority to make such temporary classification shall not be effective when the county ordinance prevails during litigation as provided in s. 59.97 (7).

(b) The ordinance may annex the territory to an existing ward or may create an additional ward.

(c) The ordinance for the annexation of territory to a city that operates its schools under the city school system shall provide that the annexed territory is annexed for school purposes and is thereby made a part of the city school district and subject to all of the laws governing the same.

(d) The annexation shall be effective upon enactment of the annexation ordinance. The board of school directors in any city of the first class shall not be required to administer the schools in any territory annexed to any such city until July 1 following such annexation.

(8) FILING REQUIREMENTS; SURVEYS. (a) The clerk of a city or village which has annexed

territory shall file immediately with the secretary of state a certified copy of the ordinance, certificate and plat and one copy to each company that provides any utility service in area annexed plus one such copy with the register of deeds and one copy with the clerk of any affected school district, signed by the clerk, describing the territory which was annexed and the associated population. Failure to file shall not invalidate the annexation and the duty to file shall be a continuing one. The information filed with the secretary of state shall be utilized in making recommendations for adjustments to entitlements under the federal revenue sharing program and distribution of funds under ch. 79. The clerk shall certify annually to the secretary of state and to the register of deeds a legal description of the total boundaries of the municipality as those boundaries existed on December 1, unless there has been no change in the 12 months preceding.

(b) Within 10 days of receipt of the ordinance, certificate and plat, the secretary of state shall forward 2 copies of the ordinance, certificate and plat to the department of transportation, one copy to the department of administration, one copy to the department of revenue, one copy to the department of public instruction, one copy to the department of local affairs and development and 2 copies to the clerk of the municipality from which the territory was annexed.

(c) Any city or village may direct a survey of its present boundaries to be made, and when properly attested the survey and plat may be filed in the office of the register of deeds in the county in which the city or village is located, whereupon the survey and plat shall be prima facie evidence of the facts therein set forth.

(9) VALIDITY OF PLATS. Where any annexation is declared invalid but prior to such declaration and subsequent to such annexation a plat has been submitted and has been approved as required in s. 236.10 (1) (a), such plat shall be deemed validly approved despite the invalidity of the annexation.

(10) ACTION. (a) No action may be commenced after 60 days from the effective date of any annexation to contest the validity thereof upon any grounds whatsoever, whether denominated procedural or jurisdictional. The validity of any annexation shall, 60 days after the effective date thereof, be conclusively established and may not be attacked collaterally or otherwise questioned.

(b) Any action contesting an annexation except actions pending on November 17, 1957 shall be placed at the head of the circuit court calendar for an early hearing. The time within which a writ of error may be issued or an appeal taken to obtain review by the court of appeals of any judgment or order in any action or proceeding contesting an annexation is limited to 30 days from the date of notice of the entry of such judgment or order.

(11) REVIEW OF ANNEXATIONS. (a) *Annexations within populous counties.* No annexation proceeding within a county having a population of 50,000 or more as shown by the last federal census shall be valid unless the person causing a notice of annexation to be published pursuant to sub. (3) shall within 5 days of the publication mail a copy of the notice and a scale map of the proposed annexation to the clerk of each municipality affected and the department of local affairs and development. The department may within 20 days after receipt of the notice mail to the clerk of the town within which the territory lies and to the clerk of the proposed annexing village or city a notice that in its opinion the annexation is against the public interest. No later than 10 days after mailing the notice, the department shall advise the clerk of the town in which the territory is located and the clerk of the village or city to which the annexation is proposed of the reasons the annexation is against the public interest as defined in par. (c). The annexing municipality shall review such advice before final action is taken.

(c) *Definition of public interest.* For purposes of this subsection public interest is determined by the department of local affairs and development after consideration of the following:

1. Whether the governmental services, including zoning, to be supplied to the territory could clearly be better supplied by the town or by some other village or city whose boundaries are contiguous to the territory proposed for annexation which files with the circuit court a certified copy of a resolution adopted by a two-thirds vote of the elected members of the governing body indicating a willingness to annex the territory upon receiving an otherwise valid petition for the annexation of the territory.

2. The shape of the proposed annexation and the homogeneity of the territory with the annexing village or city and any other contiguous village or city.

(12) UNANIMOUS APPROVAL. If a petition for direct annexation signed by all of the electors residing in such territory and the owners of all of the real property in such territory is filed with the city or village clerk, and with the town clerk of the town or towns in which such territory is located, together with a scale map and a description of the property to be annexed, showing the boundaries of such territory and the relation of the territory to the municipalities to which annexation is requested, an annexation ordinance

for the annexation of such territory may be enacted by a two-thirds vote of the elected members of the governing body of the city or village without compliance with the notice requirements of sub. (3). In such annexations, subject to sub. (11), the person filing the petition with the city or village clerk and the town clerk shall, within 5 days of such filing, mail a copy of the scale map and a description of the territory to be annexed to the department of local affairs and development and the governing body shall review the advice of the department, if any, before enacting the annexation ordinance.

(13) REVIEW REQUIREMENTS. The provisions of sub. (12) do not eliminate the necessity for review as required by sub. (11).

(15) ANNEXATION OF TOWN ISLANDS. Upon its own motion, a city or village by a two-thirds vote of the entire membership of its governing body may enact an ordinance annexing territory which comprises a portion of a town or towns and which was completely surrounded by territory of the city or village on December 2, 1973. The ordinance shall include all surrounded town areas except those exempt by mutual agreement of all of the governing bodies involved. The annexation ordinance shall contain a description of the territory sufficiently accurate to determine its location, and the name of the town or towns from which such territory is detached. Upon enactment of the ordinance, the city or village clerk immediately shall file 5 certified copies of the ordinance in the office of the secretary of state, together with 5 copies of a scale map showing the boundaries of the territory annexed. The secretary of state shall forward 2 copies of the ordinance and scale map to the department of transportation, one copy to the department of revenue and one copy to the department of local affairs and development. This subsection does not apply if the town island was created only by the annexation of a railroad right-of-way or drainage ditch. This subsection does not apply to land owned by a town government which has existing town government buildings located thereon. No town island may be annexed under this subsection if the island consists of over 65 acres or contains over 100 residents. After December 2, 1973, no city or village may, by annexation, create a town area which is completely surrounded by the city or village.

History: 1973 c. 37, 90, 143, 333; 1977 c. 29 ss. 698, 1654 (8) (c); 1977 c. 187 s. 134; 1977 c. 315, 447.

Cross Reference: See 62.071 for special provision for annexations to cities of the first class.

In ascertaining whether a petition for annexation pursuant to (1) (a) has been signed by the "owners of one half of the land" in the proposed area of attachment, acreage within the territory constituting public streets and alleys is not to be taken into account in determining the sufficiency of the petition, no matter how owned or by whom, whether in fee simple, right-of-way, or easement for public benefit or reverter. (Language in Town of Menasha v. City of Menasha, 42 W (2d) 719, to the contrary is withdrawn.) International Paper Co. v. Fond du Lac, 50 W (2d) 529, 184 NW (2d) 834.

Where an owner petitions for annexation of a sizable block of land it is not void simply because it divides the town into 2 parts. Town of Waukechon v. Shawano, 53 W (2d) 593, 193 NW (2d) 661.

Where a city owned a road but the city limits did not extend the full width of the road, property on the other side is still contiguous. Where the boundaries of the parcel to be annexed are drawn by the petitioning landowners the city cannot be charged with arbitrary action. Town of Lyons v. Lake Geneva, 56 W (2d) 331, 202 NW (2d) 228.

Where property owners, in petitioning for annexation, divide a tract so as to control one parcel by property owners and the other by population, the 2 resulting annexations are valid. Town of Waukesha v. City of Waukesha, 58 W (2d) 525, 206 NW (2d) 585.

Abundant benefits to the state from the annexation under review, including the provision of police, fire and solid waste disposal services and library and recreational facilities satisfied the need factor of the rule of reason, since absent unfair inducement or pressures upon the petitioners for annexation, a showing of benefits to the annexed land can be considered on the question of need under the rule of reason. Town of Lafayette v. City of Chippewa Falls, 70 W (2d) 610, 235 NW (2d) 435.

A town from which 2 town islands were detached by annexation pursuant to (15) had no standing to challenge the constitutionality of the statute. Town of Germantown v. Village of Germantown, 70 W (2d) 704, 235 NW (2d) 486.

Sub. (15) is a clear and unambiguous provision allowing with certain exceptions for the annexation by a city or village in a single ordinance of all town islands meeting the statutorily defined criteria. Annexation by a city of 7 separate town islands via 7 separate municipal ordinances was impermissible under (15), since the power to annex must be exercised by a municipality in strict conformity with the statute conferring it. Town of Blooming Grove v. City of Madison, 70 W (2d) 770, 235 NW (2d) 493.

An eligible elector and a qualified elector are identical. Ch. 6 applies to annexation referendum elector qualifications under (6). Washington v. Altoona, 73 W (2d) 250, 243 NW (2d) 404.

Direct annexation not otherwise in conflict with "rule of reason" was not invalidated because petitioners were motivated by desire to obtain change in zoning of their land. Rule discussed. Town of Pleasant Prairie v. City of Kenosha, 75 W (2d) 322, 249 NW (2d) 581.

Where action challenging annexation was filed before (10) (a) limitation ran, and plaintiff town board had given no explicit authorization for commencement of action, subsequent attempt to ratify commencement of action was a nullity. Town of Nasewaupee v. City of Sturgeon Bay, 77 W (2d) 110, 251 NW (2d) 845.

The legislature can constitutionally provide for the annexation of territory without referendum. 60 Atty. Gen. 294.

The rule of reason in Wisconsin annexations. Knowles, 1972 WLR 1125.

66.022 Detachment of territory. Territory may be detached from any city or village and be attached to any city, village or town, to which it is contiguous, in the following manner:

(1) A petition signed by a majority of the owners of three-fourths of the taxable land in area within such territory or, if there is no taxable land therein, by all owners of such land, shall be filed with the clerk of the city or village from which detachment is sought, within 120 days after the date of publication of a class 1 notice, under ch. 985, of intention to circulate a petition of detachment.

(2) An ordinance detaching such territory may be enacted within 60 days after the filing of

such petition, by vote of three-fourths of all the members of the governing body of the detaching city or village and its terms accepted within 60 days after such enactment, by an ordinance enacted by a vote of three-fourths of all the members of the governing body of the city, village or town to which such territory shall be annexed. The failure of any governing body to adopt the ordinance as provided herein shall be deemed a rejection of the petition and all proceedings thereunder shall be void.

(3) The governing body of any city, village or town involved may, or if a petition signed by 5% of the electors thereof, as determined by the register of voters on the date of filing of such petition, demanding a referendum thereon, be presented to it within 30 days after the passage of either of the ordinances herein provided for, shall cause the question to be submitted to the electors of the city, village or town whose electors petitioned therefor, at a referendum election called for such purpose within 30 days after the filing of such petition, or after the enactment of either ordinance. The governing body of the municipality shall appoint 3 election inspectors who shall be resident electors to supervise the referendum. The ballots shall contain the words "For Detachment" and "Against Detachment". The inspectors shall certify the results of the election by their affidavits annexed thereto and file a copy with the clerk of each town, village or city involved, and none of the ordinances so provided for shall take effect nor be in force unless a majority of the electors shall approve the same. The referendum election shall be conducted in accordance with chs. 6 and 7 insofar as applicable.

(4) Whenever any area which has been subject to a city or village zoning ordinance is detached from one municipality and attached to another in accordance with this section, the regulations imposed by such zoning ordinance shall continue in effect and shall be enforced by the attaching city, village or town until changed by official action of the governing body of such municipality, except that if the detachment or attachment is contested in the courts, the zoning ordinance of the detaching municipality shall prevail, and such city or village shall have jurisdiction over the zoning in the area affected until ultimate determination of the court action.

(5) The ordinance, certificate and plat shall be filed in the same manner as for annexations under s. 66.021 (8) (a). The requirements for the secretary of state shall be the same as in s. 66.021 (8) (b).

History: 1973 c. 90.

Cross Reference: See 62.075 for special provision for detachment of farm lands from cities.

66.023 Consolidation or annexation to a city operating a city school district; taxes. **(1)** In the absence of an agreement to the contrary under this section, territory in a school district which is annexed to or consolidated with a city operating a city school district shall be transferred for school purposes on July 1 following the effective date of the annexation or consolidation.

(2) If an action is brought as provided in s. 66.021 (10) to contest the validity of the annexation or is brought to contest the validity of a consolidation within 60 days of the effective date thereof, the territory shall be transferred for school purposes on July 1 succeeding the final determination of the litigation. A determination of the litigation shall not be deemed final until the expiration of the appeal period to the court of appeals.

(3) The school district board and the board of education may enter into an agreement that the school district territory shall be transferred to the city for school purposes on a date prior to that provided in this section. Such agreement may also provide that the school children in the territory shall be educated in the district school, in which event the city shall pay tuition for such children according to law. If the territory is not transferred for school purposes in advance of the time provided herein, the district board and the board of education may nevertheless enter into an agreement to permit the school children in the area annexed or consolidated to attend the city's schools, and the district shall thereupon pay tuition to the city according to law.

(4) Between the date of accomplishment of statutory requirements to effectuate a consolidation or annexation of territory to a city operating a city school district and the date any such territory becomes a part of such city for school purposes, as provided herein, no portion of the city school tax or of taxes levied by the city to repay obligations incurred to finance school facilities shall be levied against the property in the annexed or consolidated territory, and during said period such territory shall continue to vote on school matters within, and pay school taxes for the support of, the school district of which it was a part when such consolidation or annexation proceedings were commenced and shall not vote on any matter relating to the city school district. The school district clerk shall certify to the proper clerk as provided in s. 120.17 (8) the proportion of the school taxes to be levied by the city or town.

(5) This section applies only to cities operating under subch. II of ch. 120.

History: 1977 c. 187.

Under 66.023 (1), Stats. 1967, territory annexed to city operating under the city school plan is transferred for school

purposes on July 1 following the effective date of the annexation (absent agreement for earlier transfer), notwithstanding 66.021 (7) (c) and (d), stating that annexation ordinance must annex the territory for school purposes also, and that the annexation is effective upon enactment of the ordinance. 58 Atty. Gen 50.

66.024 Annexation by referendum; court order. As a complete alternative to any other annexation procedure, unincorporated territory which contains electors and is contiguous to a city or village may be annexed thereto in the manner hereafter provided. The definitions in s. 66.021 (1) shall apply to this section.

(1) PROCEDURE FOR ANNEXATION. (a) The governing body of the city or village to which it is proposed to annex territory shall, by resolution adopted by two-thirds of the members-elect, declare its intention to apply to the circuit court for an order for an annexation referendum, and shall publish the resolution in a newspaper having general circulation in the area proposed to be annexed, as a class 1 notice, under ch. 985, and shall cause to be made a scale map of such territory showing it in relation to the annexing city or village. The resolution shall contain a description of the territory to be affected, sufficiently accurate to determine its location, the name of the municipalities directly affected and the name and post-office address of the municipal official causing the resolution to be published. The person who causes the resolution to be published shall serve a copy of the resolution together with the scale map upon the clerk of the town or towns from which the territory is to be detached within 5 days of the date of publication of the resolution. Such service may be either by personal service or by registered mail and if by registered mail an affidavit must be on file with the annexing body indicating the date said resolution was mailed. The annexation shall be deemed commenced upon publication of the resolution.

(b) Application to the circuit court shall be by petition subscribed by the officers designated by the governing body, and shall have attached as a part thereof: the scale map, a certified copy of the resolution of the governing body and an affidavit of the publication and filing required under par. (a). Such petition shall be filed in the circuit court not less than 30 days but no more than 45 days after the publication of the notice of intention.

(2) PROTEST TO COURT BY ELECTORS; HEARING. (a) If prior to the date set for hearing upon such application, there is filed with the court a petition signed by a majority of the electors residing in the territory or the owners of more than one-half of the real property in assessed value in such territory, protesting against the annexation of such territory, the court shall deny the application for an annexation referendum.

(b) If a petition protesting the annexation is found insufficient the court shall proceed to hear all parties interested for or against the application. The court may in its discretion adjourn such hearing from time to time, direct a survey to be made and refer any question for examination and report thereon. Any town whose territory is involved in the proposed annexation shall, upon application, be a party and entitled to be heard on any matter pertaining thereto.

(3) DISMISSAL. If for any reason the proceedings are dismissed, the court may, in its discretion, order entry of judgment against the city or village for such disbursements or any part thereof as have been incurred by the parties opposing the annexation.

(4) REFERENDUM ELECTION; WHEN ORDERED AND HELD. (a) If the court, after such hearing, is satisfied as to the correctness of the description of the territory or any survey and that the provisions of this section have been complied with, it shall make an order so declaring and shall direct a referendum election within the territory which shall be described in the order, on the question, whether such area should be annexed. Such order shall direct 3 electors named therein residing in the town in which the territory proposed to be annexed lies, to perform the duties of inspectors of election.

(b) The referendum election shall be held within 30 days after the entry of the order, in the territory proposed for annexation, by the electors of such territory as provided in s. 66.021 (5), so far as applicable. The ballots shall contain the words "For Annexation" and "Against Annexation". The certification of the election inspectors shall be filed with the clerk of the court, and the clerk of any municipality involved, but need not be filed with the register of deeds.

(c) All costs of the referendum election shall be borne by the petitioning city or village.

(5) DETERMINATION BY VOTE. (a) If a majority of the votes cast at such referendum election is against annexation, no other proceeding under this section affecting the same territory or part thereof, shall be commenced by the same municipality, until 6 months after the date of the referendum election.

(b) If a majority of the votes cast at such referendum election is for annexation, the territory shall be annexed to the petitioning city or village upon compliance with s. 66.021 (8).

(5m) TEMPORARY ZONING OF AREA PROPOSED TO BE ANNEXED. An interim zoning ordinance to become effective only upon approval of the annexation at the referendum election may

be enacted by the governing body of the city or village. Such ordinance may temporarily designate the classification of the annexed area for zoning purposes until the zoning ordinance is amended as prescribed in s. 62.23 (7) (d). The proposed interim zoning ordinance shall be referred to and recommended by the plan commission prior to introduction. Authority to make such temporary classification shall not be effective when the county zoning ordinance prevails during litigation as provided in s. 59.97 (7).

(6) APPEAL. Any appeal from the order of the circuit court shall be limited to contested issues determined by such court. Such appeal shall not stay the conduct of the referendum election provided herein, if one is ordered, but the statement of the election results and the copies of the certificate and plat shall not be filed with the secretary of state until the appeal has been determined.

(7) LAW APPLICABLE. Section 66.021 (10) shall apply to annexations under this section.

(8) TERRITORY EXCEPTED. The provisions of this act shall not apply to any territory located in an area for which a certificate of incorporation was issued prior to February 24, 1959 by the secretary of state, even if the incorporation of such territory is later held to be invalid by a court.

Cross Reference: See 144.07 (1m) for provision authorizing use of this section when the DNR orders sewer service to areas outside municipal limits.

Finding of the trial court that no facts evinced a need of the city to acquire the proposed territory, thereby violating the rule of reason, would not be disturbed where it could be reasonably concluded from the adjudicative facts that (a) the irregular shape and boundaries of the territory were designed arbitrarily and capriciously solely to assure success of the annexation and overcome the opposition of a majority of the electors residing in the towns; (b) reasonable need for the annexation based on the claimed growth of the city and overflow of population into adjoining areas was not established; and (c) aside from a nursing home some 2 miles distant from the city boundary, there was no showing that the proposed annexation area was in need of the city's services which were adequately supplied by the towns. City of Beloit v. Town of Beloit, 47 W (2d) 377, 177 NW (2d) 361.

The term "disbursements" in (3) does not include attorney's fees. City of Beloit v. Town of Beloit, 47 W (2d) 377, 177 NW (2d) 361.

66.025 Annexation of owned territory. In addition to other methods provided by law, territory owned by and lying near but not necessarily contiguous to a village or city may be annexed thereto by ordinance adopted by the board of trustees of such village or the council of such city, provided that in the case of noncontiguous territory the use of such territory by the city or village is not contrary to any town or county zoning regulation. Such ordinance shall contain the exact description of the territory annexed and the names of the town or towns from which detached, and shall operate to attach such territory to such village or city upon the filing of 5 certified copies thereof in the office of the secretary of state, together with 5 copies of a plat showing the boundaries of the territory attached. Two copies of the ordinance and plat shall be forwarded by the secretary of state to the department of transportation, one copy to the department of revenue and one copy to the department of public instruction.

History: 1973 c. 90; 1977 c. 29 s. 1654 (8) (c).

66.026 Notice of litigation. Whenever any proceedings under ss. 60.81, 61.187, 61.189, 61.74, 62.075, 66.013 to 66.019, 66.021, 66.022, 66.025 or other sections relating to an incorporation, annexation, consolidation, dissolution or detachment of territory of a city or village is contested by instigation of legal proceedings, the clerk of the city or village involved in such proceedings shall forthwith file with the secretary of state 4 copies of a notice of the commencement of such action. The clerk shall also file with the secretary of state 4 copies of any judgments rendered or appeals taken in such cases. The notices or copies of judgments as herein required may also be filed by an officer or attorney of any party of interest. The secretary of state shall forward to the department of transportation 2 copies and to the department of revenue one copy of any notice of action or judgment filed with the secretary of state pursuant to this section.

History: 1977 c. 29 s. 1654 (8) (c); 1977 c. 273.

66.027 Municipal boundaries, fixed by judgment or agreement. Any 2 municipalities whose boundaries are immediately adjacent at any point and who are parties to any action, proceeding or appeal in court for the purpose of testing the validity or invalidity of any annexation, incorporation, consolidation or detachment, may enter into a written stipulation, compromising and settling any such litigation and determining the common boundary line between the municipalities. The court having jurisdiction of the litigation, whether it is a circuit court, the court of appeals or the supreme court, may enter a final judgment incorporating the provisions of the stipulation and fixing the common boundary line between the municipalities involved. Any 2 municipalities whose boundaries are immediately adjacent at any point may enter into a written agreement setting the boundary lines between themselves. Any agreement changing boundaries of municipalities shall be approved by the governing bodies of the detaching and annexing municipalities and s. 66.021 (8) and (10) shall apply. Any change of civil municipal boundaries under this section is subject to a referendum of the electors residing within the territory annexed or detached, if within 30 days after the publication of the

stipulation or agreement to change boundaries in a newspaper of general circulation in the area proposed to be annexed or detached, a petition for a referendum signed by 20% of the electors of the area to be annexed or detached, is filed with the clerk of the municipality from which the area is proposed to be detached. The referendum shall be conducted as are annexation referenda. If the referendum election is opposed to detachment from the municipality, all proceedings under this section are void. For the purposes of this section "municipalities" includes cities, villages and towns.

History: 1977 c. 187

66.029 Town boundaries, actions to test alterations. In proceedings whereby territory is attached to or detached from any town, the town is an interested party, and the town board may institute, maintain or defend an action brought to test the validity of such proceedings, and may intervene or be impleaded in any such action.

See note to 60.29, citing Town of Nasewaupee v. City of Sturgeon Bay, 77 W. (2d) 110, 251 NW (2d) 845.

66.03 Adjustment of assets and liabilities on division of territory. (1) DEFINITION. In this section "municipality" includes school district, vocational, technical and adult education district, town, village and city.

(2) BASIS. (a) Except as otherwise provided in this section when territory is transferred, in any manner provided by law, from one municipality to another, there shall be assigned to such other municipality such proportion of the assets and liabilities of the first municipality as the assessed valuation of all taxable property in the territory transferred bears to the assessed valuation of all the taxable property of the entire municipality from which said territory is taken according to the last assessment roll of such municipality. The clerk of any municipality to which territory is transferred as aforesaid, within 30 days of the effective date of such transfer, shall certify to the clerk of the municipality from which such territory was transferred and to the clerk of the school district in which such territory is located a metes and bounds description of the land area involved and upon receipt of such description the clerk of the municipality from which such territory was transferred shall certify to the department of revenue and to the clerk of the school district in which such territory is located the latest assessed value of the real and personal property located within the transferred territory, and shall make such further reports as may be needed by the department of revenue in the performance of duties required by law.

(b) When the transfer of territory from one municipality to another results from the incorporation of a new city or village, the proportion of the assets and liabilities assigned to such city or village shall be based on the average assessed valuation for the preceding 5 years of the property transferred in proportion to the average assessed valuation for the preceding 5 years of all the taxable property of the entire municipality from which said territory is taken, according to the assessment rolls of such municipality for said years. In any such case the certification by the clerk of the municipality from which territory was transferred shall include the assessed value of the real and personal property within the territory transferred for each of the last 5 years. The preceding 5 years shall include the assessment rolls for the 5 calendar years prior to the incorporation.

(2c) SCHOOL DISTRICTS. When territory is transferred in any manner provided by law, from one school district to another school district, there shall be assigned to each school district involved such proportion of the assets and liabilities of the school districts involved as the equalized valuation of all taxable property in the territory transferred bears to the equalized valuation of all the taxable property of the school district from which said territory is taken, said equalized valuation to be made by the department of revenue upon application by the clerk of the school district or city to which the territory is transferred. The clerk of any school district or city to which territory is so transferred, within 30 days of the effective date of such transfer, shall certify to the clerk of the municipality from which such territory was transferred a metes and bounds description of the land area involved and upon receipt of such description the clerk of the municipality from which such territory was transferred shall certify to the department of revenue the latest assessed value of the real and personal property located within the transferred territory, and shall file one copy of the certification with the school district clerk and one copy with the department of public instruction, and shall make such further reports as are needed by the department of revenue in the performance of duties required by law.

(2e) OPTIONAL METHOD OF ADJUSIMENT. Two or more school districts, prior to their consolidation, or the attachment of part of their district to another district, may, by identical resolutions adopted by a three-fourths vote of the members of each board concerned, establish an alternate method to govern any adjustment of their assets and liabilities to apply to any subsequent detachment from the enlarged district. The authority of this paragraph shall apply wherever the boards find that the adoption of

the resolution is necessary to provide a more equitable method than provided in sub. (2) or (2c). This subsection shall also apply if one or more of the units involved operates under subch. II of ch. 120. The resolutions adopted shall be recorded in the office of the register of deeds.

(2f) SCHOOL DISTRICTS IN MILWAUKEE COUNTY. In counties containing a city having a population of 500,000 or more, 2 or more school districts, prior to their consolidation, or the attachment of part of their district to another district, or subsequent to such consolidation or attachment, may, by identical resolutions adopted by a three-fourths vote of the members of each board concerned, establish an alternate method to govern any adjustment of their assets and liabilities to apply to any prior or subsequent detachment from the district. The authority of this paragraph shall apply whenever the boards find that the adoption of the resolution is necessary to provide a more equitable method than provided in sub. (2) or (2c). This subsection shall also apply if one or more of the units involved operates under subch. II of ch. 120. The resolutions adopted shall be recorded in the office of the register of deeds.

(2m) ATTACHMENT AND DETACHMENT WITHIN 5 YEARS. Whenever territory is attached to or consolidated with a school district or a city operating a city school district, and such territory or any part thereof is detached therefrom within 5 years after such attachment or consolidation, the school district or city to which it is transferred shall be entitled, in the apportionment of assets and liabilities, only to the assets or liabilities or proportionate part thereof apportioned to the school district or city as the result of such original attachment or consolidation.

(3) REAL ESTATE. (a) The title to real estate shall not be transferred except by agreement, but the value thereof shall be included in determining the assets of the municipality owning the same and in making the adjustment of assets and liabilities.

(b) The right to possession and control of school buildings and school sites shall pass to the municipality in which the same are situated immediately upon the annexation or detachment of any school district territory to another municipality becoming effective, except that in cities of the first class the right to possession and control of such school buildings and school sites shall pass on July 1 following the adoption of the ordinance authorized by s. 66.021 (7). The municipality thus receiving possession and control of said school buildings and school sites shall be liable to the school district from which the same is annexed or detached for its share of the value of the use thereof, which shall be determined at the time of adjustment of assets and liabilities. The municipality annexing the territory shall provide school facilities for the children residing in the remainder of the school district pending the adjustment of assets and liabilities on payment of tuition based on the per capita cost of instruction.

(c) When as a result of any annexation whereby a school district is left without a school building, any moneys are received by such school district as a result of the division of assets and liabilities required by s. 66.03, which are derived from values that were capital assets, such moneys and interest thereon shall be held in trust by such school district and dispensed only for procuring new capital assets or remitted to an operating district as the remainder of the suspended district becomes a part of such operating district, and shall in no case be used to meet current operating expenditures. This shall include any funds in the hands of any district officers on July 1, 1953, resulting from such action previously taken under s. 66.03. The boards involved shall, as part of their duties in division of assets and liabilities in school districts, make a written report of the allocation of assets and liabilities to the state superintendent of public instruction and any local superintendent of schools whose territory is involved in the division of assets.

(4) PUBLIC UTILITIES. Any public utility plant, including any dam, power house, power transmission line and other structures and property operated and used in connection therewith shall belong to the municipality in which the major portion of the patrons of such utility reside. The value of such utility, unless fixed by agreement of all parties interested shall be determined and fixed by the public service commission upon notice to the municipalities interested, in the manner provided by law. The commission shall certify the amount of the compensation to the clerks of each municipality interested and said amount shall be used by the apportionment board or boards in adjusting assets and liabilities.

(5) APPORTIONMENT BOARD. The boards or councils of the municipalities, or committees, thereof selected for that purpose, acting together, shall constitute an apportionment board. When any municipality is dissolved by reason of all of its territory being so transferred the board or council thereof existing at the time of such dissolution shall for the purpose of this section, continue to exist as the governing body of such municipality until there has been an apportionment of assets by agreement of the interested municipalities or by an order of the circuit court. After an agreement for apportionment of assets

has been entered into between the interested municipalities, or an order of the circuit court becomes final, a copy of such apportionment agreement, or of such order, certified to by the clerks of the interested municipalities, shall be filed with the department of revenue, the department of natural resources, the department of transportation, the state superintendent of public instruction, the department of administration, and with any other department or agency of the state from which the town may be entitled by law to receive funds or certifications or orders relating to the distribution or disbursement of funds, with the county treasurer, with the treasurer of any municipality, or with any other entity from which payment would have become due if such dissolved municipality from which such territory was transferred had continued in existence. Thereafter payments from the shared revenue account made pursuant to ch. 79, payments of forest crop taxes under s. 77.05, of transportation aids under s. 20.395, of state aids for school purposes under ch. 121, and all payments due from a department or agency of the state, from a county, from a municipality, or from any other entity from which payments would have become due if such dissolved municipality from which such territory was transferred had continued in existence, shall be paid to the interested municipality as provided by such agreement for apportionment of assets or by any order of apportionment by the circuit court and such payments shall have the same force and effect as if made to the dissolved municipality from which such territory was transferred.

(6) MEETING. The board or council of the municipality to which the territory is transferred shall fix a time and place for meeting and cause a written notice thereof to be given the clerk of the municipality from which such territory is taken at least five days prior to the date of the meeting. The apportionment may be made only by a majority of the members from each municipality who attend, and in case of committees, the action must be affirmed by the board or council so represented.

(7) ADJUSTMENT, HOW MADE. The apportionment board shall determine, except in the case of public utilities, such assets and liabilities from the best information obtainable and shall assign to the municipality to which the territory is transferred its proper proportion thereof by assigning the excess of liabilities over assets, or by assigning any particular asset or liability to either municipality, or in such other manner as will best meet the requirements of the particular case. When territory attached to a city for school purposes only is detached therefrom, the assets and liabilities of the city for school purposes shall be considered in apportioning the assets and liabilities and such territory may be assigned its proportionate share of the city's indebtedness for school purposes in the manner provided by sub. (2c). If a proportionate share of any indebtedness existing by reason of municipal bonds or other obligations outstanding shall be assigned to any municipality it shall cause to be levied and collected upon all the taxable property in such municipality in one sum or in annual instalments the amount necessary to pay the principal and interest thereon when the same shall become due, and shall pay the amount so collected to the treasurer of the municipality which issued said bonds or incurred such other obligations, who shall apply the moneys so received strictly to the payment of such principal or interest.

(7a) APPORTIONMENT OF AIDS AND TAXES. If the asset apportioned consists of an aid or tax to be distributed in the future according to population, the apportionment board shall certify to the officer, agency or department responsible for making the distribution each municipality's proportionate share of such asset as determined in accordance with sub. (2). The officer, agency or department shall thereafter distribute such aid or tax directly to the several municipalities according to such certification until the next federal census.

(8) APPEAL TO COURT. In case the apportionment board is unable to agree, the circuit court of the county in which either municipality is situated, may, upon the petition of either municipality, make the adjustment of assets and liabilities pursuant to this section, including review of any alternative method provided for in sub. (2f) and the correctness of the findings thereunder.

(9) TRANSCRIPT OF RECORDS. When territory shall be detached from a municipality by creation of a new municipality or otherwise, the proper officer of the municipality from which the territory was detached shall furnish, upon demand by the proper officer of the municipality created from the detached territory or to which it is annexed, authenticated transcript of all public records in his office pertaining to the detached territory. The municipality receiving the transcript shall pay therefor.

(10) STATE TRUST FUND LOANS. When territory transferred in any manner provided by law from one municipality to another is liable for state trust fund loans secured under chapter 25, the clerk of the municipality to which territory is transferred shall within 30 days of the effective date of such transfer certify a metes and bounds description of the transferred area to the clerk of

the municipality from which the land was transferred. Thereupon, the clerk of the municipality from which such territory was transferred shall certify to the board of commissioners of public lands: (a) the effective date of such transfer of territory; (b) the last preceding assessed valuation of the territory liable for state trust fund loans prior to transfer of a part of such territory; (c) the assessed valuation of the territory so transferred. Thereafter, the board shall in making its annual certifications of the amounts due on account of state trust fund loans distribute annual charges for interest and principal on any such outstanding loans in the proportion that the assessed valuation of the territory so transferred shall bear to the assessed valuation of the area liable for state trust fund loans as constituted immediately before the transfer of territory, provided, however, that any transfer of territory effective subsequent to January 1 of any year shall not be considered until the succeeding year.

(10a) CORRECTIONS. The provisions of sub. (10) are applicable to school districts. Any errors, omissions or other defects in the tax certifications and levies in connection with the repayment of state trust fund loans by school districts for the year 1950 and all subsequent years may be corrected by the school district clerk in the tax levy certifications for following years.

(11) DESIGNATING DISTRICTS. (a) Whenever a transfer of territory from one school district to another results in a change in the name of a school district which is liable for one or more state trust fund loans secured under ch. 25, the clerk of the school district to which the territory was transferred shall, within 30 days of the effective date of such transfer, certify to the board of commissioners of public lands and the county clerk:

1. The name of the school district from which territory was transferred;

2. The effective date of such transfer;

3. The name of the school district to which the transfer was made immediately prior to the effective date of the transfer;

4. The name of the school district to which the transfer was made immediately after the effective date of such transfer.

(b) Thereafter, in making their annual certifications of the amounts due on account of state trust fund loans the board of commissioners of public lands shall use the new name of the school district, provided that any transfer of territory effective subsequent to January 1 of any year shall not be considered by it until the succeeding year.

(12) TIME OF TRANSFER. When the governmental classification of a school district is changed, all of the assets and liabilities and the title to all school property shall vest in the new district by operation of law upon the effective date of the change.

(13) TAXES AND ASSESSMENT. (a) *General property taxes.* Whenever any territory is annexed, detached or incorporated in any year, general property taxes levied against the territory shall be collected by the treasurer of the municipality in which the territory was located on January 1 of such year, and all moneys collected from the tax levied for local municipal purposes shall be allocated to each of the municipalities on the basis of the portion of the calendar year the territory was located in each of the municipalities, and paid accordingly.

(aa) *Apportionment when town is nonexistent.* If the town in which territory was located on January 1 is nonexistent when the city or village determines its budget, any taxes certified to the town or required by law to be levied against such territory shall be included in the budget of the city or village and levied against such territory, together with the city or village tax for local municipal purposes.

(b) *Special taxes and assessments.* Whenever territory is transferred from one municipality to another by annexation, detachment, consolidation or incorporation, or returns to its former status by reason of court determination, any special tax or assessment outstanding against any property in the territory shall be collected by the treasurer of the municipality wherein the property is located, according to the terms of the ordinance or resolution levying such tax or assessment. Such special tax or assessment, when collected, shall be paid to the treasurer of the municipality which levied the special tax or assessment, or if the municipality is nonexistent, the collecting treasurer shall apply the collected funds to any obligation for which purpose the tax or assessment was levied and which remains outstanding; provided that if no such obligation is outstanding, the collected funds shall be paid into the school fund of the school district in which the territory is located.

(bb) *Apportionment when court returns territory to former status.* Whenever territory which has been annexed, consolidated, detached or incorporated returns to its former status by reason of a final court determination, there shall be an apportionment of general property taxes and current aids, shared taxes and shared revenues to adjust such assets between the municipalities, and no other apportionment of assets and liabilities. The basis of the apportionment shall be determined by the apportionment board subject to appeal to the circuit court, but the

apportionment shall insofar as practicable equitably adjust such assets between the municipalities involved on the basis of the portion of the calendar year the territory was located in the respective municipalities.

(c) *Certification by clerk.* The clerk of the municipality which assessed such special and general tax and special assessment shall certify to the clerk of the municipality to which the territory was attached or returned, a list of all the property located therein to which is charged any uncollected taxes and assessments. The certification shall be made within 30 days after the effective date of the transfer of the property, but failure to so certify shall not affect the validity of the claim.

History: 1971 c. 125 s. 521; 1971 c. 154; 1973 c. 90; 1975 c. 41; 1977 c. 29 ss. 699, 700, 1646 (3), 1648 (1), 1654 (2), (8) (c).

66.035 Code of ordinances. The governing body of any city, town, county or village may authorize the preparation of a code, or part thereof, of general ordinances of such municipality. Such code, or part thereof, may be adopted by an ordinance referring thereto and may be published in book or pamphlet form and such publication shall be sufficient even though the ordinances contained therein were not published in accordance with ss. 59.09, 60.29 (9), 61.50 (1) and 62.11 (4) (a). A copy of such code, or part thereof, shall be permanently on file and open to public inspection in the office of the clerk after its adoption and for a period of not less than 2 weeks before its adoption. A code adopted by a county in accordance with the procedure provided in this section prior to April 30, 1965 shall be valid notwithstanding failure to comply with s. 59.09.

66.036 Building on unsewered property. **(1)** No county, city, town or village may issue a building permit for construction of any structure requiring connection to a private domestic sewage treatment and disposal system unless a system satisfying all applicable regulations already exists to serve the proposed structure or all permits necessary to install such a system have been obtained.

(2) Before issuing a building permit for construction of any structure on property not served by a municipal sewage treatment plant, the county, city, town or village shall determine that the proposed construction does not interfere with a functioning private domestic sewage treatment and disposal system. The county, city, town or village may require building permit applicants to submit a detailed plan of the owner's existing private domestic sewage treatment and disposal system.

History: 1977 c. 258.

NOTE: Chapter 258, laws of 1977, which created this section, contains a prefatory note. See the 1977 Session Laws volumes.

66.04 Appropriations. (1) BONUS TO STATE INSTITUTION. No appropriation or bonus of any kind shall be made by any town, village, or city, nor any municipal liability created nor tax levied, as a consideration or inducement to the state to locate any public educational, charitable, reformatory, or penal institution.

(m) *Subsidy of abortions restricted.* No city, village or town or agency or subdivision of a city, village or town may authorize funds for or pay to a physician or surgeon or a hospital, clinic or other medical facility for the performance of an abortion except those permitted under and which are performed in accordance with s. 20.927.

(2) INVESTMENTS. Any county, city, village, town, school district, drainage district, vocational, technical and adult education district or other governing board as defined by s. 34.01 (4) may invest any of its funds not immediately needed in time deposits in any bank, savings bank, trust company or savings and loan association which is authorized to transact business in this state, such time deposits maturing in not more than one year, or in bonds or securities issued or guaranteed as to principal and interest of the U.S. government, or of a commission, board or other instrumentality of the U.S. government, or bonds or securities of any county, city, drainage district, vocational, technical and adult education district, village, town or school district of this state or, in the case of a town, city or village, in any bonds or securities issued under the authority of the municipality, whether the same create a general municipality liability or a liability of the property owners of the municipality for special improvements, and may sell or hypothecate the same. Funds of any city or village in a deferred compensation plan approved by the internal revenue service may also be invested and reinvested in the same manner authorized for investments under s. 881.01 (1). Any local government as defined under s. 25.50 (1) (d) may also invest surplus funds in the local government pooled-investment fund or the local government trust-investment fund. Cemetery perpetual care funds or endowment funds including gifts where the principal is to be kept intact may also be invested under ch. 881.

(3) CELEBRATION OF HOLIDAYS. A town, county, school board or school district may appropriate money for the purpose of initiating

or participating in appropriate celebrations of any legal holiday listed in s. 757.17.

(4) INVESTED FUND PROCEEDS IN POPULOUS CITIES, USE. In any city of the first class, all interest derived from invested funds held by the city treasurer in a custodial capacity on behalf of any political entity, except for pension funds, shall be deemed general revenues of such city and shall revert to the city's general fund, conditioned upon the approval by such political entity evidenced by a resolution adopted for that purpose.

History: 1971 c. 41 s. 12; 1971 c. 154, 211; 1975 c. 164, 180, 422; 1977 c. 29, 182; 1977 c. 187 s. 135; 1977 c. 245, 272, 367, 447.

Cross Reference: See also 157.50 (6) as to investment of municipal perpetual care funds.

See note to 219.05, citing 62 Atty. Gen. 312, as to investments in savings and loan associations.

66.041 Local government audits and reports. Notwithstanding any other statute, the governing body of any county, city, village or town may require or authorize a financial audit of any municipal or county officer, department, board, commission, function or activity financed in whole or part from municipal or county funds, or if any portion of the funds thereof are the funds of such county, city, village or town. The governing body may likewise require submission of periodic financial reports by any such officer, department, board, commission, function or activity.

History: 1977 c. 29.

66.042 Disbursement from local treasury. **(1)** Except as otherwise provided in subs. (2), (3), (4) and (5), in every county, city, village, town and school district, all disbursements from the treasury shall be made by the treasurer thereof upon the written order of the county, city, village, town or school clerk after proper vouchers have been filed in the office of the clerk; and in all cases where the statutes provide for payment by the treasurer without an order of the clerk, it shall hereafter be the duty of the clerk to draw and deliver to the treasurer an order therefor before or at the time when such payment is required to be made by the treasurer. The provisions of this section shall apply to all special and general provisions of the statutes relative to the disbursement of money from the county, city, village, town or school district treasury except s. 67.10 (2).

(2) Notwithstanding any other provision of law, a county having a population of 500,000 may, by ordinance, adopt any other method of allowing vouchers, disbursing funds, reconciling outstanding county orders, reconciling bank accounts, examining county orders, and accounting therefor consistent with accepted accounting and auditing practices, provided that such ordinance shall prior to its adoption be submitted to the department of revenue, which department shall submit its recommendations with respect thereto to the county board of supervisors.

(3) Except in cities of the first class and counties having a population of 500,000 or more, disbursements from the county, city, village, town or school treasury shall be by order check. No such order check shall be released to the payee, nor shall such be valid, unless signed by the clerk and treasurer. Unless otherwise directed by ordinance adopted by the governing body, certified copy of which shall be filed with the public depository or depositories concerned, the chairman of the county board, mayor, village president, town chairman or director of the school district, as the case may be, shall countersign all order checks. The governing body may also by ordinance authorize additional signatures. In lieu of the personal signatures of the clerk and treasurer and such other signature as may be required, there may be affixed on such order check the facsimile signatures of such persons adopted by them and approved by the governing body concerned but the use of such facsimile signature shall not relieve any such official from any liability to which he is otherwise subject, including the unauthorized use thereof. Any public depository shall be fully warranted and protected in making payment on any check bearing such facsimile notwithstanding that the same may have been placed thereon without the authority of the designated persons.

(4) Whenever any board, commission or committee of any county, city, village, town or school district is vested by statute with exclusive control and management of a fund, including the audit and approval of payments therefrom, independently of the governing body, such payments shall be made by order checks issued by the county, city, village, town or school clerk upon the filing with him of certified bills, vouchers or schedules signed by the proper officers of such board, commission or committee, giving the name of the claimant or payee, and the amount and nature of each payment.

(5) In cities of the 1st class, municipal disbursements of public moneys shall be by order, check or order check. Checks shall be signed by the treasurer and countersigned by the comptroller. Orders shall be signed by the mayor and clerk and countersigned by the comptroller, as provided in the charter of such city. Disbursements of school moneys shall be as provided by s. 119.50.

(6) Withdrawal or disbursement of moneys deposited in a public depository as defined in s. 34.01 (2) by a treasurer as defined in s. 34.01

(7), other than the elected, appointed or acting official treasurer of a county, city, village, town or school district, shall be by endorsement, written order or check signed by the person or persons designated by written authorization of the governing board as defined in s. 34.01 (4). Any such authorization shall conform to any specific statutory provision covering the disbursement of the funds. Any public depository shall be fully warranted and protected in making payment in accordance with the latest authorization on file therewith.

(7) No order may be issued by the county, city, village, town, special purpose district, school district, cooperative education service agency or vocational, technical and adult education district clerk in excess of funds available or appropriated for the purposes for which the order is drawn, unless authorized by a resolution adopted by the affirmative vote of two-thirds of the entire membership of the governing body.

History: 1971 c. 154; 1971 c. 211 s. 124; 1977 c. 142, 225.

66.044 Financial procedure; alternative system of approving claims. (1) The governing body of any village or of any city of the second, third or fourth class may by ordinance enact an alternative system of approving financial claims against the municipal treasury. Such ordinance shall provide that payments may be made from the city or village treasury after the comptroller or clerk of the city or village shall have audited and approved each such claim as a proper charge against the treasury, and shall have indorsed his approval thereon after having determined that the following conditions have been complied with:

(a) That funds are available therefor pursuant to the budget approved by the governing body.

(b) That the item or service covered by such claim has been duly authorized by the proper official, department head or board or commission.

(c) That the item or service has been actually supplied or rendered in conformity with such authorization.

(d) That the claim is just and valid pursuant to law. The comptroller or clerk may require the submission of such proof and evidence to support the foregoing as in his discretion he may deem necessary.

(2) Such ordinance shall require that the clerk or comptroller shall file with the governing body not less than monthly a list of the claims approved, showing the date paid, name of claimant, purpose and amount.

(3) The ordinance shall provide that the governing body of the city or village shall authorize an annual detailed audit of its financial transactions and accounts by the department of revenue pursuant to s. 73.10 or by a public accountant licensed under ch. 442 the designation to be made by the governing body.

(4) Such system shall be operative only if the comptroller or clerk is covered by a fidelity bond of not less than $5,000 in villages and cities of the fourth class, of not less than $10,000 in cities of the third class, and of not less than $20,000 in cities of the second class.

(5) Whenever such an alternative procedure has been adopted by ordinance in conformity with this section, then the claim procedure required by ss. 61.25 (6), 61.51, 62.09 (10), 62.11, 62.12 and 895.43 and other relevant provisions shall not be applicable in such city or village.

History: 1971 c. 108 ss. 5, 6; 1971 c. 125 s. 523; 1977 c. 285 s. 12.

66.045 Privileges in streets. (1) Privilege for an obstruction or excavation beyond the lot line, or within a highway in any town, village, or city, other than by general ordinance affecting the whole public, shall be granted only as provided in this section.

(2) Application therefor shall be made to the board or council, and the privilege shall be granted only on condition that by its acceptance the applicant shall become primarily liable for damages to person or property by reason of the granting of the privilege, be obligated to remove the same upon 10 days' notice by the state or the municipality and waive right to contest in any manner the validity of this section or the amount of compensation charged and that the applicant file such bond as the board or council require, not exceeding $10,000 running to the town, village, or city, and such third parties as may be injured, to secure the performance of these conditions. But if there is no established lot line and the application is accompanied by a blue print, the board or council may make such conditions as they deem advisable.

(3) Compensation for the special privilege shall be paid into the general fund and shall be fixed, in towns by the chairman, in villages by the president, and in cities by a board consisting of the board or commissioner of public works, city attorney and mayor.

(4) The holder of such special privilege shall be entitled to no damages for removal of the obstruction or excavation, and if he shall not remove the same upon due notice, it shall be removed at his expense.

(5) Third parties whose rights are interfered with by the granting of such privilege shall have right of action against the holder of the special privilege only.

(6) The provisions of subsections (1) to (5) do not apply to public service corporations, or to co-operative associations organized under chapter 185 to render or furnish telephone, gas, light, heat or power, but such corporations shall secure permit from the proper official for temporary obstructions or excavation in a highway and shall be liable for all injuries to person or property thereby.

(7) This section does not apply to such obstruction or excavation for not longer than 3 months, and for which permit has been granted by the proper official.

(8) Obstruction or excavation by a city or village in any street, alley, or public place belonging to any other municipality is included in this section.

(9) Anyone causing any obstruction or excavation to be made contrary to the provisions of subsections (1) to (8) shall be liable to a fine of not less than $25 and not more than $500, or to imprisonment in the county jail for not less than 10 days nor more than 6 months, or to both such fine and imprisonment.

See note to 81.15, citing Webster v. Klug & Smith, 81 W (2d) 334, 260 NW (2d) 686.

66.046 Barriers across streets for play purposes. The council or board of any city or village may cause streets that are not a part of any federal, state or county trunk highway system, to be set aside for the safety of children in coasting or other play activities, and may obstruct or barricade such streets for such period of time and in such manner as shall most effectively safeguard the children from accidents. The council or board of such city or village shall erect and maintain thereon barriers or barricades, lights, or warning signs therefor and shall not be liable for any damage caused thereby.

66.047 Interference with public service structure. No contractor having a contract for any work upon, over, along or under any public street or highway shall interfere with, destroy or disturb the structures of any public service corporation encountered in the performance of such work so as to interrupt, impair or affect the public service for which such structures may be used, without first procuring written authority from the commissioner of public works, or other properly constituted authority. It shall, however, be the duty of every public service corporation, whenever a temporary protection of, or temporary change in, its structures, located upon, over, along or under the surface of any public street or highway is deemed by the commissioner of public works, or other such duly constituted authority, to be reasonably necessary to enable the accomplishment of such work, to so temporarily protect or change its said structures; provided, that such contractor shall give at least 2 days' notice of such required temporary protection or temporary change to such corporation, and shall pay or assure to such corporation the reasonable cost thereof, except when such corporation is properly liable therefor under the law, but in all cases where such work is done by or for the state or by or for any county, city, village, or town, the cost of such temporary protection or temporary change shall be borne by such public service corporation.

History: 1973 c. 277.

Interference without written authority is prohibited only if parties cannot agree that requested changes are reasonably necessary. Town sanitary district is not a town within meaning of statute for cost provision. Wis. Gas Co. v. Lawrenz & Asso. 72 W (2d) 389, 241 NW (2d) 384.

66.048 Viaducts in cities and villages. (1) VIADUCTS, PRIVATE IN CITIES AND VILLAGES. The privilege of erecting a viaduct above a public street or alley, for the purpose of connecting buildings on each side thereof, may be granted by the city council or village board upon the written petition of the owners of all the frontage of the lots and lands abutting upon the portion thereof sought to be connected, and the owners of more than one-half of the frontage of the lots and lands abutting upon that portion of the remainder thereof which lies within 2,650 feet from the ends of the portion proposed to be so connected. Whenever any of the lots or lands aforesaid is owned by the state, or by a county, city or village, or by a minor or incompetent person, or the title thereof is held in trust, as to all lots and lands so owned or held, said petition may be signed by the governor, the chairman of the county board, the mayor of the city, the president of the board of trustees of the village, the guardian of the minor or incompetent person, or the trustee, respectively, and the signature of any private corporation may be made by its president, secretary or other principal officer or managing agent. Written notice stating when and where the petition will be acted upon, and describing the location of the proposed viaduct, shall be given by the city council or village board by publication of a class 3 notice, under ch. 985.

(2) VIADUCTS, REMOVAL OF PRIVATE. A viaduct in any city or village may be discontinued by the city council or village board, upon written petition of the owners of more than one-half of the frontage of the lots and lands abutting on the street approaching on each end of such viaduct, which lies within 2,650 feet from the ends of such viaduct. Whenever any of the lots or lands aforesaid is owned by the state, or by a county or city, or by a minor or incompetent person, or the title thereof is held in trust, as to all lots and lands so owned or held, said petition may be

signed by the governor, the chairman of the county board, the mayor of the city, the guardian of the minor or incompetent person, or the trustee, respectively, and the signature of any private corporation may be made by its president, secretary or other principal officer or managing agent. Written notice stating when and where the petition will be acted upon, and stating what viaduct is proposed to be discontinued, shall be given by the city council or village board by publication of a class 1 notice, under ch. 985, not less than one year before the day fixed for the hearing and a class 3 notice, under ch. 985, within the 30 days before the date of the hearing.

(3) LEASE OF SPACE BY CITIES AND VILLAGES. (a) Any city or village may lease space over any street, alley or other public place in the city or village which is more than 12 feet above the level of the street, alley or other public place for any term not exceeding 99 years to the person who owns the fee in the property on both sides of the portion of the street, alley or other public place to be so leased, whenever the governing body of the city or village is of the opinion that such place is not needed for street, alley or other public purpose, and that the public interest will be served by such leasing.

(b) The leasing of each space shall be authorized by ordinance. The ordinance shall set forth the proposed lease, the purpose for which the space may be used and the terms of the lease with reasonable certainty.

(c) The lease shall be signed on behalf of the city or village by the mayor or village president and shall be attested by the city or village clerk under the corporate seal. The lease shall also be executed by the lessee in such manner as necessary to bind him. After being duly executed and acknowledged the lease shall be recorded in the office of the register of deeds of the county in which is located the leased premises.

(d) If, in the judgment of such governing body, the public interest requires that any building erected in the leased space be removed so that a street, alley or public place may be restored to its original condition, the lessor city or village may condemn the lessee's interest in the leased space by proceeding under ch. 32. After payment of such damages as may be fixed in the condemnation proceedings, the city or village may remove all buildings or other structures from the leased space and restore the buildings adjoining the leased space to their original condition.

(4) SALE OR LEASE OF SPACE. (a) Any city or village may sell or lease the space over any street, alley or public place or municipally owned real estate or below ground level thereof to any person, if the governing body determines by resolution that such action is in the best public interest and states the reasons therefor and the prospective purchaser or lessee has provided for the removal and relocation expense for any facilities devoted to a public use where such relocation is necessary for the purposes of the purchaser or lessee. Leases shall be granted by ordinance and shall not exceed 99 years in length. No lease shall be granted nor use authorized hereunder which substantially interferes with the public purpose for which the surface of the land is used.

(b) Leases shall specify purposes for which the leased space is to be used. If the purpose is to erect in the space a building or a structure attached to the lot, the lease shall contain a reasonably accurate description of the building to be erected and of the manner in which it shall be imposed upon or around the lot. The lease shall also provide for use by the lessee of such areas of the real estate as are essential for ingress and egress to the leased space, for the support of the building or other structures to be erected and for the connection of essential public or private utilities to the building or structure.

(c) Any building erected in the space leased shall be operated, as far as practicable, separately from the municipal use. Such structure shall conform to all state and municipal regulations.

(d) Any leases under this subsection shall be subject to sub. (3) (c) and (d).

History: 1971 c. 43.

A statute authorizing cities and villages to lease space over a parking lot would be constitutional. 58 Atty. Gen. 179.

66.0485 Accident record systems. Every city and village having a population of 5,000 or more, shall maintain a traffic accident record system whereby traffic accidents occurring within the city or village may be located within 100 feet of the occurrence.

History: 1975 c. 381.

66.049 Removal of rubbish. Cities and villages may cause the removal of ashes, garbage, and rubbish from such classes of places therein as the board or council shall direct. The removal may be from all such places or from those whose owners or occupants desire the service. Districts may be created and removal provided for certain of them only, and different regulations may be applied to each removal district. The cost of removal may be provided for by special assessment against the property served, by general tax upon the property of the respective districts, or by general tax upon the property of the city or village.

66.05 Razing buildings; excavations. (1) (a) The governing body or the inspector of buildings or other designated officer in every municipality, except in towns situated in a county of less than 15,000 population upon complaint of a majority of the members of the town board the circuit court, may order the owner of premises upon which is located any building or part thereof within such municipality, which in its judgment is so old, dilapidated or has become so out of repair as to be dangerous, unsafe, insanitary or otherwise unfit for human habitation, occupancy or use, and so that it would be unreasonable to repair the same, to raze and remove such building or part thereof, or if it can be made safe by repairs to repair and make safe and sanitary or to raze and remove at the owner's option; or where there has been a cessation of normal construction of any building or structure for a period of more than 2 years, to raze and remove such building or part thereof. The order shall specify a time in which the owner shall comply therewith and specify repairs, if any. It shall be served on the owner of record or his agent where an agent is in charge of the building and upon the holder of any encumbrance of record in the manner provided for service of a summons in the circuit court. If the owner or a holder of an encumbrance of record cannot be found the order may be served by posting it on the main entrance of the building and by publishing as a class 3 notice, under ch. 985, before the time limited in the order commences to run.

(b) Whenever a municipal governing body, inspector of buildings or designated officer determines that the cost of such repairs would exceed 50 per cent of the assessed value of such building divided by the ratio of the assessed value to the recommended value as last published by the state supervisor of assessments for the municipality within which such building is located, such repairs shall be presumed unreasonable and it shall be presumed for the purposes of this section that such building is a public nuisance.

(c) Acts of municipal authorities under this section shall not increase the liability of an insurer.

(2) (a) If the owner fails or refuses to comply within the time prescribed, the inspector of buildings or other designated officer shall cause such building or part thereof to be razed and removed either through any available public agency or by contract or arrangement with private persons, or closed if unfit for human habitation, occupancy or use. The cost of such razing and removal or closing shall be charged against the real estate upon which such building is located and shall be a lien upon such real estate, and shall be assessed and collected as a special tax. When any building has been ordered razed and removed the governing body or other designated officer under said contract or arrangement aforesaid may sell the salvage and valuable materials at the highest price obtainable. The net proceeds of such sale, after deducting the expenses of such razing and removal, shall be promptly remitted to the circuit court with a report of such sale or transaction, including the items of expense and the amounts deducted, for the use of the person who may be entitled thereto, subject to the order of the court. If there remains no surplus to be turned over to the court, the report shall so state. If the building or part thereof is insanitary and unfit for human habitation, occupancy or use, and is not in danger of structural collapse the building inspector shall post a placard on the premises containing the following words: "This Building Cannot Be Used for Human Habitation, Occupancy or Use". And it is the duty of the building inspector or other designated officer to prohibit the use of the building for human habitation, occupancy or use until the necessary repairs have been made.

(b) Any municipality, inspector of buildings or designated officer may, in his official capacity, commence and prosecute an action in circuit court for an order of the court requiring the owner to comply with an order to raze or remove any building or part thereof issued under this section if the owner fails or refuses to do so within the time prescribed in such order, or for an order of the court requiring any person occupying a building whose occupancy has been prohibited under this section to vacate the premises, or any combination of such court orders. Hearing on such actions shall be given precedence over other matters on the court's calendar. Costs shall be in the discretion of the court.

(c) Any person who rents, leases or occupies a building which has been condemned for human habitation, occupancy or use shall be fined not less than $5 nor more than $50 or imprisoned not more than 30 days for each week of such violation, or both.

(3) Anyone affected by any such order shall within 30 days after service of such order apply to the circuit court for an order restraining the inspector of buildings or other designated officer from razing and removing such building or part thereof or forever be barred. Hearing shall be had within 20 days and shall be given precedence over other matters on the court's calendar. The court shall determine whether the order of the inspector of buildings is reasonable, and if found reasonable the court shall dissolve the restraining order, and if found not reasonable the court shall continue the restraining order or

modify it as the circumstances require. Costs shall be in the discretion of the court. If the court finds that the order of the inspector of buildings is unreasonable, the inspector of buildings or other designated officer shall issue no other order pursuant to the authority of this section in regard to the same building or part thereof until its condition is substantially changed. The remedies herein provided shall be exclusive remedies and anyone affected by such an order of the inspector shall not be entitled to recover any damages for the razing and removal of any such building.

(4) "Building" as used in this section includes any building or structure.

(5) If any building ordered razed or made safe and sanitary by repairs contains personal property or fixtures which will unreasonably interfere with the razing or repair of such building or if the razing of the building makes necessary the removal, sale or destruction of such personal property or fixtures the inspector of buildings or other designated officer may order in writing the removal of such personal property or fixtures by a certain date. Such order shall be served as provided in subsection (1). If the personal property or fixtures or both are not removed by the time specified the inspector may store the same, or may sell it, or if it has no appreciable value he may destroy the same. In case the property is stored the amount paid for storage shall be a lien against such property and against the real estate and shall be assessed and collected as a special tax against the real estate if the real estate is owned by the owner of the personal property and fixtures. If the property is stored the owner thereof, if known, shall be notified of the place of its storage and if it be not claimed by the owner it may be sold at the expiration of 6 months after it has been stored. In case of sale the handling of the sale and the distribution of the net proceeds after deducting the cost of storage and any other costs shall be handled as specified in subsection (2) and a report made to the circuit court as therein specified. Anyone affected by any order made under this subsection may appeal as provided in subsection (3).

(5m) This section shall not limit powers otherwise granted to municipalities by other laws of this state.

(6) In any town, city or village in any county having a population of 500,000 or more no excavation for building purposes, whether or not completed, shall be left open for more than 6 months without proceeding with the erection of a building thereon. In the event any such excavation remains open for more than 6 months, the inspector of buildings or other designated officer in such town, village or city shall order that the erection of a building on the excavation begin forthwith or in the alternative that the excavation be filled to grade. The order shall be served upon the owner of the land or his agent and upon the holder of any encumbrance of record as provided in sub. (1). If the owner of the land fails to comply with the order within 15 days after service thereof upon him, the inspector of buildings or other designated officer shall cause the excavation to be filled to grade and the cost shall be charged against the real estate as provided in sub. (2). Subsection (3) shall also apply to orders issued under this subsection. This shall not be construed to impair the authority of any city or village to enact ordinances in this field.

(7) The action provided in sub. (1) for razing or removing a building on premises in a town situated in a county of less than 15,000 population shall be commenced in accordance with s. 801.02. The authenticated copy of the summons and the complaint shall be served upon the owner and occupant of and any holder of an encumbrance of record against the premises. Procedure shall be the same in all respects as the procedure in other civil actions so far as applicable. Subsection (3) shall not apply to such actions except the court may, upon a showing of hardship or other good cause, restrain for reasonable periods of time the razing or removal of a building or part thereof and the removal, sale or destruction of any personal property or fixtures therein. Costs shall be in the discretion of the court except as to persons found by the court to be acting maliciously in or about the commencement or prosecution of such action.

(8) (a) Whenever an owner of any building, dwelling or structure in any city or village permits the same, either as a result of vandalism or for any other reason, to deteriorate or become dilapidated or blighted to the extent where windows, doors or other openings or plumbing or heating fixtures or facilities or appurtenances of such building, dwelling or structure are either damaged, destroyed or removed so that such building, dwelling or structure offends the aesthetic character of the immediate neighborhood or produces blight or deterioration by reason of such condition, the building inspector or other designated officer of such city or village shall issue a written notice respecting the existence of such defect; such written notice shall be served on the owner of such building, dwelling or structure as set forth in sub. (1) (a) and shall direct the owner of such building, dwelling or structure to promptly remedy the defect within 30 days following the service of such notice.

(b) If such owner fails to remedy or improve the defect in accordance with the written notice furnished by the building inspector or other designated officer as set forth in par. (a), then after the expiration of the 30-day period specified in the written notice such building inspector or other designated officer shall apply to the circuit court of the county in which such building, dwelling or structure is located for an order determining that such building, dwelling or structure constitutes a public nuisance. As a part of the application for such order from the circuit court such building inspector or other designated officer shall file a verified petition in which shall be recited the giving of such written notice, the defect or defects in such building, dwelling or structure, the owner's failure to comply with the notice and such other pertinent facts as may be related thereto. A copy of the petition shall be served upon the owner as provided in sub. (1) (a) and the owner shall have 20 days following service upon him in which to reply to such petition. Upon application by the building inspector or other designated officer the circuit court shall promptly set the petition for hearing. Testimony shall be taken by the circuit court with respect to the allegations of the petition and denials contained in the verified answer. If the circuit court after hearing the evidence with respect to the petition and the answer shall determine that the building, dwelling or structure constitutes a public nuisance, the court shall promptly issue an order directing the owner of such building, dwelling or structure to remedy the defect and to make such repairs and alterations as may be required. The court shall further set a reasonable period of time in which such defect shall be remedied and the repairs or alterations completed. A copy of such order shall be served upon the owner as provided in sub. (1) (a). The order of the circuit court shall state in the alternative that if the order of the court is not complied with within the time fixed by the court, then such building inspector or other designated officer may proceed to raze the building, dwelling or structure. All costs or disbursements with respect to such razing shall be as provided for in sub. (2) (a).

(c) Either the owner or the city or village may appeal to the court of appeals within 30 days from the date of entry of the order of the circuit court.

(d) Any building, which under par. (a) either as a result of vandalism or for any other reason is permitted to deteriorate or become dilapidated or blighted to the extent where windows, doors or other openings or plumbing or heating fixtures or facilities or appurtenances of such building, dwelling or structure are either damaged, destroyed or removed so that such building, dwelling or structure offends the aesthetic character of the immediate neighborhood and produces blight or deterioration by reason of such condition, is a public nuisance.

History: Sup. Ct. Order, 67 W (2d) 750; 1977 c. 187.

The 30-day time limitation within which an owner may apply to the circuit court for an order restraining a municipality from razing a building as prescribed in 66.05 (3), Stats. 1969, merely calls for an application to the court within the 30-day period; hence service of the application or resultant order need not be made within that period although, as provided in the statute, a hearing on the merits of the controversy must be held within 20 days. Berkoff v. Dept. of Building Inspection, 47 W (2d) 215, 177 NW (2d) 142.

The owner has no option to repair buildings ordered razed where the cost of repair would be unreasonable, i.e., exceeding 50% of value. Appleton v. Brunschweiler, 52 W (2d) 303, 190 NW (2d) 545.

The statute only creates a presumption that repairs in excess of 50% are unreasonable but the property owner has the burden to show that presumption is unreasonable in the particular case. Posnanski v. City of West Allis, 61 W (2d) 461, 213 NW (2d) 51.

Trial court exceeded authority in modifying building inspector's order to raze building by instead ordering repairs necessary to make building fit for human habitation where public had no access to building. Donley v. Boettcher, 79 W (2d) 393, 255 NW (2d) 574.

Persons affected by razing order have exclusive remedy under (3). Gehr v. Sheboygan, 81 W (2d) 117, 260 NW (2d) 30.

66.051 Power of municipalities to prohibit criminal conduct. The board or council of any town, village or city may:

(1) Prohibit all forms of gambling and fraudulent devices and practices;

(2) Cause the seizure of anything devised solely for gambling or found in actual use for gambling and cause the destruction of any such thing after a judicial determination that it was used solely for gambling or found in actual use for gambling;

(3) Prohibit conduct which is the same as or similar to that prohibited by s. 947.01.

(4) Nothing in this section shall be construed to preclude cities and villages from prohibiting conduct which is the same or similar to that prohibited by chs. 941 to 947.

History: 1973 c. 198.

See note to 161.001, citing 63 Atty. Gen. 107, concerning marijuana penalties.

Town boards, including those authorized to exercise village powers, cannot prohibit conduct the same or similar to that prohibited by chs. 941 to 947, except as provided in (1), (2) and (3), or other express statutes. 66 Atty. Gen. 58.

66.052 Offensive industry. (1) Any city council or village board may direct the location, management and construction of, and license (annually or otherwise), regulate or prohibit any industry, thing or place where any nauseous, offensive or unwholesome business is carried on, within the city or village or within 4 miles of the boundaries, except that the Milwaukee, Menominee and Kinnickinnic rivers with their branches to the outer limits of the county of Milwaukee, and all canals connecting with said rivers, together with the lands adjacent to said

rivers and canals or within 100 yards thereof, are deemed within the jurisdiction of the city of Milwaukee. Any town board as to the area within the town not licensed, regulated or prohibited by any city or village pursuant to this section, shall have the same powers as provided in this section for cities and villages. Any such business conducted in violation of any city, village or town ordinance permitted to be enacted under this section is declared to be a public nuisance and an action for the abatement or removal thereof or to obtain an injunction to prevent the same may be authorized to be brought and maintained by the city council or village or town board in the name of this state on the relation of such city, village or town as provided in ss. 823.01, 823.02 and 823.07, or as provided in s. 146.125. Section 97.42 shall not limit the powers granted by this section. Section 95.72 shall not limit the powers granted by this section to cities or villages but powers granted to towns by this section shall be limited by s. 95.72 and any orders and rules promulgated thereunder.

(2) Any city or village may, subject to the approval of the town board of such town, by ordinance enact reasonable regulations governing areas where refuse, rubbish, ashes or garbage shall be dumped or accumulated in any town within one mile of the corporate limits of such city or village, so as to prevent nuisance.

History: 1973 c. 206; Sup. Ct. Order, 67 W (2d) 774.

The social and economic roots of judge-made air pollution policy in Wisconsin. Laitos, 58 MLR 465.

66.053 Licenses for nonintoxicating and soda water beverages. (1) NONINTOXICATING BEVERAGES. (a) Each town board, village board and common council shall grant licenses to such persons as they deem proper for the sale of beverages containing less than one-half of one per centum of alcohol by volume to be consumed on the premises where sold and to manufacturers, wholesalers, retailers and distributors of such beverages, for which a license fee of not less than $5 nor more than $50, to be fixed by the board or council, shall be paid, except that where such beverages are sold, not to be consumed on the premises, the license fee shall be $5. Such license shall be issued by the town, village or city clerk, shall designate the specific premises for which granted and shall expire the thirtieth day of June thereafter. The full license fee shall be charged for the whole or a fraction of the year. No such beverages shall be manufactured, sold at wholesale or retail or sold for consumption on the premises, or kept for sale at wholesale or retail, or for consumption on the premises where sold without such license.

(am) In case of removal of the place of business from the premises designated in the license to another location in the town, village or city within the license period, the licensee shall give notice of such change of location, and the license shall be amended accordingly without payment of additional fee. No such license, however, shall be transferable from one person to another.

(b) No license or permit may be granted to any person, unless to a domestic corporation, not a citizen of the United States and of this state and a resident of the town, village or city in which the license is applied for, nor, subject to s. 111.32 (5) (a) and (h), to any person who has been convicted of a felony, unless the person has been restored to civil rights.

(c) Each town board, village board and common council shall have authority by resolution or ordinance to adopt such regulations as it may deem reasonable and necessary regarding the location of licensed premises, the conduct thereof, the sale of beverages containing less than one-half of one per centum of alcohol by volume and the revocation of any license or permit.

(2) SODA WATER BEVERAGES. Each town board, village board and common council of any city may grant licenses to such persons as they deem proper for the sale of soda water beverages, as defined in s. 97.34, to be consumed on or off the premises where sold. Such license fee shall be fixed by such governing body of such city, village or town but shall not exceed $5. The license shall be issued by the town, city or village clerk, shall designate the specific premises for which granted and shall expire on the thirtieth day of June thereafter. Each such governing body shall have authority by resolution or ordinance to adopt such regulations as it may deem reasonable and necessary regarding the location of licensed premises, the conduct thereof and the revocation of any such license.

History: 1977 c. 125.

66.054 Licenses for fermented malt beverages. (1) DEFINITIONS. As used in this section:

(a) "Brewer" shall mean any person, firm or corporation who shall manufacture for the purpose of sale, barter, exchange or transportation fermented malt beverages as defined herein.

(b) "Bottler" shall mean any person, firm or corporation, other than a brewer, who shall place in bottles fermented malt beverages as hereinafter defined, for the purpose of sale, barter, exchange, transportation, offering for sale, or having in possession with intent to sell.

(c) "Wholesaler" means a dealer other than a brewer or bottler who sells, or offers for sale, malt beverages to another dealer.

(d) "Retailer" means any dealer who sells, or offers for sale, any malt beverages to any person other than a dealer.

(e) "Permit" shall mean a permit issued to a brewer or bottler by the commissioner of internal revenue of the United States.

(f) "Operator" shall mean any person who shall draw or remove any fermented malt beverage for sale or consumption from any barrel, keg, cask, bottle or other container in which fermented malt beverages shall be stored or kept on premises requiring a Class "B" license, for sale or service to a consumer for consumption in or upon the premises where sold.

(g) "License" shall mean an authorization or permit issued by the city council or village or town board, relating to the sale, barter, exchange, or traffic in fermented malt beverages.

(h) "Application" shall mean a formal written request filed with the clerk of the town, city or village in which the applicant shall be a resident, for the issuance of a license, supported by a verified statement of facts.

(i) "Regulation" shall mean any reasonable rule or ordinance adopted by the council or board of any city, village or town, not in conflict with the provisions of any statute of the state of Wisconsin.

(j) "Fermented malt beverages" shall mean any liquor or liquid capable of being used for beverage purposes, made by the alcoholic fermentation of an infusion in potable water of barley malt and hops, with or without unmalted grains or decorticated and degerminated grains or sugar containing one-half of one per cent or more of alcohol by volume.

(k) "Brewery premises" shall mean and include all land and all buildings used in the manufacture or sale of fermented malt beverages at a brewer's principal place of business.

(l) "Dealer" means any person who sells, or offers for sale, any fermented malt beverages.

(3) LABELS. (a) Every brewer shall file with the secretary of revenue, in such form as he shall prescribe, proof that said brewer is the possessor of a permit, together with the permit number assigned to him. The secretary shall thereupon register such permit number in the name of said brewer. Every bottler shall make application to the secretary for the assignment to him of a registration number, which shall be registered in the name of said bottler. The numbers so registered shall appear in plain and legible type upon a label which shall be affixed by each brewer or bottler to every barrel, keg, cask, bottle, or other container in which fermented malt beverage shall be packed by said brewer or bottler.

(b) No fermented malt beverage shall be sold, bartered, exchanged, offered or exposed for sale, kept in possession with intent to sell, or served in any licensed premises unless there shall be placed upon each barrel, keg, cask, bottle or other container a label bearing the name and address of the brewer or bottler manufacturing or bottling said beverage and, in plain legible type, the registration number of said brewer or bottler.

(c) The possession of any fermented malt beverages in or about any licensed premises which shall not be labeled as herein provided, except upon premises of a brewer or bottler, shall be deemed prima facie evidence that such products are kept and possessed with intent to sell, offer for sale, display for sale, barter, exchange or give away such fermented malt liquor.

(4) RESTRICTIONS ON BREWERS, BOTTLERS AND WHOLESALERS. (a) No brewer, bottler or wholesaler shall furnish, give, lend, lease or sell any furniture, fixtures, fittings, equipment, money or other thing of value, directly or indirectly, or through a subsidiary or affiliate corporation, or by any officer, director, stockholder or partner thereof, to any Class "B" licensee, or to any person for the use, benefit or relief of any Class "B" licensee, or guarantee the repayment of any loan, or the fulfillment of any financial obligation of any Class "B" licensee; except that brewers, bottlers and wholesalers may:

1. Furnish, give, lend or rent outside and inside signs to Class "B" licensees provided the value of such signs, in the aggregate, furnished, given, lent or rented by any brewer, bottler or wholesaler to any Class "B" licensee, shall not exceed $125 exclusive of erection, installation and repair charges, but nothing herein shall be construed as affecting signs owned and located in the state of Wisconsin on May 24, 1941 by any brewer, bottler or wholesaler;

2. Furnish miscellaneous advertising matter and other items not to exceed, in the aggregate, the value of $25 in any calendar year to any one Class "B" licensee;

3. Furnish or maintain for Class "B" licensees such equipment as is designed and intended to preserve and maintain the sanitary dispensing of fermented malt beverages, provided the expense incurred thereby does not exceed the sum of $25 per tap per calendar year no part of which shall be paid in cash to any Class "B" licensee;

4. Sell dispensing equipment such as direct draw boxes, novelty boxes, coil boxes, beer storage boxes or tapping equipment, none of which shall include bar additions, to Class "B" licensees for cash or on credit payable in equal

monthly payments within 2 years to be evidenced by a written contract setting forth all of the terms, conditions and monthly payments agreed on, and within 10 days after execution of the same the seller shall file with the register of deeds for the county wherein such equipment is installed a true copy of such contract and pay a filing fee of $1; and

5. Acquire within 5 days after May 24, 1941, any furniture, fixtures, fittings and equipment, or any valid lien thereon or interest therein, which were actually installed in this state on the premises of any Class "B" licensee prior to said date, and may lease or lend the same to Class "B" licensees who are in possession or to any person in possession of the premises where the same are actually installed prior to said date. Any brewer, bottler or wholesaler who repossesses any furniture, fixtures, fittings or equipment lent, leased or sold to any Class "B" licensee may sell the same to any Class "B" licensee, for cash on delivery only, and deliver a bill of sale of the same. Any application for a Class "B" license after said date made for the sale of fermented malt beverages shall have appended thereto and made a part thereof, an affidavit, sworn and acknowledged under oath, by the applicant for such license, setting forth the ownership of the fixtures in or attached to the premises, or any part thereof, and if such fixtures are not owned by the applicant for such license, the manner, terms and conditions under which said fixtures are held. No brewer, bottler or wholesaler shall after said date, directly or indirectly, or through a subsidiary or affiliate corporation, or by any officer, director, stockholder or partner enter into any written agreement, and no written or oral agreement shall be valid, whether or not incorporated in any chattel mortgage, conditional sales contract, security agreement, bill of sale, lease, land contract, mortgage, deed or other instrument wherein or whereby any Class "B" licensee is required to purchase the fermented malt beverages of any brewer to the exclusion, in whole or in part, of fermented malt beverages manufactured by other brewers. The restrictions contained in this subsection shall not apply to real estate owned in whole or in part on said date by any brewer, bottler or wholesaler, directly or indirectly, or by any subsidiary or affiliate corporation, or by any officer, director, stockholder, partner or trustee for any of the foregoing, or upon which any of the foregoing had or held a valid subsisting lien on said date, or to any real estate now or hereafter owned in whole or in part by any of the foregoing upon which there is or shall be a hotel of 100 or more rooms. Nothing herein contained shall affect the extension of usual and customary commercial credits for products of the industry actually sold and delivered. Any licensee who is a party to any violation of this subsection or who receives the benefits thereof shall be equally guilty of a violation thereof.

6. Sell consumable merchandise intended for resale, including the sale or loan of containers thereof, in the regular course of business.

7. Purchase advertising and other services and rights for a fair consideration from any corporate Class "B" licensee who is a member of a regularly established athletic league and whose principal business is the ownership, maintenance and operation of a professional athletic team, playing a regular schedule of games and whose principal source of income is derived from the sale of tickets to games played by such teams.

8. Contribute money or other things of value to or for the benefit of a nonprofit corporation, exempt under section 501 (c) (3) of the U.S. internal revenue code of 1954 and conducting festivals of limited duration in a city of the 1st class if the festivals are sponsored and endorsed in whole or in part by a municipal corporation.

(b) A brewer may maintain and operate a place in and upon the brewery premises and a place in and upon real estate owned by a brewer, or subsidiary or affiliate corporation for the sale of fermented malt beverages for which a Class "B" license shall be required for each place but not more than 2 such Class "B" licenses shall be issued, and in addition a brewer may own, maintain and operate a place or places for the sale of fermented malt beverages on any state or county fairgrounds located within this state. Any Class "B" licenses necessary in connection with this subsection shall be issued to the brewer. A brewer may own the furniture, fixtures, fittings, furnishings and equipment used therein and shall pay any license fee or tax required for the operation of the same. Brewers may without license therefor, furnish fermented malt beverages free of charge to customers, visitors and employes on the brewery premises and no license fee shall be required of any such brewer, if such fermented malt beverages so furnished shall be consumed on the brewery premises and if fermented malt beverages shall not be furnished or consumed in or about any room or place where intoxicating liquors, as defined by section 176.01, are sold.

(c) A brewer or bottler may own and operate depots or warehouses, from which sales of fermented malt beverages, not to be consumed in or about the premises where sold, may be made in original packages to dealers. A separate wholesaler's license shall be required for each warehouse or depot maintained or operated.

(d) "Brewers" and "bottlers" who shall desire to sell (in the original packages or containers) fermented malt beverages not to be consumed in or upon the premises where sold, shall be required to obtain a wholesaler's license if said fermented malt beverages are sold to dealers, or a Class "A" license if such sales are made to persons other than dealers.

(5) LICENSES; GENERAL REQUIREMENTS. (a) No person shall sell, barter, exchange, offer for sale, or have in possession with intent to sell, deal or traffic in fermented malt beverages, unless licensed as provided in this section by the governing board of the city, village or town in which the place of business is located, provided that in case of a foreign corporation whose wholesale place of business is located outside of the state such wholesaler's license shall be issued by the governing board of a city, village or town in which is conducted some part of such wholesaler's business in this state, provided, however, that no license shall be required to authorize the solicitation of orders for sale to be made to or by licensed wholesalers, provided that nothing herein shall prohibit brewers from manufacturing, possessing or storing fermented malt beverages on the brewery premises or from transporting fermented malt beverages between such brewery premises and any depot or warehouse maintained by such brewer for which such brewer has a wholesaler's license as provided in subsection (6).

(b) The governing body of every city, village and town shall have the power, but shall not be required, to issue licenses to wholesalers and retailers for the sale of fermented malt beverages within its respective limits, as herein provided. Said retailers' licenses shall be of 2 classes, to be designated as Classes "A" and "B."

(c) 1. The electors of any city, village or town may, by ballot, at the spring election, determine whether or not Class "B" retail licenses shall be issued for the sale of fermented malt beverages for consumption on or off the premises where sold, or whether or not Class "A" retail licenses shall be issued for the sale of fermented malt beverages for consumption away from the premises where sold, provided that whenever a number of qualified electors of any city, village or town equal to, or more than, 15% of the number of votes cast therein for governor at the last general election, shall present to the clerk thereof a separate petition on each question, in writing, signed by them, praying that the electors thereof may have submitted to them any such question and shall file such petition with the clerk at least 30 days prior to the first Tuesday of April next succeeding. Within 5 days of the filing of any such petition such clerk shall determine by careful examination the sufficiency or insufficiency thereof and state the findings in a signed certificate dated and attached to such petition, and within 5 days give written notice to the department of revenue, at Madison, Wisconsin, that such petition has been filed, stating the question to be submitted, the date of filing such petition, the name of the town, its post-office address, village or city, and such clerk after and not until the clerk has determined that such petition is sufficient and shall have given the notice to the department of revenue as hereinabove set forth, shall forthwith make an order providing that such question shall be so submitted on the first Tuesday of April next succeeding the date of such order. Said petition must be circulated by one or more qualified voters residing in the town, village or city wherein such local option question will be submitted. The preparation of such petition shall be governed as to the use of more than a single sheet of paper, the dates of signatures, the places of residence of signers, and verification thereof, by the provisions of s. 8.15 as far as applicable. No petition shall be circulated prior to 60 days before the date on which it must be filed, and no signature shall be counted unless it has been affixed to such petition and bears date within 60 days prior to the time for the filing thereof. At such election a separate ballot box shall be provided for such ballots. Such ballots shall conform to the provisions of s. 5.64 (2).

2. Any question so submitted shall be upon a separate ballot. The question shall read as follows:

Shall Class "B" license (taverns, hotels, restaurants, clubs, societies, lodges, fair associations, etc.) be issued for the retail sale of beer for consumption on or off the premises where sold?

YES □ NO □

Shall Class "A" license (stores, etc.) be issued for the retail sale of beer in original packages to be consumed away from the premises where sold?

YES □ NO □

3. The city clerk making such order shall give notice of the election to be held on any such question in the manner notice is given of the regular city election; town and village clerks who make such orders shall give such notice by posting written or printed notices in at least 5 public places in the town or village not less than 10 days before the date of election. The election on such question or questions shall be held and conducted and the returns canvassed in the manner in which elections in such city, town or village on other questions are conducted and the returns thereof canvassed. The results shall be certified by the canvassers immediately upon the determination thereof, and be entered upon

the records of the town, village or city, and within 10 days such clerk shall notify the department of revenue of the results of such election. Such result shall remain in effect for a period of 2 years and thereafter until changed by ballot at another election held for the same purpose. If the results of such election shall prohibit the issuance of Class "A" and Class "B" retail licenses the town, village, or city may nevertheless issue wholesalers' licenses to applicants who qualify under sub. (6), but on condition that such wholesaler shall not make any sale and delivery of fermented malt beverages in such town, village or city to any person, firm or corporation residing in such town, village or city.

(d) All licenses shall be granted only upon written application and shall be issued for a period of one year to expire on the 30th day of June. A separate license shall be required for each place of business. Said licenses shall particularly describe the premises for which issued, shall not be transferable, and shall be subject to revocation for violation of any of the terms or provisions thereof or of any of the provisions of this section. As soon as an application for a license has been approved a duplicate copy thereof shall be forwarded to the department of revenue.

(e) No license shall be imposed upon the sale of fermented malt beverages upon any railroad sleeping, buffet or cafe car or steamboat or aircraft while in transit or in any public park operated by any county, city, town or village when sold by officers or employes thereof pursuant to any ordinance, resolution, rule or regulation enacted by the governing body of such municipality where the receipts from such sales go into the public treasuries.

(f) All shipments of fermented malt beverages from outside the state of Wisconsin to a licensed wholesaler in Wisconsin, shall be unloaded into such wholesaler's warehouse in Wisconsin, and said licensed wholesaler shall distribute said malt beverages from such warehouse.

(6) WHOLESALERS' LICENSES. Wholesalers' licenses may be issued to domestic corporations, to foreign corporations or to persons of good moral character who have been residents of this state continuously for not less than one year prior to the date of filing application for the wholesalers' license. Corporations applying for wholesalers' licenses shall comply with s. 176.05 (13). Wholesalers' licenses shall authorize sales of fermented malt beverages only in original packages or containers to dealers, not to be consumed in or about the premises where sold. The fee for a wholesaler's license may not exceed $25 per year or fractional part thereof.

(6a) SPECIAL WHOLESALERS' LICENSES. (a) Special wholesalers' licenses may be issued to any holder of a retail Class "B" license for the sale of fermented malt beverages which will permit the sale of fermented malt beverages in original packages or containers and in quantities of not less than 4 1/2 gallons at any one time for consumption on the premises.

(b) The annual fee charged for a special wholesalers' license shall not exceed $25.

(7) CLASS "A" RETAILERS' LICENSES. Class "A" retailers' licenses may be issued only to domestic corporations, to foreign corporations or to persons of good moral character who are citizens of the United States and of this state and have resided in this state continuously for not less than one year prior to the date of the filing of application for the license. Corporations applying for Class "A" retailers' licenses shall comply with s. 176.05 (13). The license authorizes sales of fermented malt beverages only for consumption away from the premises where sold and in the original packages, containers or bottles. The license fee for a Class "A" license shall be determined by the city, village or town in which the premises are located. Not more than 2 Class "A" licenses may be issued in the state to any one corporation or person, and in each application for a Class "A" license the applicant shall state that he or she has not made application for more than one other Class "A" license for any other location in the state. No such license may be issued to any person acting as agent for or in the employ of another.

(8) CLASS "B" RETAILERS' LICENSES. (a) Class "B" retailers' licenses shall be issued only to persons 18 years of age or over of good moral character, who are citizens of the United States and of the state, and have resided in this state continuously for not less than one year prior to the date of filing the application. No Class "B" retailers' license shall be granted for any premises where any other business is conducted, in connection with the licensed premises and no other business may be conducted on the licensed premises after the granting of the Class "B" license except that restriction shall not apply to a hotel, or to a restaurant not a part of or located in any mercantile establishment, or to a combination grocery store and tavern, or to a combination sporting goods store and tavern in towns, villages and cities of the 4th class, or to novelty store and tavern, or to a bowling alley or recreation premises or to a bona fide club, society or lodge that shall have been in existence for not less than 6 months prior to the date of filing application for the Class "B" license. Not more than 2 Class "B" licenses shall be issued in the state to any one person, and in each application

for a Class "B" license the applicant shall state that he or she has not made application for more than one other Class "B" license for any other location in the state. No Class "B" license may be issued to any person acting as agent for or in the employ of another, except that this restriction shall not apply to a hotel or to a restaurant not a part of or located in or upon the premises of any mercantile establishment, or to a bona fide club, society or lodge that has been in existence for not less than 6 months prior to the date of application. A Class "B" license for a hotel, restaurant, club, society or lodge may be taken in the name of an officer or manager, who shall be personally responsible for compliance with all of the terms and provisions of this section. Corporations applying for Class "B" retailers' licenses shall comply with s. 176.05 (13).

(b) The amount of the license fee shall be determined by the city, village or town in which said licensed premises are located, but said license fee shall not exceed $100 per year, but licenses may be issued at any time for a period of 6 months in any calendar year for which three-fourths of the license fee shall be paid. Such 6 months' licenses shall not be renewable during the calendar year in which issued. Licenses may also be issued to bona fide clubs, state, county or local fair associations or agricultural societies, lodges or societies that have been in existence for not less than 6 months prior to the date of application or to posts now or hereafter established, of veteran's organizations, authorizing them to sell fermented malt beverages at a particular picnic or similar gathering, or at a meeting of any such post, or during a fair conducted by such fair associations or agricultural societies, for which a fee of not to exceed $10 may be charged as fixed by the governing board. All Class "B" licenses shall be posted in a conspicuous place in the room or place where fermented malt beverages are drawn or removed for service or sale, except such licenses issued to the state fair or to county or district fairs receiving state aid. Such license when issued to the state fair or to a county or district fair shall license and cover the entire fairgrounds where a fair is being conducted and all operators thereon retailing and selling fermented malt beverages from let stands. The state fair or county or district fair to which such license is issued may let stands on such fairgrounds to operators who may retail and sell fermented malt beverages therefrom while the fair is being held, and no such operator is required to obtain an operator's license when retailing and selling such beverages on grounds of fairs receiving state aid or of the state fair.

(c) Persons holding a Class "B" license may sell fermented malt beverages either to be consumed on the premises where sold or away from such premises. They may also sell beverages containing less than one-half of one per centum of alcohol by volume without obtaining a special license to sell such beverages under section 66.053 (1).

(d) Every holder of a Class "B" retailer's license selling or offering for sale draught fermented malt beverages to be consumed on or off the premises shall display a sign on, over or near each tap or faucet disclosing the brand of beer drawn from each tap or faucet and the name of the manufacturer of the beer on tap, visible to patrons for a distance of at least 10 feet so that every patron may be informed of the brand of fermented malt beverages on tap. No such licensee shall substitute any other brand of fermented malt beverage in place of the brand so designated by such visible sign and every licensee who shall violate this paragraph shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than $15 and the provisions in sub. (15) shall not apply on account of any violations of this paragraph.

(e) It shall be unlawful for any person, licensee or the agent, servant or employe of any licensee, to possess on the premises covered by such license, any alcoholic beverage that is not authorized by law to be sold on such premises.

(8a) RETAIL PURCHASE RESTRICTIONS. (a) No retail licensee under sub. (7) or (8) shall receive, purchase or acquire fermented malt beverages directly or indirectly from any licensee except upon terms of cash or credit for not exceeding 15 days.

(b) No retail licensee shall receive any malt beverages on consignment or on any basis other than a bona fide sale.

(c) No retail licensee shall receive, purchase or acquire fermented malt beverages directly or indirectly from any licensee if at the time of such receipt, purchase or acquisition he is indebted to any licensee for fermented malt beverages received, purchased, acquired or delivered more than 15 days prior thereto.

(d) For the purpose of this subsection, a person holding both a wholesale and retail license is deemed a retailer.

(f) No Class "A" or Class "B" retailer's license may be issued to any person having any indebtedness to any licensee of more than 15 days' standing. In each application for a license, the applicant shall state whether or not the applicant has any indebtedness to any licensee which has been outstanding more than 15 days.

(g) No brewer, bottler or wholesaler shall be subject to any penalty as the result of any sale of

fermented malt beverages to a retail licensee, when purchased by said retail licensee in violation of this subsection.

(h) Any retail licensee who violates this subsection shall be subject to the suspension or revocation of his retail license under sub. (17) and the penalties prescribed in sub. (15) (a), except that he shall not be imprisoned.

(i) Prices charged by a wholesaler of fermented malt beverages shall be the same for all retailers making purchases in similar quantities from the wholesaler, regardless of whether the retailer is a class "A" or class "B" licensee. Any discount offered on fermented malt beverages must be delivered to the retailer in a single transaction and single delivery, and on a single invoice.

(9) CONDITIONS OF LICENSES. Wholesalers' and retailers' licenses shall be issued subject to the following restrictions:

(a) No fermented malt beverages shall be sold or consumed upon any licensed premises during such hours as may be prohibited by local ordinance.

(b) No fermented malt beverages may be sold, dispensed, given away or furnished to any person under the age of 18 years unless accompanied by parent, guardian or adult spouse.

(c) No fermented malt beverages shall be sold to any person who is intoxicated.

(d) No beverages of an alcoholic content prohibited by the laws of the United States shall be kept in or about licensed premises.

(e) No fermented malt beverages shall be sold unless the barrel, keg, cask, bottle or other container containing the same shall have thereupon at the time of sale a label of the kind and character required by subsection (3). Every bottle shall contain upon the label thereof a statement of the contents in fluid ounces, in plain and legible type.

(10) CLOSING HOURS. (a) In any county having a population of less than 500,000 no premises, except premises located in a city of the 1st class which city is located in more than one county, for which a retail Class "B" license has been issued shall be permitted to remain open between 1 a.m. and 8 a.m. (except during that portion of each year for which the standard of time is advanced under s. 175.095 the closing hours shall be between 2 a.m. and 8 a.m. unless the local governing body issuing such license establishes or has established an earlier closing hour and on January 1 when the closing hours shall be between 3 a.m. and 8 a.m.). Under this subsection no fermented malt beverages shall be sold, dispensed, given away or furnished directly or indirectly to any person under the age of 18 years at any time between the hours of 1 a.m. and 8 a.m.

(b) Hotels and restaurants whose principal business is the furnishing of food or lodging to patrons, and bowling alleys and golf courses, shall be permitted to remain open for the conduct of their regular business but shall not be permitted to sell fermented malt beverages during the hours mentioned in par. (a).

(c) This subsection shall not prevent or interfere with any town, village or city to require by ordinance or resolution the closing of such taverns at an hour earlier than provided herein.

(10m) MANAGER'S LICENSE. (a) Every city council, village board or town board which may issue a Class "B" license under this section or a "Class B" license under s. 176.05 may provide by ordinance that manager's licenses shall be issued as provided by this section.

(am) The city council, village board or town board electing by ordinance as provided by par. (a) may issue manager's licenses, which shall be granted only upon application in writing. A manager's license shall be required only for the purpose of compliance with par. (c) or s. 176.05 (10m) (a). A manager's license shall be issued only to persons 18 years of age or over of good moral character who are residents of this state, except cities of the 1st class may issue a manager's license only to a person who has been a resident of the city for the period commencing on the date one year prior to the issuance of the license and terminating on the date the license is issued. A manager's license is valid only within the limits of the city, village or town in which it is issued.

(b) The fee for a manager's license may not exceed $25 per year. A manager's license shall be issued for a period not to exceed one year and shall expire on June 30 of the year for which issued, except for cities of the 1st class in which the license shall expire on December 31.

(c) If the city council, village board or town board elects by ordinance to issue manager's licenses, no person may manage premises operating under a Class "B" license issued by that city, village or town, unless the person is the licensee, an agent of a corporation appointed as required by s. 176.05 (13) or has a manager's license. A person manages Class "B" premises if that person has responsibility or authority for:

1. Personnel management of all employes, without regard to whether the person is authorized to sign employment contracts;

2. The terms of contracts for the purchase or sale of goods or services, without regard to whether the person is authorized to sign contracts for the goods or services; or

3. The daily operations of the Class "B" premises.

(d) The city council, village board or town board may, by ordinance, define factors in addition to those listed in par. (c) which constitute management of a Class "B" premises.

(e) No requirement of s. 176.05 (5) that the department of revenue furnish or prescribe forms applies to applications for manager's licenses under this section.

(11) OPERATORS' LICENSES. (a) Every city council, village or town board may issue a license known as an "Operator's" license, which may be granted only upon application in writing, and which may not be required of any person or for any purpose other than to comply with par. (b). An operator's license may be issued only to persons 18 years of age or over who are of good moral character. Operators' licenses shall be operative only within the limits of the city, village or town in which issued. For the purpose of this subsection and s. 176.05 (11) any member of the immediate family of the licensee or person holding a manager's license shall be considered as holding an operator's license.

(b) There shall be upon premises operated under a Class "B" license, at all times, the licensee or some person who has an operator's license and who is responsible for the acts of all persons serving as waiters, or in any other manner, any fermented malt beverages to customers. No member of the immediate family of the licensee under the age of 18 years shall serve as a waiter, or in any other manner, any fermented malt beverages to customers unless an operator 18 years of age or over is present upon and in immediate charge of the premises. No person other than the licensee shall serve fermented malt beverages in any place operated under a Class "B" license unless he possesses an operator's license, or unless he is under the immediate supervision of the licensee or a person holding an operator's license, who is at the time of such service upon said premises.

(c) The fee for an operator's license shall not exceed $5 per year, shall be issued for one year, and shall expire on June 30 of the year for which issued, except for cities of the first class in which such license shall expire on December 31.

(d) Any violation of any of the terms or provisions of this section by any person holding an operator's license shall be cause for revocation of said license.

(12) LOCAL ENFORCEMENT. The common council of any city, the board of trustees of any village and the town board of any town may adopt any reasonable rule or regulation for the enforcement of this section not in conflict with the provisions of any statute.

(13) MUNICIPAL REGULATIONS; REVOCATION OF MALT BEVERAGE LICENSE. (a) Nothing in this section shall be construed as prohibiting or restricting any city, village or town ordinances from placing additional regulations in or upon the sale of fermented malt beverages, not in conflict with the terms and provisions of this section. This subsection does not give any municipal corporation the power to enact an ordinance forbidding persons over the age of 18 years from acting as check-out clerks or delivery personnel in grocery stores licensed to sell fermented malt beverages or from preventing such check-out clerks from including fermented malt beverages in the items which they are permitted to sell or preventing such delivery personnel from delivering fermented malt beverages from the licensed premises to the cars or homes of customers.

(b) Any city, village or town may revoke or refuse to issue any license for sale of fermented malt beverages for the causes and as provided in s. 176.11.

(14) COURT REVIEW. (a) The action of any city council, village or town board in the granting or revocation of any license, or the failure of said city council, village or town board to revoke any license for good cause because of the violation of any of the provisions of this section may be reviewed by any court of record in the county in which the application for said license was filed or said license issued, upon application by any applicant, licensee or any citizen of such city, town or village.

(b) The procedure in the review shall be the same as in civil actions instituted in the court of record. The person desiring review shall file pleadings, which shall be served upon the city council, village or town board in the manner provided for service in civil actions by statute, and a copy thereof shall be served upon the licensee. The city council, village or town board or licensee shall have 20 days within which to file his, her or their answer to the complaint, and the matter shall be deemed at issue and hearing may be had before the presiding judge of the court within 5 days, upon due notice served upon the opposing party. The hearing shall be before the presiding judge without a jury. Subpoenas for witnesses shall be issued and their attendance compelled. The decision of the presiding judge shall be filed within 10 days thereafter, and a copy thereof transmitted to each of the parties, and the decision shall be binding unless the decision is appealed to the court of appeals.

(15) PENALTIES. (a) Any person who shall violate any of the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine of not more than $500, or by imprisonment in the county jail for a term of not more than 90 days, or by both such fine and imprisonment, and his

license shall be subject to revocation by a court of record in its discretion. Any city, village or town may, by ordinance, prescribe different penalties than those provided in this section, and may provide that the license may be revoked by a court of record in the court's discretion. No city, village or town shall pass any ordinance which shall fix the penalty for violation of any ordinance so that the same shall be greater than the maximum provided by this section. In event that such person shall be convicted of a second offense, under the provisions of this section such offender, in addition to the penalties herein provided, shall forthwith forfeit any license issued to him without further notice, and in the event that such person shall be convicted of a felony, in addition to the penalties provided for such felony, the court shall revoke the license of such offender. Every town, village or city shall have the right to revoke any license by it issued to any person who shall violate any of the provisions of this section or any municipal ordinance adopted pursuant thereto. No license shall thereafter be granted to such person for a period of one year from the date of such forfeiture.

(b) Any person, other than the person or corporation registering the same, who shall place upon any barrel, keg, cask, bottle, or other container containing any fermented malt beverage any label bearing a number registered by any other person or corporation, or who shall place upon any label a permit number not registered in the department of revenue shall be guilty of a misdemeanor, and upon conviction shall be punished by imprisonment in the county jail for not more than one year.

(16) LEGISLATIVE INTENT. (a) The provisions of this section shall be construed as an enactment of state-wide concern for the purpose of providing a uniform regulation of the sale of fermented malt liquors.

(17) REVOCATION ON COMPLAINT OF DEPARTMENT OF REVENUE. (a) Upon complaint in the name of the state filed by a duly authorized employe of the department of revenue with the clerk of any court of record in the jurisdiction in which the premises of the licensed person complained of are situated, that any such licensed person therein has at any time violated this section, or keeps or maintains a disorderly or riotous, indecent or improper house, or has at any time illegally sold or given away any malt beverages to any minor, or to persons intoxicated or bordering on intoxication, or to known habitual drunkards, or has failed to maintain said premises in accordance with the standards of sanitation prescribed by the department of health and social services, or in whose licensed premises known criminals or prostitutes are permitted to loiter, or has at any time been convicted of a violation of any federal or state law involving moral turpitude or been convicted of any felony or any offense against the laws relating to sale of intoxicating liquors or fermented malt beverages, or does not possess the qualifications required by this section to entitle the person to a license, the clerk of said court shall issue a summons commanding the person so complained of to appear before it not less than 20 days after service of the summons, exclusive of the day of service, and show cause why the license should not be revoked or suspended.

(b) The procedure thereon and the effect of the order of the court shall be as prescribed in section 176.121.

(18) INFORMATION REQUISITE TO VALIDITY. No license issued by any local authority under this section shall be valid unless and until it shall have affixed thereto an affidavit signed under oath by the clerk issuing said license that a copy of the application for such license and all information required by law to be furnished by the licensing body to the department of revenue relating to such applicant and license has been mailed to the department of revenue at Madison, Wisconsin.

(19) PRESENCE IN PLACES OF SALE PROHIBITED; PENALTY. A keeper of any place for the sale of any fermented malt beverage under a Class "B" retailer's license, who directly or indirectly suffers or permits a person under the age of 18 years, unaccompanied by his or her parent, guardian or adult spouse, who is not a resident, employe or a bona fide lodger or boarder on the premises controlled by the proprietor or licensee of the place, and of which the place consists or is a part, to enter or be on the licensed premises for any purpose, excepting the transaction of bona fide business other than amusement, the purchase, receiving or consumption of edibles or beverages for every such offense, may be fined not more than $250, besides costs, or imprisoned for not more than 60 days. A person under the age of 18 years who enters or remains on the premises without a valid purpose and who is not a resident, employe or a bona fide lodger or boarder on the premises, or who is not accompanied by his or her parent, guardian or adult spouse, may be fined not more than $100, besides costs. This subsection does not apply to hotels, drug stores, grocery stores, bowling alleys, premises in the state fair park, concessions authorized on state-owned premises in the state parks and state forests as defined or designated in chs. 27 and 28, parks owned or operated by agricultural societies receiving state aid, cars operated on any railroad, regularly established athletic fields or stadiums nor to

premises operated under both a Class "B" license and a restaurant permit where the principal business conducted therein is that of a restaurant. It is presumed where the premises are operated under both a Class "B" license and a restaurant permit, that the principal business conducted is that of the sale of fermented malt beverage, until the presumption is rebutted by competent evidence. The provisions of sub. (15) providing for punishment of violators of this section by fine and imprisonment do not apply to this subsection. This prohibition does apply to any person who is not a resident, employe or a bona fide lodger or boarder on the premises, after the legal hour for closing.

(20) RESTRICTIONS ON SALE TO AND POSSESSION BY MINORS. (a) Except as otherwise provided in this section, whoever sells or furnishes fermented malt beverages to a minor not accompanied by parent, guardian or adult spouse may be fined not more than $500 or imprisoned not more than 30 days or both.

(b) A minor, not accompanied by parent, guardian or adult spouse, who possesses fermented malt beverages may be fined not more than $500 or imprisoned not more than 30 days or both and the court also shall restrict or suspend the motor vehicle operating privilege as provided in s. 343.30 (6).

(c) This subsection does not prevent a minor in the employ of a licensee or permittee from possessing fermented malt beverages for sale or delivery to customers.

(21) PEDDLING PROHIBITED. No person shall peddle any fermented malt beverage from house to house by means of a truck or otherwise where the sale is consummated and delivery made concurrently.

(22) MISREPRESENTING AGE; PENALTY. Whoever falsely represents that he or she is at least 18 years of age for the purpose of asking for or receiving fermented malt beverages from a keeper of any place for the sale of fermented malt beverages may be fined not more than $100 or imprisoned not to exceed 10 days or both.

(23) LICENSES TO COUNTRY CLUBS. All Class "B" licenses issued to clubs, as defined in s. 176.01 (8), that are operated solely for the playing of curling, golf or tennis, which are commonly known as country clubs, and are not open to the general public, and including yachting clubs, shall be issued by the secretary of revenue if no such licenses are issued by the governing body, for an annual fee equal to the fee imposed by the governing body under sub. (8) (b) which shall be paid to the treasurer of the town, city or village in which the club is located. The provisions of sub. (17), relative to the revocation of licenses apply to all licenses issued by the department of revenue under this subsection, and, except as provided in this subsection, all provisions of this chapter relating to Class "B" licenses for the sale of malt beverages apply to licenses issued to country clubs by the department of revenue.

History: 1971 c. 40, 115; 1971 c. 213 ss. 1, 5; 1971 c. 228; 1975 c. 29; 1975 c. 39 ss. 442d, 732 (2m); 1975 c. 44, 183, 199; 1977 c. 14, 64, 138, 142, 184, 187, 203, 273, 291, 431.

Cross References: See 176.05 (24) for requirement that Class "B" malt beverage license be obtained for public places (exceptions specified) which permit consumption of beer on the premises.

See 176.08 as to sale of fermented malt beverages in municipal liquor stores.

Violations of (8a) are crimes. State v. Mando Enterprises, Inc. 56 W (2d) 801, 203 NW (2d) 64.

Administrative proceedings concerning tavern licenses are "quasi-judicial"; relevant information given in procedural context is absolutely privileged. Hartman v. Buerger, 71 W (2d) 393, 238 NW (2d) 505.

The board of regents may allow the dispensing or furnishing of fermented malt beverages on the campus of a state university if such activity is incidental to or closely connected with another legitimate function carried on by the university, such as a student union. Such activity would not be subject to local regulation under 66.054 (12) and (13), Stats. 1969. 59 Atty. Gen. 55.

A county may not receive a combination liquor-beer license or operate an alcoholic business on its own at a county-owned golf course. 60 Atty. Gen. 358.

A Class "B" retail license may not be issued to a licensed wholesaler of fermented malt beverages under (4) (a). 61 Atty. Gen. 68.

Local ordinances which raise the minimum age requirement for holding an operator's license under (11) (a) are invalid. 61 Atty. Gen. 381.

An alderman holding a Class B fermented malt beverage license is ineligible to vote on the granting, renewal or revocation of such a license. 63 Atty. Gen. 545.

Where a licensee under (8) (a) also conducts a restaurant business on the premises, (8) (a) does not operate to permit the licensee to conduct any other business on the premises. 66 Atty. Gen. 176.

Sub. (4) (a) applies to holders of temporary licenses under (8) (b). OAG 29-78.

66.055 Liquor and beer license application records. In any city of the first class, all applications made to it for licenses for the sale of fermented malt beverages and intoxicating liquor and all records and files pertaining to such applications in possession of the city clerk and which are more than 4 years old may be destroyed by him.

66.057 Proof of age. (1) IDENTIFICATION CARD. (a) *Form.* The attorney general shall certify to the secretary of administration a standard identification card form. There shall be provision on the card for the applicant's name, date of birth, description and address, for a picture of the applicant, for the card's issuance date and number, for the signatures of the applicant and issuing officer, and for the name, official title and county or 1st class city of the issuing officer.

(b) *Numbering.* The attorney general shall specify a numbering system to be used for identification cards which may include a code designating the county of issuance. All cards

shall be numbered prior to their distribution to issuing officers and such numbers shall be recorded by the department of administration.

(c) *Processing.* The department of administration shall contract for the processing of identification cards. The cards shall be processed on material and in such manner as the department determines best avoids the possibility of duplication or forgery and shall include a facsimile of the coat of arms of the state.

(d) *Distribution.* The department of administration shall distribute blank identification forms only to issuing officers upon their request and payment of costs. Prior to distribution to an issuing officer, the department shall insert on the forms his title and county.

(e) *Use.* No issuing officer may issue any identification card except in accordance with this section. No card other than the identification card authorized under this section may be recognized as an official identification card in this state, except an identification card issued under s. 343.50 or, in lieu thereof, documentary proof under sub. (4) or s. 176.32 (3) (a) may be substituted.

(2) APPLICATION AND ISSUANCE OF CARD. (a) *Eligibility.* Any person at least 18 years of age may apply to the issuing officer of the county in which residing for issuance of an identification card under this section. Temporary residents of this state or residents temporarily residing in another county, may apply in their county of temporary residence. Each applicant shall submit with the application a birth or baptismal certificate or an official government passport attesting to the applicant's age, and such other documents as the issuing officer requires. For foreign born applicants, the issuing officer may, in lieu of a birth or baptismal certificate or passport, accept an alien registration receipt card, certificate of naturalization or certificate of citizenship as evidence of age. If the issuing officer is satisfied in circumstances where the applicant appears to be over the age of 60 that good reason exists for the inability of the applicant to submit a birth or baptismal certificate, the officer may accept in lieu thereof such other evidence of age deemed sufficient or appropriate.

(b) *Processing.* Prior to issuing an identification card to an applicant, the issuing officer shall require that a black and white photograph of the applicant be affixed to the form and that the form bear the signatures of the applicant and the issuing officer. He then shall send the completed form to the department of administration for processing of the identification card and the department shall then return it to the issuing officer for issuance to the applicant. The department of administration shall charge the issuing officer for its costs under this paragraph.

(c) *Duplicates.* Duplicate identification cards may be issued in the same manner as are original identification cards. The applicant for a duplicate card shall sign a sworn statement that his original card has been lost or stolen and that, if the original card is recovered, he will return it to the issuing office. A duplicate card shall be clearly stamped "duplicate" by the issuing officer, and the issuing officer shall notify the county sheriff of its issuance.

(d) *Fees.* A fee of $3 shall be charged each applicant obtaining an identification card. A fee of $5 shall be charged those applicants obtaining duplicate cards. The issuing officer shall pay the fees received under this section into the treasury of the county or municipality.

(e) *Issuing officers.* The register of deeds in each county shall be the sole issuing officer in his county, except that in cities of the 1st class the city clerk shall also act as an issuing officer.

(f) *Length of time files retained.* The issuing officer may destroy identification card applications after they have been on file for 5 years.

(3) PENALTIES. (a) Any person, other than one authorized by this section, who makes, alters or duplicates an official identification card under this section may be fined not less than $50 nor more than $500 or imprisoned not less than 10 nor more than 30 days or both.

(b) Any minor who intentionally carries on his person an official identification card under this section not legally issued to him, or a legally issued card obtained under false pretenses or a legally issued card which has been altered, changed or duplicated to convey false information may be fined not less than $25 nor more than $50. A law enforcement officer shall, upon discovering a card in violation of this paragraph, confiscate it.

(c) Any person who, in applying for an identification card, presents false information to the issuing officer may be fined not less than $50 nor more than $100 or imprisoned not more than 10 days or both.

(4) BOOK KEPT BY LICENSEES. Every retail Class "A" and retail Class "B" licensee shall cause a book to be kept and such licensee or his employe, or both, shall require any person who has shown documentary proof of age, which substantiates his age to allow the legal purchase of fermented malt beverages, to sign such book if the age of such person is in question. The book shall show the date of the purchase, the identification used in making the purchase, the address of the purchaser and his signature.

(5) DEFENSES OF SELLERS. The establishment of the following facts by a person making a sale of fermented malt beverages to a person not of legal age shall constitute prima facie evidence of innocence and a defense to any prosecution therefor:

(a) That the purchaser falsely represented in writing and supported with other documentary proof that he was of legal age to purchase fermented malt beverages.

(b) That the appearance of such purchaser was such that an ordinary and prudent person would believe him to be of legal age to purchase fermented malt beverages.

(c) That the sale was made in good faith and in reliance upon the written representation and appearance of the purchaser in the belief that the purchaser was of legal age to purchase fermented malt beverages.

History: 1971 c. 174, 184, 228; 1975 c. 103, 113, 199, 268; 1977 c. 203, 360, 447.

Under (2) (c), only one duplicate uniform state identification card may be issued to replace an original identification card. 61 Atty. Gen. 87.

66.058 Mobile home parks. (1) DEFINITIONS. For the purposes of this section:

(a) "Licensee" means any person licensed to operate and maintain a mobile home park under this section.

(b) "Licensing authority" means the city, town or village wherein a mobile home park is located.

(c) "Park" means mobile home park.

(d) "Person" means any natural individual, firm, trust, partnership, association or corporation.

(e) "Mobile home" is that which is, or was as originally constructed, designed to be transported by any motor vehicle upon a public highway and designed, equipped and used primarily for sleeping, eating and living quarters, or is intended to be so used; and includes any additions, attachments, annexes, foundations and appurtenances, except that a house trailer is not deemed a mobile home if the assessable value of such additions, attachments, annexes, foundations and appurtenances equals or exceeds 50 per cent of the assessable value of the house trailer.

(f) "Dependent mobile home" means a mobile home which does not have complete bathroom facilities.

(g) "Nondependent mobile home" means a mobile home equipped with complete bath and toilet facilities, all furniture, cooking, heating, appliances and complete year round facilities.

(h) "Unit" means a mobile home unit.

(i) "Mobile home park" means any plot or plots of ground upon which 2 or more units, occupied for dwelling or sleeping purposes are located, regardless of whether or not a charge is made for such accommodation.

(j) "Space" means a plot of ground within a mobile home park, designed for the accommodation of one mobile home unit.

(2) LICENSE AND REVOCATION OR SUSPENSION THEREOF. (a) It shall be unlawful for any person to maintain or operate within the limits of any city, town or village, any mobile home park unless such person shall first obtain from the city, town or village a license therefor. All such parks in existence on August 9, 1953 shall within 90 days thereafter, obtain such license, and in all other respects comply fully with the requirements of this section except that the licensing authority shall upon application of a park operator, waive such requirements that require prohibitive reconstruction costs if such waiver does not affect sanitation requirements of the city, town or village or create or permit to continue any hazard to the welfare and health of the community and the occupants of the park.

(b) In order to protect and promote the public health, morals and welfare and to equitably defray the cost of municipal and educational services required by persons and families using or occupying trailers, mobile homes, trailer camps or mobile home parks for living, dwelling or sleeping purposes, each city council, village board and town board may establish and enforce by ordinance reasonable standards and regulations for every trailer and trailer camp and every mobile home and mobile home park; require an annual license fee to operate the same and levy and collect special assessments to defray the cost of municipal and educational services furnished to such trailer and trailer camp, or mobile home and mobile home park. They may limit the number of units, trailers or mobile homes that may be parked or kept in any one camp or park, and limit the number of licenses for trailer camps or parks in any common school district, if the mobile housing development would cause the school costs to increase above the state average or if an exceedingly difficult or impossible situation exists with regard to providing adequate and proper sewage disposal in the particular area. The power conferred on cities, villages and towns by this section is in addition to all other grants and shall be deemed limited only by the express language of this section.

(c) In any town in which the town board adopts an ordinance regulating trailers under the provisions of this section and has also adopted and approved a county zoning ordinance under the provisions of s. 59.97, the provisions of the ordinance which is most restrictive shall apply with respect to the establishment and operation of any trailer camp in said town.

(d) Any license granted under the provisions of this section shall be subject to revocation or suspension for cause by the city council, village board or town board that issued such license upon complaint filed with the clerk of such city, village or town signed by any law enforcement officer, health officer or building inspector after a public hearing upon such complaint, provided that the holder of such license shall be given 10 days' notice in writing of such hearing, and he shall be entitled to appear and be heard as to why such license shall not be revoked. Any holder of a license which is revoked or suspended by the governing body of any city, village or town may within 20 days of the date of such revocation or suspension appeal therefrom to the circuit court of the county in which the trailer camp or mobile home park is located by filing a written notice of appeal with the city, village or town clerk, together with a bond executed to the city, village or town, in the sum of $500 with 2 sureties or a bonding company approved by the said clerk, conditioned for the faithful prosecution of such appeal and the payment of costs adjudged against him.

(3) LICENSE AND MONTHLY MOBILE HOME FEE; REVIEW. (a) The licensing authority shall exact from the licensee an annual license fee of not less than $25 and not more than $100 for each 50 spaces or fraction thereof within each mobile home park within its limits, except that where the park lies in more than one municipality the amount of the license fee shall be such fraction thereof as the number of spaces in the park in the municipality bears to the entire number of spaces in the park.

(b) The licensing authority may collect a fee of $10 for each transfer of a license.

(c) In addition to the license fee provided in pars. (a) and (b), each local taxing authority shall collect from each occupied mobile home occupying space or lots in a mobile home park in the city, town or village a monthly parking permit fee computed as follows: Beginning January 1, 1970, the local assessor shall determine the total fair market value of each occupied mobile home in the assessor's district subject to the monthly parking permit fee. The fair market value, minus the tax exempt household furnishings thus established, shall be equalized to the general level of assessment on other real and personal property in the district. The value of each occupied mobile home thus determined shall be multiplied by the tax rate established on the preceding May 1 assessment of general property. The parking permit fee shall first be reduced by the credit allowed under s. 79.10. The total annual parking permit fee thus computed shall be divided by 12 and shall represent the monthly mobile home parking permit fee. The fee shall be applicable to occupied mobile homes moving into the tax district any time during the year. The park operator shall furnish information to the tax district clerk and the local assessor on occupied mobile homes added to the park within 5 days after their arrival, on forms prescribed by the department of revenue. As soon as the assessor receives the notice of an addition of an occupied home to a park, the assessor shall determine its fair market value and notify the clerk of that determination. The clerk shall equalize the fair market value established by the assessor and shall apply the tax rate for that year, divide the annual parking permit fee thus determined by 12 and notify the mobile homeowner of the monthly fee to be collected from the mobile homeowner. A municipality, by ordinance, may require the mobile home park operator to collect the monthly parking fee from the homeowner. Liability for payment of the fee shall begin on the first day of the next succeeding month and shall remain on the mobile home only for such months as the occupied mobile home remains in the tax district. A new fee rate and a new valuation shall be established each January and shall continue for that calendar year. The valuation established shall be subject to review as are other values established under ch. 70. If the board of review reduces a valuation on which previous monthly payments have been made the tax district shall refund past excess fee payments. The monthly parking permit fee shall be paid by the mobile homeowner to the local taxing authority on or before the 10th of the month following the month for which such parking permit fee is due. No such fee shall be imposed for any space occupied by a mobile home accompanied by an automobile for an accumulating period not to exceed 60 days in any 12 months if the occupants of the mobile home are tourists or vacationists. Exemption certificates in duplicate shall be accepted by the treasurer of the licensing authority from qualified tourists or vacationists in lieu of monthly mobile home permit fees.

NOTE: Chapter 29, laws of 1977, section 1646 (3) provides that, effective January 1, 1980, (3) (c) (intro.) is amended by substituting "January" for "May".

1. The licensee of a park shall be liable for the monthly parking permit fee for any mobile home occupying space therein as well as the owner and occupant thereof.

(d) This section shall not apply where a mobile home park is owned and operated by any county under the provisions of s. 59.07 (13) (b).

(e) If a mobile home is permitted by local ordinance to be located outside of a licensed park, the monthly parking permit fee shall be paid by the owner of the mobile home, the occupant thereof or the owner of the land on

which it stands, the same as and in the manner provided for mobile homes located in mobile home parks, and the owner of such land shall be required to comply with the reporting requirements of par. (c). Nothing contained in this subsection shall prohibit the regulation thereof by local ordinance.

(g) Failure to timely pay the tax hereunder shall be treated in all respects like a default in payment of personal property tax and shall be subject to all procedures and penalties applicable thereto under chs. 70 and 74.

(h) Each local governing body is empowered to enact an ordinance providing a forfeiture of up to $25 for the failure to comply with the reporting requirements of par. (c) or (e). Each failure to report shall be regarded as a separate offense.

(4) APPLICATION FOR LICENSE. Original application for mobile home park license shall be filed with the clerk of the licensing authority. Applications shall be in writing, signed by the applicant and shall contain the following:

(a) The name and address of the applicant.

(b) The location and legal description of the mobile home park.

(c) The complete plan of the park.

(5) PLANS AND SPECIFICATIONS TO BE FILED. Accompanying, and to be filed with an original application for a mobile home park, shall be plans and specifications which shall be in compliance with all applicable city, town or village ordinances and provisions of the department of health and social services. The clerk after approval of the application by the governing body and upon completion of the work according to the plans shall issue the license. A mobile housing development harboring only nondependent mobile homes as defined in sub. (1) (g) shall not be required to provide a service building.

(6) RENEWAL OF LICENSE. Upon application by any licensee and after approval by the governing body of the city, town or village and upon payment of the annual license fee, the clerk of the city, town or village shall issue a certificate renewing the license for another year, unless sooner revoked. The application for renewal shall be in writing, signed by the applicant on forms furnished by the city, town or village.

(7) TRANSFER OF LICENSE; FEE. Upon application for a transfer of license the clerk of the city, town or village after approval of the application by the governing body shall issue a transfer upon payment of the required $10 fee.

(8) DISTRIBUTION OF FEES. The municipality may retain 10% of the monthly parking permit fees collected in each month to cover the cost of administration and shall pay to the school district in which the park is located, within 20 days after the end of each month, such proportion of the remainder of the fees collected in the preceding month and the credit allowed under s. 79.10 as the ratio of the most recent property tax levy for school purposes bears to the total tax levy for all purposes in the municipality. If the mobile park is located in more than one school district, each district shall receive a share in the proportion that its property tax levy for school purposes bears to the total school tax levy.

History: 1971 c. 125 s. 521; 1975 c. 139, 199; 1977 c. 29 s. 1646 (3).

A license issued without prior approval of park plans is void and the owner cannot complain if it is revoked. A mobile home park zoning ordinance adopted without compliance with the notice of hearing requirements of 60.74 (2) is void. Edelbeck v. Town of Theresa, 57 W. (2d) 172, 203 N.W. (2d) 694.

State university is not subject to local licensing in the operation of a university mobile home park. 60 Atty. Gen. 7.

Town cannot have more restrictive ordinance regulating use and location of mobile homes outside mobile home parks than county. 60 Atty. Gen. 131.

66.059 Public improvement bonds: issuance. (1) Any county, town, sanitary district, public inland lake protection and rehabilitation district, city or village, in addition to any other authority to borrow money and issue its municipal obligations, may also borrow money and issue its public improvement bonds to finance the cost of construction or acquisition, including site acquisition, of any revenue-producing public improvement of such municipality. In this section, unless the context or subject matter otherwise requires:

(a) "Municipality" means county, sanitary district, public inland lake protection and rehabilitation district, town, city or village.

(b) "Public improvement" means any public improvement which a municipality may lawfully own and operate from which the municipality expects to derive revenues.

(c) "Debt service" means the amount of principal, interest and premium due and payable with respect to public improvement bonds.

(d) "Deficiency" means the amount by which debt service required to be paid in any calendar year exceeds the amount of revenues estimated to be derived from the ownership and operation of the public improvement for such calendar year, after first subtracting from the estimated revenues the estimated cost of paying the expenses of operating and maintaining the public improvement for such calendar year.

(2) The governing body of the municipality proposing to issue public improvement bonds shall adopt a resolution authorizing their issuance. The resolution shall set forth the amount of bonds authorized, or a sum not to exceed a stated amount, and the purpose for which the

bonds are to be issued. The resolution shall prescribe the terms, form and contents of the bonds and such other matters as the governing body deems necessary or advisable. The bonds may be in any denomination of not less than $1,000, shall bear interest payable annually or semiannually, shall be payable not later than 20 years from the date of the bonds, at such times and places as the governing body determines, and may be subject to redemption prior to maturity on such terms and conditions as the governing body determines. The bonds may be issued either payable to bearer with interest coupons attached thereto, registrable as to principal only or as to both principal and interest, or may be issued in fully registered form. The bonds may be sold at public competitive sale or by private negotiation at the discretion of the governing body. Sections 67.08, 67.09 and 67.10 apply to public improvement bonds, except insofar as they are in conflict herewith, in which case this section controls.

(2m) (a) A resolution, adopted under sub. (2) by the governing body of a municipality, need not be submitted to the electors of the municipality for approval, unless within 30 days after the resolution is adopted there is filed with the clerk of the municipality a petition requesting a referendum thereon, signed by electors numbering at least 10% of the votes cast in the municipality for governor at the last general election. Any resolution, adopted under sub. (2) at the discretion of the municipal governing body, may be submitted to the electors without waiting for the filing of a petition.

(b) If a referendum is to be held on a resolution, the municipal governing body shall direct the municipal clerk to call a special election for the purpose of submitting the resolution to the electors for a referendum on approval or rejection. In lieu of a special election, the municipal governing body may specify that the election be held at the next succeeding spring primary or election or September primary or general election.

(c) The municipal clerk shall publish a class 2 notice, under ch. 985, containing a statement of the purpose of the referendum, giving the amount of the bonds proposed to be issued and the purpose for which they will be issued, and stating the time and places of holding the election and the hours during which the polls will be open.

(d) The election shall be held and conducted and the votes cast thereat canvassed as at regular municipal elections and the results certified to the municipal clerk. A majority of all votes cast in the municipality shall decide the question.

(3) The reasonable cost and value of any services rendered by the public improvement to the municipality shall be charged against the municipality and shall be paid by it in monthly instalments.

(4) (a) Gross revenues derived from the ownership and operation of the public improvement shall be first pledged to debt service on issued public improvement bonds. When in excess of such obligation, the revenues shall be subject to requirements set by resolution or ordinance of the governing body fixing:

1. The proportion of revenues of the public improvement necessary for the reasonable and proper operation and maintenance thereof; and

2. The proportion of revenues necessary for the payment of debt service on the public improvement bonds. Such revenues shall be paid into a special fund in the treasury of the municipality known as the "Public Improvement Bond Account".

(b) At any time after one year's operation, the governing body may recompute the proportion of revenues assignable under par. (a) based upon experience of operation.

(c) All funds on deposit in a public improvement bond account, which are not immediately required for the purposes specified in this section, shall be invested in accordance with s. 66.04.

(5) Annually, on or before August 1 the officer or department of the municipality responsible for the operation of the public improvement shall file with the governing body, or its designated representative, a detailed statement setting forth the amount of the debt service on the public improvement bonds issued for the public improvement for the succeeding calendar year and an estimate for such year of the total revenues to be derived from the ownership and operation of the public improvement and the total cost of operating and maintaining the public improvement.

(6) (a) If it is determined that there will be a deficiency for the ensuing calendar year, the municipality shall make up the deficiency, but the obligation to do so shall be limited to a sum which shall not cause the municipality to exceed its municipal debt limits. The deficiency may be made up by the municipality from any revenues available therefor, including a tax levy. The amount contributed by the municipality shall be deposited in the public improvement bond account and applied to the payment of debt service. Taxes levied under this paragraph shall not be subject to statutory limitations of rate or amount.

(b) The amount of any deficiency determined under par. (a) for the ensuing calendar

year shall be related to the total debt service for such year. Such ratio shall determine the outstanding indebtedness of the issue to be reflected as part of the municipality's indebtedness for the year.

(7) Whenever mortgage revenue bonds have been issued by a municipality pursuant to law and an ordinance authorizing their issuance without limitation as to amount has been enacted by the governing body of the municipality, public improvement bonds may be issued under the ordinance with the same effect as though they were mortgage revenue bonds. Such bonds shall be public improvement bonds and this section shall apply thereto, except that nothing contained in this subsection shall in any way impair the contract between the municipality and the holders of any outstanding mortgage revenue bonds. Whatever liens have been created in favor of any outstanding mortgage revenue bonds issued under the ordinance shall apply to public improvement bonds so issued. The public improvement bonds shall be payable on a parity with the mortgage revenue bonds issued under the ordinance if the public improvement bonds are issued in compliance with the requirements of the ordinance for the issuance of parity bonds under the ordinance.

History: 1971 c. 188; 1975 c. 62, 197.

66.06 Public utilities. (1) DEFINITIONS. The definition of "public utility" in section 196.01 is applicable to sections 66.06 to 66.078. Whenever the phrase "resolution or ordinance" is used in sections 66.06 to 66.078, it means, as to villages and cities, ordinance only.

(2) LIMITATION. Nothing in ss. 66.06 to 66.078 shall be construed as depriving the transportation commission, department of transportation or public service commission of any power conferred by ss. 195.05 and 197.01 to 197.10 and ch. 196.

History: 1977 c. 29 ss. 705, 1654 (9) (i).

66.061 Franchises; service contracts. (1) FRANCHISES. (a) Any city or village may grant to any person or corporation the right to construct and operate therein a system of waterworks or to furnish light, heat or power subject to such reasonable rules and regulations as the proper municipal authorities by ordinance may from time to time prescribe.

(b) The board or council may submit the ordinance when passed and published to a referendum.

(c) No such ordinance shall be operative until 60 days after passage and publication unless sooner approved by a referendum. Within that time electors equal in number to 20 per cent of those voting at the last regular municipal election, may demand a referendum. The demand shall be in writing and filed with the clerk. Each signer shall state his occupation and residence and signatures shall be verified by the affidavit of an elector. The referendum shall be held at the next regular municipal election, or at a special election within 90 days of the filing of the demand, and the ordinance shall not be effective unless approved by a majority of the votes cast thereon. This paragraph shall not apply to extensions by a utility previously franchised by the village or city.

(d) Whenever any city or village at the time of its incorporation included within its corporate limits territory in which a public utility, prior to such incorporation, had been lawfully engaged in rendering public utility service, such public utility shall be deemed to possess a franchise to operate in such city or village to the same extent as though such franchise had been formally granted by ordinance duly adopted by the governing body of such city or village. This paragraph shall not apply to any public utility organized under any provision of ch. 66.

(2) SERVICE CONTRACTS. (a) Cities and villages may contract for furnishing light, heat, water, motor bus or other systems of public transportation to the municipality or to the inhabitants thereof for a period of not more than 30 years or for an indeterminate period if the prices are subject to adjustment at intervals of not greater than 5 years. The public service commission and transportation commission shall have jurisdiction relative to the rates and service to any city or village where light, heat, water, motor bus or other systems of public transportation are furnished to such city or village under any contract or arrangement, to the same extent they have jurisdiction where such service is furnished directly to the public.

(b) When a village or city has contracted for water, lighting service, motor bus or other systems of public transportation to the municipality the cost may be raised by tax levy. In making payment to the owner of the utility a sum equal to the amount due the city from such owner for taxes or special assessments may be deducted.

(c) This subsection shall apply to every city and village regardless of any charter limitations on the tax levy for water or light.

(d) When any privately-owned motor bus or public transportation system in a city or village fails to provide service for a period in excess of 30 days, and the owner or stockholders of the said privately-owned motor bus or public transportation system have announced an intention to abandon service, the governing body of the affected municipality may without referendum furnish or contract for the furnishing of other motor bus or public transportation service to the

municipality and its inhabitants and to the users of the defaulting prior service for a period of not more than one year. This section shall not authorize a municipality to hire, directly or indirectly, any strikebreaker or other person for the purpose of replacing employes of said motor bus or public transportation system engaged in a strike.

History: 1977 c. 29

66.062 Joint use of tracks. (1) When two electric railway companies, in pursuance of franchises, are operating upon the same public way, the city may by ordinance, effective 90 days after passage and publication, require joint use of tracks and prohibit the operation of cars on either track in more than one direction. Such joint use shall include right to install and maintain necessary poles, wires, conduits, and other accessories.

(2) Either of such railway companies may acquire by condemnation a right to use the tracks of the other company for such purpose of providing one-way tracks, upon terms and conditions determined by agreement, or by the procedure in s. 32.06, except that pending appeal to the circuit court the use may be had upon payment or deposit with the clerk of the court of the compensation awarded.

66.063 Municipal tracks. Cities may lay and maintain street railway tracks upon bridges and viaducts and by ordinance lease such tracks to any company authorized to operate a street railway in the city. But the city shall not grant an exclusive lease to any one company, nor such an exclusive franchise upon approaching ways as will prevent other companies from using such municipal tracks.

66.064 Joint operation. Any city or village served by any privately owned public utility, street railway, interurban railway, motor bus or other systems of public transportation rendering local service may contract with the owner thereof for the leasing, public operation, joint operation, extension and improvement by the municipality or with funds loaned by the municipality, for the stabilization by municipal guaranty of the return upon or for the purchase by instalments out of earnings or otherwise of that portion of said public utility, street or interurban railway which is operated within such municipality and any territory immediately adjacent and tributary thereto; or for the accomplishment of any object agreed upon between the parties relating to the use, operation, management, value, earnings, purchase, extension, improvement, sale, lease or control of such property. The provisions of s. 66.07 relating to preliminary agreement, approval by the transportation commission or public service commission, and ratification by the electors, shall be applicable to the contracts authorized hereby and said transportation commission or public service commission shall, when any such contract is approved by it and consummated cooperate with the parties in respect to making valuations, appraisals, estimates and other determinations specified in such contract to be made by it.

History: 1977 c. 29 s. 1654 (9) (g).

66.065 Acquisition. (1) Any town, village or city may construct, acquire or lease any plant and equipment located within or without the municipality, and including interest in or lease of land, for furnishing water, light, heat, or power, to the municipality, or to its inhabitants or for street railway purposes; may acquire a controlling portion of the stock of any corporation owning private waterworks or lighting plant and equipment; and may purchase the equity of redemption in a mortgaged or bonded waterworks or lighting system, including the cases where the municipality shall in the franchise have reserved right to purchase. The character or duration of the franchise, permit or grant under which any public utility is operated, shall not affect the power to acquire the same hereunder. Two or more public utilities owned by the same person or corporation, or two or more public utilities subject to the same lien or charge, may be acquired as a single enterprise under any proceeding heretofore begun or hereafter commenced, and the board or council may at any time agree with the owner or owners of any public utility or utilities as to the agreed value thereof, and to contract to purchase or acquire the same hereunder at such value, upon such terms and conditions as may be mutually agreed upon between said board or council and said owner or owners.

(2) A resolution, specifying the method of payment and submitting the question to a referendum, shall be adopted by a majority of all the members of the board or council at a regular meeting, after publication at least one week previous in the official paper.

(3) The notice of the referendum shall include a general statement of the plant equipment or part thereof it is proposed to acquire or construct and of the manner of payment.

(4) Referendum elections under this section shall not be held oftener than once a year, except that a referendum so held for the acquisition, lease or construction of any of the types of property enumerated in subsection (1) shall not bar the holding of one referendum in the same year for the acquisition and operation of a bus transportation system by the municipality.

(4a) The provisions of subs. (2), (3) and (4) shall not apply to the acquisition of any plant, equipment or public utility for furnishing water service when such plant, equipment or utility is acquired by the municipality by dedication or without monetary or financial consideration.

(5) Any city or village may by action of its governing body and with a referendum vote provide, acquire, own, operate or engage in a municipal bus transportation system where no existing bus, rail, trackless trolley or other local transportation system exists in such city or village. Any city or village in which there exists any local transportation system by similar action and referendum vote may acquire, own, operate or engage in the operation of a municipal bus transportation system upon acquiring the local transportation system by voluntary agreement with the owners thereof, or pursuant to law, or upon securing a certificate from the transportation commission pursuant to section 194.23 that public convenience and necessity requires the acquisition and operation of such bus transportation system by the municipality.

(6) Any street motor bus transportation company operating pursuant to the provisions of chapter 194 shall by the acceptance of authority under such chapter be deemed to have consented to a purchase of its property actually used and useful for the convenience of the public by the municipality in which the major part of such property is situated or operated for compensation under terms and conditions determined by the transportation commission in the manner provided for the acquisition of utilities by municipalities under chapter 197; provided that if such motor bus transportation facilities are operated as auxiliary to street railway or trackless trolley facilities operated pursuant to franchise granted under the provisions of chapter 193, such motor bus facilities shall be acquired only by the acquisition, pursuant to chapter 193, of the transportation system to which they are auxiliary.

(7) Any city or village providing or acquiring a motor bus transportation system under the provisions of this section may finance such construction or purchase in any manner now authorized in respect of the construction or purchase of a public utility.

History: 1977 c. 29 s. 1654 (9) (f).

This section is not a restriction upon the authority granted the department of natural resources by 144.025 (2) (r) to order the construction of a municipal water system, but constitutes merely an alternative by which a municipality may voluntarily construct or purchase a water utility. Village of Sussex v. Dept of Natural Resources, 68 W (2d) 187, 228 NW (2d) 173.

Section 66.065, which requires a municipality to obtain voter approval through a referendum prior to the construction or acquisition of a waterworks, does not apply when a municipality is ordered to construct a public water supply system pursuant to 144.025 (2) (r). 60 Atty. Gen. 523.

66.066 Method of payment. (1) Any town, village, city, commission created by contract under s. 66.30, or power district may, by action of its governing body, provide for purchasing, acquiring, leasing, constructing, extending, adding to, improving, conducting, controlling, operating or managing a public utility, motor bus or other systems of public transportation from the general fund, or from the proceeds of municipal bonds, mortgage bonds or mortgage certificates. The term municipality as used in this section includes power districts, municipal water districts and commissions created by contract under s. 66.30. Any indebtedness created pursuant to subs. (2) to (4) shall not be considered an indebtedness of such municipality, and shall not be included in arriving at the constitutional debt limitation.

(1a) Nothing herein shall be construed to limit the authority of any municipality to acquire, own, operate and finance in the manner provided in this section, a source of water supply and necessary transmission facilities (including all real and personal property) beyond its corporate limits, and a source of water supply 50 miles beyond such limits shall be deemed to be within such authority.

(2) Where payment is provided by mortgage bonds, the procedure for payment shall be in the manner following:

(a) The board or council shall order the issuance and sale of bonds bearing interest payable semiannually, executed by the chief executive and the clerk and payable at such times not exceeding 40 years from the date thereof, and at such places, as the board or council of such municipality shall determine, which bonds shall be payable only out of the said special redemption fund. Each such bond shall state plainly upon its face that it is payable only from the special redemption fund, naming the ordinance creating it and that it does not constitute an indebtedness of such municipality. The bonds may be issued either as registered bonds or as coupon bonds payable to bearer. Coupon and bearer bonds may be registered as to principal in the holder's name on the books of such municipality, such registration being noted on the bond by the clerk or other designated officer, after which no transfer shall be valid unless made on the books of such municipality by the registered holder and similarly noted on the bond. Any bond so registered as to principal may be discharged from such registration by being transferred to bearer after which it shall be transferable by delivery but may be again registered as

to principal as before. The registration of the bonds as to the principal shall not restrain the negotiability of the coupons by delivery merely, but the coupons may be surrendered and the interest made payable only to the registered holder of the bonds. If the coupons are surrendered, the surrender and cancellation thereof shall be noted on the bond and thereafter interest on the bond shall be payable to the registered holder or order in cash or at his option by check or draft payable at the place or one of the places where the coupons were payable. Such bonds shall be sold in such manner and upon such terms as the board or council deems for the best interests of said municipality. All bonds shall mature serially commencing not later than 3 years after the date of issue in such amounts that the requirement each year to pay both principal and interest will be as nearly equal as practicable. All such bonds may contain a provision authorizing redemption thereof, in whole or in part, at stipulated prices, at the option of the municipality on any interest payment date after 3 years from the date of the bonds, and shall provide the method of selecting the bonds to be redeemed. The board or council may provide in any contract for purchasing, acquiring, leasing, constructing, extending, adding to, improving, conducting, controlling, operating or managing a public utility, that payment thereof shall be made in such bonds at not less than 95% of the par value thereof.

(b) All moneys received from any bonds issued pursuant hereto shall be applied solely for purchasing, acquiring, leasing, constructing, extending, adding to, improving, conducting, controlling, operating or managing a public utility, and in the payment of the cost of any subsequent necessary additions, improvements and extensions. There is created a statutory mortgage lien upon the public utility to the holders of the bonds and to the holders of the coupons of said bonds. The public utility shall remain subject to such statutory mortgage lien until the payment in full of the principal and interest of the bonds. Any holder of the bonds or of any coupons attached thereto may either at law or in equity protect and enforce the statutory mortgage lien hereby conferred and compel performance of all duties required by this section of the municipality. If there is any default in the payment of the principal or interest of any of the bonds, any court having jurisdiction of the action may appoint a receiver to administer the public utility on behalf of the municipality, and the bondholders, with power to charge and collect rates lawfully established sufficient to provide for the payment of the operating expenses and also to pay any bonds or obligations outstanding against the utility, and to apply the income and revenues thereof in conformity with this statute and the ordinance, or the court may declare the whole amount of the bonds due and payable and may order and direct the sale of the public utility. Under any sale so ordered, the purchaser shall be vested with an indeterminate permit to maintain and operate the public utility. Any municipality may provide for additions, extensions and improvements to a public utility owned by said municipality by additional issue of bonds as herein provided. Such additional issues of bonds shall be subordinate to all prior issues of bonds which may have been made hereunder, but a municipality may in the ordinance authorizing bonds hereunder permit the issue of additional bonds on a parity therewith. Any municipality may issue new bonds as herein provided and secured in the same manner, to provide funds for the payment of the principal and interest of any bonds or promissory notes issued for any of the purposes stated in sub. (1) then outstanding, such refunding or refinancing being additionally provided for as follows:

1. Refunding bonds may be issued to refinance more than one issue of outstanding bonds or promissory notes notwithstanding that such outstanding bonds or promissory notes may have been issued at different times and may be secured by the revenues of more than one public utility. Any such public utilities may be operated as a single public utility, subject however to contract rights vested in holders of bonds or promissory notes being refinanced. The principal amount of any issue of refunding bonds shall not exceed the sum of: a. the principal amount of the bonds or promissory notes being refinanced, b. applicable redemption premiums thereon, c. unpaid interest on such bonds or promissory notes to the date of delivery or exchange of the refunding bonds, d. in the event the proceeds are to be deposited in trust as provided in subd. 3, interest to accrue on such bonds or promissory notes from the date of delivery to the date of maturity or to the redemption date selected by the board or council as hereinafter provided, whichever is earlier, and e. expenses of the municipality deemed by the board or council to be necessary for the issuance of the refunding bonds. A determination by the board or council that any refinancing is advantageous or necessary to the municipality, or that any of the amounts provided in the preceding sentence should be included in such refinancing shall be conclusive.

2. If the board or council determines to sell any refunding bonds, they shall be sold as provided in par. (a). If the board or council determines to exchange any refunding bonds, they may be exchanged privately for and in

payment and discharge of any of the outstanding bonds or promissory notes being refunded. The refunding bonds may be exchanged for a like or greater principal amount of the bonds or promissory notes being exchanged therefor except that the principal amount of the refunding bonds may exceed the principal amount of the bonds or promissory notes being exchanged therefor only to the extent determined by the board or council to be necessary or advisable to fund redemption premiums and unpaid interest to the date of exchange not otherwise provided for. The holders of the bonds or promissory notes being refunded need not pay accrued interest on the refunding bonds if and to the extent that interest is due or accrued and unpaid on the bonds or promissory notes being refunded and to be surrendered. If any of the bonds or promissory notes to be refunded are to be called for redemption, the board or council may determine which redemption dates shall be used, if more than one such date is applicable and shall, prior to the issuance of refunding bonds, provide for notice of redemption to be given in the manner and at the times required by the proceedings authorizing such outstanding bonds or promissory notes.

3. The principal proceeds from the sale of any refunding bonds shall be applied either to the immediate payment and retirement of the bonds or promissory notes being refunded or, if such bonds or promissory notes have not matured and are not presently redeemable, to the creation of a trust for the payment of the bonds or promissory notes being refunded. If such trust is created, a separate deposit shall be made for each issue of bonds or promissory notes being refunded. Each such deposit shall be with a bank or trust company that is then a member of federal deposit insurance corporation. If the total amount of any such deposit, including money other than such sale proceeds but legally available for such purpose, is less than the principal amount of the bonds or promissory notes being refunded and for the payment of which such deposit shall have been created, together with applicable redemption premiums and interest accrued and to accrue to maturity or to the date of redemption, then such application of the sale proceeds shall be legally sufficient only if such money so deposited is invested in securities issued by the United States or one of its agencies, or securities fully guaranteed by the United States, and only if the principal amount of such securities at maturity and the income therefrom to maturity is sufficient, without the need for any further investment or reinvestment, to pay at maturity or upon redemption the principal amount of such bonds or promissory notes being refunded together with applicable redemption premiums and interest accrued and to accrue to maturity or to the date of redemption. The income from the principal proceeds of such securities shall be applied solely to the payment of the principal of and interest and redemption premiums on such bonds or promissory notes being refunded, but provision may be made for the pledging and disposition of any surplus. Nothing herein shall be construed as a limitation on the duration of any deposit in trust for the retirement of bonds or promissory notes being refunded but which have not matured and which are not presently redeemable.

4. The refunding bonds shall not be considered an indebtedness of such municipality, and shall not be included in arriving at the constitutional debt limitation.

5. The board or council may in addition to other powers conferred by this section, include a provision in any ordinance authorizing the issuance of refunding bonds pledging all or any part of the revenues of any public utility or utilities or combination thereof originally financed or extended or improved from the proceeds of any of the bonds or promissory notes being refunded, and pledging all or any part of the surplus income derived from the investment of any trust created pursuant to subd. 3.

6. This subsection, without reference to any other laws of this state, shall constitute full authority for the authorization and issuance of refunding bonds hereunder and for the doing of all other acts authorized by this subsection to be done or performed and such refunding bonds may be issued hereunder without regard to the requirements, restrictions or procedural provisions contained in any other law.

(c) As accurately as possible in advance, said board or council shall by ordinance fix and determine: 1. The proportion of the revenues of such public utility which shall be necessary for the reasonable and proper operation and maintenance thereof; 2. the proportion of the said revenues which shall be set aside as a proper and adequate depreciation fund; and 3. the proportion of the said revenues which shall be set aside and applied to the payment of the principal and interest of the bonds herein authorized and shall set the same aside in separate funds. At any time after one year's operation, the council or board may recompute the proportion of the revenues which shall be assignable as provided above based upon the experience of operation or upon the basis of further financing.

(d) The proportion set aside to the depreciation fund shall be available and shall be used, whenever necessary, to restore any deficiency in the special redemption fund described below for the payment of the principal and interest due on

the bonds herein authorized and for the creation and maintenance of any reserves established by the bond ordinance or ordinances to secure such payments. At any time when the special redemption fund is sufficient for said purposes, moneys in the depreciation fund may be expended in making good depreciation either in said public utility or in new constructions, extensions or additions. Any accumulations of such depreciation fund may be invested, and if invested, the income from the investment shall be carried in the depreciation fund.

(e) The proportion which shall be set aside for the payment of the principal and interest of the bonds herein authorized shall from month to month as the same shall accrue and be received, be set apart and paid into a special fund in the treasury of the said municipality to be identified as "the .... special redemption fund".

(f) If any surplus shall be accumulated in any of the above funds, it shall be disposed of as provided in section 66.069 (1) (c).

(g) The reasonable cost and value of any service rendered to such municipality by such public utility shall be charged against the said municipality and shall be by it paid for in monthly instalments.

(h) The rates for all services rendered by such public utility to the municipality or to other consumers, shall be reasonable and just, taking into account and consideration the value of the said public utility, the cost of maintaining and operating the same, the proper and necessary allowance for depreciation thereof, and a sufficient and adequate return upon the capital invested.

(i) Said board or council shall have full power to adopt all ordinances necessary to carry into effect the provisions of this subsection. Any ordinance providing for the issuance of bonds may contain such provisions or covenants, without limiting the generality of the power to adopt such ordinance, as is deemed necessary or desirable for the security of bondholders or the marketability of the bonds, including but not limited to provisions as to the sufficiency of the rates or charges to be made for service, maintenance and operation, improvements or additions to and sale or alienation of the public utility, insurance against loss, employment of consulting engineers and accountants, records and accounts, operating and construction budgets, establishment of reserve funds, issuance of additional bonds, and deposit of the proceeds of the sale of the bonds or revenues of the public utility in trust, including the appointment of depositories or trustees. Any ordinance authorizing the issuance of bonds or other obligations payable from revenues of a public utility shall constitute a contract with the holder of any bonds or other obligations issued pursuant to such ordinance.

(j) Proceedings for purchasing, acquiring, leasing, constructing, extending, adding to, improving, conducting, controlling, operating, or managing a public utility by any municipality heretofore begun under the provisions of law other than subsection (2), may be proceeded with either under the provisions of such law, if still in force, or under the provisions of said subsection (2) as the board or council may elect. A municipality proceeding under chapter 197 to acquire the property of a public utility may pay for the same by the method provided for in this section.

(k) The ordinance required by subsection (2) (c) may set apart bonds hereunder equal to the amount of any secured debt or charge subject to which a public utility may be purchased, acquired, leased, constructed, extended, added to, or improved in any proceedings heretofore begun or hereafter commenced, and shall set aside for interest and sinking fund from the income and revenues of the public utility, a sum sufficient to comply with the requirements of the instrument creating the lien, or if such instrument does not make any provision therefor, said ordinance shall fix and determine the amount which shall be set aside into a secured debt fund from month to month for interest on the secured debt, and a fixed amount or proportion not exceeding a stated sum, which shall be not less than one per cent of the principal, to be set aside into said fund to pay the principal of the debt. Any surplus after satisfying the debt may be transferred to the special redemption fund. Public utility bonds set aside for such debt may, from time to time be issued to an amount sufficient with the amount then in such sinking fund, to pay and retire the said debt or any portion thereof; such bonds may be so issued at not less than 95 per cent of the par value in exchange for, or satisfaction of, the secured debt, or may be sold in the manner herein provided, and the proceeds applied in payment of the same at maturity or before maturity by agreement with the holder. The board or council and the owners of any public utility acquired, purchased, leased, constructed, extended, added to, or improved, hereunder may, upon such terms and conditions as are satisfactory, contract that public utility bonds to provide for such secured debt, or for the whole purchase price shall be deposited with a trustee or depository and released from such deposit from time to time on such terms and conditions as are necessary to secure the payment of the debt.

(l) Any municipality which has heretofore or may hereafter purchase, acquire, lease, construct, extend, add to or improve, conduct, control, operate, or manage a public utility subject to a mortgage or deed of trust by the vendor or his or its predecessor in title to secure the payment of outstanding and unpaid bonds made by the vendor or his or its predecessor in title, may readjust, renew, consolidate or extend the debt evidenced by such outstanding bonds and continue the lien thereof of the mortgage, securing the same by issuing bonds to refund the said outstanding mortgage bonds at or prior to their maturity, which bonds shall be payable only out of a special redemption fund to be created and set aside by ordinance as nearly as may be in the manner prescribed by subsection (2), and which refunding bonds shall be secured by a statutory mortgage lien upon the public utility, and such municipality is authorized to adopt all ordinances and take all proceedings, following as nearly as may be the procedure prescribed by subsection (2), the lien thereof shall have the same priority on the public utility as the mortgage securing the outstanding bonds, unless it be otherwise expressly provided in the proceedings of the common council or other governing authority to authorize the same.

(m) 1. Whenever the board or council of any town, village, city or power district has authorized the issuance or sale of mortgage bonds under this section, such board or council may, prior to the issuance of such bonds and in anticipation of their sale, authorize the issuance of bond anticipation notes by the adoption of a resolution or ordinance by two-thirds of its members present. Such notes shall be named "bond anticipation notes." Such resolution or ordinance shall recite that all conditions precedent to the issuance of such mortgage bonds provided by law or by the ordinance pursuant to which such mortgage bonds were authorized to be issued have been complied with, and that said notes are issued for the purposes for which mortgage bonds were authorized to be issued.

2. Such bond anticipation notes and any renewals thereof may be issued for periods of up to 5 years in the aggregate; they shall mature within 5 years of the date of the notes originally issued and shall be executed as are mortgage bonds; they shall recite on the face thereof that they are payable from proceeds of mortgage bonds issued under this section. The rate of interest borne by said bond anticipation notes shall not exceed the maximum rate of interest authorized to be borne by said mortgage bonds. Such bond anticipation notes shall not be deemed a general obligation of the town, village, city or power district issuing them, and no lien shall be created or attached with respect to any property of the utility as a consequence of the issuance of such notes.

3. Any funds derived from the issuance and sale of mortgage bonds under this section and issued subsequent to the execution and sale of bond anticipation notes shall constitute a trust fund, and such fund shall be expended first for the payment of principal and interest of such bond anticipation notes, and then may be expended for such other purposes as are set forth in the ordinance authorizing the mortgage bonds. No bond anticipation notes may be issued unless the comptroller of such town, city, village or power district, or other financial officer, first certifies to the board or council that contracts with respect to additions, improvements and extensions are to be let and that the proceeds of such notes shall be required for the payment of such contracts.

4. Upon the issuance of such bond anticipation notes, there shall be paid into the fund or accounts respectively provided for the payment of the principal and interest of said mortgage bonds, from the proportion of the revenues of the utility allocated to the payment of such principal and interest, the same amounts at the same times as would have been required to be paid therein for the payment of the principal of and the interest on the mortgage bonds if said mortgage bonds, in an equal principal amount, had been issued instead of such notes. Such moneys or any part thereof may, by the ordinance or resolution authorizing the issuance of bond anticipation notes, be pledged for the payment of the principal of and the interest on such notes. In addition thereto, such ordinance or resolution shall pledge to the payment of the principal of such notes the proceeds of the sale of the mortgage bonds in anticipation of the sale of which said notes were authorized to be issued. Such notes shall constitute negotiable instruments.

5. The aggregate amount of the bond anticipation notes shall not exceed the principal amount of the mortgage bonds in anticipation of the sale of which they are issued.

6. Any town, village, city or power district authorized to issue or sell bond anticipation notes as hereinbefore provided may, in addition to the revenue sources or bond proceeds, appropriate funds out of the tax levy for the payment of such notes. The payment of such notes out of funds from a tax levy, however, shall not be construed as constituting an obligation of such town, village, city or power district to make such appropriation.

7. Such bond anticipation notes shall constitute a legal form of investment for municipal funds under s. 66.04 (2).

(3) When payment is provided by mortgage certificate it shall be in the manner following:

(a) The board or council shall order the issue and sale of mortgage certificates which shall recite that they are secured by trust deed or mortgage upon such equipment and that no municipal liability is created thereby.

(b) Such mortgage certificates shall bear interest payable semiannually, shall not be sold for less than 95% of the par value, and shall be made payable at the option of such municipality in not less than 3 years and in not more than 20 years from the date thereof.

(c) To secure the payment of principal and interest of such mortgage certificates, the chief executive and clerk shall execute to the purchaser thereof or to a trustee selected by resolution or ordinance, a trust deed or mortgage upon such public utility to the holders of said bonds and to the holders of the coupons of said bonds.

(d) The trust deed or mortgage shall among other things provide:

1. That the lien upon the property therein described and upon the income, shall be the only security, and that no municipal liability is created.

2. That the income from operation shall be applied, first to the necessary maintenance and operation, second to payment of the principal and interest of the certificates herein authorized, and third, to provide for proper and adequate depreciation. All certificates shall mature in substantially equal annual instalments, and the first instalment of principal shall fall due and be payable not later than 3 years after the date of issue. All such certificates shall contain a provision requiring redemption thereof, in whole or in part, at stipulated prices, at the option of the municipality on any interest payment date after 3 years from the date of the certificates.

3. That if any interest shall remain due and unpaid for 12 months, or if any part of the principal shall not be paid when due, the trust deed or mortgage may be foreclosed.

4. That upon default in payment of principal or interest, the holder of such trust deed or mortgage may by notice in writing served after such default declare the whole amount due and payable 6 months after such service and that it shall be so due and payable.

(e) Refunding mortgage certificates may be issued in the same manner, upon a two-thirds vote of the board or council. The rate of interest and time of payment shall be as fixed by subsection (3) (b).

(4) Any city, village, town or municipal power district which may own or operate, or hereafter purchase, acquire, lease, construct, extend, add to, improve, conduct, control, operate or manage any public utility may also, by action of its governing body, in lieu of the issuance of bonds or certificates or the levy of taxes and in addition to any other lawful methods or means of providing for the payment of indebtedness, have the power by and through its governing body to provide for or to secure the payment of the cost of purchasing, acquiring, leasing, constructing, extending, adding to, improving, conducting, controlling, operating, or managing a public utility by pledging, assigning or otherwise hypothecating, shares of stock evidencing a controlling interest therein, or the net earnings or profits derived, or to be derived, from the operation of such public utility. To that end, it may enter into such contracts and may mortgage its plant and issue such evidences of indebtedness as may be proper to carry out the provisions of this subsection. There is hereby granted and created a statutory mortgage lien upon the public utility to the holders of any evidences of indebtedness issued under this subsection. The provisions of sub. (2) (b) shall be applicable to such statutory mortgage lien. Any municipality may issue additional evidences of indebtedness in the manner herein provided or in the manner provided elsewhere in this section, but such shall be subordinate to all prior issues of indebtedness, except that the municipality may in the ordinance authorizing evidences of indebtedness hereunder permit the issue of additional evidences of indebtedness on a parity therewith.

History: 1973 c. 172.

A village has power to own and operate a home for the aged, finance the same under 66.066, 66.067, and lease facility to a nonprofit corporation but probably could not lease to a profit corporation for operation. 62 Atty. Gen. 226.

66.067 Public works projects. For financing purposes, garbage incinerators, toll bridges, swimming pools, tennis courts, parks, playgrounds, golf links, bathing beaches, bathhouses, street lighting, city halls, courthouses, jails, schools, hospitals, homes for the aged or indigent, regional projects, waste collection and disposal operations, systems of sewerage and any and all other necessary public works projects undertaken by any town, village, city, county, other municipality, public inland lake protection and rehabilitation district, or a commission created by contract under s. 66.30, are public utilities within the meaning of s. 66.066. In financing under that section, rentals and fees shall be considered as revenue. Any indebtedness created under this section may not be included in arriving at the constitutional debt limitation.

History: 1971 c. 130; 1977 c. 391.

66.068 Management. (1) In cities owning a public utility, the council shall and in towns and villages owning a public utility the board may

provide for a nonpartisan management thereof, and create for each or all such utilities, a board of 3 or 5 or 7 commissioners, to take entire charge and management of such utility, to appoint a manager and fix his compensation, and to supervise the operation of the utility under the general control and supervision of the board or council.

(2) The commissioners shall be elected by the board or council for a term, beginning on the first day of October, of as many years as there are commissioners, except that the terms of the commissioners first elected shall expire successively one each year on each succeeding first day of October.

(3) The commissioners shall choose from among their number a president and a secretary. They may command the services of the city engineer and may employ and fix the compensation of such subordinates as shall be necessary. They may make rules for their own proceedings and for the government of their department. They shall keep books of account, in the manner and form prescribed by the transportation commission or public service commission, which shall be open to the public.

(4) It may be provided that departmental expenditures be audited by such commission, and if approved by the president and secretary of the commission, be paid by the city or village clerk and treasurer as provided by s. 66.042; that the utility receipts be paid to a bonded cashier or cashiers appointed by the commission, to be turned over to the city treasurer at least once a month; and that the commission have such general powers in the construction, extension, improvement and operation of the utility as shall be designated. Where in any municipality water mains have been installed or extended and the cost thereof has been in some instances assessed against the abutting owners and in other instances paid by the municipality or any utility therein, it may be provided by the governing body of such municipality that all persons who paid any such assessment against any lot or parcel of land may be reimbursed the amount of such assessment regardless of when such assessment was made or paid. Such reimbursement may be made from such funds or earnings of said municipal utility or from such funds of the municipality as the governing body determines.

(5) Actual construction work shall be under the immediate supervision of the board of public works or corresponding authority.

(6) Two or more public utilities acquired as a single enterprise hereunder may be operated as a single enterprise.

(7) In cities of the second, third or fourth class the council may provide for the operation of a public utility or utilities by the board of public works or by another officer or officers, in lieu of the commission above provided for.

History: 1977 c. 29 s. 1654 (9) (g).

66.069 Charges; outside services. (1) CHARGES. (a) The council or board of any town, village or city operating a public utility may, by ordinance, fix the initial rates and provide for this collection monthly, quarterly or semiannually in advance or otherwise. The rates shall be uniform for like service in all parts of the municipality and shall include the cost of fluorinating the water. The rates may also include standby charges to property not connected but for which such facilities have been made available. The charges shall be collected by the treasurer.

(b) On October 15 in each year notice shall be given to the owner or occupant of all lots or parcels of real estate to which water has been furnished prior to October 1 by a water utility operated by any town, city or village and payment for which is owing and in arrears at the time of giving such notice. The department in charge of the utility shall furnish the treasurer with a list of all such lots or parcels of real estate, and the notice shall be given by the treasurer, unless the governing body of the city, village or town shall authorize such notice to be given directly by the department. Such notice shall be in writing and shall state the amount of such arrears, including any penalty assessed pursuant to the rules of such utility; that unless the same is paid by November 1 thereafter a penalty of 10 per cent of the amount of such arrears will be added thereto; and that unless such arrears, with any such added penalty, shall be paid by November 15 thereafter, the same will be levied as a tax against the lot or parcel of real estate to which water was furnished and for which payment is delinquent as above specified. Such notice may be served by delivery to either such owner or occupant personally, or by letter addressed to such owner or occupant at the post-office address of such lot or parcel of real estate. On November 16 the officer or department issuing the notice shall certify and file with the clerk a list of all lots or parcels of real estate, giving the legal description thereof, to the owners or occupants of which notice of arrears in payment were given as above specified and which arrears still remain unpaid, and stating the amount of such arrears together with the added penalty thereon as herein provided. Each such delinquent amount, including such penalty, shall thereupon become a lien upon the lot or parcel of real estate to which the water was furnished and payment for which is delinquent, and the clerk shall insert the same as a tax against such lot or parcel of real estate. All

proceedings in relation to the collection of general property taxes and to the return and sale of property for delinquent taxes shall apply to said tax if the same is not paid within the time required by law for payment of taxes upon real estate.

(c) The income of a public utility owned by a municipality, shall first be used to meet operation, maintenance, depreciation, interest, and sinking fund requirements, local and school tax equivalents, additions and improvements, and other necessary disbursements or indebtedness. Income in excess of these requirements may be used to purchase and hold interest bearing bonds, issued for the acquisition of the utility, or bonds issued by the United States or any municipal corporation of this state, or insurance upon the life of an officer or manager of such utility, or may be paid into the general fund.

(d) Any city, town or village may use funds derived from its water plant above such as are necessary to meet operation, maintenance, depreciation, interest and sinking funds, new construction or equipment or other indebtedness, for sewerage construction work other than such as is chargeable against abutting property; or they may turn such funds into the general fund to be used for general city purposes, or may place such funds in a special fund to be used for special municipal purposes.

(e) Any city, village or town owning a public utility shall be entitled to the same rate of return as permitted for privately owned utilities.

(2) OUTSIDE SERVICE. (a) Any town, town sanitary district, village or city owning water, light or power plant or equipment may serve persons or places outside its corporate limits, including adjoining municipalities not owning or operating a similar utility, and may interconnect with another municipality, whether contiguous or not, and for such purposes may use equipment owned by such other municipality.

(b) So much of such plant or equipment, except water plant or equipment or interconnection property in any municipality so interconnected, as shall be situated in another municipality shall be taxable in such other municipality pursuant to ss. 76.01 to 76.26.

(c) Notwithstanding s. 196.58 (5), each village or city may by ordinance fix the limits of such service in unincorporated areas. Such ordinance shall delineate the area within which service will be provided and the municipal utility shall have no obligation to serve beyond the area so delineated. Such area may be enlarged by a subsequent ordinance. No such ordinance shall be effective to limit any obligation to serve which may have existed at the time the ordinance was adopted.

(d) An agreement by a city or village to furnish utility service outside its corporate limits to property used for public, educational, industrial or eleemosynary purposes shall be deemed to fix the nature and geographical limits of said utility service unless altered by a change in the agreement, notwithstanding s. 196.58 (5). A change in use or ownership of property included under such agreement shall not be deemed to alter terms and limitations of such agreement.

(e) Any town, village or city owning a public utility, or the board of any municipal utility appointed under s. 66.068, may enter into agreements with any other such towns, villages or cities, or any other such boards of municipal utilities, for mutual aid in the event of an emergency or disaster in any of their respective service areas. Such agreements may include, but are not limited to, provisions for the movement of employes and equipment in and between the service areas of the various participating municipalities for the purpose of rendering such aid and, for the reimbursement of a municipality rendering such aid by the municipality receiving the aid.

History: 1971 c. 125 s. 521

66.07 Sale or lease. Any town, village or city may sell or lease any complete public utility plant owned by it, in manner following:

(1) A preliminary agreement with the prospective purchaser or lessee shall be authorized by a resolution or ordinance containing a summary of the terms proposed, of the disposition to be made of the proceeds, and of the provisions to be made for the protection of holders of obligations against such plant or against the municipality on account thereof. Such resolution or ordinance shall be published at least one week before adoption, as a class 1 notice, under ch. 985. It may be adopted only at a regular meeting and by a majority of all the members of the board or council.

(2) The preliminary agreement shall fix the price of sale or lease, and provide that if the amount fixed by the transportation commission or public service commission shall be larger, the price shall be that fixed by such commission.

(3) The municipality shall submit the preliminary agreement when executed to the transportation commission or public service commission, which shall determine whether the interests of the municipality and of the residents thereof will be best served by the sale or lease, and if it so determine, shall fix the price and other terms.

(4) The proposal shall then be submitted to the electors of the municipality. The notice of the referendum shall include a description of the

plant, and a summary of the preliminary agreement, and of the price and terms as fixed by the transportation commission or public service commission. If a majority voting on the question shall vote for the sale or lease, the board or council shall be authorized to consummate the same, upon the terms and at a price not less than fixed by the transportation commission or public service commission, with the proposed purchaser or lessee or any other with whom better terms approved by the transportation commission or public service commission can be made.

(5) Unless the sale or lease is consummated within one year of the referendum, or the time is extended by the transportation commission or public service commission, the proceedings shall be void.

(6) If the municipality has revenue or mortgage bonds outstanding relating to such utility plant and which by their terms may not be redeemed concurrently with the sale or lease transaction, an escrow fund with a domestic bank as trustee may be established for the purpose of holding, administering and distributing such portion of the sales or lease proceeds as may be necessary to cover the payment of the principal, any redemption premium and interest which will accrue on the principal through the earliest retirement date of the bonds. During the period of the escrow arrangement such funds may be invested in securities or other investments as described in s. 201.25 (1) (a), (b), (dm) and (j) of the 1969 statutes, and in deposits or certificates of deposit with any state or national bank doing business in this state.

(7) For the purpose of this section, the transportation commission has jurisdiction over transportation systems and the public service commission has jurisdiction over public utilities as defined in s. 196.01.

History: 1971 c. 260; 1977 c. 29 ss. 712, 1654 (9) (g)

66.071 Milwaukee utilities. In cities of the first class:

(1) WATERWORKS. (a) Water rates shall be collected in the manner and by any one whom the council may from time to time determine, and shall be accounted for and paid to such other officials in such manner and at such times as the council may from time to time prescribe. Such persons shall give a bond to cover all the duties in such an amount as may be prescribed by the council. Final accounting shall be made to comptroller and final disposition of money shall be made to city treasurer.

(b) The words "commissioner of public works" in subsection (1) shall be construed to mean and have reference to any board of public works, or commissioner of public works, or other officer of any city having control of the public works therein, and all acts authorized to be done by such commissioner except for the enforcement of regulations approved by the council shall require the approval of the council before they shall have any force or effect.

(c) When the city owns its waterworks, the commissioner of public works shall have power, from time to time, to make and enforce by-laws, rules and regulations in relation to the said waterworks, and, before the actual introduction of water, he shall make by-laws, rules and regulations, fixing uniform water rates to be paid for the use of water furnished by the said waterworks, and fixing the manner of distributing and supplying water for use or consumption, and for withholding or turning off the same for cause, and he shall have power, from time to time, to alter, modify or repeal such by-laws, rules and regulations.

(d) Water rates shall be due and payable upon such date or dates as the common council may provide by regulation. To all water rates remaining unpaid 20 days thereafter, there shall be added a penalty of 5 per cent of the amount of such rates, and if such rates shall remain unpaid for 10 days thereafter, water may be turned off the premises, subject to the payment of such delinquent rates, and in such cases where the supply of water is turned off as above provided, water shall not be again turned on to said premises until all delinquent rates and penalties, and a sum not exceeding $2 as provided for by regulation for turning the water off and on, shall have been paid. The same penalty and charge may be made when payment is made to a collector sent to the premises. On or before each day when such rates become due and payable as aforesaid, a written or printed notice or bill shall be mailed or personally delivered to the occupant or, upon written request, to the owner wherever he shall state, of all premises subject to the payment of water rates, stating the amount due, the time when and the place where such rates can be paid, the penalty for neglect of payment.

(e) All water rates for water furnished to any building or premises, and the cost of repairing meters, service pipes, stops or stop boxes, shall be a lien on the lot, part of lot or parcel of land on which such building or premises shall be situated. If any water rates or bills for the repairing of meters, service pipes, stops or stop boxes remain unpaid on the first day of October, in any year, the same shall be certified to the city comptroller of such city on or before the first day of November next following, and shall be by him placed upon the tax roll and collected in the same manner as other taxes on real estate are collected in said city. The charge for water supplied by the city in all premises where meters

are attached and connected, shall be at rates fixed by the commissioner of public works and for the quantity indicated by the meter. If in any case, the commissioner of public works shall determine that the quantity indicated by the meter is materially incorrect or if a meter has been off temporarily on account of repairs, the commissioner of public works shall determine in the best manner in his power the quantity used, and such determination shall be conclusive. No water rate or rates duly assessed against any property shall be thereafter remitted or changed except by the council of such city.

(f) The commissioner of public works of any such city may issue a permit to the county in which it is located, to any national home for disabled soldiers, or to any other applicant to obtain water from the waterworks in the said city for use outside of the limits of such city; and for that purpose to connect any pipe that shall be laid outside of the city limits with water pipe in such city. No such permit shall be issued until the applicant shall first file with the commissioner of public works a bond in such sum and with such surety as the said commissioner shall approve, conditioned that the said applicant will obey the rules and regulations that may from time to time be prescribed by the commissioner of public works for the use of such water; that he will pay all charges fixed by said commissioner for the use of such water as measured by a meter to be approved by said commissioner, which charges shall include the proportionate cost of fluorinating the water and, except as to water furnished directly to county or other municipal properties, shall not be less than one-quarter more than those charged to the inhabitants of the city for like use of water; that he will pay to any such city a water pipe assessment if the property to be supplied with water has frontage on any thoroughfare forming the city boundary line in which a water main has or shall be laid, and at the rate prescribed by the commissioner of public works; if the property to be supplied does not front on a city boundary but is distant therefrom, that a main pipe of the same size, class and standard as terminates at the city boundary shall be extended, and the entire cost shall be paid by the applicant for the extension; that such water main shall be laid according to city specifications and under city inspection; that such water main and appliances shall become the absolute property of such city, without any compensation therefor, whenever the property supplied with water by said extension or any part thereof shall be annexed to or in any manner become a part of such city; and that he will pay to any such city all damages whatever that it may sustain, arising in any way out of the manner in which such connection is made or water supply is used. In case of granting a permit to any county or to any national home for disabled soldiers, the commissioner of public works may waive the giving of such a bond. Every such permit shall be issued upon the understanding that such city shall in no event ever be liable for any damage in case of failure to supply water by reason of any condition beyond its control.

(g) The commissioner of public works shall prescribe and regulate the kind of water meters to be used in such city and the manner of attaching and connecting the same, and may in like manner make such other rules for the use and control of water meters attached and connected as herein provided as shall be necessary to secure reliable and just measurement of the quantity of water used; and may alter and amend such rules from time to time as shall be necessary for the purposes named. If the owner or occupant of any premises, where the attaching and connection of a water meter may lawfully be required, shall neglect or fail to attach and connect such water meter, as is required according to the rules established by the commissioner of public works, for 30 days after the expiration of the time within which such owner or occupant shall have been notified by said commissioner of public works to attach and connect such meter, the commissioner of public works may cause the water supply by the city to be cut off from the premises, and it shall not be restored except upon such terms and conditions as the commissioner of public works shall prescribe.

(h) The commissioner of public works may prescribe and regulate the size of connections made with the distribution mains for supplying automatic sprinkler systems and fix an annual charge for such service.

(i) The commissioner of public works may also make rules and regulations for the proper ventilating and trapping of all drains, soil pipes and fixtures hereafter constructed to connect with or be used in connection with the sewerage or water supply of the city. The council may provide by ordinance for the enforcement of such rules and regulations, and may prescribe proper penalties and punishment for disobedience of the same. The commissioner of public works may also make rules to regulate the use of vent, soil, drain, sewer or water pipes in all buildings in said city, which hereafter shall be proposed to be connected with the city water supply or sewerage, specifying the dimensions, strength and material of which the same shall be made, and may prohibit the introduction into any building of any style or water fixture, tap or connection, the use of which shall have been determined to be dangerous to health or for any

reason unfit to be used, and the commissioner of public works shall require a rigid inspection by a skilled and competent inspector under his direction of all plumbing and draining work and water and sewer connections, hereafter done or made in any building in the city, and unless the same are done or made according to rules of the commissioner of public works, and approved by him, no connection of the premises with the city sewerage or water supply shall be allowed.

(j) The said commissioner shall make an annual report to the council of his doings under this section and the state of the water fund and the general condition of said waterworks, and such report after being submitted to the council shall be filed in the office of the comptroller.

(2) UTILITY DIRECTORS. (a) The term "electric plant" as used in this section shall mean a plant for the production, transmission, delivery and furnishing of electric light, heat or power directly to the public.

(b) If the city shall have determined to acquire a street railway and electric plant or either of them, or any other public utility in accordance with the provisions of this section, the mayor of such city, prior to the city taking possession of such property shall appoint, subject to the confirmation of the council, 7 persons of recognized business experience and standing to act as the board of directors for such utility. Two of such persons shall be appointed for a term of 2 years, 2 for a term of 4 years, 2 for a term of 6 years, and one for a term of 8 years. Thereafter successors shall be appointed in like manner for terms of 10 years each. Any such director may be removed by the mayor with the approval of the council for misconduct in office or for unreasonable absence from meetings of the directors.

(c) The directors so appointed shall have power: To employ a manager experienced in the management of street railways and electric plants or other like public utilities and fix his compensation and the other terms and conditions of employment and to remove him at pleasure, subject to the terms and conditions of his employment. To advise and consult with the manager and other employes as to any matter pertaining to maintenance, operation or extension of such utility. To perform such other duties as ordinarily devolve upon a board of directors of a corporation organized under ch. 180 not inconsistent with this section and the laws governing cities of the first class. No money shall be raised or authorized to be raised by said board of directors other than from revenues derived from the operation of the utility, except by action of the council.

(d) The manager appointed by the board of directors shall have complete management and control of the utility, subject to the powers herein conferred upon the board of directors and the council and shall have power to appoint assistants and all other employes which he deems necessary and fix their compensation and other terms and conditions of employment, except that the board of directors may prescribe rules for determining the fitness of persons for positions and employment.

(e) The council shall fix the compensation, if any, of members of the board of directors and shall have the powers herein conferred upon it and such other powers as it now possesses with reference to street railways, electric plants and other public utilities.

66.072 Utility districts. (1) Towns, villages and cities of the third and fourth class may establish utility districts and thereafter the expense of highways (not including bridges), sewers, sidewalks, street lighting, and water for fire protection, or either, as board or council shall direct, not chargeable to private property, shall be paid out of the fund of the proper districts.

(2) The fund of each district shall be provided by taxation of the property in such district, upon an annual estimate by the department in charge of public works in cities and villages, and by the town chairman in towns, filed by October 1. Separate account shall be kept of each district fund.

(3) In towns a majority vote and in villages and cities a three-fourths vote of all the members of the board or council shall be required to thus establish utility districts and by a like vote districts may be vacated, altered, or consolidated.

(4) Before the vote is effective to establish, vacate, alter or consolidate, a hearing shall be held as provided in s. 66.60 (7). In towns the notice may be given by posting in 3 public places in said town, one of which shall be in the proposed district, at least 2 weeks prior to such hearing.

(5) (a) When any town board establishes a utility district under this section the board may also, if a town sanitary district is in existence for the town, dissolve said sanitary district in which case all assets, liabilities and functions of the sanitary district shall be taken over by the utility district.

(b) All functions performed by a sanitary district and assumed by a utility district under this subsection shall remain subject to regulation by the public service commission as if no transfer had occurred.

(c) If a sanitary district is located in more than one municipality, action under this section may be taken only upon approval of a majority

of the members of the governing body of each municipality in which the sanitary district is located.

(6) Whenever a municipality, within which a utility district is located, is consolidated with another municipality which provides the same or similar services for which the district was established, but on a municipality-wide basis rather than on a utility district basis as provided in this section, the fund of the utility district shall become part of the general fund of the consolidated municipality; thereupon said utility district shall be abolished. This section shall also apply to consolidations completed prior to June 30, 1965.

66.073 Municipal electric companies. (1) SHORT TITLE. This section shall be known as the "Municipal Electric Company Act".

(2) FINDING AND DECLARATION OF NECESSITY. It is declared that the operation of electric utility systems by municipalities of this state and the improvement of the systems through joint action in the fields of the generation, transmission and distribution of electric power and energy is in the public interest; that there is a need in order to ensure the stability and continued viability of the municipal systems to provide for a means by which municipalities which operate the systems may act jointly in all ways possible, including development of coordinated bulk power and fuel supply programs and efficient, community-based energy systems; and that, the necessity in the public interest for the provisions hereinafter enacted in this section is declared as a matter of legislative determination.

(3) DEFINITIONS. As used in this section, unless the context clearly indicates otherwise:

(a) "Bonds" means any bonds, interim certificates, notes, debentures or other obligations of a company issued under this section.

(am) "Community-based energy system" means a small-scale energy production system or device which serves a local area or portion thereof, including, but not limited to, a small scale power plant, using coal, sun, wind, organic waste or other form of energy, if the system is located sufficiently close to the community to make the dual production of heat and electricity possible. "Community-based energy system" also means a methane producing system or solar, wind or other energy source system for individual buildings or facilities.

(b) "Company" and "electric company" mean a municipal electric company.

(c) "Contracting municipality" means a municipality which contracts to establish an electric company under this section.

(d) "Municipal electric company" means a public corporation created by contract between 2 or more municipalities under this section.

(e) "Municipality" means a city, village or town.

(f) "Person" means a natural person, a public agency, cooperative or private corporation, association, firm, partnership, or business trust of any nature whatsoever, organized and existing under the laws of any state or of the United States.

(g) "Project" means any plant, works, system, facilities, and real and personal property of any nature whatsoever, together with all parts thereof and appurtenances thereto, used or useful in the generation, production, transmission, distribution, purchase, sale, exchange, or interchange of electric power and energy, or any interest therein or right to capacity thereof and the acquisition of fuel of any kind for any such purposes, including, but not limited to, the acquisition of fuel deposits and the acquisition or construction and operation of facilities for extracting fuel from natural deposits, for converting it for use in another form, for burning it in place, for transportation, storage and reprocessing or for any energy conservation measure which involves public education or the actual fitting and application of a device.

(h) "Public agency" means any municipality or other municipal corporation, political subdivision, governmental unit, or public corporation created under the laws of this state or of another state or of the United States, and any state or the United States, and any person, board, or other body declared by the laws of any state or the United States to be a department, agency or instrumentality thereof.

(4) CREATION OF MUNICIPAL ELECTRIC COMPANIES. (a) Any combination of municipalities of the state which operate facilities for the generation or transmission or distribution of electric power and energy may, by contract with each other, establish a separate governmental entity to be known as a municipal electric company to be used by such contracting municipalities to effect joint development of electric energy resources or production, distribution and transmission of electric power and energy in whole or in part for the benefit of the contracting municipalities. The municipalities party to the contract may amend the contract as provided therein.

(b) Any contract entered into under this section shall be filed with the secretary of state. Upon receipt, the secretary shall record the contract and issue a certificate of incorporation stating the name of the company and the date and fact of incorporation. Upon issuance of the

certificate, the existence of the company shall begin.

(5) CONTRACT. Any contract establishing an electric company under this section shall specify:

(a) The name and purpose of the company and the functions or services to be provided by the company. The name may refer to the company as an agency, authority, company, corporation, group, system or other descriptive title.

(b) The establishment and organization of a governing body of the company which shall be a board of directors in which all powers of the company are vested. The contract may provide for the creation by the board of an executive committee of the board to which the powers and duties may be delegated as the board shall specify.

(c) The number of directors, the manner of their appointment, terms of office and compensation, if any, and the procedure for filling vacancies on the board. Each contracting municipality shall have the power to appoint one member to the board of directors and shall be entitled to remove that member at will.

(d) The manner of selection of the officers of the company and their duties.

(e) The voting requirements for action by the board; but, unless specifically provided otherwise, a majority of directors shall constitute a quorum and a majority of the quorum shall be necessary for any action taken by the board.

(f) The duties of the board which shall include the obligation to comply or to cause compliance with this section and the laws of the state and in addition, with each and every term, provision and covenant in the contract creating the company on its part to be kept or performed.

(g) The manner in which additional municipalities may become parties to the contract by amendment.

(h) Provisions for the disposition, division or distribution of any property or assets of the company on dissolution.

(i) The term of the contract, which may be a definite period or until rescinded or terminated, and the method, if any, by which the contract may be rescinded or terminated, but that the contract may not be rescinded or terminated so long as the company has bonds outstanding, unless provision for full payment of such bonds, by escrow or otherwise, has been made pursuant to the terms of the bonds or the resolution, trust indenture or security instrument securing the bonds.

(6) POWERS. The general powers of an electric company shall include the power to:

(a) Plan, develop, acquire, construct, reconstruct, operate, manage, dispose of, participate in, maintain, repair, extend or improve one or more projects within or outside the state and act as agent, or designate one or more other persons participating in a project to act as its agent, in connection with the planning, acquisition, construction, operation, maintenance, repair, extension or improvement of such project.

(b) Produce, acquire, sell, distribute and process fuels necessary to the production of electric power and energy and implement energy conservation measures necessary to meet energy needs.

(c) Enter into franchises, exchange, interchange, pooling, wheeling, transmission and other similar agreements with any person or public agency.

(d) Make and execute contracts and other instruments necessary or convenient to the exercise of the powers of the company.

(e) Employ agents and employes.

(f) Contract with any person or public agency within or outside the state, for the construction of any project or for the sale or transmission of electric power and energy generated by any project, or for any interest therein or any right to capacity thereof, on such terms and for such period of time as its board of directors shall determine.

(g) Purchase, sell, exchange, transmit or distribute electric power and energy within and outside the state in such amounts as it shall determine to be necessary and appropriate to make the most effective use of its powers and to meet its responsibilities, and to enter into agreements with any person or public agency with respect to such purchase, sale, exchange, or transmission, on such terms and for such period of time as its board of directors shall determine. A company may not sell power and energy at retail unless requested to do so by a municipal member within the service area of that municipal member.

(h) Acquire, own, hold, use, lease (as lessor or lessee), sell or otherwise dispose of, mortgage, pledge, or grant a security interest in any real or personal property, commodity or service or interest therein subject to s. 182.017 (8).

(i) Exercise the powers of eminent domain granted to public utility corporations under ch. 32.

(j) Incur debts, liabilities or obligations including the borrowing of money and the issuance of bonds, secured or unsecured, under sub. (11) (b).

(k) Sue and be sued in its own name.

(l) Have and use a corporate seal.

(m) Fix, maintain and revise fees, rates, rents and charges for functions, services, facilities or commodities provided by the company.

(n) Make, and from time to time amend and repeal, bylaws, rules and regulations not inconsistent with this section to carry into effect the powers and purposes of the company.

(o) Notwithstanding the provisions of any other law, invest any funds held in reserve or sinking funds, or any funds not required for immediate disbursement, including the proceeds from the sale of any bonds, in such obligations, securities and other investments as the company deems proper.

(p) Join organizations, membership in which is deemed by the board of directors to be beneficial to accomplishment of the company's purposes.

(q) Exercise any other powers which are deemed necessary and convenient by the company to effectuate the purposes of the company.

(r) Do and perform any acts and things authorized by this section under, through or by means of an agent or by contracts with any person.

(6m) ENERGY CONSERVATION DUTIES. A municipal electric company established by contract under this section shall consider energy conservation measures and the development of efficient, community-based energy systems.

(7) PUBLIC CHARACTER. An electric company established by contract under this section shall constitute a political subdivision and body public and corporate of the state, exercising public powers, separate from the contracting municipalities. It shall have the duties, privileges, immunities, rights, liabilities and disabilities of a public body politic and corporate but shall not have taxing power.

(8) PAYMENTS. (a) The contracting municipalities may provide in the contract created under sub. (5) for payment to the company of funds for commodities to be procured and services to be rendered by the company. These municipalities and other persons and public agencies may enter into purchase agreements with the company for the purchase of electric power and energy whereby the purchaser is obligated to make payments in amounts which shall be sufficient to enable the company to meet its expenses, interest and principal payments (whether at maturity or upon sinking fund redemption) for its bonds, reasonable reserves for debt service, operation and maintenance and renewals and replacements and the requirements of any rate covenant with respect to debt service coverage contained in any resolution, trust indenture or other security instrument. Purchase agreements may contain such other terms and conditions as the company and the purchasers may determine, including provisions whereby the purchaser is obligated to pay for power irrespective of whether energy is produced or delivered to the purchaser or whether any project contemplated by any such agreement is completed, operable or operating, and notwithstanding suspension, interruption, interference, reduction or curtailment of the output of such project. Such agreements may be for a term covering the life of a project or for any other term, or for an indefinite period. The contract created under sub. (5) or a purchase agreement may provide that if one or more of the purchasers defaults in the payment of its obligations under any such purchase agreement, the remaining purchasers which also have such agreements shall be required to accept and pay for and shall be entitled proportionately to use or otherwise dispose of the power and energy to be purchased by the defaulting purchaser. For purposes of this paragraph the phrase "purchase of electric power and energy" includes any right to capacity or interest in any project.

(b) The obligations of a municipality under a purchase agreement with a company or arising out of the default by any other purchaser with respect to such an agreement shall not be construed to constitute debt of the municipality. To the extent provided in the purchase agreement, such obligations shall constitute special obligations of the municipality, payable solely from the revenues and other moneys derived by the municipality from its municipal electric utility and shall be treated as expenses of operating a municipal electric utility.

(c) The contract also may provide for payments in the form of contributions to defray the cost of any purpose set forth in the contract and as advances for any such purpose subject to repayment by the company.

(9) SALE OF EXCESS CAPACITY. (a) An electric company may sell or exchange excess power and energy produced or owned by it not required by any of the contracting municipalities for such consideration and for such period and upon such terms and conditions as it may determine to any other person or public agency.

(b) Notwithstanding any other provision of this section or any other statute, nothing shall prohibit a company from undertaking any project in conjunction with or owning any project jointly with any person or public agency.

(10) REGULATION. (a) An electric company created under this section shall be deemed to be a "public utility" for purposes of ch. 196, except that the terms and conditions and the rates at which a company sells power and energy for resale shall not be subject to regulation or alteration by the public service commission.

(b) Advance plans submitted by a municipal electric utility under s. 196.491 shall include consideration of alternatives to any proposed addition to any bulk electric generating facility as defined under s. 196.491. Such alternatives shall include, but not be limited to, community-based energy systems and energy conservation measures.

(11) TYPES OF BONDS. (a) An electric company may issue such types of bonds as it may determine, subject only to any agreement with the holders of particular bonds, including bonds as to which the principal and interest are payable exclusively from all or a portion of the revenues from one or more projects, or from one or more revenue producing contracts made by the company with any person or public agency, or from its revenues generally, or which may be additionally secured by a pledge of any grant, subsidy, or contribution from any public agency or other person, or a pledge of any income or revenues, funds, or moneys of the company from any source whatsoever.

(b) A company may from time to time issue its bonds in such principal amounts as the company deems necessary to provide sufficient funds to carry out any of its corporate purposes and powers, including the establishment or increase of reserves, interest accrued during construction of a project and for a period not exceeding one year after the completion of construction of a project, and the payment of all other costs or expenses of the company incident to and necessary or convenient to carry out its corporate purposes and powers.

(c) Neither the members of the board of directors of a company nor any person executing the bonds shall be liable personally on the bonds by reason of the issuance thereof.

(d) The bonds of an electric company (and such bonds shall so state on their face) shall not be a debt of the municipalities which are parties to the contract creating the company or of the state and neither the state nor any such municipality shall be liable thereon nor in any event shall such bonds be payable out of any funds or properties other than those of the company.

(12) FORM AND SALE OF BONDS. (a) Bonds of an electric company shall be authorized by resolution of the board of directors and may be issued under such resolution or under a trust indenture or other security instrument in one or more series and shall bear such date or dates, mature at such time or times, bear interest at such rate or rates, be in such denomination or denominations, be in such form, either coupon or registered, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable in such medium of payment, at such place or places, and be subject to such terms of redemption (with or without premium) as such resolution, trust indenture or other security instrument may provide, and without limitation by the provisions of any other law limiting amounts, maturities or interest rates.

(b) The bonds may be sold at public or private sale as the company may provide and at such price or prices as the company shall determine.

(c) In case any of the officers whose signatures appear on any bonds or coupons shall cease to be such officers before the delivery of such obligations, such signatures shall, nevertheless, be valid and sufficient for all purposes, the same as if the officers had remained in office until such delivery.

(13) COVENANTS. The company shall have power in connection with the issuance of its bonds to:

(a) Covenant as to the use of any or all of its property, real or personal.

(b) Redeem the bonds, to covenant for their redemption and to provide the terms and conditions thereof.

(c) Covenant to charge rates, fees and charges sufficient to meet operating and maintenance expenses, renewals and replacements to a project, principal and debt service on bonds, creation and maintenance of any reserves required by a bond resolution, trust indenture or other security instrument and to provide for any margins or coverages over and above debt service on the bonds deemed desirable for the marketability of the bonds.

(d) Covenant and prescribe as to events of default and terms and conditions upon which any or all of its bonds shall become or may be declared due before maturity, as to the terms and conditions upon which such declaration and its consequences may be waived and as to the consequences of default and the remedies of bondholders.

(e) Covenant as to the mortgage or pledge of or the grant of a security interest in any real or personal property and all or any part of the revenues from any project or projects or any revenue producing contract or contracts made by the company with any person or public agency to secure the payment of bonds, subject to such agreements with the holders of bonds as may then exist.

(f) Covenant as to the custody, collection, securing, investment and payment of any revenues, assets, moneys, funds or property with respect to which the company may have any rights or interest.

(g) Covenant as to the purposes to which the proceeds from the sale of any bonds then or thereafter to be issued may be applied, and the

pledge of such proceeds to secure the payment of the bonds.

(h) Covenant as to limitations on the issuance of any additional bonds, the terms upon which additional bonds may be issued and secured, and the refunding of outstanding bonds.

(i) Covenant as to the rank or priority of any bonds with respect to any lien or security.

(j) Covenant as to the procedure by which the terms of any contract with or for the benefit of the holders of bonds may be amended or abrogated, the amount of bonds, the holders of which must consent thereto, and the manner in which such consent may be given.

(k) Covenant as to the custody of any of its properties or investments, the safekeeping thereof, the insurance to be carried thereon, and the use and disposition of insurance proceeds.

(l) Covenant as to the vesting in a trustee or trustees, within or outside the state, of such properties, rights, powers and duties in trust as the company may determine.

(m) Covenant as to the appointing and providing for the duties and obligations of a paying agent or paying agents or other fiduciaries within or outside the state.

(n) Make all other covenants and to do any and all such acts and things as may be necessary or convenient or desirable in order to secure its bonds, or in the absolute discretion of the company tend to make the bonds more marketable; notwithstanding that such covenants, acts or things may not be enumerated herein; it being the intention hereof to give the company power to do all things in the issuance of bonds and in the provisions for security thereof which are not inconsistent with the constitution of the state.

(o) Execute all instruments necessary or convenient in the exercise of the powers herein granted or in the performance of covenants or duties, which may contain such covenants and provisions, as any purchaser of the bonds of the company may reasonably require.

(14) REFUNDING BONDS. A company may issue refunding bonds for the purpose of paying any of its bonds at or prior to maturity or upon acceleration or redemption. Refunding bonds may be issued at such time prior to the maturity or redemption of the refunded bonds as the company deems to be in the public interest. The refunding bonds may be issued in sufficient amounts to pay or provide the principal of the bonds being refunded, together with any redemption premium thereon, any interest accrued or to accrue to the date of payment of such bonds, the expenses of issue of the refunding bonds, the expenses of redeeming the bonds being refunded, and such reserves for debt service or other capital or current expenses from the proceeds of such refunding bonds as may be required by the resolution, trust indenture or other security instruments. The issue of refunding bonds, the maturities and other details thereof, the security therefor, the rights of the holders thereof, and the rights, duties and obligations of the company in respect of the same shall be governed by this section relating to the issue of bonds other than refunding bonds insofar as the same may be applicable.

(15) BONDS ELIGIBLE FOR INVESTMENT. Bonds issued by a company under this section are hereby made securities in which all public officers and agencies of the state and all political subdivisions, all insurance companies, trust companies, banks, savings and loan associations, investment companies, executors, administrators, trustees and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. Such bonds are hereby made securities which may properly and legally be deposited with and received by any officer or agency of the state or any political subdivision for any purpose for which the deposit of bonds or obligation of the state or any political subdivision is now or may hereafter be authorized by law.

(16) TAX EXEMPTION AND PAYMENTS IN LIEU OF TAXES. (a) All bonds of a municipal electric company are declared to be issued on behalf of the state for an essential public and governmental purpose and to be debts of a state municipal corporation.

(b) The property of a company, including any pro rata share of any property owned by a company in conjunction with any other person or public agency, is declared to be public property used for essential public and governmental purposes and such property or pro rata share, a company and its income shall be exempt from all taxes of the state or any state public body except that for each project owned or partly owned by it, a company shall make payments-in-lieu-of-taxes to the state equal to the amount which would be paid to the state under ch. 76 for such project or share thereof if it were deemed to be owned by a light, heat and power company under s. 76.02 (8). The payment shall be determined, administered and distributed by the state in the same manner as the taxes paid by light, heat and power companies under ch. 76, except that the ad valorem rate applicable to light, heat and power companies taxed under ch. 76, which is to be used in determining such a payment, shall be adjusted downward to obtain a rate net of public utility tax credits received under s. 79.10.

(17) SUCCESSOR. A company shall, if the contract so provides, be the successor to any

nonprofit corporation, agency or any other entity theretofore organized by such contracting municipalities to provide the same or a related function, and the company shall be entitled to all rights and privileges and shall assume all obligations and liabilities of the other entity under existing contracts to which the other entity is a party.

(18) OTHER STATUTES. The powers granted under this section do not limit the powers of municipalities to enter into intergovernmental cooperation or contracts or to establish separate legal entities under s. 66.30 or any other applicable law, or otherwise to carry out their powers under applicable statutory provisions, nor shall such powers limit the powers reserved to municipalities by state law.

(19) CONSTRUCTION. This section shall be interpreted liberally to effect the purposes set forth in this section.

History: 1977 c. 159.

66.074 Ice plants, fuel depots and landing fields. (1) Any city may enter into any contract which will enable it to purchase, construct, lease or acquire any equipment necessary to secure, manufacture, or sell ice, and to supply ice to itself, its inhabitants and persons doing business therein, or the county in which it is located, and may operate the same.

(2) Any city may by a vote of three-fourths of all the members of the council establish and operate equipment for the purchase, sale and supply of fuel to its citizens, under regulation of the council.

(3) Any city may purchase or lease lands for the use of the public as an aerial landing field, and may construct thereon hangars, shops, and other equipment and maintain such landing field; and may establish and collect uniform fees for use of such field. Neither the city, nor any board, commission or officer thereof, maintaining and operating any aerial landing field, as provided in this subsection, and collecting fees for the use of the same, shall be held liable in damages for injuries done to any person, not an employe of such city, by reason of the maintenance or operation of such landing field.

66.075 Slaughterhouses. (1) Authority is hereby given to every county and to every city of more than 5,000 inhabitants to construct and maintain public slaughterhouses upon such conditions and under such regulations as may be imposed by the department of agriculture, trade and consumer protection.

(2) The county board in each county and the common council in each city shall authorize the construction of such county or municipal slaughterhouse, shall make the necessary appropriation for the purchase of land and the construction and maintenance of such slaughterhouse and shall take proper action to secure the building, establishment and maintenance of such county or municipal slaughterhouse. Provided, that in cities such municipal slaughterhouse shall be maintained and operated by the health department in such city.

(3) All cattle, sheep, swine and goats slaughtered in such slaughterhouse shall be examined by the proper state authorities, and after examination and inspection shall be approved or condemned in accordance with the state laws and the municipal regulations governing the examination and inspection of similar private establishments.

(4) Any person, firm or corporation who shall make use of a county or municipal slaughterhouse, and in such use shall violate any of the terms of this section shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than $500 or by imprisonment of not more than one year, or by both such fine and imprisonment in the discretion of the court.

(5) The provisions of this section shall apply only to such counties and to such cities as shall have adopted the same at any general or municipal election at which the question of the establishment of such county or municipal slaughterhouse shall have been submitted to the voters of such county or such city. Such question shall, upon the written petition of electors of such county or such city equal in number to at least 10 per cent of all the votes cast in such county or such city for governor at the last preceding general election, be submitted to the electors of such county or such city at the next ensuing election, and if a majority of votes cast shall be in favor of the establishment of such slaughterhouse, the provisions of this section shall apply to such county or to such city.

History: 1977 c. 29 s. 1650m (4).

66.076 Sewerage system, service charge. (1) In addition to all other methods provided by law any municipality may construct, acquire or lease, extend or improve any plant and equipment within or without its corporate limits for the collection, treatment and disposal of sewage, including the lateral, main and intercepting sewers necessary in connection therewith, and any town, village or city may arrange for such service to be furnished by a metropolitan sewerage district or joint sewerage system. Payment for the same or any part thereof may be provided from the general fund, from taxation, special assessments, sewerage service charges, or from

the proceeds of either municipal bonds, mortgage bonds, mortgage certificates or from any combination of these enumerated methods of financing.

(1m) In this section, "municipality" means town, village, city or metropolitan sewerage district.

(2) Where payment in whole or in part is to be made by the issue and sale of mortgage bonds or mortgage certificates, such payments shall be made as is provided in section 66.066, the provisions of which section as the same has been and from time to time may be amended or recreated are made a part of this section except as otherwise inconsistent herewith. The term "public utility" as used in said section as the same has been and from time to time may be amended or recreated shall for this purpose include the sewerage system, accessories, equipment and other property, including land. Such mortgage bonds or mortgage certificates shall not constitute a general indebtedness of the municipality but shall be secured only by the sewerage system and revenue thereof, and the franchise herein provided for.

(3) In the event of a sale of the mortgaged premises on a judgment of foreclosure and sale, the price paid for the same shall not exceed the amount of the judgment and the costs of sale to and including the recording of the sheriff's deed. The purchaser on the foreclosure sale may operate and maintain said sewerage system and collect sewerage service charges, and for that purpose shall be deemed to have a franchise from the municipality. The term "purchaser" shall include his successors or assigns. The rates to be charged, in addition to the contributions, if any, which the municipality has obligated itself to make toward the capital or operating costs of the plant, shall be sufficient to meet the requirements of operation, maintenance, repairs, depreciation, interest and an amount sufficient to amortize the judgment debts and all additional capital costs which the purchaser contributes to the plan over a period not exceeding 20 years, and in addition to the foregoing the purchaser of the premises shall be entitled to earn a reasonable amount, as determined by the public service commission, on the actual amount of his investment in the premises represented by the purchase price of the premises, plus any additions made to the same by the purchaser or minus any payments made by the municipality on account of such investments. The municipality may at any time by payment reduce such investment of the purchaser and after full payment of the purchase price plus the cost of subsequent improvements the premises shall revert to the municipality. So long as the premises are owned by the private purchaser, the same shall be considered a public utility and be subject to the provisions of chapter 196 so far as applicable.

(4) The governing body of the municipality may establish sewerage service charges in such amount as to meet all or part of the requirements for the construction, reconstruction, improvement, extension, operation, maintenance, repair and depreciation of the sewerage system, and for the payment of all or part of the principal and interest of any indebtedness incurred thereof, including the replacement of funds advanced by or paid from the general fund of the municipality. Service charges made by a metropolitan sewerage district to any town, village or city shall in turn be levied by such town, village or city against the individual sewer system users within the corporate limits of such municipality, and the responsibility for collecting such charges and promptly remitting same to the metropolitan sewerage district shall lie with such municipality. Delinquent charges shall be collected in accordance with sub. (7).

(5) For the purpose of making equitable charges for all services rendered by the sewerage system to the municipality or to citizens, corporations and other users, the property benefited thereby may be classified, taking into consideration the volume of water, including surface or drain waters, the character of the sewage or waste and the nature of the use made of the sewerage system, including the sewage disposal plant. The charges may also include standby charges to property not connected but for which such facilities have been made available.

(6) Any municipality may pledge, assign or otherwise hypothecate the net earnings or profits derived or to be derived from a sewerage system to secure the payment of the costs of purchasing, constructing or otherwise acquiring a sewerage system or any part thereof, or for extending or improving such sewerage system, in the manner provided in s. 66.066 (4) as the same has been and from time to time may be amended or recreated.

(7) Sewerage service charges shall be collected and taxed and shall be a lien upon the property served in the same manner as water rates are taxed and collected under the provisions of section 66.069 (1) or 66.071 (1) (e) as the same has been and from time to time may be amended or recreated, so far as applicable.

(8) The governing body of any municipality, and the officials in charge of the management of the sewerage system as well as other officers of the municipality, shall be governed in the discharge of their powers and duties under this subsection by s. 66.069 or 66.071 (1) (e) as the

same has been and from time to time may be amended or recreated, which are hereby made a part of this section so far as applicable and not inconsistent herewith.

(9) If any user of a service complains to the public service commission that rates, rules and practices are unreasonable or unjustly discriminatory, or if a holder of a mortgage bond or mortgage certificate or other evidence of debt, secured by a mortgage on the sewerage system or any part thereof or pledge of the income of sewerage service charges, complains that rates are inadequate, the public service commission shall investigate the complaint. If there appears to be sufficient cause for the complaint, the commission shall set the matter for a public hearing upon 10 days' notice to the complainant and the town, village or city. After the hearing, if the public service commission determines that the rates, rules or practices complained of are unreasonable or unjustly discriminatory, it shall determine and by order fix reasonable rates, rules and practices and shall make such other order respecting the complaint as may be just and reasonable. The proceedings under this subsection shall be governed, as far as applicable, by ss. 196.26 to 196.40. The commission shall bill any expense of the commission attributable to a proceeding under this subsection to the town, village or city under s. 196.85 (1).

(10) Judicial review of the determination of the public service commission may be had by any person aggrieved in the manner prescribed in chapter 227.

(11) The word "sewerage" as used in this section shall be considered a comprehensive term, including all constructions for collection, transportation, pumping, treatment and final disposition of sewage.

(12) The authority hereby given shall be in addition to any power which municipalities now have with respect to sewerage or sewage disposal. Nothing in this section shall be construed as restricting or interfering with any powers and duties of the department of health and social services as prescribed by law.

History: 1971 c. 276; 1975 c. 414 s. 28; 1977 c. 29.

66.077 Combining water and sewer utilities. (1) Any town, village, or city of the fourth class may construct, acquire, or lease, or extend and improve, a plant and equipment within or without its corporate limits for the furnishing of water to the municipality or to its inhabitants, and for the collection, treatment, and disposal of sewage, including the lateral, main and intercepting sewers, and all equipment necessary in connection therewith. Such plant and equipment, whether the structures and equipment for the furnishing of water and for the disposal of sewage shall be combined or separate, may by ordinance be constituted a single public utility.

(2) All of the provisions of chapters 66, 196 and 197 as the same shall have been and from time to time may be amended or recreated, relating to a waterworks system, including, but not limited to, those provisions relating to the regulation of a waterworks system by the public service commission, shall apply to such combined waterworks and sewage disposal system as a single public utility. In prescribing rates, accounting and engineering practices, extension rules, service standards or other regulations for such combined waterworks and sewage disposal system, the public service commission shall treat the waterworks system and the sewage disposal system separately, unless such commission shall find that the public interest requires otherwise.

(3) Any town, village, or city of the fourth class which now owns or hereafter may acquire a waterworks plant and system and a plant or system for the treatment or disposal of sewage may by ordinance combine such system into a single public utility. After the effective date of such ordinance such combined utility shall be subject to all of the provisions of this section with the same force and effect as though originally acquired as a single public utility.

66.078 Refunding village, sanitary and inland lake district bonds. Any village, town sanitary district established under s. 60.301 or public inland lake protection and rehabilitation district established under ch. 33 which has undertaken to construct a combined sewer and water system and issued revenue bonds payable from the combined revenues of said system and which is unable to provide sufficient funds to complete the construction of said system and to meet maturing principal of said revenue bonds, may, with the consent of all of the holders of noncallable bonds, refund all or any part of its outstanding indebtedness, including revenue bonds, by issuing term bonds maturing in not more than 20 years, payable solely from the revenues of said combined sewer and water system and redeemable at par on any interest payment date. Such bonds may be issued as provided in s. 66.066 (2) and shall pledge income from hydrant rentals and all sewer and water charges and may contain any covenants authorized by law, except if bonds are issued hereunder to refund floating indebtedness, such bonds shall be subject to the prior lien and claim of all bonds issued to refund revenue bonds theretofore issued.

History: 1975 c. 197.

66.079 Parking systems. (1) Any city or village without necessity of a referendum may

purchase, acquire, rent from a lessor, construct, extend, add to, improve, conduct, operate, or rent to a lessee a municipal parking system for the parking of vehicles, including parking lots and other parking facilities, upon its public streets or public grounds and issue mortgage bonds to acquire funds for any one or more of such purposes. Such parking lots and other parking facilities may include space designed for leasing to private persons for purposes other than the parking of vehicles if such space is incidental to the parking purposes of such lots or other facilities. If, in cities of the first class, a charge is made for parking privileges in such a parking system or parking lot and attendants are employed thereat, such a parking system or parking lot shall be leased to private persons; but no such leasing shall be required if such city cannot obtain reasonable terms and conditions in such a lease. The provisions of s. 66.066 governing the issuance of mortgage bonds shall apply, so far as applicable, to mortgage bonds issued hereunder. Such municipal parking systems shall constitute public utilities within the purview of article XI, section 3, of the Wisconsin constitution. Mortgage bonds issued under authority hereof shall be payable solely both principal and interest from the revenues to be derived from such parking system, including without limitation revenues from parking meters or other parking facilities theretofore owned or thereafter acquired.

(2) Any municipality empowered to create a parking system under sub. (1) may finance and operate any part of such system in the following manner:

(a) The cost of constructing any parking system or facility, including the cost of the land, may be assessed against a benefited area, such benefited area and assessments to be determined in the manner prescribed by either s. 66.60 or ch. 275, laws of 1931, as amended, except that the number of annual instalments in which such assessment is payable shall not exceed 20.

(b) The cost of operating and maintaining any parking system or facility may be assessed not more than once in each calendar year against all property in a benefited area, such area and such assessments to be determined in the manner prescribed by either s. 66.60 or by ch. 275, laws of 1931. Such costs may include a payment in lieu of taxes, operating, maintenance and replacement costs, and interest on any unpaid capital cost.

(c) The governing body may, in determining the amount of the assessment under par. (a) or (b) credit any portion of the revenues from the parking system or facility.

(d) No assessment, as authorized in par. (a) or (b), shall be made against any property used wholly for residential purposes.

History: 1973 c. 172.

66.08 Utilities, special assessments. (1) Whenever any village or city shall construct or acquire by gift, purchase or otherwise a distribution system or a production or generating plant for the furnishing of light, heat or power to any municipality or its inhabitants or shall make any extensions thereto, such city or village may assess the whole or any part of the cost thereof to the property benefited thereby, whether abutting or not, in the same manner as is provided for the assessment of benefits under s. 66.60.

(2) Such special assessments may be made payable and certificates or bonds issued under s. 66.54. In villages or cities where no official paper is published, notice may be given by posting said notice in 3 public places in said village or city.

66.081 Record of orders and court certificates. The clerk of every town, village, city and county which is not provided with a book which serves the purposes indicated in this section shall obtain and keep a cancellation book in which the clerk shall enter the number and date of each order drawn upon the treasurer of the town, city, village or county, the page of the record of the proceedings of the body which authorized the issuing of the order, the amount thereof, the name of the drawee, the purpose for which it was allowed and the date of its cancellation. The book shall be furnished by the clerk of each county to the town, city and village clerks therein. The clerk of each county shall prescribe the form and size thereof and procure it at the expense of the county. Upon their receipt the clerk of the county shall transmit the books to the clerks and charge their cost to the municipalities to which supplied. When directed by the court in any county the clerk of the court shall file with the county clerk a list of the court certificates drawn on the county treasurer. The list shall specify the number of each certificate, its date, the amount for which it was drawn, the name of the payee and the character of the service performed by the clerk of the court. The list shall be recorded in a part of the cancellation book set apart for that purpose. The part shall contain a blank column in which shall be entered the date of the cancellation of each certificate. Whenever a town, village, city or county treasurer pays or receives in payment of taxes, or for any other purpose equivalent to the payment thereof, any order or court certificate, the treasurer shall return the order or certificate to the

proper authorities at their first meeting thereafter. The evidences of indebtedness shall be canceled by destroying them, and the date of their cancellation shall be immediately entered by the proper clerk in the cancellation book. Every clerk on the receipt of the book shall enter therein a list of all orders and court certificates which remain outstanding and unpaid.

History: 1977 c. 449.

66.09 Judgment against municipalities, etc. **(1)** When a final judgment for the payment of money shall be recovered against a town, village, city, county, school district, vocational, technical and adult education district, town sanitary district, public inland lake protection and rehabilitation district or community center, or against any officer thereof, in any action by or against him or her in his or her name of office, when the judgment should be paid by such municipality, the judgment creditor, or his or her assignee or attorney, may file with the clerk a certified transcript of the judgment or of the docket of the judgment, together with his or her affidavit of payments made, if any, and the amount due and that the judgment has not been appealed from or removed to another court, or if so appealed or removed has been affirmed. The amount due, with costs and interest to the time when the money will be available for payment, shall be added to the next tax levy, and shall, when received, be paid to satisfy the judgment. If the judgment is appealed after filing the transcript with the clerk, and before the tax is collected, the money shall not be collected on that levy. If the clerk fails to include the proper amount in the first tax levy, he or she shall include it or such portion as is required to complete it in the next levy.

(2) In the case of school districts, town sanitary districts, public inland lake protection and rehabilitation districts or community centers, transcript and affidavit shall be filed with the clerk of the town, village or city in which the district or any part of it lies, and levy shall be made against the taxable property of the district or center.

(3) No process for the collection of such judgment shall issue until after the time when the money, if collected upon the first tax levy as herein provided, would be available for payment, and then only by leave of court upon motion.

(4) If by reason of dissolution or other cause, pending action, or after judgment, the transcript cannot be filed with the clerk therein designated, it shall be filed with the clerk or clerks whose duty it is to make up the tax roll for the property liable.

History: 1971 c. 154; 1975 c. 197.

66.091 Mob damage. **(1)** The county shall be liable for injury to person or property by a mob or riot therein, except that within cities the city shall be liable.

(2) Claim therefor must be filed within 6 months thereafter. Such claim may be allowed in whole or in part, as other claims, and procedure to enforce shall be as for other claims.

(3) The city or county may recover all such claims and costs paid by it, against any and all persons engaged in inflicting the injury.

(4) No person shall recover hereunder when the injury was occasioned or in any manner aided, sanctioned, or permitted by him or caused by his negligence, nor unless he shall have used all reasonable diligence to prevent the same, and shall have immediately notified the mayor or sheriff after being apprised of any threat of or attempt at such injury. Every mayor or sheriff receiving such notice shall take all legal means to prevent injury, and if he refuse or neglect to do so, the party injured may elect to hold such officer liable by bringing action against him within 6 months of the injury.

(5) This section shall not apply to property damage to houses of ill fame when the owner has notice that they are used as such.

This section does not render a city a wrongdoer, since liability is imposed without fault, and an insurer who has paid for riot damage cannot recover on a theory of subrogation. Interstate Fire & Cas. Co. v. Milwaukee, 45 W (2d) 331, 173 NW (2d) 187.

An insurer cannot recover against a city for money paid out for mob damage on a subrogation theory. American Ins. Co. v. Milwaukee, 51 W (2d) 346, 187 NW (2d) 142.

Liability for riot damages; subrogation against municipalities for riot damage claims. 1971 WLR 1236.

66.10 Official publication. Whenever in sections 66.01 to 66.08, inclusive, publication is required to be in the official paper of other than a city, and there is no official paper, the publication shall be in a paper published in the municipality and designated by the officers or body conducting the proceedings, and if there be no paper published in the municipality, then in a paper published in the county and having a general circulation in the municipality and so designated, and by posting in at least four public places in the municipality, and if there be also no such paper, then by such posting.

66.11 Eligibility for office. **(1)** DEPUTY SHERIFFS AND CITY POLICE. No person shall be appointed deputy sheriff of any county or police officer for any city unless he is a citizen of the United States. This section shall not affect common carriers, nor apply to a deputy sheriff not required to take an oath of office.

(2) ELIGIBILITY OF OTHER OFFICERS. Except as expressly authorized by statute, no member of a town, village or county board, or city council

shall, during the term for which he is elected, be eligible for any office or position which during such term has been created by, or the selection to which is vested in, such board or council, but such member shall be eligible for any elective office. The governing body may be represented on city or village boards and commissions where no additional remuneration is paid such representatives and may fix the tenure of such representatives notwithstanding any other statutory provision. This subsection shall not apply to a member of any such board or council who resigns from said board or council before being appointed to an office or position which was not created during his term in office.

(3) APPOINTMENTS ON CONSOLIDATION OF OFFICES. Whenever offices are consolidated, the occupants of which are ex officio members of the same statutory committee or board, the common council or village board may designate another officer or officers or make such additional appointments as may be necessary to procure the number of committee or board members provided for by statute.

Sections 62.13 (4) (d) and 66.11 (1), making citizenship a prerequisite to becoming a police officer or deputy sheriff, violate the 14th amendment when applied to resident aliens. 65 Atty. Gen. 273.

66.111 Fees for same service allowed to all. When a fee is allowed to one officer the same fee shall be allowed to other officers for the performance of the same services, when such officers are by law authorized to perform such services.

66.113 Receipts for fees. Every officer upon receiving fees for any official duty or service shall, if required by the person paying the same, deliver to him a particular receipted account of such fees, specifying for what they respectively accrued; and if he fails to do so he shall be liable to the party paying the same for 3 times the amount paid.

66.114 Bail under municipal ordinances. **(1)** When any person is arrested for the violation of a city or village ordinance and the action is to be in circuit court, the chief of police or police officer designated by the chief, marshal or clerk of court may accept from the person a bond, in an amount not to exceed the maximum penalty for the violation, with sufficient sureties, or the person's personal bond upon depositing the amount thereof in money, for appearance in the court having jurisdiction of the offense. A receipt shall be issued therefor.

(2) (a) In case the person so arrested and released shall fail to appear, personally or by an authorized attorney or agent, before said court at the time fixed for hearing of the case, then the bond and money deposited, or such portion thereof as the court may determine to be an adequate penalty, plus the costs, may be declared forfeited by the court or may be ordered applied upon the payment of any penalty which may be imposed after an ex parte hearing together with the costs. In either event, the surplus, if any there be, shall be refunded to the person who made such deposit.

(b) The provisions of this subsection shall not apply to violations of parking ordinances. Bond or bail given for appearance to answer a charge under any such ordinance may be forfeited in the manner determined by the governing body.

(3) This section shall not be construed as a limitation upon the general power of cities and villages in all cases of alleged violations of city or village ordinances to authorize the acceptance of bonds or cash deposits or upon the general power to accept stipulations for forfeiture of bonds or deposits or pleas where arrest was had without warrant or where action has not been started in court.

(4) This section shall not apply to ordinances enacted under ch. 349.

History: 1971 c. 278; 1977 c. 305; 1977 c. 449 s. 497.

66.115 Penalties under county and municipal ordinances. Where a statute requires that the penalty under any county or municipal ordinance shall conform to the penalty provided by statute such ordinance may impose only a forfeiture and may provide for imprisonment in case the forfeiture is not paid.

History: 1971 c. 278

66.119 Citations for certain ordinance violations. **(1)** ADOPTION; CONTENT. (a) The governing body of any county, city or village may by ordinance adopt and authorize the use of a citation to be issued for violations of ordinances other than those for which a statutory counterpart exists.

(b) An ordinance adopted under par. (a) shall prescribe the form of the citation which shall provide for the following:

1. The name and address of the alleged violator.

2. The factual allegations describing the alleged violation.

3. The time and place of the offense.

4. The section of the ordinance violated.

5. A designation of the offense in such manner as can be readily understood by a person making a reasonable effort to do so.

6. The time at which the alleged violator may appear in court.

7. A statement which in essence informs the alleged violator:

a. That the alleged violator may make a cash deposit of a specified amount to be mailed to a specified official within a specified time.

b. That if the alleged violator makes such a deposit, he or she need not appear in court unless subsequently summoned.

c. That if the alleged violator makes a cash deposit and does not appear in court, either he or she will be deemed to have tendered a plea of no contest and submitted to a forfeiture and a penalty assessment imposed by s. 165.87 not to exceed the amount of the deposit or will be summoned into court to answer the complaint if the court does not accept the plea of no contest.

d. That if the alleged violator does not make a cash deposit and does not appear in court at the time specified, an action may be commenced against the alleged violator to collect the forfeiture and the penalty assessment imposed by s. 165.87.

8. A direction that if the alleged violator elects to make a cash deposit, the alleged violator shall sign an appropriate statement which accompanies the citation to indicate that he or she read the statement required under subd. 7 and shall send the signed statement with the cash deposit.

9. Such other information as may be deemed necessary.

(c) An ordinance adopted under par. (a) shall contain a schedule of cash deposits which are to be required for the various ordinance violations, and for the penalty assessment imposed by s. 165.87, for which a citation may be issued. The ordinance shall also specify the court, clerk of court or other official to whom cash deposits are to be made and shall require that receipts be given for cash deposits.

(2) ISSUANCE; FILING. (a) Citations authorized under this section may be issued by law enforcement officers of the county, city or village. In addition, the governing body of a county, city or village may designate by ordinance or resolution other county, city or village officials who may issue citations with respect to ordinances which are directly related to the official responsibilities of the officials. Officials granted the authority to issue citations may delegate, with the approval of the governing body, the authority to employes. Authority delegated to an official or employe shall be revoked in the same manner by which it is conferred.

(b) The issuance of a citation by a person authorized to do so under par. (a) shall be deemed adequate process to give the appropriate court jurisdiction over the subject matter of the offense for the purpose of receiving cash deposits, if directed to do so, and for the purposes of sub. (3) (b) and (c). Issuance and filing of a citation does not constitute commencement of an action. Issuance of a citation does not violate s. 946.68.

(3) VIOLATOR'S OPTIONS; PROCEDURE ON DEFAULT. (a) The person named as the alleged violator in a citation may appear in court at the time specified in the citation or may mail or deliver personally a cash deposit in the amount, within the time and to the court, clerk of court or other official specified in the citation. If a person makes a cash deposit, the person may nevertheless appear in court at the time specified in the citation, provided that the cash deposit may be retained for application against any forfeiture or penalty assessment which may be imposed.

(b) If a person appears in court in response to a citation, the citation may be used as the initial pleading, unless the court directs that a formal complaint be made, and such appearance confers personal jurisdiction over the person. The person may plead guilty, no contest or not guilty. If the person pleads guilty or no contest, the court shall accept the plea, enter a judgment of guilty and impose a forfeiture and the penalty assessment imposed by s. 165.87. A plea of not guilty shall put all matters in the case at issue, and the matter shall be set for trial.

(c) If the alleged violator makes a cash deposit and fails to appear in court, the citation may serve as the initial pleading and the violator shall be deemed to have tendered a plea of no contest and submitted to a forfeiture and the penalty assessment imposed by s. 165.87 not exceeding the amount of the deposit. The court may either accept the plea of no contest and enter judgment accordingly or reject the plea. If the court accepts the plea of no contest, the defendant may move within 10 days after the date set for the appearance to withdraw the plea of no contest, open the judgment and enter a plea of not guilty if the defendant shows to the satisfaction of the court that the failure to appear was due to mistake, inadvertence, surprise or excusable neglect. If the plea of no contest is accepted and not subsequently changed to a plea of not guilty, no costs or fees may be taxed against the violator, but a penalty assessment shall be assessed. If the court rejects the plea of no contest or if the alleged violator does not make a cash deposit and fails to appear in court at the time specified in the citation, an action for collection of the forfeiture and penalty assessment may be commenced. A city or village may commence action under s. 66.12 (1) and a county may commence action under s. 288.10. The citation may be used as the complaint in the action for the collection of the forfeiture and penalty assessment.

(4) RELATIONSHIP TO OTHER LAWS. The adoption and authorization for use of a citation under this section shall not preclude the governing body from adopting any other ordinance or providing for the enforcement of any other law or ordinance relating to the same or any other matter. The issuance of a citation under this section shall not preclude the proceeding under any other ordinance or law relating to the same or any other matter. The proceeding under any other ordinance or law relating to the same or any other matter shall not preclude the issuance of a citation under this section.

(5) MUNICIPAL COURT. If the action is to be in municipal court, the citation under s. 300.02 (2) shall be used.

History: 1975 c. 201, 421; 1977 c. 29, 305.

66.12 Actions for violation of city or village regulations. (1) COLLECTION OF FORFEITURES AND PENALTIES. (a) An action for violation of a municipal ordinance, resolution or bylaw is a civil action. All forfeitures and penalties imposed by any ordinance, resolution or bylaw of the municipality, except as provided in ss. 345.20 to 345.53, may be collected in an action in the name of the municipality before the municipal court or a court of record. If the action is in municipal court, the procedures under ch. 300 apply and the procedures under this section do not apply. If the action is in a court of record, it shall be commenced by warrant or summons under s. 968.04; but the marshal, constable or police officer may arrest the offender in all cases without warrant under s. 968.07. The affidavit where the action is commenced by warrant may be the complaint. The affidavit or complaint shall be sufficient if it alleges that the defendant has violated an ordinance, resolution or bylaw of the municipality, specifying the same by section, chapter, title or otherwise with sufficient plainness to identify the same. The judge may release a defendant without bail or may permit him or her to execute an unsecured appearance bond upon arrest. In arrests without a warrant or summons a statement on the records of the court of the offense charged shall stand as the complaint unless the court directs that formal complaint be issued. In all actions under this paragraph the defendant's plea shall be guilty, not guilty or no contest and shall be entered as not guilty on failure to plead, which plea of not guilty shall put all matters in the case at issue, any other provision of law notwithstanding.

(b) Local ordinances, except as provided in ss. 345.20 to 345.53, may contain a provision for stipulation of guilt or no contest of any or all violations under such ordinances, and may designate the manner in which the stipulation is to be made and fix the penalty to be paid. When a person charged with a violation for which stipulation of guilt or no contest is authorized makes a timely stipulation and pays the required penalty and pays the penalty assessment imposed by s. 165.87 to the designated official, the person need not appear in court and no witness fees or other additional costs may be taxed unless the local ordinance so provides. The official receiving the penalties shall remit all moneys collected to the treasurer of the county, city, town or village in whose behalf the sum was paid within 20 days after its receipt by him or her; and in case of any failure in the payment, the treasurer may collect the payment of the officer by action, in the name of the office, and upon the official bond of the officer, with interest at the rate of 12% per annum from the time when it should have been paid. In the case of the penalty assessment imposed by s. 165.87, the treasurer of the county, city, town or village shall remit to the state treasurer the sum required by law to be paid on the actions so entered during the preceding month on or before the first day of the next succeeding month. The governing body of the county, city, town, village or other municipal subdivision shall by ordinance designate the official to receive the penalties and the terms under which the official shall qualify.

(c) In case of conviction the court shall enter judgment against the defendant for the costs of prosecution, and for the penalty or forfeiture, if any, and for the penalty assessment imposed by s. 165.87, if any, and that the defendant be imprisoned for such time, not exceeding 90 days, unless otherwise provided by the ordinance, resolution or bylaw, as the court deems fit unless the judgment is sooner paid. Such judgment or the imposition of any penalty, including the penalty assessment imposed by s. 165.87, or costs may be suspended or deferred for not more than 30 days in the discretion of the court. Prisoners confined in the county jail or in some other penal or correctional institution for violation of a city or village ordinance, resolution or bylaw shall be kept at the expense of the city or village.

(d) If the defendant desires to enter a not guilty plea, such plea may be entered by certified mail.

(2) APPEALS. Appeals in actions in courts of record to recover forfeitures and penalties imposed by any ordinance, resolution or bylaw of the municipality may be taken either by the defendant or by such municipality. Appeals from circuit court in actions to recover forfeitures for ordinances enacted under ch. 349 shall be to the court of appeals. If the appeal is taken by the defendant he or she shall, as a part thereof, execute a bond to the municipality with

surety, to be approved by the judge, conditioned that if judgment is affirmed in whole or in part he or she will pay the same and all costs and damages awarded against him or her on the appeal. If the judgment is affirmed in whole or in part, execution may issue against both the defendant and his or her surety. Upon perfection of the appeal the defendant shall be discharged from custody.

(3) COSTS AND FEES; FORFEITURES TO GO TO MUNICIPAL TREASURY. (a) In forfeiture actions in courts of record for violations of ordinances on default of appearance or on a plea of guilty or no contest, the clerk's fee shall not exceed $5, except that a municipality need not advance clerk's fees, but shall be exempt from payment of the fees until the defendant pays costs under this section. In forfeiture actions in which a municipality prevails, costs and disbursements shall be allowed to the municipality, subject only to such limitations as the court directs.

(b) All forfeitures and penalties recovered for the violation of any ordinance, resolution or bylaw of any city or village shall be paid into the city or village treasury for the use of the city or village, except as otherwise provided in sub. (1) (b) and s. 165.87. The judge shall report and pay into the treasury, quarterly, or at more frequent intervals if so required, all moneys collected belonging to the city or village, which report shall be certified and filed in the office of the treasurer; and the judge shall be entitled to duplicate receipts for such moneys, one of which he or she shall file with the city or village clerk.

History: 1971 c. 278; 1973 c. 336; 1975 c. 231; 1977 c. 29, 182, 269, 272, 305, 418, 447, 449.

In forfeiture actions for violation of a municipal ordinance which has no statutory crime counterpart, the burden of proof is a mere preponderance; where the ordinance has a statutory criminal counterpart, the burden is that of clear, satisfactory and convincing evidence. Cudahy v. DeLuca, 49 W (2d) 90, 181 NW (2d) 374.

Costs should be awarded a defendant who prevails in a municipal ordinance violation case. Milwaukee v. Leschke, 57 W (2d) 159, 203 NW (2d) 669.

The simultaneous sale of 4 different magazines by the same seller to the same buyer may give rise to separate violations of the obscenity ordinance. Madison v. Nickel, 66 W (2d) 71, 223 NW (2d) 865.

Under the rationale of the Pedersen Case, 56 W (2d) 286, (1) (c) is constitutional except in the instance where imprisonment under the statute is used as a means of collection from an indigent defendant. West Allis v. State ex rel. Tochalauski, 67 W (2d) 26, 226 NW (2d) 424.

Sub. (1) (a) does not authorize the issuance of arrest warrants without a showing of probable cause. State ex rel. Warrender v. Kenosha County Ct. 67 W (2d) 333, 231 NW (2d) 193.

Defendant has burden to raise and prove indigency where imprisonment is ordered for failure to pay fine under (1) (c). 64 Atty. Gen. 94.

66.122 Special inspection warrants. (1) All state, county, city, village and town officers and their agents and employes, charged under statute or municipal ordinance with powers or duties involving inspection of real or personal property including buildings, building premises and building contents, for, without limitation because of enumeration, such purposes as building, housing, electrical, plumbing, heating, gas, fire, health, safety, environmental pollution, water quality, waterways, use of water, food, zoning, property assessment, meter, and weights and measures inspections and investigations, shall be deemed peace officers for the purpose of applying for, obtaining and executing special inspection warrants under s. 66.123.

(2) Except in cases of emergency where no special inspection warrant shall be required, special inspection warrants shall be issued for inspection of personal or real properties which are not public buildings or for inspection of portions of public buildings which are not open to the public only upon showing that consent to entry for inspection purposes has been refused. The definition of "public building" under s. 101.01 (2) (h) applies to this section.

History: 1971 c. 185 s. 7.

See note to 141.05, citing 63 Atty. Gen. 337.

66.123 Special inspection warrant forms. The following forms for use under s. 66.122 are illustrative and not mandatory:

AFFIDAVIT

STATE OF WISCONSIN

..... County

In the ..... court of the ..... of .....

A. F., being duly sworn, says that on the ..... day of ....., 19.., in said county, in and upon certain premises in the (city, town or village) of ..... and more particularly described as follows: (describe the premises) there now exists a necessity to determine if said premises comply with (section ..... of the Wisconsin statutes) and/or (section ..... of ordinances of said municipality). The facts tending to establish the grounds for issuing a special inspection warrant are as follows: (set forth brief statement of reasons for inspection, frequency and approximate date of last inspection, if any, which shall be deemed probable cause for issuance of warrant).

Wherefore, the said A. F. prays that a special inspection warrant be issued to search such premises for said purpose .....(Signed) A. F.

Subscribed and sworn to before me this .... day of ....., 19..

..... Judge of the ..... Court.

SPECIAL INSPECTION WARRANT

STATE OF WISCONSIN

..... County

In the ..... court of the ..... of .....

THE STATE OF WISCONSIN, To the sheriff or any constable or any peace officer of said county:

Whereas, A. B. has this day complained (in writing) to the said court upon oath that on the ..... day of ....., 19.., in said county, in and upon

certain premises in the (city, town or village) of ..... and more particularly described as follows: (describe the premises) there now exists a necessity to determine if said premises comply with (section ..... of the Wisconsin statutes) and/or (section ..... of ordinances of said municipality) and prayed that a special inspection warrant be issued to search said premises.

Now, therefore, in the name of the state of Wisconsin you are commanded forthwith to search the said premises for said purposes. Dated this ..... day of ....., 19...,

..... Judge of the ..... Court.

INDORSEMENT ON WARRANT

Received by me ....., 19..., at ..... o'clock ..... M.

..... Sheriff (or peace officer).

RETURN OF OFFICER

STATE OF WISCONSIN

..... Court

..... County.

I hereby certify that by virtue of the within warrant I searched the named premises and found the following things (describe findings). Dated this ..... day of ....., 19....

..... Sheriff (or peace officer).

66.125 Orders; action; proof of demand. No action shall be brought upon any city, village or school district order until the expiration of 30 days after a demand for the payment of the same shall have been made. If such action is brought and the defendant fails to appear and defend the same judgment shall not be entered without affirmative proof of such demand, and if entered without such proof shall be absolutely void.

66.13 Limitation of action attacking contracts. Whenever the proper officers of any city or village, however incorporated, enter into any contract in manner and form as prescribed by statute, and either party to such contract has procured or furnished materials or expended money under the terms of such contract, no action or proceedings shall be maintained to test the validity of any such contract unless such action or proceedings shall be commenced within sixty days after the date of the signing of such contract.

66.14 Official bonds, premium. Any city, however incorporated, may pay the cost of any official bond furnished by an officer thereof, pursuant to law or any rules or regulations requiring the same, if said officer shall furnish a bond with a surety company or companies authorized to do business in this state, said cost not to exceed the current rate of premium per annum on the amount of said bond or obligation by said surety executed. The cost of any such bond in such city shall be charged to the fund appropriated and set up in the budget for the department, board, commission or other body, the officer of which is required to furnish a bond.

66.145 Requirements for surety bonds of officers and employes in cities of the first class. When any office or position in the service of any city of the first class involves fiduciary responsibility or the handling of money, the appointing officer may require the appointee to furnish a bond or other security to such officer and the said city for the faithful performance of his duty, the amount to be fixed by the appointing officer, with the approval of the mayor, and notice of the mayor's approval shall be given to the city clerk by the mayor. Each bond shall be approved by the city attorney as to the form and execution thereof, and by the common council as to the sufficiency of the sureties therein; provided, however, that any surety company, the bonds of which are accepted by the judge of any court of record in this state, or which is approved by the comptroller of the said city, shall be sufficient security on any such bond, and that the premium on such bond, within the limits fixed by law, shall be paid out of the city treasury. The appointing officer shall immediately after the execution of such bond file the same with the city clerk, and it shall be the duty of the city clerk to require compliance with the terms of this section requiring the filing of bonds with the city clerk by officers and employes, and all such bonds of city officers and employes, duly witnessed and acknowledged, after being approved by the common council, shall be delivered to the city comptroller, who shall have them recorded in the office of the register of deeds and, after such recording by the city comptroller in the office of the register of deeds, the said bonds shall be returned to the city clerk, who shall keep them on file in his office; except that after the recording of the bond of the city clerk by the city comptroller, said bond shall remain on file in the office of the city comptroller. Each bond filed by any surety company shall be accompanied by a duplicate of said bond, which duplicate shall be filed by the clerk with the city comptroller.

66.18 Liability insurance. The state, or any municipality as defined in s. 345.05 (1) (a), is empowered to procure risk management services and liability insurance covering the state or municipality and its officers, agents and employes. A municipality may participate in and pay the cost of risk management services

and liability insurance through a municipal insurance mutual organized under s. 611.23.

History: 1977 c. 346.

NOTE: Chapter 346, laws of 1977, which amended this section, has an extensive note explaining the amendment. See the 1977 session laws volumes.

This section authorizes the purchase of liability insurance for state officers, agents and employes for errors or omissions in carrying out responsibility of their governmental positions 58 Atty. Gen. 150.

66.185 Hospital, accident and life insurance. Nothing in the statutes shall be construed to limit the authority of the state or municipalities, as defined in s. 345.05, to provide for the payment of premiums for hospital, surgical and other health and accident insurance and life insurance for employes and officers and their spouses and dependent children, and such authority is hereby granted. A municipality may also provide for the payment of premiums for hospital and surgical care for its retired employes.

66.186 Health insurance; cities of the first class. The common council of any city of the first class may, by ordinance or resolution, provide for general hospital, surgical and group insurance for both active and retired city officers and city employes and their respective dependents and for payment of premiums therefor in private companies. Contracts for such insurance may be entered into for active officers and employes separately from such contracts for retired officers and employes. Appropriations may be made for the purpose of financing such insurance. Moneys accruing to such fund, by investment or otherwise, shall not be diverted for any other purpose than those for which such fund was set up or to defray management expenses of such fund or to partially pay premiums so as to reduce costs to the city or to persons covered by such insurance, or both.

66.19 Civil service system; veterans' preference. (1) Any city or village may proceed under s. 61.34 (1), 62.11 (5) or 66.01 to establish a civil service system of selection, tenure and status, and the system may be made applicable to all municipal personnel except the chief executive and members of the governing body, members of boards and commissions including election officials, the teaching staff of the city school district, employes subject to s. 62.13, members of the judiciary and supervisors. In the case of veterans there shall be no restrictions as to age and veterans shall be given preference points in accordance with s. 230.16 (7). Such system may also include uniform provisions in respect to attendance, leave regulations, compensation and payrolls for all personnel included thereunder. The governing body of any city or village adopting a civil service system under this section may exempt therefrom the librarians and assistants subject to s. 43.09 (1).

(2) (a) Any town with a population of more than 5,000 inhabitants may proceed under section 60.29 (1) to establish a civil service system as provided under subsection (1) and in such departments as the town board may determine. Any person who shall have been employed in any such department for more than 5 years prior to the establishment of such civil service shall be eligible to appointment without examination.

(b) Any town not having a civil service system and having exercised the option of placing assessors under civil service pursuant to s. 60.19 (2) may proceed under s. 60.29 (1) to establish a civil service system for assessors under sub. (1), except where such town has come within the jurisdiction of a county assessor under s. 70.99.

(3) When any town has established a system of civil service, the ordinance establishing the same shall not be repealed for a period of 6 years after its enactment, and thereafter it may be repealed only by proceedings under s. 9.20 by referendum vote. This subsection shall not apply where a town comes, before the expiration of the 6 years, within the jurisdiction of a county assessor under s. 70.99.

(4) Any civil service system which shall be established under the provisions of this section shall provide for the appointment of a civil service board or commission and for the removal of the members of such board or commission for cause by the mayor with approval of the council, and in cities organized under the provisions of ss. 64.01 to 64.15 by the city manager and the council, and by the board in villages and towns.

(5) All examinations given in a civil service system established under this section, including minimum training and experience requirements, for positions in the classified service shall be job-related in compliance with appropriate validation standards and shall be subject to the approval of the board or commission appointed under sub. (4). All relevant experience, whether paid or unpaid, shall satisfy experience requirements.

History: 1971 c. 152 s. 38; 1971 c. 154, 211; 1977 c. 196.

66.191 Special death and disability benefits for certain public employes subject to Wisconsin retirement act. (1) Whenever a police officer, fire fighter, county undersheriff,

deputy sheriff, county traffic police officer, conservation warden, state forest ranger, field conservation employe of the department of natural resources who is subject to call for forest fire control or warden duty, member of the state traffic patrol, university of Wisconsin full-time police officer, guard or any other employe whose principal duties are supervision and discipline of inmates at a state penal institution including central state hospital, investigator employed by the division of criminal investigation of the department of justice who is a participating employe under subch. I or IV of ch. 41 shall, while engaged in the performance of duty, be injured or contract a disease due to his or her occupation, and be found upon examination to be so disabled by a disability which is likely to be permanent, as to render necessary the person's retirement from any of the aforesaid services, the department of industry, labor and human relations shall order payment to him or her monthly, under s. 20.865 (1) (d) or 102.21, of a sum equal to one-half the person's monthly salary in such service at the time that the person became so disabled. A disability of such a nature as to require reduction in pay or position or assignment to light duty or to adversely affect promotional opportunities within the service shall be deemed sufficient to permit the employe the option of retirement.

NOTE: Chapter 418, laws of 1977, provides that the words "including central state hospital" are deleted effective January 1, 1981.

(2) If such injury or disease shall cause the death of such person, and the person dies leaving surviving a spouse or an unmarried child under the age of 18 years, the department shall order monthly payments as follows:

(a) To the surviving spouse, unless the spouse had married the deceased after the deceased sustained such injury or contracted such disease, one-third of the monthly salary being paid to the deceased in such service at the time of disability or death, until the surviving spouse marries again.

(b) To the guardian of each such child, $15 until the child becomes 18 years of age but the total monthly payments ordered under this subsection shall not exceed 65% of the monthly salary being paid to the deceased in such service at the time of disability or death, and there shall be a pro rata reduction in the benefits paid hereunder, if necessary, in order to comply with such limitation. On or before January 15 in each year any person entitled to a benefit under this subsection shall file with the municipality which makes payments hereunder an affidavit stating that the person has not married again. The monthly payment ordered to any person under this subsection shall begin in each calendar year only after such affidavit shall have been filed with the clerk of such municipality, and no payment shall be made for any month in such year prior to the one in which such affidavit was filed.

(c) If any person entitled to death benefit payments under this subsection is also entitled to death benefits under ch. 102 because of the death of such participating employe, the death benefit payments due under this subsection shall be reduced by an amount equal to the total weekly death benefits payable under ch. 102.

(4) This section shall be administered by the department of industry, labor and human relations, which may adopt necessary rules relating to investigations and other matters in connection with applications for benefits under this section. In case of dispute the procedure for hearing, award and appeal shall be as set forth in ss. 102.16 to 102.26.

(5) Any person entitled to disability benefit payments under this section may file with the department of industry, labor and human relations and the board of trustees of the Wisconsin retirement fund a written election to waive such payments and accept in lieu thereof such payments as may otherwise be due under s. 41.13 or subch. IV of ch. 41; but no person shall receive disability benefit payments under s. 41.13, subch. IV of ch. 41 and this section.

(6) Any city, village, town or county liable to pay special death and disability benefits provided for by this section may insure payment of such benefits in any insurance company authorized to transact business in this state.

History: 1971 c. 214; 1973 c. 150, 151; 1975 c. 94; 1977 c. 182, 418.

Cross Reference: See 891.45 for provision as to presumption of employment-connected disease for certain municipal firemen.

In an application under 66.191 for special death benefits by the widow of a 46-year-old fireman who, after 16 years of employment, suffered a fatal heart attack attributed to arteriosclerotic cardio-vascular disease, the trial court correctly ruled that 891.45 established a presumption "based upon probability" carrying with it an inference which remains after the presumption is rebutted. Medical testimony presented by the employer that the decedent's work had no causative effect upon his condition, based on a school-of-medical opinion which did not believe that there was such a causal connection, did not rebut the statutory presumption, for such testimony was based on a premise rejected by the legislature and merely attacked the rationale of the statute, doing nothing more than questioning the wisdom of the legislature. Sperbeck v. ILHR Dept. 46 W (2d) 282, 174 NW (2d) 546.

Claims under 66.191 are reviewable under 227.20, not under 102.23. Sperbeck v. ILHR Dept. 46 W (2d) 282, 174 NW (2d) 546.

Recovery by a fireman's widow under both 66.191 and 41.14 is not precluded. Appleton v. ILHR Dept. 67 W (2d) 162, 226 NW (2d) 497.

A policy under which the insurer agreed to reimburse the insured city for the payment of compensation and benefits required of the city under the Workmen's Compensation Act, defined in the policy as "the workmen's compensation law and any occupational disease law," covered firemen's death benefits paid to a widow under 66.191, since the statute under which such benefits are paid is plainly included within the phrase "any occupational disease law." Manitowoc v. Iowa National Mut. Ins. Co. 68 W (2d) 722, 229 NW (2d) 577.

66.192 Combination of municipal offices. **(1)** The office of county supervisor may be consolidated by charter ordinance under s. 66.01:

(a) With the office of village president in any village which has boundaries coterminous with the boundaries of any supervisory district established under s. 59.03 (3).

(b) With the office of alderman or councilman in any city in which the district from which such alderman or councilman is elected is coterminous with the boundaries of any supervisory district established under s. 59.03 (3).

(2) After the effective date of adoption or repeal of a charter ordinance under this section, the clerk of the municipality shall file a copy of the ordinance with the clerk of the county within which the supervisory district lies. When so consolidated, nomination papers shall contain that number of signatures required under s. 8.10 for county supervisors and shall be filed in the office of the county clerk.

(3) Removal from office of any incumbent of such consolidated office shall vacate said office in its entirety whether effected under ss. 17.09, 17.12 and 17.13 or other pertinent statute.

(4) Compensation for such consolidated office shall be separately established by the several governing bodies affected thereby as though no consolidation of offices had occurred.

(5) Tenure for such combination officer shall coincide with the term for county supervisors.

History: 1971 c. 94; 1973 c. 118 s. 7.

66.196 Compensation of governing bodies. An elected official of any county, city, town or village, who by virtue of his office is entitled to participate in the establishment of the salary attending his office, shall not during the term of such office collect salary in excess of the salary provided at the time of his taking office. This provision is of state-wide concern and applies only to officials elected after October 22, 1961.

66.197 County salary adjustments. The governing body of any county may, during the term of office of any elected official whose salary is paid in whole or in part by such county, increase the salary of such elected official in such amount as the governing body determines. The power granted by this section shall take effect notwithstanding any other provision of law to the contrary, except that the exercise of such power shall be governed by s. 65.90 (5). The power granted by this section shall not extend to elected officials who by virtue of their office are entitled to participate in the establishment of the compensation attending their office.

Cross Reference: See also 59.15 as to salary adjustments.

66.199 Automatic salary schedules. Whenever the governing body of any city or village by ordinance adopts a salary schedule for some or all employes and officers of such city and village, other than those subject to s. 120.49 and members of the city council or village board, such may include an automatic adjustment for some or all of such personnel in conformity with fluctuations upwards and downwards in the cost of living, notwithstanding ss. 61.32, 62.09 (6) and 62.13 (7), except that s. 62.13 (7) shall be applicable if such automatic adjustment reduces basic salaries in effect January 1, 1940.

History: 1971 c. 125 s. 522(1); 1971 c. 154.

66.20 Metropolitan sewerage districts, definitions. Unless the context requires otherwise, for the purposes of ss. 66.20 to 66.26, the following terms have the designated meanings:

(1) "Commission" means a metropolitan sewerage district commission.

(2) "Department" means the department of natural resources.

(3) "District" means a metropolitan sewerage district.

(4) "Municipality" means town, village, city or county.

History: 1971 c. 276, 307.

66.21 Applicability. Sections 66.20 to 66.26 shall apply to all areas of the state except those areas included in a metropolitan sewerage district created under s. 59.96.

History: 1971 c. 276.

66.22 Creation. **(1)** Proceedings to create a district may be initiated by resolution of the governing body of any municipality setting forth:

(a) The proposed name of the district;

(b) A general description of the territory proposed to be included in the district;

(c) A general description of the functions which are proposed to be performed by such district;

(d) A general description of the existing facilities and works which are proposed to be placed under jurisdiction of the district; and

(e) Such other facts and statements as are deemed by the governing body to be relevant to the standards of sub. (4) (a) to (c).

(2) A governing body which adopts a resolution under sub. (1) shall immediately transmit a copy thereof to the department.

(3) Upon receipt of the resolution, the department shall:

(a) Schedule a public hearing in the county of the petitioning municipality, providing at least 30 days' written notice of the hearing and a copy of the resolution by mail to the clerk of all

affected municipalities, town sanitary or utility districts, and to the affected regional planning commissions and state agencies; and publish an official notice of the hearing in a newspaper of general circulation in the proposed district as a class 1 notice under ch. 985;

(b) Conduct the hearing to permit any person to present any oral or written pertinent and relevant information relating to the purposes and standards of ss. 66.20 to 66.26; and

(c) Undertake research and collect other information and request advisory reports from regional planning commissions, other state agencies and citizen groups.

(4) Within 90 days following the hearing, the department shall either order or deny creation of the proposed district. An order creating the district shall be issued by the department if:

(a) The territory consisting of at least one municipality in its entirety and all or part of one or more other municipalities can be identified and can be determined to be conducive to fiscal and physical management of a unified system of sanitary sewage collection and treatment;

(b) The formation of the district will promote sewerage management policies and operation and will be consistent with adopted plans of municipal, regional and state agencies; and

(c) The formation of the district will promote the public health and welfare and will effect efficiency and economy in sewerage management, based upon current generally accepted engineering standards regarding prevention and abatement of environmental pollution and federal and state rules and policies in furtherance thereof.

(5) An order creating the district shall state the name and boundaries of the district, which may be different than those originally proposed if each municipality affected by the district received written notice of the hearing under sub. (3) (a) and if each municipality which jointly or separately owns or operates a sewerage collection and disposal system which has territory included in the revised district boundaries has filed with the department a certified copy of a resolution of its governing body consenting to the inclusion of that territory within the revised district. No territory of a city or village jointly or separately owning or operating a sewerage collection and disposal system may be included in the district unless it has filed with the department a certified copy of a resolution of its governing body consenting to inclusion of such territory within the proposed district. The order shall be effective on the date issued and the existence of the district shall commence on such date.

(6) No resolution for the formation of a district encompassing the same or substantially the same territory shall be made by any municipality for one year following the issuance of an order denying the formation under ss. 66.20 to 66.26.

(7) The orders of the department under this section shall be subject to review under ch. 227.

History: 1971 c. 276

66.23 Commissioners. (1) A district formed under ss. 66.20 to 66.26 shall be governed by a 5-member commission appointed for staggered 5-year terms. Except as provided in sub. (11), commissioners shall be appointed by the county board of the county in which the district is located. If the district contains territory of more than one county, the county boards of the counties not having the greatest population in the district shall appoint one commissioner each and the county board of the county having the greatest population in the district shall appoint the remainder. Of the initial appointments, the appointments for the shortest terms shall be made by the counties having the least amount of population, in reverse order of their population included in the district. Commissioners shall be residents of the district. Initial appointments shall be made no sooner than 60 days and no later than 90 days after issuance of the department order forming a district or after completion of any court proceedings challenging such order. A per diem compensation not to exceed $30 may be paid to commissioners. Commissioners may be reimbursed for actual expenses incurred as commissioners in carrying out the work of the commission.

(2) Each member of the commission shall take and file the official oath.

(3) A majority of such commission shall constitute a quorum to do business; and in the absence of a quorum, those members present may adjourn any meeting and make announcement thereof. All meetings and records of the commission shall be published.

(4) Such commission, when all of its members have been duly sworn and qualified, shall have charge of all the affairs of the district.

(5) Such commission shall organize by electing one of its members president and another secretary.

(6) The secretary shall keep a separate record of all proceedings and accurate minutes of all hearings.

(7) A per diem compensation not to exceed $30 may be paid to commissioners. Commissioners shall be reimbursed for actual expenses

incurred as commissioners in carrying out the work of the commission.

(8) The treasurer of the city or village having the largest equalized valuation within the district shall act as treasurer of the district, shall receive such additional compensation therefor as the commission may determine, and shall at the expense of the district furnish such additional bond as the commission may require. Such treasurer shall keep all moneys of the district in a separate fund to be disposed of only upon order of the commission signed by the president and secretary.

(9) Chapter 276, laws of 1971, shall apply to every metropolitan sewerage district that had been operating, prior to April 30, 1972, under ss. 66.20 to 66.209, 1969 stats. Commissioners for such districts who were in office on April 30, 1972 shall continue to serve until their respective terms are completed. The county board of the county having the greatest population in the district shall appoint 2 additional members to each such commission no sooner than 60 days and no later than 90 days after April 30, 1972. One such member shall have a 5-year term and one such member shall have a 4-year term. The county board of those counties having population within the district that did not appoint the preceding 2 members if any shall, each in turn according to their population in the district, appoint successors to each of the 3 commissioners who held office on April 30, 1972, until their allotted number of appointments, as specified under sub. (1) is filled. The governor may adjust terms of the successors to the 3 original commissioners in order that the appointment schedules are consistent with s. 66.23.

(10) Sections 66.20 to 66.26 do not affect the continued validity of contracts and obligations previously entered into by a metropolitan sewerage district operating under ss. 66.20 to 66.209, 1969 stats., prior to April 30, 1972, nor validity of any such district.

(11) (a) Notwithstanding sub. (1) the governing bodies of cities, towns and villages comprising a sewerage district may make the initial appointments of the commissioners under this section. Thereafter, the county boards shall appoint the commissioners under sub. (1).

(b) This subsection shall apply only if all the governing bodies of the cities, villages and towns comprising the sewerage district agree by resolution to elect its provisions.

History: 1971 c. 276; 1973 c. 289.

A town has no authority to enjoin a city from rezoning property which it had annexed therefrom, where: (1) the city possesses the power to pass a zoning ordinance under this section; (2) the act of passing an ordinance is legislative rather than ministerial; (3) no property right of the town would be invaded by the zoning ordinance; and (4) no allegation is made that any fund or property held in trust for taxpayers or citizens is threatened to be diverted or squandered. Town of Pleasant Prairie v. Kenosha, 67 W (2d) 1, 226 NW (2d) 210.

66.24 Powers and duties. (1) GENERAL. (a) *Corporate status.* The district shall be a municipal body corporate and shall be authorized in its name to contract and to be contracted with, and to sue and to be sued. The commission may employ persons or firms performing engineering, legal or other necessary services, require any employe to obtain and file with it an individual bond or fidelity insurance policy, and procure insurance. A commission may employ engineers or other employes of any municipality as its engineers, agents or employes.

(b) *Plans.* The commission shall prepare and by resolution adopt plans and standards of planning, design and operation for all projects and facilities which will be operated by the district or which affect the services to be provided by the district. Commissions may and are encouraged to contract with regional or area-wide planning agencies for research and planning services. The commission's plans shall be consistent with adopted plans of a regional planning commission or area-wide planning agency organized under s. 66.945.

(c) *Research.* The commission may project and plan scientific experiments, investigations and research on treatment processes and on the receiving waterway to ensure that an economical and practical process for treatment is employed and that the receiving waterway meets the requirements of regulating agencies. The commission may conduct such scientific experiments, investigations and research independently or by contract or in cooperation with any public or private agency including any political subdivision of the state or any person or public or private organization.

(d) *Rules.* The commission may adopt rules for the supervision, protection, management and use of the systems and facilities operated by the district. Such rules may, in the interest of plan implementation, restrict or deny the provision of utility services to lands which are described in adopted master plans or development plans of a municipality or county as not being fit or appropriate for urban or suburban development. Rules of the district shall be adopted and enforced as provided by s. 62.61 (2). Notwithstanding any other provision of law, such rules or any orders issued thereunder, may be enforced under s. 823.02 and the violation of any rule or any order lawfully promulgated by the commission is declared to be a public nuisance.

(e) *Annual report.* The commission shall prepare annually a full and detailed report of its official transactions and expenses and of all presently planned additions and major changes

in district facilities and services and shall file a copy of such report with the department of natural resources, the department of health and social services and the governing bodies of all cities, villages and towns having territory in such district.

(2) METROPOLITAN SEWERAGE COLLECTION AND TREATMENT. The commission shall plan, project, construct and maintain within the district interceptor and other main sewers for the collection and transmission of sewage. The commission shall also cause the sewage to be treated, disposed or recycled and may plan, project, construct and maintain works and facilities for this purpose.

(3) CONNECTIONS WITH SYSTEM. The commission may require any person or municipality in the district to provide for the discharge of its sewage into the district's collection and disposal system, or to connect any sanitary sewerage system with the district's disposal system wherever reasonable opportunity therefor is provided; may regulate the manner in which such connections are made; may require any person or municipality discharging sewage into the system to provide preliminary treatment therefor; may prohibit the discharge into the system of any substance which it determines will or may be harmful to the system or any persons operating it; and may, with the prior approval of the department, after hearing upon 30 days' notice to the municipality involved, require any municipality to discontinue the acquisition, improvement or operation of any facility for disposal of any wastes or material handled by the commission wherever and so far as adequate service is or will be provided by the commission. The commission shall have access to all sewerage records of any municipality in the district and shall require all such municipalities to submit plans of existing systems and proposed extensions of local services or systems. The commission or its employes may enter upon the land in any municipality within the district for the purpose of making surveys or examinations.

(4) PROPERTY ACQUISITION. Commissions may acquire by gift, purchase, lease or other like methods of acquisition or by condemnation under ch. 32, any land or property necessary for the operations of the commission or in any interest, franchise, easement, right or privilege therein, which may be required for the purpose of projecting, planning, constructing and maintaining the system. Any municipality and state agency is authorized to convey to or permit the use of any facilities owned or controlled by the municipality or agency subject to the rights of the holders of any bonds issued with respect thereto, with or without compensation, without an election or approval by any other government agency. Property, or any part or interest therein, when acquired, may be sold, leased or otherwise disposed of by the district whenever in the discretion of the commission the property or any part or portion thereof or interest therein is not needed to carry out the requirements and powers of the commission.

(5) CONSTRUCTION. (a) *General.* The district may construct, enlarge, improve, replace, repair, maintain and operate any works determined by the commission to be necessary or convenient for the performance of the functions assigned to the commission.

(b) *Roads.* The district may enter upon any state, county or municipal street, road or alley, or any public highway for the purpose of installing, maintaining and operating the system, and it may construct in any such street, road or alley or public highway necessary facilities without a permit or a payment of a charge. Whenever the work is to be done in a state, county or municipal highway, the public authority having control thereof shall be duly notified, and the highway shall be restored to as good a condition as existed before the commencement of the work with all costs incident thereto borne by the district. All persons, firms or corporations lawfully having buildings, structures, works, conduits, mains, pipes, tracks or other physical obstructions in, over or under the public lands, avenues, streets, alleys or highways which block or impede the progress of district facilities, when in the process of construction, establishment or repair shall upon reasonable notice by the district, promptly so shift, adjust, accommodate or remove the same at the cost and expense of such individuals or corporations, as fully to meet the exigencies occasioning such notice. Any entry upon or occupation of any state freeway right-of-way after relocation or replacement of district facilities for which reimbursement is made under s. 84.295 (4m) shall be done in a manner which is acceptable to the department of transportation.

(c) *Waterways.* The district shall have power to lay or construct and to forever maintain, without compensation to the state, any part of the utility system, or of its works, or appurtenances, over, upon or under any part of the bed of any river or of any land covered by any of the navigable waters of the state, the title to which is held by the state, and over, upon or under canals or through waterways, and if the same is deemed advisable by the commission, the proper officials of the state are authorized and directed upon application of the commission to execute, acknowledge and deliver such easements, or other grants, as may be proper for the purpose of carrying out the district operations.

(d) *Bids.* Whenever plans and specifications for any facilities have been completed and approved by the commission and by any other agency which must approve the plans and specifications, and the commission has determined to proceed with the work of the construction thereof, it shall advertise by a class 2 notice under ch. 985, for bids for the construction of the facilities. Contracts for the work shall be let to the lowest responsible bidder, or the agency may reject any and all bids and if in its discretion the prices quoted are unreasonable, the bidders irresponsible or the bids informal, it may readvertise the work or any part of it. All contracts shall be protected by such bonds, penalties and conditions as the district shall require. The commission may itself do any part of any of the works.

(6) ACQUISITION OF EXISTING FACILITIES. The commission may order that the district shall assume ownership of such existing utility works and facilities within the district as are needed to carry out the purposes of the commission. Appropriate instruments of conveyance for all such property shall be executed and delivered to the district by the proper officers of each municipality concerned. All persons regularly employed by a municipality to operate and maintain any works so transferred, on the date on which the transfer becomes effective, shall be employes of the district, in the same manner and with the same options and rights as were reserved to them in their former employment. The commission, upon assuming ownership of any works, shall become obligated to pay to the municipality amounts sufficient to pay when due all remaining principal of and interest on bonds issued by the municipality for the acquisition or improvement of the works taken over. Such amounts may be offset against any amounts due to be paid by the municipality to the district. The value of any works and facilities taken over by a commission may be agreed upon by the commission and the municipality owning the same. Should the commission and the governing body of the municipality be unable to agree upon a value, the value shall be determined by and fixed by the public service commission after a hearing to be held upon application of either party, and upon reasonable notice to the other party, to be fixed and served in such manner as the public service commission shall prescribe.

(7) STORM WATER DRAINAGE. The commission may plan, project, construct and maintain storm sewers, works and facilities for the collection, transmission, treatment, disposal or recycling of storm water effluent to the extent such is permitted for sewage.

(8) SOLID WASTE MANAGEMENT. The district may engage in solid waste management and shall for such purposes have all powers granted to county boards under s. 59.07 (135), except acquisition of land by eminent domain, if each county board having jurisdiction over areas to be served by the district has adopted a resolution requesting or approving the involvement of the district in solid waste management. County board approval shall not be required for the management by the district of such solid wastes as are contained within the sewage or storm water transmitted or treated by the district or as are produced as a by-product of sewerage treatment activities.

History: 1971 c. 276; Sup. Ct. Order, 67 W (2d) 774; 1975 c. 425; 1977 c. 29 s. 1654 (8) (c); 1977 c. 379 s. 33.

66.25 Financing. (1) SPECIAL ASSESSMENT. (a) The commission may make a special assessment against property which is served by an intercepting or main sewer or any other appropriate facility at any time after the commission votes, by resolution recorded in the minutes of its meeting, to construct the intercepting or main sewer or any other appropriate facility, either before or after the work of constructing the sewer or other appropriate facility is done.

(b) The commission shall view the premises and determine the amount properly assessable against each parcel of land and shall make and file, in their office, a report and schedule of the assessment so made, and file a duplicate copy of the report and schedule in the office of the clerk of the town, village or city wherein the land is situated.

(c) Notice shall be given by the commission that the report and schedule is on file in their office and in the office of the clerk of the town, village or city wherein the land is situated, and will so continue for a period of 10 days after the date of such notice; that on the date named therein, which shall not be more than 3 days after the expiration of said 10 days, the commission will be in session at their office, the location of which shall be specified in the notice, to hear all objections that may be made to the report.

(d) The notice shall be published as a class 2 notice, under ch. 985, and a copy of the notice shall be mailed at least 10 days before the hearing or proceeding to every interested person whose post-office address is known, or can be ascertained with reasonable diligence.

(e) No irregularity in the form of the report, nor of such notice, shall affect its validity if it fairly contains the information required to be conveyed thereby.

(f) At the time specified for hearing objections to the report, the commission shall hear all

parties interested who may appear for that purpose.

(g) The commission may at the meeting, or at an adjourned meeting, confirm or correct the report, and when the report is so confirmed or corrected, it shall constitute and be the final report and assessment against such lands.

(h) When the final determination has been reached by the commission it shall publish a class 1 notice, under ch. 985, that a final determination has been made as to the amounts assessed against each parcel of real estate.

(i) The owner of any parcel of real estate affected by the determination and assessments may, within 20 days after the date of such determination, appeal to the circuit court of the county in which the land is situated, and s. 66.60 (12) shall apply to and govern such appeal, however the notice therein required to be served upon the city clerk shall be served upon the district, and the bond therein provided for shall be approved by the commission and the duties therein devolving upon the city clerk shall be performed by the president of the commission.

(j) The commission may provide that the special assessment may be paid in annual instalments not more than 10 in number, and may, for the purpose of anticipating collection of the special assessments, and after said instalments have been determined, issue special improvement bonds payable only out of the special assessment, and s. 66.54 shall apply to and govern the instalment payments and the issuance of said bonds, except that the assessment notice shall be substantially in the following form:

INSTALMENT ASSESSMENT NOTICE

Notice is hereby given that a contract has been (or is about to be) let for (describe the improvements) and that the amount of the special assessment therefor has been determined as to each parcel of real estate affected thereby, and a statement of the same is on file with the commission; that it is proposed to collect the same in ..... instalments, as provided by s. 66.54, with interest thereon at ..... % per annum; that all assessments will be collected in instalments, as above provided, except such assessments as the owners of the property shall, within 30 days from the date of this notice, file with the commission a statement in writing that they elect to pay in one instalment, in which case the amount of the instalment shall be placed upon the next ensuing tax roll.

(k) The instalment assessment notice shall be published as a class 1 notice, under ch. 985.

(l) The commission shall, on or before October 1 in each year, certify in writing to the clerks of the several cities, towns or villages, the amount of the special assessment against lands located in their respective city, town or village for the ensuing year. Upon receipt of such certificate the clerk of each such city, town or village shall forthwith place the same on the tax roll to be collected as other taxes and assessments are collected. Such moneys when collected shall be paid to the treasurer of the district. The provisions of law applicable to the collection of delinquent taxes upon real estate, including sale of lands for nonpayment of taxes, shall apply to and govern the collection of the special assessments and the collection of general taxes levied by the commission.

(m) Section 66.60 (17) shall be applicable to assessments made under this section.

(n) The commission may provide for a deferred due date on the levy of the special assessment as to real estate which is in agricultural use or which is otherwise not immediately to receive actual service from the sewer or other facility for which the assessment is made. Such assessments shall be payable as soon as such lands receive actual service from the sewer or other facility. Any such special assessments shall be a lien against the property from the date of the levy. For the purpose of anticipating collection of special assessments for which the due date has been deferred, the commission may issue special improvement bonds payable only out of the special assessments. Section 66.54 shall apply to and govern the issuance of bonds, except that the assessment notice shall be substantially in the following form:

DEFERRED ASSESSMENT NOTICE

Notice is hereby given that a contract has been (or is about to be) let for (describe the improvements) and that the amount of the special assessment therefor has been determined as to each parcel of real estate affected thereby, and a statement of the same is on file with the commission. It is proposed to collect the same on a deferred basis consistent with actual use of the improvements. All assessments will be collected in instalments, as above provided, except such assessments for which the owners of the property, within 30 days from the date of this notice, file with the commission a statement in writing that they elect not to have the due date deferred, in which case the amount of the levy shall be placed upon the next ensuing tax roll.

(2) TAX LEVY. The commission may levy a tax upon the taxable property in the district as equalized for state purposes for the purpose of carrying out and performing duties under ss. 66.20 to 66.26 but the amount of any such tax in excess of that required for maintenance and operation and for principal and interest on bonds shall not exceed, in any one year, one mill for each dollar of such assessed valuation of the taxable property in the district. The tax levy

may be spread upon the respective real estate and personal property tax rolls of the city, village and town areas included in the district taxes, and shall not be included within any limitation on county or municipality taxes. Such moneys when collected shall be paid to the treasurer of such district.

(3) SERVICE CHARGES. (a) The commission may establish service charges in such amount as to meet all or part of the requirements for the construction, reconstruction, improvement, extension operation, maintenance, repair and depreciation of functions authorized by ss. 66.20 to 66.26, and for the payment of all or part of the principal and interest of any indebtedness incurred thereof.

(b) The district may charge to the state, county or municipality the cost of service rendered to any state institution, county or municipality.

(4) TEMPORARY BORROWING. Any district, when in temporary need, is authorized to borrow money pursuant to the provisions and limitations applicable to cities under s. 67.12.

(5) BORROWING; SHORT TERM. The district may borrow money and issue its obligations therefor, bearing interest for a term not exceeding 5 years. At the time any such money is borrowed, and before the obligation therefor has been issued, the commission shall levy a tax by a resolution similar to that required in sub. (8).

(6) BORROWING; LONG TERM. The district may issue bonds for the construction and extension of intercepting and main sewers, including rights-of-way and appurtenances, the acquisition of a sewage disposal works, whether municipally owned or otherwise, the acquisition of a sewage disposal site and for the construction and improvement of sewage disposal works. The commission of any such district about to issue bonds shall adopt a resolution stating the amount of the bond, the purposes of their issue and any other matter.

(7) BORROWING; RESOLUTION. (a) Every such resolution shall be offered and read at a meeting of the commission, and shall be published, as a class 1 notice, under ch. 985, within the 30 days following such reading. In order to be effective, the resolution shall be passed at a meeting of the commission held after such publication.

(b) Such resolution shall be submitted to a vote of the electors of the district if, within 30 days after the recording thereof, a petition requesting the submission, signed by electors numbering at least 10% of the votes cast for governor in the district at the last general election is filed in the office of the commission. When any such petition is filed, the commission shall immediately notify the clerks of each town, city or village located, or having territory within the district, of the fact that the petition has been filed, calling for a special election upon the proposed bond issue. The special election shall be held upon the same day throughout the district and the secretary shall, in the notice, fix the date of the holding of the special election. Upon receipt of the notice the clerks of each town, village or city located within the district shall call a special election for the purpose of submitting the resolution for the proposed bond issue to the electors of the municipality for approval. If only a part of a city, town or village is located within the district, the clerk of such city, town or village shall call a special election to be held upon the date fixed by the secretary of the commission, for that portion of the town, city or village which is included within the district, and the electors at the special election may vote at a polling place or polling places, in an adjoining town, city or village which is wholly located within the district. The polling place or places shall be designated by the clerk in the notice of such special election, which notice of election for a part only of the municipality shall be posted in 3 public places in that part of the municipality lying within the district. The proceedings in connection with the special election shall be as provided in s. 67.05 (5). The votes shall be counted by the inspectors and a return made thereof to the county clerk of the county in which the office of the commission is located. The return shall be canvassed by the board of county canvassers and the result of such election determined and certified by the board of county canvassers. The original certificate thereof shall be filed in the office of the county clerk and a copy certified by the county clerk forwarded by the clerk to the secretary of the commission. Such certificate shall be filed in the office of the commission and for this purpose ss. 7.23 and 7.51 to 7.60 shall control insofar as applicable.

(8) BORROWING; TAX LEVY. The commission shall at the time of, or after the adoption of said resolution, and before issuing any of the contemplated bonds, levy by resolution a direct annual tax sufficient in amounts to pay, and for the express purpose of paying the interest on such bonds as it falls due, and also to pay and discharge the principal thereof at maturity. The commission and the district shall be and continue without power to repeal such levy, or obstruct the collection of said tax until all such payments have been made or provided for.

(9) BORROWING; TAX COLLECTION. After the issue of the bonds, the commission shall, on or before October 1 in each year, certify in writing to the clerks of the several cities, villages

or towns having territory in the district, the total amount of the tax to be raised by each such municipality, and upon receipt of such certificate the clerk of each such municipality shall place the same on the tax roll to be collected as other taxes are collected, and such moneys, when collected, shall be paid to the treasurer of the district.

(10) BORROWING; INSTRUMENT. Every bond so issued by a district shall be a negotiable instrument payable to bearer, or, in case of bonds which are registerable, to bearer or the registered owner, with interest coupons attached payable annually or semiannually. They shall be payable not later than the termination of 20 years immediately following the date of the bonds; shall bear interest; shall specify the times and the place, or places, of payment of principal and interest; shall be numbered consecutively with the other bonds of the same issue which shall begin with number one and continue upward, or, if so directed by the commission, shall begin with any other number and continue upward; shall bear on its face a name indicative of the purpose specified therefor in the resolution; shall contain a statement of the value of all of the taxable property in the district according to the last preceding assessment thereof for state and county taxes, the aggregate amount of the existing bonded indebtedness of such district, that a direct annual irrepealable tax has been levied by the district sufficient to pay the interest when it falls due, and also to pay and discharge the principal at maturity; and may contain any other statement of fact not in conflict with the initial resolution. The entire issue may be composed of a single denomination, or 2 or more denominations.

(11) BORROWING; SALE OF BONDS. The bonds shall be executed in the name of the district by the secretary and president of the commission, and shall be sealed with the seal of the district, if it has a seal. The bonds may be executed with the facsimile signatures of one of such officers. The bonds shall be negotiated and sold, or otherwise disposed of, for not less than par and accrued interest, by the commission, and such negotiation and sale, or other disposition, may be effected by disposition of portions only of the entire issue when the purpose for which the bonds have been authorized does not require an immediate realization upon all of them.

(12) EXEMPTION FROM LEVIES. Lands designated as permanent open space, agricultural protection areas or other undeveloped areas not to be served by public sanitary sewer service in plans adopted by a regional planning commission or other area-wide planning agency organized under s. 66.945 and approved by the board of supervisors of the county in which the lands are located shall not have property taxes, assessments or service charges levied against them by the district.

(13) APPLICATION OF OTHER LAWS. Section 66.076 shall apply to all districts now or hereafter organized and operating under ss. 66.20 to 66.26.

History: 1971 c. 276; 1973 c. 172; 1977 c. 26.

A metropolitan sewerage district cannot collect a service charge against a vocational school district. Green Bay Met. S. Dist. v. Voc., T. & A. Ed. 58 W (2d) 628, 207 NW (2d) 623.

66.26 Addition of territory. Territory not originally within a district may be added thereto in the following ways:

(1) Territory which becomes annexed for municipal purposes to a city or village that was included in its entirety within the original district shall be added to the district upon receipt by the commission of official notice from the city or village that the municipal annexation has occurred.

(2) Proceedings leading to the addition of other territory to a district may be initiated by petition from a municipal governing body or upon motion of the commission. Upon receipt of the petition or upon adoption of the motion, the commission shall hold a public hearing preceded by a class 2 notice under ch. 985. The commission may approve the annexation upon a determination that the standards of ss. 66.22 (4) (b) and (c) and 66.26 (3) are met. Approval actions by the commission under this section shall be subject to review under ch. 227.

(3) Annexations under subs. (1) and (2) may be subject to reasonable requirements as to participation by newly annexed areas toward the cost of existing or proposed district facilities.

History: 1971 c. 276.

66.27 Relief from conditions of gifts and dedications. (1) If the governing body of a county, city, town or village accepts a gift or dedication of land made on condition that the land be devoted to a special purpose, and the condition subsequently becomes impossible or impracticable, such governing body may by resolution or ordinance enacted by a two-thirds vote of its members elect either to grant the land back to the donor or dedicator or his heirs, or accept from the donor or dedicator or his heirs, a grant relieving the county, city, town or village of the condition, pursuant to article XI, section 3a, of the constitution.

(2) (a) If such donor or dedicator or his heirs are unknown or cannot be found, such resolution

or ordinance may provide for the commencement of an action under this section for the purpose of relieving the county, city, town or village of the condition of the gift or dedication.

(b) Any such action shall be brought in a court of record in the manner provided in ch. 801. A lis pendens shall be filed as provided in s. 840.10 upon the commencement of the action. Service upon persons whose whereabouts are unknown may be made in the manner prescribed in s. 801.12.

(c) The court may render judgment in such action relieving the county, city, town or village of the condition of the gift or dedication.

History: 1973 c. 189 s. 20; Sup. Ct. Order, 67 W (2d) 774.

66.28 Sales of abandoned property. Cities, villages and counties may, at a public auction to be held once a year, dispose of any personal property which has been abandoned, or remained unclaimed for a period of 30 days after the taking of possession of the same by the city, village or county officers. All receipts from such sales, after deducting the necessary expenses of keeping such property and conducting such auction, shall be paid into the city, village or county treasury.

66.29 Public works, contracts, bids. (1) DEFINITIONS. (a) The word "person" as used in this section shall mean and include any and every individual, copartnership, association, corporation or joint stock company, lessee, trustee or receiver.

(b) "Municipality" means the state and any town, city, village, school district, board of school directors, sewer district, drainage district, vocational, technical and adult education district or any other public or quasi public corporation, officer, board or other public body charged with the duty of receiving bids for and awarding any public contracts.

(c) The term "public contract" shall mean and include any contract for the construction, execution, repair, remodeling, improvement of any public work, building, furnishing of supplies, material of any kind whatsoever, proposals for which are required to be advertised for by law.

(d) "Subcontractor" means a person whose relationship to the principal contractor is substantially the same as to a part of the work as the latter's relationship is to the proprietor. A "subcontractor" takes a distinct part of the work in such a way that he does not contemplate doing merely personal service.

(2) BIDDER'S PROOF OF RESPONSIBILITY. Every municipality, board or public body upon all contracts subject to this section may, before delivering any form for bid proposals, plans and specifications pertaining thereto to any person, excepting materialmen, suppliers and others not intending to submit a direct bid, require such person to submit a full and complete statement sworn to before an officer authorized by law to administer oaths, of financial ability, equipment, experience in the work prescribed in said public contract, and of such other matters as the municipality, board, public body or officer thereof may require for the protection and welfare of the public in the performance of any public contract; such statement shall be in writing on a standard form of a questionnaire as adopted for such use by the municipality, board or public body or officer thereof, to be furnished by such municipality, board, public body or officer thereof. Such statement shall be filed in the manner and place designated by the municipality, board, public body or such officer thereof. Such statements shall not be received less than 5 days prior to the time set for opening of bids. The contents of said statements shall be confidential and shall not be disclosed except upon the written order of such person furnishing the same, or for necessary use by the public body in qualifying such person, or in cases of action against, or by such person or municipality. The governing body of the municipality or such committee, board or employe as is charged with the duty of receiving bids and awarding contracts or to whom the governing body has delegated the power shall properly evaluate the sworn statements filed relative to financial ability, equipment and experience in the work prescribed and shall find the maker of such statement either qualified or unqualified. This subsection shall not apply to cities of the first class.

(3) PROOF OF RESPONSIBILITY, CONDITION PRECEDENT. No bid shall be received from any person who has not submitted the sworn statement as provided in sub. (2), provided that any prospective bidder who has once qualified to the satisfaction of the municipality, board, public body or officer, and who wishes to become a bidder upon subsequent public contracts under the jurisdiction of the same, to whose satisfaction the prospective bidder has qualified under sub. (2), need not separately qualify on each public contract unless required so to do by the said municipality, board, public body or officers.

(4) REJECTION OF BIDS. Whenever the municipality, board, public body or officer is not satisfied with the sufficiency of the answer contained in the questionnaire and financial statement, it may reject said bid, or disregard the same.

(5) CORRECTIONS OF ERRORS IN BIDS. Whenever any person shall submit a bid or proposal

for the performance of public work under any public contract to be let by the municipality, board, public body or officer thereof, who shall claim mistake, omission or error in preparing his bid, the said person shall, before the bids are opened, make known the fact that he has made an error, omission or mistake, and in such case his bid shall be returned to him unopened and the said person shall not be entitled to bid upon the contract at hand unless the same is readvertised and relet upon such advertisement. In case any such person shall make an error or omission or mistake and shall discover the same after the bids are opened, he shall immediately and without delay give written notice and make known the fact of such mistake, omission or error which has been committed and submit to the municipality, board, public body or officers thereof, clear and satisfactory evidence of such mistake, omission or error and that the same was not caused by any careless act or omission on his part in the exercise of ordinary care in examining the plans, specifications, and conforming with the provisions of this section, and in case of forfeiture, shall not be entitled to recover the moneys or certified check forfeited as liquidated damages unless he shall prove before a court of competent jurisdiction in an action brought for the recovery of the amount forfeited, that in making the mistake, error or omission he was free from carelessness, negligence or inexcusable neglect.

(6) SEPARATION OF CONTRACTS. On those public contracts calling for the construction, repair, remodeling or improvement of any public building or structure, other than highway structures and facilities, the municipality shall separately let (a) plumbing, (b) heating and ventilating, and (c) electrical contracts where such labor and materials are called for. The municipality may set out in any public contract reasonable and lawful conditions as to the hours of labor, wages, residence, character and classification of workmen to be employed by any contractor, and to classify such contractors as to their financial responsibility, competency and ability to perform work and to set up a classified list of contractors pursuant thereto; and such municipality may also reject the bid of any person, if such person has not been classified pursuant to the said questionnaire for the kind or amount of work in said bid.

(7) BIDDER'S CERTIFICATE. On all contracts the bidder shall incorporate and make a part of his proposal for the doing of any work or labor or the furnishing of any material in or about any public work or contract of the municipality a sworn statement by himself, or if not an individual by one authorized, that he has examined and carefully prepared said proposal from the plans and specifications and has checked the same in detail before submitting said proposal or bid to the municipality, board, department or officer charged with the letting of bids and also at the same time as a part of said proposal, submit a list of the subcontractors he proposes to contract with, and the class of work to be performed by each, provided that to qualify for such listing such subcontractor must first submit his bid in writing, to the general contractor at least 48 hours prior to the time of the bid closing, which list shall not be added to nor altered without the written consent of the municipality. A proposal of a bidder shall not be invalid if any subcontractor and the class of work to be performed by such subcontractor has been omitted from a proposal; such omission shall be considered as inadvertent, or that the bidder will perform the work himself.

(8) SETTLEMENT OF DISPUTES; DEFAULTS. Whenever there is a dispute between the contractor or surety or the municipality as to the determination whether there is a compliance with the provisions of the contract as to the hours of labor, wages, residence, character, and classification of workmen employed by any contractor, the determination of the municipality shall be final, and in case of violation of said provisions, the municipality may declare the contract in default and request the surety to perform or relet upon advertisement the remaining portion of the contract.

(9) ESTIMATES AND RELEASE OF FUNDS. (a) *Definition.* In this subsection, "municipality" means the state, except the department of transportation, and any town, city, village, county, school district, vocational, technical and adult education district, board of school directors, sewer district, drainage district, or any other public or quasi-public corporation, officer, board, or other public body.

(b) *Retained percentages.* As the work progresses under any contract involving $1,000 or more for the construction, execution, repair, remodeling or improvement of any public work or building or for the furnishing of any supplies or materials, whether or not proposals for which are required to be advertised by law, the municipality, from time to time, shall grant to the contractor an estimate of the amount and proportionate value of the work done, which shall entitle the contractor to receive the amount thereof, less the retainage, from the proper fund. On all such contracts, the retainage shall be an amount equal to 10% of said estimate until 50% of the work has been completed. At 50% completion, further partial payments shall be made in full to the contractor and no additional amounts may be retained unless the architect or engineer certifies that the job is not proceeding

satisfactorily, but amounts previously retained shall not be paid to the contractor. At 50% completion or any time thereafter when the progress of the work is not satisfactory, additional amounts may be retained but in no event shall the total retainage be more than 10% of the value of the work completed. Upon substantial completion of the work, an amount retained may be paid to the contractor. When the work has been substantially completed except for work which cannot be completed because of weather conditions, lack of materials or other reasons which in the judgment of the municipality are valid reasons for noncompletion, the municipality may make additional payments, retaining at all times an amount sufficient to cover the estimated cost of the work still to be completed or in the alternative may pay out the entire amount retained and receive from the contractor guarantees in the form of a bond or other collateral sufficient to ensure completion of the job. For the purposes of this section, estimates may include any fabricated or manufactured materials and components specified, previously paid for by contractor and delivered to the work or properly stored and suitable for incorporation in the work embraced in the contract.

History: 1971 c. 154; 1975 c. 390.

Under (5), a bidder has no "right" to withdraw its bid or demand that it be amended. Under the terms of the proposal, the commission was entitled to retain the deposit upon plaintiff's failure to execute the contract within 10 days of the notice of award. Nelson Inc. v. Sewerage Comm. of Milw. 72 W (2d) 400, 241 NW (2d) 390.

Acceptance of the bid is a precondition to forfeiture of the bidder's deposit under (5). Gaastra v. Village of Fairwater, 77 W (2d) 7, 252 NW (2d) 60.

Where a governmental entity determines that an apparent low bidder is entitled to relief from an erroneous bid under (5), the bidder should be allowed to correct his bid. 62 Atty. Gen. 144.

Police cars need not be purchased by competitive bid since they are "equipment" and not "supplies [or] material." 66 Atty. Gen. 284.

66.293 Contractor's failure to comply with municipal wage scale. (1) Every city, village, township, county, school board, school district, sewer district, drainage district, commission, public or quasi-public corporation or any other governmental unit, which proposes the making of a contract for any highway, street or bridge construction, shall determine the rate of wage scale which shall be paid by the contractor to the employes upon the project. Reference to such rate of wage scale shall be published in the notice issued for the purpose of securing bids for the project. Whenever any contract for a highway, street or bridge construction is entered into, the rate of wage scale shall be incorporated in and made a part of such contract. All employes working upon the highway, street or bridge construction shall be paid by the contractor in accordance with the rate of wage scale incorporated in the contract. Such rate of wage scale shall not be altered during the time that the contract is in force.

(2) Whenever any city, town, village or county, school board, school district, sewer district, drainage district, commission, public or quasi-public corporation or any governmental unit, by ordinance, resolution, rule or bylaw, establishes a rate of wage scale to be paid to employes upon any highway, street or bridge construction by a contractor and it is found upon due proof that the contractor is not paying or has failed to pay the wage scale established or is directly or indirectly, by a system of rebates or otherwise, violating the ordinance, rule, resolution or bylaw of the city, town, village or county, school board, school district, sewer district, drainage district, commission, public or quasi-public corporation or any governmental unit, the contractor may be fined not to exceed $500 for each offense. The failure to pay the required wage to an employe for any one week or part thereof constitutes a separate offense.

(3) Every municipality, before making a contract by direct negotiation or soliciting bids on a contract, for any project of public works except highway, street or bridge construction, shall apply to the department of industry, labor and human relations to ascertain the prevailing wage rate, hours of labor and hourly basic pay rates in all trades and occupations required in the work contemplated. The department shall determine the prevailing wage rate, hours of labor and hourly basic pay rates for each trade or occupation under s. 103.49, make its determination within 30 days after receiving the request and file the same with the municipality applying therefor. A request for the review of a wage determination may be made within 30 days from the determination date if evidence is submitted with the request showing that the wage rate or hours of labor for any given trade or occupation included in the determination does not represent the prevailing wage rate or hours of labor for that trade or occupation in the area. Such evidence shall include wage rate and hours of labor information for the contested trade or occupation on at least one similar project located in the municipality where the proposed project is located and on which some work has been performed during the current or any of the previous 12 months. The department shall affirm or modify the original determination within 15 days from the date on which the department receives the request for review. Reference to such prevailing wage rates and hours of labor determined by the department or a municipality exempted under par. (d) shall be published in the notice issued for the purpose of securing bids for the project. If any contract for

a project of public works except highway, street or bridge construction is entered into, the wage rates and hours determined by the department or exempted municipality shall be incorporated into and made a part of the contract. No laborer, worker or mechanic employed directly upon the site of the project by the contractor or by a subcontractor, agent or other person, doing or contracting to do any part of the work, may be paid less than the prevailing wage rate in the same or most similar trade or occupation; nor may he or she be permitted to work a greater number of hours per day or per calendar week than the prevailing hours of labor determined under this subsection, unless he or she is paid for all hours in excess of the prevailing hours at a rate of at least 1-1/2 times his or her hourly basic rate of pay.

(a) Any contractor, subcontractor or agent thereof, who fails to pay the prevailing rate of wages determined by the department under this subsection or pays less than 1-1/2 times the hourly basic rate of pay for hours worked on the project in excess of the prevailing hours determined under this subsection, shall be liable to the employes affected in the amount of their unpaid minimum wages or their unpaid overtime compensation and an additional equal amount as liquidated damages. Action to recover the liability may be maintained in any court of competent jurisdiction by any one or more employes for and in behalf of himself and other employes similarly situated. No employe shall be a party plaintiff to any such action unless he gives his consent in writing to become such a party and the consent is filed in the court in which the action is brought. The court shall, in addition to any judgment awarded to the plaintiff, allow a reasonable attorney's fee and costs to be paid by the defendant.

(b) In this subsection, "municipality" means any city, town, village or county, vocational, technical and adult education district, common school district, union high school district, unified school district, county-city hospital established under s. 66.47, sewerage commission organized under s. 144.07 (4), metropolitan sewerage district organized under ss. 66.20 to 66.26, public or quasi-public corporation, or any other unit of government, or any agency or instrumentality of 2 or more units of government in this state.

(c) This subsection does not apply to any highway, street or bridge construction or to any public works project for which the estimated project cost of completion is below $3,500 where a single trade is involved and $35,000 where more than one trade is involved on such project (after hearing these dollar amounts shall be adjusted by the department every 2 years, the first adjustment to be made not sooner than January 1, 1976. The adjustments shall be in proportion to any changes in construction costs since the effective date of the dollar amounts established under this subsection immediately prior to each adjustment); nor does this subsection apply to wage rates and hours of employment of laborers, workmen or mechanics engaged in the processing or manufacture of materials or products or to the delivery thereof by or for commercial establishments which have a fixed place of business from which they regularly supply such processed or manufactured materials or products, except that this subsection does apply to laborers, workmen or mechanics delivering mineral aggregate such as sand, gravel or stone which is incorporated into the work under the contract by depositing the material substantially in place, directly or through spreaders, from the transporting vehicle.

(d) The department of industry, labor and human relations, upon petition of any municipality, shall issue an order exempting the municipality from applying to the department for a determination under this subsection when it is shown that an ordinance or other enactment of the municipality sets forth the standards, policy, procedure and practice resulting in standards as high or higher than those under s. 103.49.

(e) Each contractor, subcontractor or agent thereof participating in a project covered by this subsection shall keep full and accurate records clearly indicating the name and trade or occupation of every laborer, workman or mechanic employed by him in connection with the project and an accurate record of the number of hours worked by each employe and the actual wages paid therefor.

(f) For the information of the employes working on the project, the wage rates and hours determined by the department or exempted municipality and the provisions of pars. (a) and (e) shall be kept posted by the employer in at least one conspicuous and easily accessible place at the site of the project.

(g) Each agent or subcontractor shall furnish the contractor with evidence of compliance with this subsection.

(h) Upon completion of the project and prior to final payment therefor, each contractor shall file with the municipality an affidavit stating that he has complied fully with the provisions and requirements of this subsection and that he has received evidence of compliance from each of his agents and subcontractors. No municipality may authorize final payment until such an affidavit is filed in proper form and order.

(i) The department of industry, labor and human relations or the contracting municipality may demand and examine copies of any payrolls

and other records and information relating to the wages paid laborers, workmen or mechanics on work to which this subsection applies. The department may inspect records in the manner provided in ch. 101. Every contractor, subcontractor or agent is subject to the requirements of ch. 101 relating to examination of records.

(j) When the department of industry, labor and human relations finds that a municipality has not requested a prevailing wage rate determination or has not incorporated a prevailing wage rate determination into the contract as required under this subsection, the department shall notify the municipality of such noncompliance and shall file the prevailing wage rate determination with the municipality within 30 days after such notice.

(k) The provisions of s. 101.02 (5) (f), (12), (13) and (14) apply to this subsection.

(m) If requested by any person, the department shall inspect the payroll records of the contractors, subcontractors or agents to ensure compliance with this section. The cost of the inspection shall be paid by the person making the request, if the contractor, subcontractor, or agent subject to the inspection is found to be in compliance.

History: 1971 c. 154, 307; 1973 c. 181; 1977 c. 29.

This section is inapplicable to private corporation contracting for medical center. 61 Atty. Gen. 426.

See note to 66.521, citing 63 Atty. Gen. 145.

Municipalities are subject to (3) on contracts for any project of public works, even if done by the turnkey method. 64 Atty. Gen. 100.

66.295 Authority to pay for public work done in good faith. (1) Whenever any city, village or county has received and enjoyed or is enjoying any benefits or improvements furnished prior to March 1, 1973, under any contract which was no legal obligation on such city, village or county and which contract was entered into in good faith and has been fully performed and the work has been accepted by the proper officials, so as to impose a moral obligation upon such city, village or county to pay therefor, such city, village or county, by resolution of its governing body and in consideration of such moral obligation, may pay to the person furnishing such benefits or improvements the fair and reasonable value of such benefits and improvements.

(2) The fair and reasonable value of such benefits and improvements and the funds out of which payment therefor shall be made shall be determined by the governing body of such city or county. Such payments may be made out of any available funds, and said governing body has authority, if necessary, to levy and collect taxes in sufficient amount to meet such payments.

(3) Where payment for any benefits or improvements mentioned in subsections (1) and (2) of this section shall be authorized by the common council of any city and where special assessments shall have been levied for any portion of such benefits or improvements prior to the authorization of such payment, the city authorities shall proceed to make a new assessment of benefits and damages in the manner provided for the original assessment, except that steps required in the laws relating to the original assessment to be taken prior to the ordering or doing of such benefits or improvements may be taken after the authorization of such payment with the same effect as if taken prior to the ordering or doing of such benefits or improvements. The owner of any property affected by such reassessment may appeal therefrom in the same manner as from an original assessment. On such reassessment full credit shall be given for all moneys collected under an original assessment for such benefits and improvements.

History: 1973 c. 97.

See note following 62.15 citing Blum v. Hillsboro, 49 W. (2d) 667, 183 NW (2d) 47.

66.296 Discontinuance of streets and alleys. (1) The whole or any part of any road, street, slip, pier, lane or alley, in any city of the second, third or fourth class or in any incorporated village, may be discontinued by the common council or village board upon the written petition of the owners of all the frontage of the lots and lands abutting upon the portion thereof sought to be discontinued, and of the owners of more than one-third of the frontage of the lots and lands abutting on that portion of the remainder thereof which lies within 2,650 feet of the ends of the portion to be discontinued, or lies within so much of that 2,650 feet as shall be within the corporate limits of the city or village. The beginning and ending of an alley shall be deemed to be within the block in which it is located.

(2) (a) As an alternative, proceedings covered by this section may be initiated by the common council or village board by the introduction of a resolution declaring that since the public interest requires it, the whole or any part of any road, street, slip, pier, lane or alley in the city or village is thereby vacated and discontinued.

(b) A hearing on the passage of such resolution shall be set by the common council or village board on a date which shall not be less than 40 days thereafter. Notice of the hearing shall be given as provided in subsection (5), except that in addition notice of such hearing shall be served on the owners of all of the frontage of the lots and lands abutting upon the

portion thereof sought to be discontinued in a manner provided for the service of summons in circuit court at least 30 days before such hearing. When such service cannot be made within the city or village, a copy of the notice shall be mailed to the owner's last known address at least 30 days before the hearing.

(c) No discontinuance shall be ordered if a written objection to the proposed discontinuance is filed with the city or village clerk by any of the owners abutting on the portion sought to be discontinued or by the owners of more than one-third of the frontage of the lots and lands abutting on that portion of the remainder thereof which lies within 2,650 feet from the ends of the portion proposed to be discontinued; or which lies within so much of said 2,650 feet as shall be within the corporate limits of the city or village. The beginning and ending of an alley shall be deemed to be within the block in which it is located.

(2m) For the purpose of this section, the narrowing, widening, extending or other alteration of any road, street, lane or alley does not constitute a discontinuance of any part of the former road, street, lane or alley, including the right-of-way therefor, which is included within the right-of-way for the new road, street, lane or alley.

(3) Whenever any of the lots or lands aforesaid is owned by the state, county, city or village, or by a minor or incompetent person, or the title thereof is held in trust, as to all lots and lands so owned or held, petitions for discontinuance or objections to discontinuance may be signed by the governor, chairman of the board of supervisors of the county, mayor of the city, president of the village, guardian of the minor or incompetent person, or the trustee, respectively, and the signature of any private corporation may be made by its president, secretary or other principal officer or managing agent.

(4) The city council or village board may by resolution discontinue any alley or any portion thereof which has been abandoned, at any time after the expiration of 5 years from the date of the recording of the plat by which it was dedicated. Failure or neglect to work or use any alley or any portion thereof for a period of 5 years next preceding the date of notice provided for in (5) shall be deemed an abandonment for purpose of this section.

(5) Notice stating when and where the petition or resolution will be acted upon and stating what road, street, slip, pier, lane or alley, or part thereof, is proposed to be discontinued, shall be published as a class 3 notice, under ch. 985.

(6) In proceedings under this section, s. 840.11 shall be considered as a part of the proceedings.

History: 1973 c. 189 s. 20; Sup. Ct. Order, 67 W (2d) 774; 1975 c. 46.

Cross Reference: See 236.43 for other provisions for vacating streets

66.297 Discontinuance of public grounds. (1) In every city of the 1st class, the common council may vacate in whole or in part such highways, streets, alleys, grounds, waterways, public walks and other public grounds within the corporate limits of the city as in its opinion the public interest requires to be vacated or are of no public utility, subject to s. 80.32 (4). Such proceedings shall be commenced either by a petition presented to the common council signed by the owners of all property which abuts upon the portion of the public facilities proposed to be vacated, or by a resolution adopted by the common council. The requirements of s. 840.11 shall apply to proceedings under this section.

(2) All petitions or resolutions shall be referred to a committee of the common council for a public hearing on such proposed discontinuance and at least 7 days shall elapse between the date of the last service and the date of such hearing. A notice of such hearing shall be served on the owners of record of all property which abuts upon the portion of the public facilities proposed to be vacated, in the manner provided for service of a summons.

(3) If the common council initiates a discontinuance proceeding by resolution without a petition signed by all of the owners of the property which abuts the public facility proposed to be discontinued, any owner of property abutting such public facility whose property is damaged thereby may recover such damages as provided in ch. 32.

(4) The common council may also order that an assessment of benefits be made and when so ordered the assessment shall be made as provided in s. 66.60.

History: 1973 c. 189 s. 20; Sup. Ct. Order, 67 W (2d) 774.

66.298 Pedestrian malls. After referring the matter to the plan commission for report under s. 62.23 (5) and after holding a public hearing on the matter with publication of a Class 1 notice of the hearing, the governing body of any city or village may by ordinance designate any street or public way or any part thereof wholly within its jurisdiction as a pedestrian mall and prohibit or limit the use thereof by vehicular traffic. Creation of such pedestrian malls shall not constitute a discontinuance or vacation of such street or public way under s. 66.296 or 236.43.

66.299 Intergovernmental purchases without bids. Notwithstanding any statute requiring bids for public purchases, any city, village, town, county or other local unit of government may make purchases from another unit of government, including the state or federal government, without the intervention of bids.

66.30 Intergovernmental cooperation. (1) In this section "municipality" means the state or any department or agency thereof, or any city, village, town, county, school district, public library system, public inland lake protection and rehabilitation district, sanitary district, farm drainage district, sewer utility district, water utility district or regional planning commission.

(2) In addition to the provisions of any other statutes specifically authorizing cooperation between municipalities, unless such statutes specifically exclude action under this section, any municipality may contract with other municipalities, for the receipt or furnishing of services or the joint exercise of any power or duty required or authorized by law. If municipal parties to a contract have varying powers or duties under the law, each may act under the contract to the extent of its lawful powers and duties. This section shall be interpreted liberally in favor of cooperative action between municipalities.

(2g) Any municipality, housing authority, development authority or redevelopment authority, except authorities of cities of the 1st class, authorized under ss. 66.40 to 66.435:

(a) To issue bonds or obtain other types of financing in furtherance of its statutory purposes may cooperate with any other municipality, housing authority, development authority or redevelopment authority similarly authorized under ss. 66.40 to 66.435 for the purpose of jointly issuing bonds or obtaining other types of financing.

(b) To plan, undertake, own, construct, operate and contract with respect to any housing project in accordance with its statutory purposes under ss. 66.40 to 66.435, may cooperate for the joint exercise of such functions with any other municipality, housing authority, development authority or redevelopment authority so authorized.

(2m) (a) The university of Wisconsin may furnish, and school districts may accept, services for educational study and research projects and they may enter into contracts under this section for that purpose.

(b) A group of school boards, boards of education or boards of school directors, if so authorized by each board, may form a nonprofit-sharing corporation to contract with the state or university of Wisconsin for the furnishing of the services specified in par. (a).

(c) The corporation shall be organized under ch. 181 and shall have the powers there applicable. Members of the boards specified in par. (b) may serve as incorporators, directors and officers of the corporation.

(d) The property of the corporation shall be exempt from taxation.

(e) The corporation may receive gifts and grants and be subject to their use, control and investment as provided in s. 118.27, and the transfer of the property to the corporation shall be exempt from income, inheritance, estate and gift taxes.

(3) Any such contract may provide a plan for administration of the function or project, which may include, without limitation because of enumeration, provisions as to proration of the expenses involved, deposit and disbursement of funds appropriated, submission and approval of budgets, creation of a commission, selection and removal of commissioners, formation and letting of contracts.

(3m) A commission created by contract under sub. (2) may finance the acquisition, development, remodeling, construction and equipment of land, buildings and facilities for regional projects under s. 66.066. Participating municipalities acting jointly or separately may finance such projects, or an agreed share of the cost thereof, under ch. 67.

(3n) No commission created by contract under this section is authorized, directly or indirectly, to acquire, construct or lease facilities used or useful in the business of a public utility engaged in production, transmission, delivery or furnishing of heat, light, power, natural gas or communications service, by any method except those set forth under ch. 66, 196, 197 or 198.

(3p) The authority now or hereafter conferred by law on commissions created by contract under this section shall not include the right, power or authority to establish, lay out, construct, improve, discontinue, relocate, widen or maintain any road or highway outside the corporate limits of a village or city or to acquire lands for such purposes except upon approval of the department of transportation and the county board of the county wherein such road is to be located.

(4) Any such contract may bind the contracting parties for the length of time specified therein.

(5) Any municipality may contract with municipalities of another state for the receipt or furnishing of services or the joint exercise of any

power or duty required or authorized by statute to the extent that laws of such other state or of the United States permit such joint exercise.

(a) Every agreement made under this subsection shall, prior to and as a condition precedent to taking effect, be submitted to the attorney general who shall determine whether the agreement is in proper form and compatible with the laws of this state. The attorney general shall approve any agreement submitted to him hereunder unless he finds that it does not meet the conditions set forth herein and details in writing addressed to the concerned municipal governing bodies the specific respects in which the proposed agreement fails to meet the requirements of law. Failure to disapprove an agreement submitted hereunder within 90 days of its submission shall constitute approval thereof. The attorney general, upon submission of such agreement to him, shall transmit a copy of the agreement to the governor who shall consult with any state department or agency affected by the agreement. The governor shall forward to the attorney general any comments he may have concerning the agreement.

(b) An agreement entered into under this subsection shall have the status of an interstate compact, but in any case or controversy involving performance or interpretation thereof or liability thereunder, the municipalities party thereto shall be real parties in interest and the state may commence an action to recoup or otherwise make itself whole for any damages or liability which it may incur by reason of being joined as a party therein. Such action may be maintained against any municipality whose act or omission caused or contributed to the incurring of damage or liability by the state.

(6) (a) In this subsection:

1. "School district" means a common, union high, unified or city school district, or a school district organized under ch. 119.

2. "School board" has the meaning designated for the term in s. 115.01 (4).

(b) Two or more school boards of school districts may by written contract executed by all participants to the contract, own, construct, lease or otherwise acquire school facilities including real estate located within or outside the boundaries of any participating school district.

(c) School district boards entering into a contract under this subsection may, without limitation because of enumeration:

1. Provide for acquisition, construction, operation and administration of a facility, and establish the functions, projects and services to be provided in the facility, including, without limitation because of enumeration, proration of all expenses involved, operational and fiscal management including deposit and disbursement of funds appropriated, designation of the municipal employer for purposes of compliance with s. 111.70, teacher retirement, worker's compensation and unemployment compensation.

2. Purchase real estate and personal property, including a fractional or other interest in the real estate and personal property and enter into leases for sites, building and equipment for a term not exceeding 50 years.

3. Finance and equip any facility through a school building corporation under s. 120.19.

4. Issue municipal obligations subject to the procedures and limitations of ch. 67.

5. Provide the terms and conditions for accepting additional school districts as participants in the plan and for withdrawal from or termination of the contract including apportionment of assets and liabilities.

(d) A contract entered into under this subsection shall at all times be limited to a period of 50 years but may, by mutual written consent of all participants, be modified or extended beyond the initial term.

(e) A contract or any extension of the contract of over 5 years which includes a city school district participant shall be subject to approval of the city council or, where applicable, the fiscal board under s. 120.50.

(f) A contract or any extension of the contract of over 5 years duration which includes a common or union high school district participant shall be approved by the annual or special school district meeting.

(g) At least 30 days prior to entering into a contract under this subsection or a modification or extension of the contract, the school boards of the districts involved or their designated agent shall file the proposed agreement with the state superintendent to enable the state superintendent or state superintendent's designee to assist and advise the school boards involved in regard to the applicable recognized accounting procedure for the administration of the school aid programs. The state superintendent shall review the terms of the proposed contract to ensure that each participating district's interests are protected.

(h) School district boards entering into a contract under this subsection shall designate for each employe providing services under the contract either a school district entering into the contract or a cooperative educational service agency under ch. 116 as the employer for purposes of compliance with s. 111.70, teacher's retirement, worker's compensation and unemployment compensation.

History: 1971 c. 143, 152, 211; 1973 c. 301; 1975 c. 123, 228; 1977 c. 26 s. 75; 1977 c. 29 s. 1654 (8) (c); 1977 c. 418

Where municipality's power to contract is improperly or irregularly exercised and municipality receives benefit under contract, it is estopped from asserting invalidity of contract.

Village of McFarland v. Town of Dunn, 82 W (2d) 469, 263 NW (2d) 167.

There is some latitude under this section for counties to contract with municipalities within the county to furnish or supplement certain law enforcement services in the municipality. 58 Atty. Gen. 72.

No legal authority for the creation of a City-County Metropolitan Police Agency exists at present. 60 Atty. Gen. 85.

Cooperative planning among municipalities allowed by 66.30 includes only planning collateral to the organization, implementation and administration of specific projects; authority for general multi-jurisdictional planning is found in 66.945. 60 Atty. Gen. 313.

A county may contract to furnish certain law enforcement services to cities, villages and towns within the county but cannot take over all law enforcement functions. A deputy sheriff may not be designated as a city police chief. 65 Atty. Gen. 47.

County may contract with city for the joint provision of public health nursing services under (2). 66 Atty. Gen. 54.

66.301 One- and 2-family dwelling code. Ordinances enacted by any county, city, village or town relating to the construction and inspection of one- and 2-family dwellings shall conform to subch. II of ch. 101.

History: 1975 c. 404.

66.302 Manufactured building code. Ordinances enacted by any county, city, village or town relating to the on-site inspection of the installation of manufactured buildings shall conform to subch. III of ch. 101.

History: 1975 c. 405.

66.305 Law enforcement; mutual assistance. (1) Upon the request of any law enforcement agency, including county law enforcement agencies as provided in s. 59.24 (2), the law enforcement personnel of any other law enforcement agency may assist the requesting agency within the latter's jurisdiction, notwithstanding any other jurisdictional provision. For purposes of ss. 895.35 and 895.46, such law enforcement personnel while acting in response to such request, shall be deemed employes of the requesting agency.

(2) The provisions of s. 66.315 shall apply to this section.

History: Sup. Ct. Order, 67 W (2d) 774.

The statutes do not permit the creation of a separate regional law enforcement agency and neither the sheriff nor the county board has power to delegate supervisory or law enforcement powers to such an agency. 63 Atty. Gen. 596.

66.31 Arrests. Any peace officer of a city, village or town may, when in fresh pursuit, follow into an adjoining city, village or town and arrest any person or persons for violation of state law or of the ordinances of the city, village or town employing such officer.

66.315 Police, pay when acting outside county or municipality. (1) Any chief of police, sheriff, deputy sheriff, county traffic officer or other peace officer of any city, county, village or town, who shall be required by command of the governor, sheriff or other superior authority to maintain the peace or who responds to the request of the authorities of another municipality, to perform police or peace duties outside territorial limits of the city, county, village or town where employed as such officer, shall be entitled to the same wage, salary, pension, worker's compensation, and all other service rights for such service as for service rendered within the limits of the city, county, village or town where regularly employed.

(2) All wage and disability payments, pension and worker's compensation claims, damage to equipment and clothing, and medical expense, shall be paid by the city, county, village or town regularly employing such peace officer. Upon making such payment such city, county, village or town shall be reimbursed by the state, county or other political subdivision whose officer or agent commanded the services out of which the payments arose.

History: 1975 c. 147 s. 54.

66.32 Extraterritorial powers. The extraterritorial powers granted to cities and villages by statute, including ss. 62.23 (2) and (7a), 66.052, 146.10 and 236.10, shall not be exercised within the corporate limits of another city or village. Wherever such statutory extraterritorial powers shall overlap, the jurisdiction over said overlapping area shall be divided on a line all points of which are equidistant from the boundaries of each municipality concerned so that not more than one municipality shall exercise such power over any area.

66.325 Emergency powers. (1) Notwithstanding any other provision of law to the contrary, the governing body of any city or village is empowered to declare, by ordinance or resolution, an emergency existing within such city or village whenever conditions arise by reason of war, conflagration, flood, heavy snow storm, blizzard, catastrophe, disaster, riot or civil commotion, acts of God, and including conditions, without limitation because of enumeration, which impair transportation, food or fuel supplies, medical care, fire, health or police protection or other vital facilities of such city or village. The period of such emergency shall be limited by such ordinance or resolution to the time during which such emergency conditions exist or are likely to exist.

(2) The emergency power of the governing body herewith conferred includes the general authority to order, by ordinance or resolution, whatever is necessary and expedient for the health, safety, welfare and good order of such

municipality in such emergency and shall include without limitation because of enumeration the power to bar, restrict or remove all unnecessary traffic, both vehicular and pedestrian, from the local highways, notwithstanding any provision of chs. 341 to 349 or any other provisions of law. The governing body may provide penalties for violation of any emergency ordinance or resolution not to exceed a $100 forfeiture or, in default of payment thereof 6 months' imprisonment for each separate offense.

(3) If, because of such emergency conditions, the governing body is unable to meet with promptness, the chief executive officer or acting chief executive officer, including the village president or acting village president, of any city or village shall exercise by proclamation all of the powers herewith conferred upon the governing body which within the discretion of said officer appear necessary and expedient for the purposes herein set forth. Such proclamation shall be subject to ratification, alteration, modification or repeal by the governing body as soon as that body can meet, but such subsequent action taken by the governing body shall not affect the prior validity of said proclamation.

(4) All provisions contravening the provisions of this section are hereby repealed.

66.33 Aids to municipalities for prevention and abatement of water pollution. (1) As used in this section "municipality" means any city, town, village, town sanitary district, public inland lake protection and rehabilitation district or metropolitan sewerage district.

(2) Any municipality is authorized to apply for and accept grants or any other aid which the United States Government or any agency thereof has authorized or may hereafter authorize to be given or made to the several states of the United States or to any political subdivisions or agencies thereof within the states for the construction of public improvements, including all necessary action preliminary thereto, the purpose of which is to aid in the prevention or abatement of water pollution.

(3) Any municipality is further authorized to accept contributions and other aid from commercial, industrial and other establishments for the purpose of aiding in the prevention or abatement of water pollution and in furtherance of such purpose to enter into contracts and agreements with such commercial, industrial and other establishments covering the following:

(a) The collection, treatment and disposal of sewage and industrial wastes from commercial, industrial and other establishments;

(b) The use and operation by such municipality of sewage collection, treatment or disposal facilities owned by any such commercial, industrial and other establishment;

(c) The co-ordination of the sewage collection, treatment or disposal facilities of the municipality with the sewage collection, treatment or disposal facilities of any commercial, industrial and other establishment.

(4) When determined by its governing body to be in the public interest any municipality is authorized to enter into and perform contracts, whether long-term or short-term, with any industrial establishment or establishments providing for sewage or other facilities, including the operation thereof, to abate or reduce the pollution of waters caused in whole or in part by discharges of industrial wastes by the industrial establishment or establishments on such terms as may be reasonable and proper.

(5) Any municipality is authorized to participate in the state financial assistance program for water resources protection established under s. 144.21 and may enter into agreements with the department of natural resources for that purpose.

(6) Any municipality is authorized to enter into contracts with a nonprofit-sharing corporation for the municipality to design and construct the projects it will sublease from the department of natural resources pursuant to s. 144.21 (6) (b).

(7) The provisions of this section and s. 60.307 (9) shall not be construed by way of limitation or restriction of the powers otherwise granted municipalities but shall be deemed as an addition to and a complete alternative to such powers.

History: 1975 c. 197.

66.34 Soil conservation. Any county, city, village or town by its governing body or through a committee designated by it for the purpose, may contract to do soil conservation work on privately owned lands, but no such contract shall involve more than $1,000 for any one person, nor shall the amount of work done for any one person exceed $1,000 annually.

History: 1975 c. 312.

66.345 Special assessments by town for soil conservation and snow removal expenditures. Any town board may levy special assessments against lands or interests specially benefited for the amount expended by the town for soil conservation work pursuant to s. 66.34 and for snow removal pursuant to s. 86.105. Such levy shall be a lien on the property against which it is levied on behalf of the town from the date of the determination of the assessment by the board. The board shall provide for the collection of the assessments and may establish

penalties for payment after the due date, and shall provide that the assessments thereof which are not paid by the date specified shall be extended upon the tax roll as a delinquent tax against the property and all proceedings in relation to collection, return and sale of property for delinquent real estate taxes shall apply to such special assessment.

66.35 License for closing-out sales. (1) No person shall conduct in any city, village or town a "closing-out sale" of merchandise except as hereinafter provided or as provided by ordinance of such city, village or town. Every person shall obtain a city, village or town license before retailing or advertising for retail any merchandise represented to be merchandise of a bankrupt, insolvent, assignee, liquidator, adjuster, administrator, trustee, executor, receiver, wholesaler, jobber, manufacturer, or of any business that is in liquidation, that is closing out, closing or disposing of its stock or a particular part or department thereof, that has lost its lease or has been or is being forced out of business, that is disposing of stock on hand because of damage by fire, water, smoke or other cause, or that for any reason is forced to dispose of stock on hand. Such license is denominated a "closing-out sale license" and such sale a "closing-out sale". Such license must be obtained in advance if such advertisement or representation, expressed or implied, tends to lead people to believe that such sale is a selling out or closing-out sale.

(2) Every person requiring a "closing-out sale license" shall make an application in writing to the city, village or town clerk in the form provided by said clerk and attach thereto an inventory containing a complete and accurate list of the stock of merchandise on hand to be sold at such sale and shall have attached thereto an affidavit by the applicant or his duly authorized agent, that the inventory is true and correct to the knowledge of the person making such affidavit. Said affidavit shall include the names and addresses of the principals, such as the partners, officers and directors and the principal stockholders and owners of the business, and of the inventoried merchandise. Said inventory shall contain the cost price of the respective articles enumerated therein, together with the date of purchases and the identity of the seller. If the merchandise was purchased for a lump sum or other circumstances make the listing of the cost price for each article impracticable, said inventory shall state the lump sum paid for said merchandise and the circumstances of the purchase. Said application shall further specify the name and address of the applicant, and, if an agent, the person for whom he is acting as an agent, the place at which said sale is to be conducted and the time during which the proposed sale is to continue. The license shall specify the period for which it is granted, which time shall not exceed 60 successive days, Sundays and legal holidays excepted, from the date of the license.

(3) The time during which a sale may be conducted may be extended by the city, village or town clerk if, at any time during the term of the license, a written application for such extension, duly verified by affidavit of the applicant is filed by said licensee with the city, village or town clerk. Said application shall state the amount of merchandise, listed in the original inventory, which has been sold and the amount which still remains for sale and shall state the time for which an extension is requested. No extension shall be granted if any merchandise has been added to the stock, listed in the inventory, since the date of the license, and the applicant shall satisfy the city, village or town clerk by affidavit or otherwise, as directed by him, that no merchandise has been added to the said stock since the date of issuance of the license. The city, village or town clerk may grant or deny the application and if granted the period of the extension shall be determined by said city, village or town clerk, but shall not exceed 30 days from the expiration of the original license. If said extension is granted, the same shall be issued by the city, village or town clerk upon the payment of an additional license fee of $25 per day for the time during which it is granted.

(4) It shall be unlawful to sell, offer or expose for sale, at any sale for which a license is required by this section, any merchandise not listed in the inventory, required by subsection (2), except that any merchant may, in the regular course of business, conduct a closing-out sale of merchandise and at the same time sell other merchandise, if the merchandise for the sale of which a license is required shall be distinguished by a tag or otherwise so that said merchandise of said class is readily ascertainable to prospective purchasers, and shall not label or tag other merchandise in a manner to indicate to, or lead, a prospective purchaser to believe that said merchandise is of the class or classes for which a license is required. Each article sold in violation of the provisions hereof, shall constitute a separate offense, and any false or misleading statement in said inventory, application or extension application shall constitute a violation of this section.

(5) The city, village or town clerk shall verify the details of such inventory as filed in connection with an application for such license and

shall also verify the items of merchandise sold during any sale under said license, and it is unlawful for any licensee to refuse to furnish on demand to the city, village or town clerk, or any person designated by him for that purpose, all the facts connected with the stock on hand or any other information that he may reasonably require in order to make a thorough investigation of all phases of said sale, so far as they relate to the rights of the public.

(6) The fee for such licenses shall be, and the same is hereby fixed, as follows:

For a period not exceeding fifteen days, twenty-five dollars;

For a period not exceeding thirty days, fifty dollars;

For a period not exceeding sixty days, seventy-five dollars;

And a further fee of one dollar per thousand dollars of the price set forth on the inventory.

(7) This section shall not apply to sales by public officers or sales under judicial process.

(8) The city, village or town clerk shall on June 1 and December 1 of each year pay into the state treasury 25 per cent of all license fees collected under this section. This subsection shall not apply to license fees collected under any closing-out sale ordinance of such city.

(9) Any person violating this section shall, for each violation, forfeit not less than $25 nor more than $200.

66.36 Aids to municipalities for the acquisition of recreational lands. (1) Any city, village, town or county may apply for and accept state aids for the acquisition and development of recreational lands and rights in lands for the development of its park system under s. 23.09 (20). Such application shall be made in such manner as the department of natural resources prescribes.

(3) State aid under this section shall be limited to no more than 50% of the cost of acquiring, through fee title or through easements, and developing recreation lands and other outdoor recreation facilities. Costs associated with operation and maintenance of parks and other outdoor recreational facilities established under this section shall not be eligible for state aid. Administrative costs of acquiring lands or land rights shall not be included in the "cost of land" eligible for state aid under this section. Title to lands or rights in lands acquired under this section shall vest in the local unit of government, but such land shall not be converted to uses inconsistent with this section without prior approval of the state and proceeds from the sale or other disposal of such lands shall be used to promote the objectives of this section.

66.37 Bounties, local; false certificates. (1) The governing body of any county, town, city or village may direct that every person who kills any pocket gopher, or any streaked gopher, or any black, brown, gray or Norway rat, commonly known as the house rat or barn rat, or any mole, or any red or grey fox, or any coyote, or any wildcat, or any weasel shall be entitled to a reward as determined by the governing board of any county, town, city or village.

(2) Any person claiming such reward shall exhibit the ears of the gopher or head of any other animal on which a bounty is payable to an officer designated by such governing body in its ordinance or resolution providing for such reward, and present an affidavit to such officer stating that said ears or head are of the animal the person killed, and that the person has not spared the life of any such animal within the person's power to kill. Such officer shall then issue a certificate in the following form:

STATE OF WISCONSIN,

County of .....

I, ... (designation of officer), do certify that ..... has this day exhibited to me the head (or ears) of ....., which (he, she) claims to have killed in said (town, city, village), and that the head (or ears) of said ..... was (were) destroyed in my presence, and that the said ..... is on presentation of this certificate to the (town, city, village) clerk within 20 days from the date hereof, entitled to an order on the (town, city, village) treasurer for the sum of ..... dollars, to be drawn from the general fund of said (town, city, village).

Dated this ..... day of ....., 19....

..... (Designation of Officer) .....

(3) The town, city or village clerk, respectively, shall on the production of the certificate of such officer, issue to the holder thereof an order on the town, city or village treasurer, respectively, for the amount stated in said certificate.

(4) Whenever any county has authorized the reward provided for in this section, the treasurers of the various towns, cities and villages shall, at the close of their accounts on October 30 in each year certify to the county clerk the amount of money expended by their respective towns, cities and villages under this section. Such treasurer shall attach to the certificate an affidavit stating that the account is just and that his town, city or village has actually expended the amount therein stated. The certificate and affidavit shall be placed on file in the office of

the county clerk and the account shall be audited by the county board and the amount thereof paid to the treasurers of the respective towns, cities and villages from any money in the general fund of the county not otherwise appropriated. The county board may by ordinance provide an alternative method of reimbursement whereby the county clerk may make direct payment to the claimant of the reward allowed by the county upon the presentation of the affidavit and certificate provided in sub. (2).

(5) Any county, city, village, or town clerk or conservation warden who knowingly makes any untrue or false certificate in respect to any animals on which a bounty is paid, and any person who obtains or endeavors to obtain any such certificate from such clerk or conservation warden by false or fraudulent misrepresentation or practices, and any person who knowingly obtains or endeavors to obtain a reward as provided in this section for the killing of any animal that has been raised, reared, harbored or held in captivity by anyone shall be fined not more than $500 or imprisoned not more than 9 months or both.

History: 1975 c. 91, 199, 365; 1977 c. 224 s. 11.

66.39 Veterans' housing authorities. (1) VETERANS' HOUSING RESEARCH AND STUDIES. In addition to all the other powers, any housing authority created under ss. 66.40 to 66.408 may, within its area of operation, either by itself or in cooperation with the department of veterans affairs, undertake and carry out studies and analyses of veterans' housing needs and of the meeting of such needs and make the results of such studies available to the public and the building, housing and supply industries.

(2) CREATION OF COUNTY VETERANS' HOUSING AUTHORITIES. (a) In each county of the state there is hereby created a public body corporate and politic to be known as the "Veterans' Housing Authority of ..... County", (Name of County) hereafter called "county authority"; provided, however, that such housing authority shall not transact any business or exercise its powers hereunder until or unless the board of supervisors, hereafter called the "governing body", of such county, by proper resolution, shall determine at any time hereafter that there is need for a veterans' housing authority to function in such county. The governing body shall give consideration as to the need for a veterans' housing authority (1) on its own motion or (2) upon the filing of a petition signed by 25 resident veterans of the county asserting that there is need for a veterans' housing authority to function in such county and requesting that its governing body so declare.

(b) The governing body may adopt a resolution declaring that there is need for a veterans' housing authority in the county whenever it shall find that (1) there is a shortage of safe or sanitary dwelling accommodations for veterans in such county, (2) that such shortage will not be alleviated within a reasonable length of time without the functioning of a veterans' housing authority.

(3) AREA OF OPERATION. The area of operation of the county authority shall include all of the county for which it is created.

(4) PROOF OF POWERS TO ACT. In any suit, action or proceedings involving the validity or enforcement of or relating to any contract of a county authority, such authority shall be conclusively deemed to have become established and authorized to transact business and exercise its powers hereunder upon proof of the adoption of the resolution required by subsection (2) declaring the need for such authority. Each such resolution shall be deemed sufficient if it declares that there is such need for such authority. A copy of such resolution duly certified by the county clerk shall be admissible in evidence in any such action or proceeding.

(5) APPOINTMENT, QUALIFICATIONS AND TENURE OF COMMISSIONERS. (a) When the governing body of a county adopts a resolution creating a county veterans' housing authority, said body shall appoint 5 persons as commissioners of the authority created for said county. The commissioners who are first appointed shall be designated to serve for terms of 1, 2, 3, 4 and 5 years, respectively, from the date of their appointment, but thereafter commissioners shall be appointed as aforesaid for a term of office of 5 years, except that all vacancies shall be filled for the unexpired term, such appointments to be made by the official body making the original appointment. A commissioner may be removed by the body which appointed him by a two-thirds vote of all of the members elected to that body. Commissioners shall be reimbursed for their reasonable expenses incurred in the discharge of their duties. No such commissioner or employe of the authority shall acquire any interest direct or indirect in any housing project or in any property included or planned to be included in any project, nor shall he have any interest direct or indirect in any contract or proposed contract for insurance, materials or services to be furnished or used in connection with any veterans' housing project. If any commissioner or employe of the authority owns or controls an interest direct or indirect in any property included or planned to be included in any veterans' housing project he shall immediately disclose the same in writing to the authority and such

disclosure shall be entered upon the minutes of the authority. Failure to so disclose such interest shall constitute misconduct in office.

(b) The powers of the county authority shall be vested in the commissioners thereof in office from time to time. A majority of the commissioners of such an authority shall constitute a quorum of such authority for the purpose of conducting its business and exercising its powers and for all other purposes. Action may be taken by a county authority upon a vote of a majority of the commissioners. Meetings of the commissioners of a county authority may be held anywhere within the county.

(c) At the first meeting of the commissioners after their appointment, they shall select one of their members as chairman and one as secretary. The county treasurer shall be the treasurer of the board and his official bond as county treasurer shall extend to cover funds of the authority that may be placed in his charge. He shall disburse money of the authority only upon direction of the commissioners. The county treasurer shall receive no compensation for his services, but he shall be entitled to necessary expenses, including traveling expenses incurred in the discharge of his duties as treasurer of the board. When the office of chairman or secretary of the commissioners becomes vacant for any reason, the commissioners shall select a new chairman or secretary as the case may be. The commissioners may employ technical experts, and such other officers, agents and employes, permanent or temporary, as it may require, and may call upon the district attorney of the county for such legal services as it may require.

(6) ADVANCES BY MUNICIPALITIES TO COUNTY VETERANS' HOUSING AUTHORITIES. The county, or any village, town or city within the county, shall have the power, from time to time, to lend or donate money to the county authority. Any such advance made as a loan may be made upon the condition that the housing authority shall repay the loan out of any money which becomes available to it for the construction of projects.

(7) POWERS OF COUNTY VETERANS' HOUSING AUTHORITIES. Each county veterans' housing authority and the commissioners thereof shall, within its area of operation, have the following functions, rights, powers, duties, privileges, immunities and limitations:

(a) To provide for the construction, reconstruction, improvement, alteration or repair of any veterans' housing project or any part thereof.

(b) To purchase, lease, obtain options upon and acquire by gift, grant, bequest, devise or otherwise, any real or personal property or interest therein.

(c) To arrange or contract for the furnishing of services, privileges, works, or facilities for, or in connection with, a veterans' housing project, or the occupants thereof.

(d) To lease or rent any dwellings, houses, accommodations, lands, buildings, structures or facilities embraced in any veterans' housing project and, subject to the limitations contained in sections 66.39 to 66.404, to establish and revise the rents or charges therefor.

(da) To contract for sale and to sell any part or all of the interest in real estate acquired and to execute such contracts of sale and conveyances as the authority may deem desirable.

(e) To acquire by eminent domain any real property, including improvements and fixtures thereon.

(f) To own, hold, clear and improve property, cause property to be surveyed and platted in its name; to insure or provide for the insurance of the property or operations of the authority against such risks as the authority may deem advisable.

(g) In connection with any loan, to agree to limitations upon its right to dispose of any housing project or part thereof.

(h) To invest any funds held in reserve or sinking funds, or any funds not required for immediate disbursement, in property or securities in which savings banks may legally invest funds subject to their control.

(i) To sue and be sued, to have a seal and to alter the same at its pleasure, to have perpetual succession, to make and execute contracts and other instruments necessary or convenient to the exercise of the powers of the authority.

(j) To make and from time to time amend and repeal by-laws, rules and regulations not inconsistent with sections 66.39 to 66.404, to carry into effect the powers and purposes of the authority.

(l) To exercise all or any part or combination of powers herein granted. No provisions of law with respect to the acquisition or disposition of property by other public bodies shall be applicable to an authority unless the legislature shall specifically so state.

(m) The bonds, notes, debentures or other evidences of indebtedness executed by an authority shall not be a debt or charge against any county, state or other governmental authority, other than against said housing authority itself and its available property, income or other assets in accordance with the terms thereof and of this section, and no individual liability shall attach for any official act done by any member of such authority. No such authority shall have the power to levy any tax or assessment. Provided, however, that for income tax purposes such bonds, notes, debentures or other evidences of

indebtedness shall be deemed obligations of a political subdivision of this state.

(8) LAW APPLICABLE. So far as applicable, and not inconsistent with this section, section 66.40 (10) to (21) and (24) (a) shall apply to county veterans' housing authorities and to housing projects, bonds, other obligations and rights and remedies of obligees of such authorities, except that bonds of such authorities shall not bear interest in excess of 3 per cent per annum.

(9) TAX EXEMPTION ON IMPROVEMENTS. Veterans' housing improvements on property of an authority are declared to be public property and as long as the same remain under the jurisdiction of the authority or of bondholders who have proceeded under the provisions of section 66.40 (13) to (20) or 66.39 (8), all such improvements shall be exempt from all taxes of the state or any state public body; all real estate owned by an authority shall be assessed at no higher value than it was assessed for the tax year next preceding the date on which any such real estate was acquired by the authority and this provision shall continue in force as long as said real estate is under the jurisdiction of the authority or of bondholders who have proceeded under the provisions of section 66.40 (13) to (20) or 66.39 (8), provided, however, that the municipality in which a veterans' housing project is located may fix a sum to be paid annually for the services, improvements or facilities furnished to such project by such municipality which sum shall not exceed the amount of the tax which would be assessable against such improvements if they were not exempt from tax.

(11) OPERATION NOT FOR PROFIT. It is declared to be the policy of this state that each housing authority shall operate in an efficient manner so as to provide veterans with permanent housing at the lowest possible cost and that no housing authority shall realize any profit on its operations. Any veteran who occupies a single dwelling unit shall have an option to purchase such unit within 5 years from the date of occupancy at an amount not to exceed the total costs to the housing authority of the land on which said dwelling unit is located, the improvements and the dwelling unit, less a proportionate amount for such allotment as may be received by the authority under ss. 20.036 (12) and 45.354 [Stats. 1953]. The purchase contract shall be in such form and on such terms as may be prescribed by the department of veterans affairs. If said veteran occupant desires to exercise his option to purchase he shall notify the housing authority of his intention to exercise that option in writing and he shall be allowed a credit on said purchase price of an amount equal to that portion of the monthly rentals for said unit paid by him that has been credited to or expended for capital retirement or repayment of the principal amount of any mortgage indebtedness, bond indebtedness, or any other indebtedness incurred for the purpose of acquiring the land, improving the land, or constructing the dwelling unit.

(12) MONTHLY COST OF OCCUPANCY BY A VETERAN. Each authority with respect to single dwelling unit veterans' housing projects shall, as soon as the total costs of each dwelling unit including land and improvements have been determined by it, set up a monthly cost of occupancy for said unit. Such cost shall include an amount not exceeding $6 per thousand for interest charges, mortgage insurance and capital retirement or repayment of the principal amount of mortgage indebtedness, bond indebtedness, or any other indebtedness incurred for the purpose of acquiring land, improving the land, or constructing the dwelling unit, and to such basic costs of occupancy may be added the monthly cost of municipal services as determined by the municipality and a reasonable amount for the costs of insurance, operation, maintenance and repair.

(13) TENANT SELECTION, DISCRIMINATION. All tenants selected for veterans' housing projects shall be honorably discharged veterans of wars of the United States of America. Selection between veterans shall be made in accordance with rules and regulations promulgated and adopted by the department of veterans affairs which regulation said department is authorized to make and from time to time change as it deems proper. Such rules and regulations, however, shall give veterans of World War II preference over veterans of all other wars. Notwithstanding such rules and regulations or any law to the contrary a veteran shall not be entitled to or be granted any benefits under ss. 66.39 to 66.404 from a housing authority unless such veteran was at the time of induction into military service a resident of the state. Veterans otherwise entitled to any right, benefit, facility or privilege under this section shall not, with reference thereto, be denied them in any manner for any purpose nor be discriminated against because of sex, race, color, creed or national origin.

(14) VETERANS' HOUSING. Veterans' housing projects shall be submitted to the planning commission in the manner provided in s. 66.404 (3).

History: 1971 c. 40 s. 93; 1975 c. 94; 1977 c. 418 s. 929 (55).

66.395 Housing authorities for elderly persons. (1) SHORT TITLE. This section may

be referred to as the "housing authority for elderly persons law".

(2) DECLARATION OF NECESSITY. It is declared that the lack of housing facilities for elderly persons provided by private enterprise in certain areas creates a public necessity to establish such safe and sanitary facilities for which public moneys may be spent and private property acquired. The legislature declares that to provide public housing for elderly persons is the performance of a governmental function of state concern.

(2m) DISCRIMINATION. Persons otherwise entitled to any right, benefit, facility or privilege under this section shall not, with reference thereto, be denied them in any manner for any purpose nor be discriminated against because of sex, race, color, creed or national origin.

(3) DEFINITIONS. As used in this section unless the text clearly indicates otherwise:

(a) "Authority" or "housing authority" means any of the public corporations established pursuant to sub. (4).

(b) "City" means any city. "The city" means the particular city for which a particular housing authority is created.

(c) "Council" means the council or other body charged with governing the city.

(d) "City clerk" and "mayor" mean the clerk and mayor, respectively, of the city or the officers thereof charged with the duties customarily imposed on the clerk and mayor respectively.

(e) "Commissioner" means one of the members of an authority appointed in accordance with this section.

(f) "Government" includes the state and federal governments and any subdivision, agency or instrumentality corporate or otherwise of either of them.

(g) "State" means the state of Wisconsin.

(h) "Federal government" includes the United States of America, the federal emergency administration of public works or any agency, instrumentality, corporate or otherwise, of the United States of America.

(i) "Housing projects" include all real and personal property, building and improvements, stores, offices, lands for farming and gardening, and community facilities acquired or constructed or to be acquired or constructed pursuant to a single plan or undertaking 1. to demolish, clear, remove, alter or repair insanitary or unsafe housing for elderly persons, or 2. to provide safe and sanitary dwelling accommodations for elderly persons, or for a combination of said 1. and 2. The term "housing project" may also be applied to the planning of buildings and improvements, the acquisition of property, the demolition of existing structures and the construction, reconstruction, alteration and repair of the improvements for the purpose of providing safe and sanitary housing for elderly persons and all other work in connection therewith. A project shall not be considered housing for the elderly unless it contains at least 8 new or rehabilitated living units which are specifically designed for the use and occupancy of persons 62 years of age or over.

(j) "Community facilities" include real and personal property, and buildings and equipment for recreational or social assemblies, for educational, health or welfare purposes and necessary utilities, when designed primarily for the benefit and use of the housing authority or the occupants of the dwelling accommodations, or for both.

(k) "Bonds" mean any bonds, interim certificates, notes, debentures or other obligations of the authority issued pursuant to this section.

(l) "Mortgage" includes deeds of trust, mortgages, building and loan contracts, land contracts or other instruments conveying real or personal property as security for bonds and conferring a right to foreclose and cause a sale thereof.

(m) "Trust indenture" includes instruments pledging the revenues of real or personal properties.

(n) "Contract" means any agreement of an authority with or for the benefit of an obligee whether contained in a resolution, trust indenture, mortgage, lease, bond or other instrument.

(o) "Real property" includes lands, lands under water, structures, and any and all easements, franchises and incorporeal hereditaments and every estate and right therein, legal and equitable, including terms for years and liens by way of judgment, mortgage or otherwise.

(p) "Obligee of the authority" or "obligee" includes any bondholder trustee or trustees for any bondholders, any lessor demising property to the authority used in connection with a housing project or any assignee or assignees or such lessor's interest or any part thereof, and the United States of America, when it is a party to any contract with the authority.

(q) "Slum" means any area where dwellings predominate which, by reason of dilapidation, overcrowding, faulty arrangement or design, lack of ventilation, light or sanitary facilities, or any combination of these factors, are detrimental to safety, health and morals.

(r) "Elderly person" means a person who is 62 years of age or older on the date such person intends to occupy the premises, or a family, the head of which, or his spouse, is an elderly person as defined herein.

(s) "State public body" means any city, town, incorporated village, county, municipal corporation, commission, district, authority, other subdivision or public body of the state.

(4) CREATION OF HOUSING AUTHORITIES. (a) When the council of a city by proper resolution declares at any time hereafter that there is need for an authority to function in the city, a public body corporate and politic shall then exist in the city and be known as the "housing authority" of the city. Such authority shall then be authorized to transact business and exercise any powers herein granted to it.

(b) The council shall adopt a resolution declaring that there is need for a housing authority in the city if it finds that there is a shortage of dwelling accommodations in the city available to elderly persons.

(c) In any suit, action or proceeding involving the validity or enforcement of or relating to any contract of the authority, the authority shall be conclusively deemed to have become established and authorized to transact business and exercise its powers hereunder upon proof of the adoption of a resolution by the council declaring the need for the authority. Such resolution or resolutions shall be deemed sufficient if it declares that there is such need for an authority and finds in substantially the foregoing terms (no further detail being necessary) that either or both of the above enumerated conditions exist in the city. A copy of such resolution duly certified by the city clerk shall be admissible evidence in any suit, action or proceeding.

(5) SECTION 66.40 APPLIES. The provisions of s. 66.40 (5) to (24) (a), (25) and (26) shall apply to housing authorities and providing housing for elderly persons under this section without reference to the income of such persons.

(6) SECTIONS 66.401 TO 66.404 APPLY. The provisions of ss. 66.401 to 66.404 shall apply to housing authorities and providing housing for elderly persons under this section without reference to the income of such persons, except as follows:

(a) As set down by the federal housing authority in the case of housing projects to the financing or subsidizing of which it is a party; or

(b) As set down by the Wisconsin housing finance authority in accordance with ch. 234 in the case of housing projects to the financing of which it is a party.

(7) NOT APPLICABLE TO LOW-RENTAL HOUSING PROJECTS. This section shall not apply to projects required to provide low-rental housing only.

History: 1975 c. 94, 221; 1977 c. 418 s. 929 (55).

66.40 Housing authorities. (1) SHORT TITLE. Sections 66.40 to 66.404 may be referred to as the "Housing Authorities Law".

(2) FINDING AND DECLARATION OF NECESSITY. It is declared that there exist in the state insanitary or unsafe dwelling accommodations and that persons of low income are forced to reside in such insanitary or unsafe accommodations; that within the state there is a shortage of safe or sanitary dwelling accommodations available at rents which persons of low income can afford and that such persons are forced to occupy overcrowded and congested dwelling accommodations; that the aforesaid conditions cause an increase in and spread of disease and crime and constitute a menace to the health, safety, morals and welfare of the residents of the state and impair economic values; that these conditions necessitate excessive and disproportionate expenditures of public funds for crime prevention and punishment, public health and safety, fire and accident protection, and other public services and facilities; that these slum areas cannot be cleared, nor can the shortage of safe and sanitary dwellings for persons of low income be relieved, through the operation of private enterprise, and that the construction of housing projects for persons of low income would, therefore, not be competitive with private enterprise; that the clearance, replanning and reconstruction of the areas in which insanitary or unsafe housing conditions exist and the providing of safe and sanitary dwelling accommodations for persons of low income are public uses and purposes for which public money may be spent and private property acquired and are governmental functions of state concern; that it is in the public interest that work on such projects be commenced as soon as possible in order to relieve unemployment which now constitutes an emergency; and the necessity in the public interest for the provisions hereinafter enacted, is declared as a matter of legislative determination.

(2m) DISCRIMINATION. Persons otherwise entitled to any right, benefit, facility or privilege under ss. 66.40 to 66.404 shall not, with reference thereto, be denied them in any manner for any purpose nor be discriminated against because of sex, race, color, creed or national origin.

(3) DEFINITIONS. The following terms, wherever used or referred to in sections 66.40 to 66.404 shall have the following respective meanings, unless a different meaning clearly appears from the context:

(a) "Authority" or "housing authority" means any of the public corporations established pursuant to subsection (4).

(b) "City" means any city. "The city" means the particular city for which a particular housing authority is created.

(c) "Council" means the council or other body charged with governing the city.

(d) "City clerk" and "mayor" shall mean the clerk and mayor, respectively, of the city or the officers thereof charged with the duties customarily imposed on the clerk and mayor respectively.

(e) "Area of operation" includes the city for which a housing authority is created and the area within five miles of the territorial boundaries thereof but not beyond the county limits of the county in which such city is located and provided further that in the case of all cities the area of operation shall be limited to the area within the limits of such city unless the city shall annex the area of operation, but the area of operation of a housing authority shall not include any area which lies within the territorial boundaries of any city for which another housing authority is created by this section.

(f) "Commissioner" shall mean one of the members of an authority appointed in accordance with the provisions of sections 66.40 to 66.404.

(g) "Government" includes the state and federal governments and any subdivision, agency or instrumentality corporate or otherwise of either of them.

(h) "State" shall mean the state of Wisconsin.

(i) "Federal government" shall include the United States of America, the federal emergency administration of public works or any agency, instrumentality, corporate or otherwise, of the United States of America.

(j) "Housing projects" shall include all real and personal property, building and improvements, stores, offices, lands for farming and gardening, and community facilities acquired or constructed or to be acquired or constructed pursuant to a single plan or undertaking (a) to demolish, clear, remove, alter or repair insanitary or unsafe housing, or (b) to provide safe and sanitary dwelling accommodations for persons of low income, or for a combination of said (a) and (b). The term "housing project" may also be applied to the planning of buildings and improvements, the acquisition of property, the demolition of existing structures, the construction, reconstruction, alteration and repair of the improvements and all other work in connection therewith.

(k) "Community facilities" shall include real and personal property, and buildings and equipment for recreational or social assemblies, for educational, health or welfare purposes and necessary utilities, when designed primarily for the benefit and use of the housing authority or the occupants of the dwelling accommodations, or for both.

(l) "Bonds" shall mean any bonds, interim certificates, notes, debentures or other obligations of the authority issued pursuant to sections 66.40 to 66.404.

(m) "Mortgage" shall include deeds of trust, mortgages, building and loan contracts, land contracts or other instruments conveying real or personal property as security for bonds and conferring a right to foreclose and cause a sale thereof.

(n) "Trust indenture" shall include instruments pledging the revenues of real or personal properties.

(o) "Contract" shall mean any agreement of an authority with or for the benefit of an obligee whether contained in a resolution, trust indenture, mortgage, lease, bond or other instrument.

(p) "Real property" shall include lands, lands under water, structures, and any and all easements, franchises and incorporeal hereditaments and every estate and right therein, legal and equitable, including terms for years and liens by way of judgment, mortgage or otherwise.

(q) "Obligee of the authority" or "obligee" shall include any bondholder, trustee or trustees for any bondholders, any lessor demising property to the authority used in connection with a housing project or any assignee or assignees or such lessor's interest or any part thereof, and the United States of America, when it is a party to any contract with the authority.

(r) "Slum" means any area where dwellings predominate which, by reason of dilapidation, overcrowding, faulty arrangement or design, lack of ventilation, light or sanitary facilities, or any combination of these factors, are detrimental to safety, health and morals.

(s) "Persons of low income" means persons or families who lack the amount of income which is necessary (as determined by the authority undertaking the housing project) to enable them, without financial assistance, to live in decent, safe and sanitary dwellings, without overcrowding.

(t) "State public body" means any city, town, incorporated village, county, municipal corporation, commission, district, authority, other subdivision or public body of the state.

(4) CREATION OF HOUSING AUTHORITIES. (a) When the council of a city by proper resolution shall declare at any time hereafter that there is need for an authority to function in the city, a public body corporate and politic shall then exist in the city and be known as the "housing authority" of the city. Such authority

shall then be authorized to transact business and exercise any powers herein granted to it.

(b) The council shall adopt a resolution declaring that there is need for a housing authority in the city if it shall find that insanitary or unsafe inhabited dwelling accommodations exist in the city or that there is a shortage of safe or sanitary dwelling accommodations in the city available to persons of low income at rentals they can afford. In determining whether dwelling accommodations are unsafe or insanitary said council may take into consideration the degree of overcrowding, the percentage of land coverage, the light, air, space and access available to the inhabitants of such dwelling accommodations, the size and arrangement of the rooms, the sanitary facilities, and the extent to which conditions exist in such buildings which endanger life or property by fire or other causes.

(c) In any suit, action or proceeding involving the validity or enforcement of or relating to any contract of the authority, the authority shall be conclusively deemed to have become established and authorized to transact business and exercise its powers hereunder upon proof of the adoption of a resolution by the council declaring the need for the authority. Such resolution or resolutions shall be deemed sufficient if it declares that there is such need for an authority and finds in substantially the foregoing terms (no further detail being necessary) that either or both of the above enumerated conditions exist in the city. A copy of such resolution duly certified by the city clerk shall be admissible evidence in any suit, action or proceeding.

(5) APPOINTMENT, QUALIFICATIONS AND TENURE OF COMMISSIONERS. (a) When the council of a city adopts a resolution as aforesaid, it shall promptly notify the mayor of such adoption. Upon receiving such notice, the mayor shall, with the confirmation of the council, appoint five persons as commissioners of the authority. No commissioner may be connected in any official capacity with any political party nor shall more than two be officers of the city in which the authority is created. The powers of each authority shall be vested in the commissioners thereof in office from time to time.

(b) The commissioners who are first appointed shall be designated by the mayor to serve for terms of one, two, three, four and five years respectively from the date of their appointment. Thereafter, the term of office shall be five years. A commissioner shall hold office until his successor has been appointed and has qualified. Vacancies shall be filled for the unexpired term in the same manner as other appointments. Three commissioners shall constitute a quorum. The mayor shall file with the city clerk a certificate of the appointment or reappointment of any commissioner and such certificate shall be conclusive evidence of the due and proper appointment of such commissioner if such commissioner has been duly confirmed as herein provided and has duly taken and filed the official oath before entering upon his office. A commissioner shall receive no compensation for his services but he shall be entitled to the necessary expenses including traveling expenses incurred in the discharge of his duties.

(c) When the office of the first chairman of the authority becomes vacant, the authority shall select a chairman from among its members. An authority shall select from among its members a vice-chairman, and it may employ a secretary (who shall be executive director), technical experts and such other officers, agents and employes, permanent and temporary, as it may require, and shall determine their qualifications, duties and compensation. An authority may call upon the city attorney or chief law officer of the city for such legal services as it may require. An authority may delegate to one or more of its agents or employes such powers or duties as it may deem proper.

(6) DUTY OF THE AUTHORITY AND ITS COMMISSIONERS. The authority and its commissioners shall be under a statutory duty to comply or to cause compliance strictly with all provisions of sections 66.40 to 66.404 and the laws of the state and in addition thereto, with each and every term, provision and covenant in any contract of the authority on its part to be kept or performed.

(7) INTERESTED COMMISSIONERS OR EMPLOYES. No commissioner or employe of an authority shall acquire any interest direct or indirect in any housing project or in any property included or planned to be included in any project, nor shall he have any interest direct or indirect in any contract or proposed contract for insurance, materials or services to be furnished or used in connection with any housing project. If any commissioner or employe of an authority owns or controls an interest direct or indirect in any property included or planned to be included in any housing project, he shall immediately disclose the same in writing to the authority and such disclosure shall be entered upon the minutes of the authority. Failure to so disclose such interest shall constitute misconduct in office.

(8) REMOVAL OF COMMISSIONERS. For inefficiency or neglect of duty or misconduct in office, a commissioner of an authority may be removed by the mayor, but a commissioner shall be removed only after he shall have been given a copy of the charges at least ten days prior to the hearing thereon and had an opportunity to be heard in person or by counsel. In the event of the

removal of any commissioner, a record of the proceedings, together with the charges and findings thereon, shall be filed in the office of the city clerk. To the extent applicable, the provisions of section 17.16 relating to removal for cause shall apply to any such removal.

(9) POWERS OF AUTHORITY. An authority shall constitute a public body and a body corporate and politic, exercising public powers, and having all the powers necessary or convenient to carry out and effectuate the purposes and provisions of sections 66.40 to 66.404, including the following powers in addition to others herein granted:

(a) Within its area of operation to prepare, carry out, acquire, lease and operate housing projects approved by the council; to provide for the construction, reconstruction, improvement, alteration or repair of any housing project or any part thereof.

(b) To take over by purchase, lease or otherwise any housing project undertaken by any government and located within the area of operation of the authority when approved by the council; to purchase, lease, obtain options upon, acquire by gift, grant, bequest, devise, or otherwise, any real or personal property or any interest therein.

(c) To act as agent for any government in connection with the acquisition, construction, operation or management of a housing project or any part thereof.

(d) To arrange or contract for the furnishing of services, privileges, works, or facilities for, or in connection with, a housing project or the occupants thereof.

(e) To lease or rent any dwellings, houses, accommodations, lands, buildings, structures or facilities embraced in any housing project and (subject to the limitations contained in this section) to establish and revise the rents or charges therefor.

(f) Within its area of operation to investigate into living, dwelling and housing conditions and into the means and methods of improving such conditions; and to engage in research and studies on the subject of housing.

(h) To acquire by eminent domain any real property, including improvements and fixtures thereon.

(i) To own, hold, clear and improve property, to insure or provide for the insurance of the property or operations of the authority against such risks as the authority may deem advisable, to procure insurance or guarantees from the federal government of the payment of any debts or parts thereof secured by mortgages made or held by the authority on any property included in any housing project.

(j) To contract for sale and sell any part or all of the interest in real estate acquired and to execute such contracts of sale and conveyances as the authority may deem desirable.

(k) In connection with any loan, to agree to limitations upon its right to dispose of any housing project or part thereof.

(l) In connection with any loan by a government, to agree to limitations upon the exercise of any powers conferred upon the authority by sections 66.40 to 66.404.

(m) To invest any funds held in reserve or sinking funds, or any funds not required for immediate disbursement, in property or securities in which savings banks may legally invest funds subject to their control.

(n) To sue and be sued, to have a seal and to alter the same at pleasure, to have perpetual succession, to make and execute contracts and other instruments necessary or convenient to the exercise of the powers of the authority.

(o) To make and from time to time amend and repeal by-laws, rules and regulations not inconsistent with sections 66.40 to 66.404, to carry into effect the powers and purposes of the authority.

(p) To exercise all or any part or combination of powers herein granted. No provisions of law with respect to the acquisition or disposition of property by other public bodies shall be applicable to an authority unless the legislature shall specifically so state.

(q) The bonds, notes, debentures or other evidences of indebtedness executed by a housing authority shall not be a debt or charge against any city, county, state or any other governmental authority, other than against said housing authority itself and its available property, income or other assets in accordance with the terms thereof and of this act, and no individual liability shall attach for any official act done by any member of such authority. No such authority shall have any power whatsoever to levy any tax or assessment.

(r) To provide by all means available under sections 66.40 to 66.404 housing projects for veterans and their families regardless of their income. Such projects shall not be subject to the limitations of section 66.402.

(s) Notwithstanding the provisions of any law in conflict herewith, the housing authority of any city is expressly authorized to acquire sites, to prepare, to carry out, acquire, lease, construct and operate housing projects to provide temporary dwelling accommodations for families regardless of income who are displaced under the provisions of sections 66.40 to 66.43, to further slum clearance, urban redevelopment, blight elimination, and to provide temporary dwelling accommodations for families displaced

by reason of any street widening, expressway or other public works project causing the demolition of dwellings.

(t) To participate in an employe retirement or pension system of the city which has declared the need for the authority and to expend funds of the authority for such purpose.

(u) Any 2 or more authorities, except authorities of cities of the 1st class, may join or cooperate with one another in the exercise, either jointly or otherwise, of any or all of their powers for the purpose of financing (including the issuance of bonds, notes or other obligations and giving security therefor), planning, undertaking, owning, constructing, operating or contracting with respect to a housing project located within the area of operation of any one or more of said authorities. For such purpose an authority may by resolution prescribe and authorize any other housing authority, so joining or cooperating with it, to act on its behalf with respect to any or all powers, as its agent or otherwise, in the name of the authority so joining or cooperating or in its own name.

(10) EMINENT DOMAIN. (a) The authority shall have the right to acquire by eminent domain any real property, including fixtures and improvements, which it may deem necessary to carry out the purposes of sections 66.40 to 66.404 after the adoption by it of a resolution declaring that the acquisition of the property described therein is in the public interest and necessary for public use. The authority may exercise the power of eminent domain pursuant to the provisions of chapter 32 or pursuant to any other applicable statutory provisions, now in force or hereafter enacted for the exercise of the power of eminent domain.

(b) At any time at or after the filing for condemnation, and before the entry of final judgment, the authority may file with the clerk of the court in which the petition is filed, a declaration of taking signed by the duly authorized officer or agent of the authority declaring that all or any part of the property described in the petition is to be taken for the use of the authority. The said declaration of taking shall be sufficient as it sets forth: (1) a description of the property, sufficient for the identification thereof, to which there may be attached a plat or map thereof; (2) a statement of the estate or interest in said property being taken; (3) a statement of the sum of money estimated by the authority to be just compensation for the property taken, which sum shall be not less than the last assessed valuation for tax purposes of the estate or interest in the property to be taken.

(c) From the filing of the said declaration of taking and the deposit in court to the use of the persons entitled thereto of the amount of the estimated compensation stated in said declaration, title to the property specified in said declaration shall vest in the authority and said property shall be deemed to be condemned and taken for the use of the authority and the right to just compensation for the same shall vest in the persons entitled thereto. Upon the filing of the declaration of taking the court shall designate a day (not exceeding 30 days after such filing, except upon good cause shown) on which the person in possession shall be required to surrender possession to the authority.

(d) The ultimate amount of compensation shall be vested in the manner provided by law. If the amount so vested shall exceed the amount so deposited in court by the authority, the court shall enter judgment against the authority in the amount of such deficiency together with interest at the rate of 6 per cent per annum on such deficiency from the date of the vesting of title to the date of the entry of the final judgment (subject, however, to abatement for use, income, rents or profits derived from such property by the owner thereof subsequent to the vesting of title in the authority) and the court shall order the authority to deposit the amount of such deficiency in court.

(e) At any time prior to the vesting of title of property in the authority the authority may withdraw or dismiss its petition with respect to any and all of the property therein described.

(f) Upon vesting of title to any property in the authority, all the right, title and interest of all persons having an interest therein or lien thereupon, shall be divested immediately and such persons thereafter shall be entitled only to receive compensation for such property.

(g) Except as hereinabove provided with reference to the declaration of taking, the proceedings shall be as is or may hereafter be provided by law for condemnation, and the deposit in court of the amount estimated by the authority upon a declaration of taking, shall be disbursed as is or may hereafter be provided by law for an award in condemnation proceedings.

(h) Property already devoted to a public use may be acquired, provided that no property belonging to any city or municipality or to any government may be acquired without its consent and that no property belonging to a public utility corporation may be acquired without the approval of the commission or other officer or tribunal, if any there be, having regulatory power over such corporation.

(11) ACQUISITION OF LAND FOR GOVERNMENT. The authority may acquire by purchase or by the exercise of its power of eminent domain as aforesaid, any property, real or personal, for any housing project being constructed or operated by a government. The authority upon such

terms and conditions, with or without consideration, as it shall determine, may convey title or deliver possession of such property so acquired or purchased to such government for use in connection with such housing project.

(12) ZONING AND BUILDING LAWS. All housing projects of an authority shall be subject to the planning, zoning, sanitary and building laws, ordinances and regulations applicable to the locality in which the housing project is situated.

(13) TYPES OF BONDS. (a) An authority shall have power to issue bonds from time to time in its discretion, for any of its corporate purposes. An authority may issue such types of bonds as it may determine, including (without limiting the generality of the foregoing) bonds on which the principal and interest are payable: (1) exclusively from the income and revenues of the housing project financed with the proceeds of such bonds, or with such proceeds together with a grant from the federal government in aid of such project; (2) exclusively from the income and revenues of certain designated housing projects whether or not they were financed in whole or in part with the proceeds of such bonds; or (3) from its revenues generally. Any of such bonds may be additionally secured by a pledge of any revenues or (subject to the limitation hereinafter imposed) a mortgage of any housing project, projects or other property of the authority.

(b) Neither the commissioners of the authority nor any person executing the bonds shall be liable personally on the bonds by reason of the issuance thereof.

(c) The bonds and other obligations of the authority (and such bonds and obligations shall so state on their face) shall not be a debt of any city or municipality located within its boundaries or of the state and neither the state nor any such city or municipality shall be liable thereon, nor in any event shall they be payable out of any funds or properties other than those of the authority.

(14) FORM AND SALE OF BONDS. (a) Bonds of an authority shall be authorized by its resolution and may be issued in one or more series and shall bear such date or dates, mature at such time or times, bear interest at such rate or rates, be in such denomination or denominations, be in such form, either coupon or registered, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable in such medium of payment, at such place or places, and be subject to such terms of redemption (with or without premium) as such resolution, its trust indenture or mortgage may provide. Any bond reciting in substance that it has been issued by an authority to aid in financing a housing project to provide dwelling accommodations for persons of low income shall be conclusively deemed, in any suit, action or proceeding involving the validity or enforceability of such bond or the security therefor, to have been issued for a housing project of such character. Bonds of an authority are declared to be issued for an essential public and governmental purpose and to be public instrumentalities and, together with interest thereon and income therefrom, shall be exempt from taxes.

(b) The bonds may be sold at public or private sale as the authority may provide. The bonds may be sold at such price or prices as the authority shall determine.

(c) In case any of the officers whose signatures appear on any bonds or coupons shall cease to be such officers before the delivery of such bonds, such signatures shall, nevertheless, be valid and sufficient for all purposes, the same as if they had remained in office until such delivery.

(d) The authority shall have power out of any funds available therefor to purchase any bonds issued by it at a price not more than the principal amount thereof and the accrued interest; provided, however, that bonds payable exclusively from the revenues of a designated project or projects shall be purchased only out of any such revenues available therefor. All bonds so purchased shall be canceled. This paragraph shall not apply to the redemption of bonds.

(e) Any provision of any law to the contrary notwithstanding, any bonds, interim certificates, or other obligations issued pursuant to sections 66.40 to 66.404 shall be fully negotiable.

(15) PROVISIONS OF BONDS, TRUST INDENTURES, AND MORTGAGES. In connection with the issuance of bonds or the incurring of any obligation under a lease and in order to secure the payment of such bonds or obligations, the authority shall have power:

(a) To pledge by resolution, trust indenture, mortgage (subject to the limitations hereinafter imposed), or other contract all or any part of its rents, fees, or revenues.

(b) To covenant against mortgaging all or any part of its property, real or personal, then owned or thereafter acquired, or against permitting or suffering any lien thereon.

(c) To covenant with respect to limitations on its right to sell, lease or otherwise dispose of any housing project or any part thereof, or with respect to limitations on its right to undertake additional housing projects.

(d) To covenant against pledging all or any part of its rents, fees and revenues to which its right then exists or the right to which may

thereafter come into existence or against permitting or suffering any lien thereon.

(e) To provide for the release of property, rents, fees and revenues from any pledge or mortgage, and to reserve rights and powers in, or the right to dispose of, property which is subject to a pledge or mortgage.

(f) To covenant as to the bonds to be issued pursuant to any resolution, trust indenture, mortgage or other instrument and as to the issuance of such bonds in escrow or otherwise, and as to the use and disposition of the proceeds thereof.

(g) To provide for the terms, form, registration, exchange, execution and authentication of bonds.

(h) To provide for the replacement of lost, destroyed or mutilated bonds.

(i) To covenant that the authority warrants the title to the premises.

(j) To covenant as to the rents and fees to be charged, the amount to be raised each year or other period of time by rents, fees and other revenues and as to the use and disposition to be made thereof.

(k) To covenant as to the use of any or all of its property, real or personal.

(l) To create or to authorize the creation of special funds in which there shall be segregated (a) the proceeds of any loan or grant or both; (b) all of the rents, fees and revenues of any housing project or projects or parts thereof; (c) any moneys held for the payment of the costs of operations and maintenance of any such housing projects or as a reserve for the meeting of contingencies in the operation and maintenance thereof; (d) any moneys held for the payment of the principal and interest on its bonds or the sums due under its leases or as a reserve for such payments; and (e) any moneys held for any other reserves or contingencies; and to covenant as to the use and disposal of the moneys held in such funds.

(m) To redeem the bonds, and to covenant for their redemption and to provide the terms and conditions thereof.

(n) To covenant against extending the time for the payment of its bonds or interest thereon, directly or indirectly, by any means or in any manner.

(o) To prescribe the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto and the manner in which such consent may be given.

(p) To covenant as to the maintenance of its property, the replacement thereof, the insurance to be carried thereon and the use and disposition of insurance moneys.

(q) To vest in an obligee of the authority the right, in the event of the failure of the authority to observe or perform any covenant on its part to be kept or performed, to cure any such default and to advance any moneys necessary for such purpose, and the moneys so advanced may be made an additional obligation of the authority with such interest, security and priority as may be provided in any trust indenture, mortgage, lease or contract of the authority with reference thereto.

(r) To covenant and prescribe as to the events of default and terms and conditions upon which any or all of its bonds shall become or may be declared due before maturity and as to the terms and conditions upon which such declaration and its consequences may be waived.

(s) To covenant as to the rights, liabilities, powers and duties arising upon the breach by it of any covenant, condition or obligation.

(t) To covenant to surrender possession of all or any part of any housing project or projects upon the happening of an event of default (as defined in the contract) and to vest in an obligee the right to take possession and to use, operate, manage and control such housing projects or any part thereof, and to collect and receive all rents, fees and revenues arising therefrom in the same manner as the authority itself might do and to dispose of the moneys collected in accordance with the agreement of the authority with such obligee.

(u) To vest in a trust or trustees the right to enforce any covenant made to secure, to pay, or in relation to the bonds, to provide for the powers and duties of such trustee or trustees, to limit liabilities thereof and to provide the terms and conditions upon which the trustee or trustees or the holders of bonds or any proportion of them may enforce any such covenant.

(v) To make covenants other than and in addition to the covenants herein expressly authorized, of like or different character.

(w) To execute all instruments necessary or convenient in the exercise of the powers herein granted or in the performance of its covenants or duties, which may contain such covenants and provisions, in addition to those above specified as the government or any purchaser of the bonds of the authority may reasonably require.

(x) To make such covenants and to do any and all such acts and things as may be necessary or convenient or desirable in order to secure its bonds, or in the absolute discretion of the authority tend to make the bonds more marketable; notwithstanding that such covenants, acts or things may not be enumerated herein; it being the intention hereof to give the authority power to do all things in the issuance of bonds, in the

provisions for their security that are not inconsistent with the constitution of the state and no consent or approval of any judge or court shall be required thereof; provided, however, that the authority shall have no power to mortgage all or any part of its property, real or personal, except as provided in subsection (16) hereof.

(16) POWER TO MORTGAGE WHEN PROJECT FINANCED WITH AID OF GOVERNMENT. In connection with any project financed in whole or in part, or otherwise aided by a government (whether through a donation of money or property, a loan, the insurance or guarantee of a loan, or otherwise), the authority shall also have power to mortgage all or any part of its property, real or personal, then owned or thereafter acquired, to grant security interests in such property, and to issue its note or other obligation as may be required by the government. For purposes of this subsection, "government" includes the Wisconsin housing finance authority.

(17) REMEDIES OF AN OBLIGEE OF AUTHORITY. An obligee of the authority shall have the right in addition to all other rights which may be conferred on such obligee subject only to any contractual restrictions binding upon such obligee:

(a) By mandamus, suit, action or proceeding in law or equity (all of which may be joined in one action) to compel the authority, and the commissioners, officers, agents or employes thereof to perform each and every term, provision and covenant contained in any contract of the authority, and to require the carrying out of any or all covenants and agreements of the authority and the fulfillment of all duties imposed upon the authority by sections 66.40 to 66.404.

(b) By suit, action or proceeding in equity to enjoin any acts or things which may be unlawful, or the violation of any of the rights of such obligee of the authority.

(c) By suit, action or proceeding in any court of competent jurisdiction to cause possession of any housing project or any part thereof to be surrendered to any obligee having the right to such possession pursuant to any contract of the authority.

(18) ADDITIONAL REMEDIES CONFERRABLE BY MORTGAGE OR TRUST INDENTURE. Any authority shall have power by its trust indenture, mortgage, lease or other contract to confer upon any obligee holding or representing a specified amount in bonds, lease or other obligations, the right upon the happening of an "event of default" as defined in such instrument:

(a) By suit, action or proceeding in any court of competent jurisdiction to obtain the appointment of a receiver of any housing project of the authority or any part or parts thereof. If such receiver be appointed, he may enter and take possession of such housing project or any part or parts thereof and operate and maintain same, and collect and receive all fees, rents, revenues or other charges thereafter arising therefrom in the same manner as the authority itself might do and shall keep such moneys in a separate account or accounts and apply the same in accordance with the obligations of the authority as the court shall direct.

(b) By suit, action or proceeding in any court of competent jurisdiction to require the authority and the commissioners thereof to account as if it and they were the trustees of an express trust.

(19) REMEDIES CUMULATIVE. All the rights and remedies hereinabove conferred shall be cumulative and in addition to all other rights and remedies that may be conferred upon such obligee of the authority by law or by any contract with the authority.

(20) SUBORDINATION OF MORTGAGE TO AGREEMENT WITH GOVERNMENT. The authority may agree in any mortgage made by it that such mortgage shall be subordinate to a contract for the supervision by a government of the operation and maintenance of the mortgaged property and the construction of improvements thereon; in such event, any purchaser or purchasers at a sale of the property of an authority pursuant to a foreclosure of such mortgage or any other remedy in connection therewith shall obtain title subject to such contract.

(21) CONTRACTS WITH FEDERAL GOVERNMENT. In addition to the powers conferred upon the authority by other provisions of sections 66.40 to 66.404, the authority is empowered to borrow money or accept grants from the federal government for or in aid of any housing project which such authority is authorized to undertake, to take over any land acquired by the federal government for the construction or operation of a housing project, to take over or lease or manage any housing project constructed or owned by the federal government, and to these ends, to enter into such contracts, mortgages, trust indentures, leases or other agreements as the federal government may require including agreements that the federal government shall have the right to supervise and approve the construction, maintenance and operation of such housing project. It is the purpose and intent of this section to authorize every council to do any and all things necessary to secure the financial aid and the co-operation of the federal government in the undertaking, construction,

maintenance and operation of any housing project which the authority is empowered to undertake.

(22) TAX EXEMPTION AND PAYMENTS IN LIEU OF TAXES. The property of an authority is declared to be public property used for essential public and governmental purposes and such property and an authority shall be exempt from all taxes of the state or any state public body; provided, however, that the city in which a project or projects are located may fix a sum to be paid annually in lieu of such taxes by the authority for the services, improvements or facilities furnished to such project or projects by such city, but in no event shall such sum exceed the amount that would be levied as the annual tax of such city upon such project or projects.

(23) REPORTS. The authority shall at least once a year file with the mayor of the city a report of its activities for the preceding year.

(24) BIDS. (a) When a housing authority has the approval of the council for any project authorized under sub. (9) (a) or (b), the authority shall complete and approve plans, specifications and conditions in connection therewith for carrying out such project, and shall then advertise by publishing a class 2 notice, under ch. 985, for bids for all work which the authority must do by contract, except that the authority is not required to submit for bidding any contract in an amount of $3,000 or less. The contract shall be awarded to the lowest qualified and competent bidder. Section 66.29 of the statutes shall apply to such bidding.

(b) An authority may contract for the acquisition of a housing project without submitting the contract for bids as required by par. (a) if:

1. The contract provides for undertaking of the housing project on land not owned at the time of the contract by the authority except the contract may provide for undertaking of the housing project on land acquired and owned by a community development authority for the purpose of ss. 66.405 to 66.425, 66.43, 66.431 or 66.46 if the community development authority is proceeding under this paragraph as provided by s. 66.4325 (4);

2. The contract provides for conveyance or lease of the project to the authority after completion of the project; and

3. The authority invites developers to submit proposals to provide a completed project and evaluates proposals according to site, cost, design, the developer's experience and other criteria specified by the authority.

(25) LIQUIDATION AND DISPOSAL OF HOUSING PROJECTS. (a) In any city or village the city council or village board by resolution or ordinance, or the electors by referendum under s. 9.20, may provide that the authority shall liquidate and dispose of a particular project or projects held and operated under ss. 66.40 to 66.404 or 66.43.

(b) Whenever liquidation and disposal of a project is provided for under par. (a) the housing authority or other designated agency shall sell such project to the highest bidder after public advertisement, or transfer it to any state public body authorized by law to acquire such project. No such project shall be sold for less than its fair market value as determined by a board of 3 licensed appraisers appointed by the city council or village board.

(c) The arrangements for the liquidation and disposal of a project shall provide for the payment and retirement of all outstanding obligations in connection with the project, together with interest thereon and any premiums prescribed for the redemption of any bonds, notes or other obligations before maturity.

(d) Any proceeds remaining after payment of such obligations under par. (c) shall be distributed in accordance with the federal law applicable at the time of the liquidation and disposal of the project. If no federal law is applicable to the liquidation and disposal of the project all of such remaining proceeds shall be paid to the city or village.

(e) If the highest bid received is insufficient for the payment of all obligations set forth in par. (c) the project shall not be sold unless the city or village provides sufficient additional funds to discharge such obligations.

(f) In order to carry out this subsection an authority or other designated agency shall exercise any option available to it for the payment and redemption of outstanding obligations set forth in par. (c) before maturity, if the city or village provides funds for such payment and redemption.

(g) No actions taken under this subsection shall affect or diminish the rights of any bondholders or other obligees of the authority.

(h) The term "outstanding obligations" or "obligations" as used herein includes bonds, notes or evidences of indebtedness, as well as aids, grants, contributions or loans made by or received from any federal, state or local political government or agency.

(26) DISSOLUTION OF HOUSING AUTHORITY. Any housing authority may be dissolved upon adoption of an ordinance or resolution by the council or village board concerned declaring that the need therefor no longer exists, that all projects under such authority's jurisdiction have been disposed of, that there are no outstanding obligations or contracts and that no further

business remains to be transacted by such authority.

History: 1973 c. 172; 1975 c. 94, 221, 350; 1977 c. 418.

66.401 Housing authorities; operation not for profit. (1) It is declared to be the policy of this state that each housing authority shall manage and operate its housing projects in an efficient manner so as to enable it to fix the rentals for dwelling accommodations at the lowest possible rates consistent with its providing decent, safe and sanitary dwelling accommodations, and that no housing authority shall construct or operate any such project for profit, or as a source of revenue to the city.

(2) To this end an authority shall fix the rentals for dwellings in its projects at no higher rates than it shall find to be necessary in order to produce revenues which (together with all other available moneys, revenues, income and receipts of the authority from whatever sources derived) will be sufficient:

(a) To pay, as the same become due, the principal and interest on the bonds of the authority;

(b) To meet the cost of, and to provide for, maintaining and operating the projects (including the cost of any insurance) and the administrative expenses of the authority;

(c) To create (during not less than the 6 years immediately succeeding its issuance of any bonds) a reserve sufficient to meet the largest principal and interest payments which will be due on such bonds in any one year thereafter and to maintain such reserve.

66.402 Housing authorities; rentals and tenant selection. (1) In the operation or management of housing projects an authority shall at all times observe the following duties with respect to rentals and tenant selection:

(a) It may rent or lease the dwelling accommodations therein only to persons of low income and at rentals within the financial reach of such persons of low income.

(b) It may rent or lease to a tenant dwelling accommodations consisting of the number of rooms (but no greater number) which it deems necessary to provide safe and sanitary accommodations to the proposed occupants thereof, without overcrowding.

(c) It shall not accept any person as a tenant in any housing project if the person or persons who would occupy the dwelling accommodations have an aggregate annual income in excess of 5 times the annual rental of the quarters to be furnished such person or persons, except that in the case of families with minor dependents such aggregate annual income may exceed 5 times the annual rental of the quarters to be furnished by $100 for each minor dependent or by an amount equal to the annual income of the minor dependents; in computing the rental for this purpose of selecting tenants, there shall be included in the rental the average annual cost (as determined by the authority) to the occupants, of heat, water, electricity, gas, cooking range and other necessary services or facilities, whether or not the charge for such services and facilities is in fact included in the rental. For the purposes of this subsection, a minor shall mean a person less than 18 years of age.

(2) Nothing contained in the housing authorities law, as hereby amended, shall be construed as limiting the power of an authority:

(a) To invest in an obligee the right, in the event of a default by the authority, to take possession of a housing project or cause the appointment of a receiver thereof, free from all the restrictions imposed by said law, as amended, with respect to rentals, tenant selection, manner of operation, or otherwise; or

(b) Pursuant to section 66.40 (16) to vest in obligees the right, in the event of a default by the authority, to acquire title to a housing project or the property mortgaged by the housing authority, free from all the restrictions imposed by sections 66.401 and 66.402.

(3) Subsection (1) (a) and (c) does not apply in the case of housing projects to the financing of which the Wisconsin housing finance authority is a party, as to which ch. 234 shall be controlling.

History: 1971 c. 213 s. 5; 1975 c. 221.

66.403 Housing authorities; co-operation in housing projects. For the purpose of aiding and co-operating in the planning, undertaking, construction or operation of housing projects located within the area in which it is authorized to act, any state public body may upon such terms, with or without consideration, as it may determine:

(1) Dedicate, sell, convey or lease any of its property to a housing authority or the federal government;

(2) Cause parks, playgrounds, recreational, community, educational, water, sewer or drainage facilities, or any other works which it is otherwise empowered to undertake, to be furnished adjacent to or in connection with housing projects;

(3) Cause services to be furnished to the authority of the character which it is otherwise empowered to furnish;

(4) Subject to the approval of the council, furnish, dedicate, close, pave, install, grade, regrade, plan or replan streets, roads, roadways,

alleys, sidewalks or other places which it is otherwise empowered to undertake;

(5) Enter into agreements, (which may extend over any period, notwithstanding any provision or rule of law to the contrary) with a housing authority or the federal government respecting action to be taken by such state public body pursuant to any of the powers granted by sections 66.40 to 66.404;

(6) Do any and all things, necessary or convenient to aid and co-operate in the planning, undertaking, construction or operation of such housing projects;

(7) Purchase or legally invest in any of the bonds of a housing authority and exercise all of the rights of any holder of such bonds;

(8) With respect to any housing project which a housing authority has acquired or taken over from the federal government and which the housing authority by resolution has found and declared to have been constructed in a manner that will promote the public interest and afford necessary safety, sanitation and other protection, no state public body shall require any changes to be made in the housing project or the manner of its construction or take any other action relating to such construction;

(9) In connection with any public improvements made by a state public body in exercising the powers herein granted, such state public body may incur the entire expense thereof. Any law or statute to the contrary notwithstanding, any sale, conveyance, lease or agreement provided for in sections 66.40 to 66.404 may be made by a state public body without appraisal, public notice, advertisement or public bidding.

66.404 Housing authorities; contracts with city; assistance to counties and municipalities. (1) CONTRACTS BETWEEN AUTHORITY AND CITY. In connection with any housing project located wholly or partly within the area in which it is authorized to act, any city may agree with an authority or government that a certain sum (subject to the limitations imposed by section 66.40 (22)), or that no sum, shall be paid by the authority in lieu of taxes for any year or period of years.

(2) ADVANCES TO HOUSING AUTHORITY. When any housing authority which is created for any city becomes authorized to transact business and exercise its powers therein, the governing body of the city, may immediately make an estimate of the amount of money necessary for the administrative expenses and overhead of such housing authority during the first year thereafter, and may appropriate such amount to the authority out of any moneys in such city treasury not appropriated to some other purposes. The moneys so appropriated may be paid to the authority as a donation. Any city, town or incorporated village located in whole or in part within the area of operation of a housing authority shall have the power from time to time to lend or donate money to the authority or to agree to take such action. The housing authority, when it has money available therefor, shall make reimbursements for all such loans made to it.

(3) PROJECT SUBMITTED TO PLANNING COMMISSION. Before any housing project of the character designated in section 66.40 (9) (a) be determined upon by the authority, or any real estate acquired or agreed to be acquired for such project or the construction of any of the buildings begins or any application made for federal loan or grant for such project, the extent thereof and the general features of the proposed layout indicating in a general way the proposed location of buildings and open spaces shall be submitted to the planning commission, if any, of the city or political subdivision in which the proposed project is located, for the advice of such planning commission upon the proposed location, extent, and general features of the layout.

(4) CO-OPERATION WITH CITIES, VILLAGES AND COUNTIES. For the purpose of co-operating with and assisting cities, villages and counties, a housing authority may exercise its powers in the territory within the boundaries of any city, village or county not included in the area in which such housing authority is then authorized to function, or in any designated portion of such territory, after the governing body of such city, village or county, as the case may be, adopts a resolution declaring that there is a need for the authority to function in such territory or in such designated portion thereof. If a housing authority has previously been authorized to exercise its powers in such territory or designated portion, such a resolution shall not be adopted unless such housing authority finds that ultimate economy would thereby be promoted, and such housing authority shall not initiate any housing project in such territory or designated portion after the adoption of such a resolution.

(6) CONTROLLING STATUTES. Insofar as ss. 66.40 to 66.404 are inconsistent with any other law, the provisions of ss. 66.40 to 66.404 shall be controlling.

(7) SUPPLEMENTAL NATURE OF STATUTE. The powers conferred by sections 66.40 to 66.404 shall be in addition and supplemental to the powers conferred by any other law.

66.405 Urban redevelopment. (1) SHORT TITLE. Sections 66.405 to 66.425 shall be known

and may be cited and referred to as the "Urban Redevelopment Law".

(2) FINDING AND DECLARATION OF NECESSITY. It is declared that in the cities of the state substandard and insanitary areas exist which have resulted from inadequate planning, excessive land coverage, lack of proper light, air and open space, defective design and arrangement of buildings, lack of proper sanitary facilities, and the existence of buildings, which, by reason of age, obsolescence, inadequate or outmoded design, or physical deterioration have become economic or social liabilities, or both; that such conditions are prevalent in areas where substandard, insanitary, outworn or outmoded industrial, commercial or residential buildings prevail; that such conditions impair the economic value of large areas, infecting them with economic blight, and that such areas are characterized by depreciated values, impaired investments, and reduced capacity to pay taxes, that such conditions are chiefly in areas which are so subdivided into small parcels in divided ownerships and frequently with defective titles, that their assembly for purposes of clearance, replanning, rehabilitation and reconstruction is difficult and costly; that the existence of such conditions and the failure to clear, replan, rehabilitate or reconstruct these areas results in a loss of population by the areas and further deterioration, accompanied by added costs to the communities for creation of new public facilities and services elsewhere; that it is difficult and uneconomic for individual owners independently to undertake to remedy such conditions; that it is desirable to encourage owners of property or holders of claims thereon in such areas to join together and with outsiders in corporate groups for the purpose of the clearance, replanning, rehabilitation and reconstruction of such areas by joint action; that it is necessary to create, with proper safeguards, inducements and opportunities for the employment of private investment and equity capital in the clearance, replanning, rehabilitation and reconstruction of such areas; that such conditions require the employment of such capital on an investment rather than a speculative basis, allowing however, the widest latitude in the amortization of any indebtedness created thereby; that such conditions further require the acquisition at fair prices of adequate areas, the gradual clearance of such areas through demolition of existing obsolete, inadequate, unsafe and insanitary buildings and the redevelopment of such areas under proper supervision with appropriate planning, land use and construction policies; that the clearance, replanning, rehabilitation and reconstruction of such areas on a large scale basis are necessary for the public welfare; that the clearance, replanning, reconstruction and rehabilitation of such areas are public uses and purposes for which private property may be acquired; that such substandard and insanitary areas constitute a menace to the health, safety, morals, welfare and reasonable comfort of the citizens of the state; that such conditions require the aid of redevelopment corporations for the purpose of attaining the ends herein recited; that the protection and promotion of the health, safety, morals, welfare and reasonable comfort of the citizens of the state are matters of public concern; and the necessity in the public interest for the provisions hereinafter enacted is hereby declared as a matter of legislative determination.

(2m) DISCRIMINATION. Persons otherwise entitled to any right, benefit, facility or privilege under ss. 66.405 to 66.425 shall not, with reference thereto, be denied them in any manner for any purpose nor be discriminated against because of sex, race, color, creed or national origin.

(3) DEFINITIONS. The following terms, as used in sections 66.405 to 66.425, shall, unless a different intent clearly appears from the context, be construed as follows:

(a) "Area" means a portion of a city which its planning commission finds to be substandard or insanitary, so that the clearance, replanning, rehabilitation or reconstruction thereof is necessary or advisable to effectuate the public purposes declared in sub. (2); and may include any buildings or improvements not in themselves substandard or insanitary, and any real property, whether improved or unimproved, the inclusion of which is deemed necessary for the effective clearance, replanning, reconstruction or rehabilitation of the area of which such buildings, improvements or real property form a part; and also includes vacant land which is in such proximity to other land or structures so as to impair the economic value thereof.

(c) "City" shall mean any city in the state.

(d) "Development" shall mean a specific work, repair or improvement to put into effect a development plan and shall include the real property, buildings and improvements owned, constructed, managed or operated by a redevelopment corporation.

(e) "Development area" shall mean that portion of an area to which a development plan is applicable.

(f) "Development cost" shall mean the amount determined by the planning commission to be the actual cost of the development, or of the part thereof for which such determination is made, and shall include, among other costs, the reasonable costs of planning the development, including preliminary studies and surveys, neighborhood planning, and architectural and engineering services, legal and incorporation

expense, the actual cost, if any, of alleviating hardship to families occupying dwelling accommodations in the development area where such hardship results from the execution of the development plan, the reasonable costs of financing the development, including carrying charges during construction, working capital in an amount not exceeding 5 per cent of development cost, the actual cost of the real property included in the development, the actual cost of demolition of existing structures, the actual cost of utilities, landscaping and roadways, the amount of special assessments subsequently paid, the actual cost of construction, equipment and furnishing of buildings and improvements, including architectural, engineering and builder's fees, the actual cost of reconstruction, rehabilitation, remodeling or initial repair of existing buildings and improvements, reasonable management costs until the development is ready for use, and the actual cost of improving that portion of the development area which is to remain as open space, together with such additions to development cost as shall equal the actual cost of additions to or changes in the development in accordance with the original development plan or after approved changes in or amendments thereto.

(g) "Development plan" shall mean a plan for the redevelopment of all or any part of an area, and shall include any amendments thereto approved in accordance with the requirements of s. 66.407.

(h) "Local governing body" shall mean the board of aldermen, common council, council, commission or other board or body vested by the charter of the city or other law with jurisdiction to adopt or enact ordinances or local laws.

(n) "Mortgage" shall mean a mortgage, trust indenture, deed of trust, building and loan contract or other instrument creating a lien on real property, and the indebtedness secured by each of them.

(o) "Neighborhood unit" shall mean a primarily residential district having the facilities necessary for well-rounded family living, such as schools, parks, playgrounds, parking areas and local shopping districts.

(p) "Planning commission" shall mean the official bureau, board, commission or agency of the city established under the general city law or under a general or special charter and authorized to prepare, adopt and amend or modify a master plan for the development of the city.

(q) "Real property" shall include lands, buildings, improvements, land under water, waterfront property, and any and all easements, franchises and hereditaments, corporeal or incorporeal, and every estate, interest, privilege, easement, franchise and right therein, or appurtenant thereto, legal or equitable, including rights-of-way, terms for years and liens, charges, or incumbrances by mortgage, judgment or otherwise.

(r) "Redevelopment" shall mean the clearance, replanning, reconstruction or rehabilitation of an area or part thereof, and the provision of such industrial, commercial, residential or public structures or spaces as may be appropriate, including recreational and other facilities incidental or appurtenant thereto.

(s) "Redevelopment corporation" shall mean a corporation carrying out a redevelopment plan under sections 66.405 to 66.425.

History: 1975 c. 94

66.406 Urban redevelopment; plans, approval. (1) A development plan shall contain such information as the planning commission shall, by rule or regulation require, including:

(a) A metes and bounds description of the development area;

(b) A statement of the real property in the development area fee title to which the city proposes to acquire and a statement of the interests to be acquired in any other real property by the city;

(c) A statement of the various stages, if more than one is intended, by which the development is proposed to be constructed or undertaken, and the time limit for the completion of each stage, together with a metes and bounds description of the real property to be included in each stage;

(d) A statement of the existing buildings or improvements in the development area, to be demolished immediately, if any;

(e) A statement of the existing buildings or improvements, in the development area not to be demolished immediately, if any, and the approximate period of time during which the demolition, if any, of each such building or improvement is to take place;

(f) A statement of the proposed improvements, if any, to each building not to be demolished immediately, any proposed repairs or alterations to such building, and the approximate period of time during which such improvements, repairs or alterations are to be made;

(g) A statement of the type, number and character of each new industrial, commercial, residential or other building or improvement to be erected or made; and a statement of the maximum limitations upon the bulk of such buildings or improvements to be permitted at various stages of the development plan;

(h) A statement of those portions, if any, of the development area which may be permitted or will be required to be left as open space, the use to which each such open space is to be put,

the period of time each such open space will be required to remain an open space and the manner in which it will be improved and maintained, if at all;

(i) A statement of the proposed changes, if any, in zoning ordinances or maps, necessary or desirable for the development and its protection against blighting influences;

(j) A statement of the proposed changes, if any, in streets or street levels and any proposed street closings;

(k) A statement of the character of the existing dwelling accommodations, if any, in the development area, the approximate number of families residing therein, together with a schedule of the rentals being paid by them, and a schedule of the vacancies in such accommodations, together with the rental demanded therefor;

(l) A statement of the character, approximate number of units, approximate rentals and approximate date of availability of the proposed dwelling accommodations, if any, to be furnished during construction and upon completion of the development;

(m) A statement of the proposed method of financing the development, in sufficient detail to evidence the probability that the redevelopment corporation will be able to finance or arrange to finance the development;

(n) A statement of persons who it is proposed will be active in or associated with the management of the corporation during a period of at least one year from the date of the approval of the development plan.

(o) The development plan, and any application to the planning commission or local governing body for approval thereof, may contain in addition such other statements or material as may be deemed relevant by the proposer thereof, including suggestions for the clearance, replanning, reconstruction or rehabilitation of one or more areas which may be larger than the development area but which include it, and any other provisions for the redevelopment of such area or areas.

(2) No development shall be actually initiated until the adoption of a resolution of approval of the development plan therefor by both the planning commission and the local governing body.

(3) The planning commission may approve a development plan after a public hearing, and shall determine:

(a) That the area within which the development area is included is substandard or insanitary and that the redevelopment of the development area in accordance with the development plan is necessary or advisable to effectuate the public purposes declared in s. 66.405 (2); if the area is comprised of vacant land it shall be established that such vacant land impairs the economic value of surrounding areas in accordance with the general purposes expressed in s. 66.405 (2);

(b) That the development plan is in accord with the master plan, if any, of the city;

(c) That the development area is not less than 100,000 square feet in area, except that it may be smaller in area when undertaken in connection with a public improvement, but in any event of sufficient size to allow its redevelopment in an efficient and economically satisfactory manner and to contribute substantially to the improvement of the area in which the development is located; but whenever the local governing body makes a finding to the effect that an area is in urgent need of development, and that such development will contribute to the progress and expansion of an area whose economic growth is vital to the community, then in such instance the development area shall not be less than 25,000 square feet subject to the requirements of par. (d);

(d) That the various stages, if any, by which the development is proposed to be constructed or undertaken, as stated in the development plan, are practicable and in the public interest and where the area to be developed consists either of vacant land or of substandard or insanitary buildings or structures as provided in s. 66.405 (3) (a), and such area is less than 100,000 square feet but more than 25,000 square feet as provided in par. (c) then the new structures to be constructed on such vacant land shall not be less than 1,000,000 cubic feet in area;

(e) That the public facilities based on whether the development be a residential, industrial or commercial one are presently adequate or will be adequate at the time that the development is ready for use to serve the development area;

(f) That the proposed changes, if any, in the city map, in zoning ordinances or maps and in streets and street levels, or any proposed street closings, are necessary or desirable for the development and its protection against blighting influences and for the city as a whole;

(g) Upon data submitted by or on behalf of the redevelopment corporation, or upon data otherwise available to the planning commission, that there will be available for occupation by families, if any, then occupying dwelling accommodations in the development area legal accommodations at substantially similar rentals in the development area or elsewhere in a suitable location in the city, and that the carrying into effect of the development plan will not cause undue hardship to such families. The notice of the public hearing to be held by the planning

commission prior to approval by it of the development plan shall contain separate statements to the effect that before the development plan is approved, the planning commission must make the determination required in this paragraph, and that if the development plan is approved, real property in the development area is subject to condemnation.

(h) Any such determination upon approval by the local governing body, shall be conclusive evidence of the facts so determined except upon proof of fraud or wilful misfeasance. In arriving at such determination, the planning commission shall consider only those elements of the development plan relevant to such determination under paragraphs (a) to (g) and to the type of development which is physically desirable for the development area concerned from a city planning viewpoint, and from a neighborhood unit viewpoint if the development plan provides that the development area is to be primarily residential.

(4) The local governing body, by a two-thirds vote of the members elect thereof, may approve a development plan, but no resolution of approval shall be adopted by it unless and until the planning commission shall first have approved thereof and there has been filed with the local governing body the development plan, the determination by the planning commission, and unless and until the local governing body shall determine:

(a) That the proposed method of financing the development is feasible and that it is probable that the redevelopment corporation will be able to finance or arrange to finance the development.

(b) That the persons who it is proposed will be active in or associated with the management of the redevelopment corporation during a period of at least one year from the date of the approval of the development plan have sufficient ability and experience to cause the development to be undertaken, consummated and managed in a satisfactory manner.

(c) Any such determination shall be conclusive evidence of the facts so determined except upon proof of fraud or wilful misfeasance. In considering whether or not a resolution of approval of the development plan shall be adopted, the local governing body shall consider those elements of the development plan relevant to such determination under paragraphs (a) and (b).

(5) The planning commission and the local governing body, by a two-thirds vote of the members elect thereof, may approve an amendment or amendments to a development plan, but no such amendment to a development plan which has theretofore been approved by the planning commission and the local governing body shall be approved unless and until an application therefor has been filed with the planning commission by the redevelopment corporation containing that part of the material required by subsection (1) which shall be relevant to the proposed amendment, and unless and until the planning commission and the local governing body shall make the determinations required by subsection (3) or (4) which shall be relevant to the proposed amendment.

(6) The planning commission and the local governing body may, for the guidance of prospective proponents of development plans, fix general standards to which a development plan shall conform. Variations from such standards may be allowed for the accomplishment of the purposes of sections 66.405 to 66.425. Such standards may contain provisions more restrictive than those imposed by applicable planning, zoning, sanitary and building laws, ordinances and regulations.

(7) Local housing authorities organized under ss. 66.40 to 66.404, redevelopment authorities organized under s. 66.431, and community development authorities organized under s. 66.4325 may render such advisory services in connection with the preliminary surveys, studies and preparation of a development plan as may be requested by the city planning commission or the local governing body and charge fees for such services based on the actual cost thereof.

(8) Notwithstanding any other provision of law, the local legislative body may designate, by ordinance or resolution, the local housing authority, the local redevelopment authority, or both jointly, or the local community development authority, to perform all acts, except the development of the general plan of the city, which are otherwise performed by the planning commission under ss. 66.405 to 66.425.

History: 1975 c. 311.

66.407 Urban redevelopment; limitations on corporations. No redevelopment corporation shall:

(1) Undertake any clearance, reconstruction, improvement, alteration or construction in connection with any development until the approvals required by section 66.406 have been made;

(2) Change, alter, amend, add to or depart from the development plan until the planning commission and the local governing body have approved that portion of such change, alteration, amendment, addition or departure relevant to the determination required to be made by it as set forth in section 66.406;

(3) After a development has been commenced, sell, transfer or assign any real property in the development area without first obtaining the consent of the local governing body, which consent may be withheld only if the sale, transfer or assignment is made for the purpose of evading the provisions of sections 66.405 to 66.425;

(4) Pay as compensation for services to, or enter into contracts for the payment of compensation for services to, its officers or employes in an amount greater than the limit thereon contained in the development plan, or in default thereof, then in an amount greater than the reasonable value of the services performed or to be performed by such officers or employes;

(5) Lease an entire building or improvement in the development area to any person or corporation without obtaining the approval of the local governing body which may be withheld only if the lease is being made for the purpose of evading the provisions of sections 66.405 to 66.425;

(6) Mortgage any of its real property without obtaining the approval of the local governing body;

(7) Make any guarantee without obtaining the approval of the local governing body;

(8) Dissolve without obtaining the approval of the local governing body, which may be given upon such conditions as said body may deem necessary or appropriate to the protection of the interest of the city in the proceeds of the sale of the real property as to any property or work turned into the development by the city. Such approval is to be indorsed on the certificate of dissolution and such certificate is not to be filed in the department of state in the absence of such indorsement;

(9) Reorganize without obtaining the approval of the local governing body.

66.408 Urban redevelopment; regulation of corporations. (1) APPLICATION OF OTHER CORPORATION LAWS TO REDEVELOPMENT CORPORATIONS. The provisions of the general corporation law as presently in effect and as hereafter from time to time amended, shall apply to redevelopment corporations, except where such provisions are in conflict with the provisions of ss. 66.405 to 66.425.

(2) CONSIDERATION FOR ISSUANCE OF STOCK, BONDS OR INCOME DEBENTURES. No redevelopment corporation shall issue stocks, bonds or income debentures, except for money or property actually received for the use and lawful purposes of the corporation or services actually performed for the corporation.

(3) DETERMINATION OF DEVELOPMENT COST. (a) Upon the completion of a development a redevelopment corporation shall, or upon the completion of a principal part of a development a redevelopment corporation may, file with the planning commission an audited statement of the development cost thereof. Within a reasonable time after the filing of such statement, the planning commission shall determine the development cost applicable to the development or such portion thereof and shall issue to the redevelopment corporation a certificate stating the amount thereof as so determined.

(b) A redevelopment corporation may, at any time, whether prior or subsequent to the undertaking of any contract or expense, apply to the planning commission for a ruling as to whether any particular item of cost therein may be included in development cost when finally determined by the planning commission, and the amount thereof. The planning commission shall, within a reasonable time after such application, render a ruling thereon, and in the event that it shall be ruled that any item of cost may be included in development cost, the amount thereof as so determined shall be so included in development cost when finally determined.

(4) REGULATION OF REDEVELOPMENT CORPORATIONS. A redevelopment corporation shall:

(a) Furnish to the planning commission from time to time, as required by it, but with respect to regular reports not more often than once every 6 months, such financial information, statements, audited reports or other material as such commission shall require, each of which shall conform to such standards of accounting and financial procedure as the planning commission may by general regulation prescribe.

(b) Establish and maintain such depreciation and other reserves, surplus and other accounts as the planning commission reasonably requires.

66.41 Urban redevelopment; limitation on payment of interest and dividends. No redevelopment corporation shall pay any interest on its income debentures or dividends on its stock during any dividend year, unless there shall exist at the time of any such payment no default under any amortization requirements with respect to its indebtedness.

66.411 Urban redevelopment; enforcement of duties. Whenever a redevelopment corporation shall not have substantially complied with the development plan within the time limits for the completion of each stage thereof as therein stated, reasonable delays caused by unforeseen difficulties excepted, or shall do, permit to be done or fail or omit to do anything contrary

to or required of it, as the case may be, by sections 66.405 to 66.425, or shall be about so to do, permit to be done or fail or omit to have done, as the case may be, then any such fact may be certified by the planning commission to the city attorney of the city, who may thereupon commence a proceeding in the circuit court of the county in which the city is in whole or in part situated in the name of the city for the purpose of having such action, failure or omission, or threatened action, failure or omission, established by order of the court or stopped, prevented or otherwise rectified by mandamus, injunction or otherwise. Such proceeding shall be commenced by a petition to the circuit court alleging the violation complained of and praying for appropriate relief. It shall thereupon be the duty of the court to specify the time, not exceeding 20 days after service of a copy of the petition, within which the redevelopment corporation complained of must answer the petition. The court, shall, immediately after a default in answering or after answer, as the case may be, inquire into the facts and circumstances in such manner as the court shall direct without other or formal proceedings, and without respect to any technical requirements. Such other persons or corporations as it shall seem to the court necessary or proper to join as parties in order to make its order or judgment effective may be joined as parties. The final judgment or order in any such action or proceeding shall dismiss the action or proceeding or establish the failure complained of or direct that a mandamus order, or an injunction, or both, issue, or grant such other relief as the court may deem appropriate.

66.412 Urban redevelopment; transfer of land. Notwithstanding any requirement of law to the contrary or the absence of direct provision therefor in the instrument under which a fiduciary is acting, every executor, administrator, trustee, guardian or other person, holding trust funds or acting in a fiduciary capacity, unless the instrument under which such fiduciary is acting expressly forbids, the state, its subdivisions, cities, all other public bodies, all public officers, corporations organized under or subject to the provisions of the banking law, the commissioner of banking as conservator, liquidator or rehabilitator of any such person, partnership or corporation, persons, partnerships and corporations organized under or subject to the provisions of the banking law, the commissioner of insurance as conservator, liquidator or rehabilitator of any such person, partnership or corporation, any of which owns or holds any real property within a development area, may grant, sell, lease or otherwise transfer any such real property to a redevelopment corporation, and receive and hold any cash, stocks, income debentures, mortgages, or other securities or obligations, secured or unsecured, exchanged therefor by such redevelopment corporation, and may execute such instruments and do such acts as may be deemed necessary or desirable by them or it and by the redevelopment corporation in connection with the development and the development plan.

66.413 Urban redevelopment; acquisition of land. (1) A redevelopment corporation may whether before or after the development plan has been approved, acquire real property or secure options in its own name or in the name of nominees to acquire real property, by gift, grant, lease, purchase or otherwise.

(2) A city may, upon request by the redevelopment corporation, acquire, or obligate itself to acquire, for such redevelopment corporation any real property included in such certificate of approval of condemnation, by gift, grant, lease, purchase, condemnation, or otherwise, according to the provisions of any appropriate general, special or local law applicable to the acquisition of real property by the city. Real property acquired by a city for a redevelopment corporation shall be conveyed by such city to the redevelopment corporation upon payment to the city of all sums expended or required to be expended by the city in the acquisition of such real property, or leased by such city to such corporation, all upon such terms as may be agreed upon between the city and the redevelopment corporation to carry out the purposes of sections 66.405 to 66.425.

(3) The provisions of sections 66.405 to 66.425 with respect to the condemnation of real property by a city for a redevelopment corporation shall prevail over the provisions of any other general, special or local law.

66.414 Urban redevelopment; condemnation for. (1) Condemnation proceedings for a redevelopment corporation shall be initiated by a petition to the city to institute proceedings to acquire for the redevelopment corporation any real property in the development area. Such petition shall be granted or rejected by the local governing body, and the resolution or resolutions granting such petition shall contain a requirement that the redevelopment corporation shall pay to the city all sums expended or required to be expended by the city in the acquisition of such real property, or for any real property to be conveyed to the corporation by the city in connection with the plan, and the time of payment and manner of securing payment thereof, and may require that the city shall

receive, before proceeding with the acquisition of such real property, such assurances as to payment or reimbursement by the redevelopment corporation, or otherwise, as the city may deem advisable. Upon the passage of a resolution or resolutions by the local governing body granting the petition, the redevelopment corporation shall cause to be made 3 copies of surveys or maps of the real property described in the petition, one of which shall be filed in the office of the redevelopment corporation, one in the office of the city attorney of the city, and one in the office in which instruments affecting real property in the county are recorded. The filing of such copies of surveys or maps shall constitute the acceptance by the redevelopment corporation of the terms and conditions contained in such resolution or resolutions. The city may conduct any condemnation proceedings either under chapter 32 or at its option, under other laws applicable to such city. When title to the real property shall have vested in the city, it shall convey or lease the same, with any other real property to be conveyed or leased to the corporation by the city in connection with said plan, to the redevelopment corporation upon payment by the redevelopment corporation of the sums and the giving of the security required by the resolution granting the petition.

(2) The following provisions shall apply to any proceedings for the assessment of compensation and damages for real property in a development area taken or to be taken by condemnation for a redevelopment corporation:

(a) For the purpose of sections 66.405 to 66.425, the award of compensation shall not be increased by reason of any increase in the value of the real property caused by the assembly, clearance or reconstruction, or proposed assembly, clearance or reconstruction for the purposes of sections 66.405 to 66.425 of the real property in the development area. No allowance shall be made for improvements begun on real property after notice to the owner of such property of the institution of the proceedings to condemn such property.

(b) Evidence shall be admissible bearing upon the insanitary, unsafe or substandard condition of the premises, or the illegal use thereof, or the enhancement of rentals from such illegal use, and such evidence may be considered in fixing the compensation to be paid, notwithstanding that no steps to remedy or abate such conditions have been taken by the department or officers having jurisdiction. If a violation order is on file against the premises in any such department, it shall constitute prima facie evidence of the existence of the condition specified in such order.

(c) If any of the real property in the development area which is to be acquired by condemnation has, prior to such acquisition, been devoted to another public use, it may nevertheless be acquired provided that no real property belonging to the city or to any other governmental body, or agency or instrumentality thereof, corporate or otherwise, may be acquired without its consent. No real property belonging to a public utility corporation may be acquired without the approval of the commission or other officer or tribunal having regulatory power over such corporation.

(d) Upon the trial a statement, affidavit, deposition, report, transcript of testimony in an action or proceeding, or appraisal made or given by any owner or prior owner of the premises taken, or by any person on his behalf, to any court, governmental bureau, department or agency respecting the value of the real property for tax purposes, shall be relevant, material and competent upon the issue of value of damage and shall be admissible on direct examination.

(e) The term "owner", as used in this section, shall include a person having an estate, interest or easement in the real property to be acquired or a lien, charge or incumbrance thereon.

66.415 Urban redevelopment; continued use of land by prior owner. (1) When title to real property has vested in a redevelopment corporation or city by gift, grant, devise, purchase or in condemnation proceedings or otherwise, the redevelopment corporation or city, as the case may be, may agree with the previous owners of such property, or any tenants continuing to occupy or use it, or any other persons who may occupy or use or seek to occupy or use such property, that such former owner, tenant or other persons may occupy or use such property upon the payment of a fixed sum of money for a definite term or upon the payment periodically of an agreed sum of money. Such occupation or use shall not be construed as a tenancy from month to month, nor require the giving of notice by the redevelopment corporation or the city, as the case may be, for the termination of such occupation or use or the right to such occupation or use, but immediately upon the expiration of the term for which payment has been made the redevelopment corporation or city, as the case may be, shall be entitled to possession of the real property and may maintain summary proceedings, obtain a writ of assistance, and shall be entitled to such other remedy as may be provided by law for obtaining immediate possession thereof. A former owner, tenant or other person occupying or using such property shall not be required to give notice to the redevelopment corporation or city, as the

case may be, at the expiration of the term for which he has made payment for such occupation or use, as a condition to his cessation of occupation or use and termination of liability therefor.

(2) In the event that a city has acquired real property for a redevelopment corporation, the city shall, in transferring title to the redevelopment corporation, deduct from the consideration or other moneys which the redevelopment corporation has become obligated to pay to the city for such purpose, and credit the redevelopment corporation with, the amounts received by the city as payment for temporary occupation and use of the real property by a former owner, tenant, or other person, as in this section provided, less the cost and expense incurred by the city for the maintenance and operation of such real property.

66.416 Urban redevelopment; borrowing; mortgages. (1) Any redevelopment corporation may borrow funds and secure the repayment thereof by mortgage. Every such mortgage shall contain reasonable amortization provisions and shall be a lien upon no other real property except that forming the whole or a part of a single development area.

(2) Certificates, bonds and notes, or part interests therein, or any part of an issue thereof, which are issued by a redevelopment corporation and secured by a first mortgage on the real property of the redevelopment corporation, or any part thereof, shall be securities in which all the following persons, partnerships or corporations and public bodies or public officers may legally invest the funds within their control, provided that the principal amount thereof shall not exceed the limits, if any, imposed by law for such investments by the person, partnership, corporation, public body or public officer making the same: Every executor, administrator, trustee, guardian, committee or other person or corporation holding trust funds or acting in a fiduciary capacity; the state, its subdivisions, cities, all other public bodies, all public officers; persons, partnerships and corporations organized under or subject to the provisions of the banking law (including savings banks, savings and loan associations, trust companies, bankers and private banking corporations); the commissioner of banking as conservator, liquidator or rehabilitator of any such person, partnership or corporation; persons, partnerships or corporations organized under or subject to the provisions of the insurance code; and the commissioner of insurance as conservator, liquidator or rehabilitator of any such person, partnership or corporation.

(3) Any mortgage on the real property in a development area, or any part thereof, may create a first lien, or a second or other junior lien, upon such real property.

(4) The limits as to principal amount secured by mortgage referred to in subsection (2) shall not apply to certificates, bonds and notes, or part interests therein, or any part of an issue thereof, which are secured by first mortgage on real property in a development area, or any part thereof, which the federal housing administrator has insured or has made a commitment to insure under the national housing act. Any such person, partnership, corporation, public body or public officer may receive and hold any debentures, certificates or other instruments issued or delivered by the federal housing administrator, pursuant to the national housing act, in compliance with the contract of insurance of a mortgage on real property in the development area, or any part thereof.

History: 1977 c. 339 s. 43.

66.417 Urban redevelopment; sale or lease of land. (1) The local governing body may by resolution determine that real property, title to which is held by the city, specified and described in such resolution, is not required for use by the city and may authorize the city to sell or lease such real property to a redevelopment corporation; provided, that the title of the city to such real property be not declared inalienable by charter of the city, or other similar law or instrument.

(2) Notwithstanding the provisions of any general, special or local law or ordinance, such sale or lease may be made without appraisal, public notice or public bidding for such price or rental and upon such terms (and, in case of a lease, for such term not exceeding 60 years with a right of renewal upon such terms) as may be agreed upon between the city and the redevelopment corporation to carry out the purposes of sections 66.405 to 66.425.

(3) Before any sale or lease to a redevelopment corporation shall be authorized, a public hearing shall be held by the local governing body to consider the proposed sale or lease.

(4) Notice of such hearing shall be published as a class 2 notice, under ch. 985.

(5) The deed or lease of such real property shall be executed in the same manner as a deed or lease by the city of other real property owned by it and may contain appropriate conditions and provisions to enable the city to reenter the real property in the event of a violation by the redevelopment corporation of any of the provisions of sections 66.405 to 66.425 relating to

such redevelopment corporation or of the conditions or provisions of such deed or lease.

(6) A redevelopment corporation purchasing or leasing real property from a city shall not, without the written approval of the city, use such real property for any purpose except in connection with its development. The deed shall contain a condition that the redevelopment corporation will devote the real property granted only for the purposes of its development subject to the restrictions of sections 66.405 to 66.425, for breach of which the city shall have the right to reenter and repossess itself of the real property.

66.418 Urban redevelopment; city lease to, terms. If real property of a city be leased to a redevelopment corporation:

(1) The lease may provide that all improvements shall be the property of the lessor;

(2) The lessor may grant to the redevelopment corporation the right to mortgage the fee of such property and thus enable the redevelopment corporation to give as security for its notes or bonds a first lien upon the land and improvements;

(3) The execution of a lease shall not impose upon the lessor any liability or obligation in connection with or arising out of the financing, construction, management or operation of a development involving the land so leased. The lessor shall not, by executing such lease, incur any obligation or liability with respect to such leased premises other than may devolve upon the lessor with respect to premises not owned by it. The lessor, by consenting to the execution by a redevelopment corporation of a mortgage upon the leased land, shall not thereby assume, and such consent shall not be construed as imposing upon the lessor, any liability upon the note or bond secured by the mortgage;

(4) The lease may reserve such easements or other rights in connection with the real property as may be deemed necessary or desirable for the future planning and development of the city and the extension of public facilities therein (including also the construction of subways and conduits, the widening and change of grade of streets); and it may contain such other provisions for the protection of the parties as are not inconsistent with the provisions of sections 66.405 to 66.425.

66.419 Urban redevelopment; aids by city. In addition to the powers conferred upon the city by other provisions of sections 66.405 to 66.425, the local governing body is empowered to appropriate moneys for the purpose of and to borrow or to accept grants from the federal or state governments or any agency thereof for and in aid of the acquisition of any lands required to carry out the plan or the purposes mentioned in section 66.42; and to these ends, to enter into such contracts, mortgages, trust indentures or other agreements as the federal government may require.

66.42 Urban redevelopment; city improvements. For the purpose of aiding and cooperating in the planning, undertaking, construction or operation of any such plan located within the area in which it is authorized to act, any local governing body may upon such terms, with or without consideration, as it may determine:

(1) Cause parks, playgrounds, recreational, community, educational, water, sewer or drainage facilities, or any other works which it is otherwise empowered to undertake, to be furnished adjacent to or in connection with housing projects;

(2) Furnish, dedicate, close, pave, install, grade, regrade, plan or replan streets, roads, roadways, alleys, sidewalks or other places which it is otherwise empowered to undertake.

66.421 Urban redevelopment; appropriations. The city is authorized to appropriate moneys for the purpose of making plans and surveys to carry out such redevelopment, and for any purpose required to carry out the intention of sections 66.405 to 66.425.

66.422 Urban redevelopment; construction of statute. Sections 66.405 to 66.425 shall be construed liberally to effectuate the purposes hereof, and the enumeration therein of specific powers shall not operate to restrict the meaning of any general grant of power contained in sections 66.405 to 66.425 or to exclude other powers comprehended in such general grant.

66.424 Urban redevelopment; conflict of laws. Insofar as ss. 66.405 to 66.425 are inconsistent with any other law, the provisions of these sections shall be controlling.

66.425 Urban redevelopment; supplemental powers. The powers conferred by sections 66.405 to 66.425 shall be in addition and supplemental to the powers conferred by any other law.

66.43 Blighted area law. (1) SHORT TITLE. This section shall be known and may be cited and referred to as the "blighted area law."

(2) FINDINGS AND DECLARATION OF NECESSITY. It is hereby found and declared that there have existed and continue to exist in cities within

the state, substandard, insanitary, deteriorated, slum and blighted areas which constitute a serious and growing menace, injurious and inimical to the public health, safety, morals and welfare of the residents of the state; that the existence of such areas contributes substantially and increasingly to the spread of disease and crime (necessitating excessive and disproportionate expenditures of public funds for the preservation of the public health and safety, for crime prevention, correction, prosecution, punishment, and the treatment of juvenile delinquency and for the maintenance of adequate police, fire and accident protection, and other public services and facilities), constitutes an economic and social liability, substantially impairs or arrests the sound growth of cities, and retards the provision of housing accommodations; that this menace is beyond remedy and control solely by regulatory process in the exercise of the police power and cannot be dealt with effectively by the ordinary operations of private enterprise without the aids herein provided; that the acquisition of property for the purpose of eliminating substandard, insanitary, deteriorated, slum or blighted conditions thereon or preventing recurrence of such conditions in the area, the removal of structures and improvement of sites, the disposition of the property for redevelopment incidental to the foregoing, and any assistance which may be given by cities or any other public bodies in connection therewith, are public uses and purposes for which public money may be expended and the power of eminent domain exercised; and that the necessity in the public interest for the provisions herein enacted is hereby declared as a matter of legislative determination. Nothing herein contained shall be deemed to contravene, repeal or rescind the finding and declaration of necessity heretofore set forth in s. 66.43 (2) prior to the recreation thereof on July 10, 1953.

(2m) DISCRIMINATION. Persons otherwise entitled to any right, benefit, facility or privilege under this section shall not, with reference thereto, be denied them in any manner for any purpose nor be discriminated against because of sex, race, color, creed or national origin.

(3) DEFINITIONS. The following terms whenever used or referred to in this section shall, for the purposes of this section and unless a different intent clearly appears from the context, be construed as follows:

(a) "Local legislative body" means the board of aldermen, common council, council, commission or other board or body vested by the charter of the city or other law with jurisdiction to enact ordinances or local laws.

(b) "City" means any city in the state.

(c) "Housing" includes housing, dwelling, habitation and residence.

(d) "Land" includes bare or vacant land, or the land under buildings, structures or other improvements, also water and land under water. When employed in connection with "use", as for instance, "use of land" or "land use", "land" also includes buildings, structures and improvements existing or to be placed thereon.

(e) "Lessee" includes the successors or assigns and successors in title of the lessee.

(f) "Planning commission" means the board, commission or agency of the city authorized to prepare, adopt or amend or modify a master plan of the city.

(g) "Project area" means a blighted area (as defined in this section), or portion thereof, of such extent and location as adopted by the planning commission and approved by the local legislative body as an appropriate unit of redevelopment planning for a redevelopment project, separate from the redevelopment projects in other parts of the city. In the provisions of this section relating to leasing or sale by the city, for abbreviation "project area" is used for the remainder of the project area after taking out those pieces of property which shall have been or are to be transferred for public uses.

(h) "Purchaser" includes the successors or assigns and successors in title of the purchaser.

(i) "Real property" includes land; also includes land together with the buildings, structures, fixtures and other improvements thereon; also includes liens, estates, easements and other interests therein; and also includes restrictions or limitations upon the use of land, buildings or structures, other than those imposed by exercise of the police power.

(j) 1. "Blighted area" means any area (including a slum area) in which a majority of the structures are residential (or in which there is a predominance of buildings or improvements, whether residential or nonresidential), and which, by reason of dilapidation, deterioration, age or obsolescence, inadequate provision for ventilation, light, air, sanitation, or open spaces, high density of population and overcrowding, or the existence of conditions which endanger life or property by fire and other causes, or any combination of such factors, is conducive to ill health, transmission of disease, infant mortality, juvenile delinquency and crime, and is detrimental to the public health, safety, morals or welfare.

2. "Redevelopment project" means any work or undertaking to acquire blighted areas or portions thereof, and lands, structures, or improvements, the acquisition of which is necessary or incidental to the proper clearance or redevelopment of such areas or to the prevention

of the spread or recurrence of slum conditions or conditions of blight in such areas; to clear any such areas by demolition or removal of existing buildings, structures, streets, utilities, or other improvements thereon and to install, construct, or reconstruct streets, utilities, and site improvements essential to the preparation of sites for uses in accordance with a redevelopment plan; or to sell, lease or otherwise make available land in such areas for residential, recreational, commercial, industrial or other use or for public use, or to retain such land for public use, in accordance with a redevelopment plan. The term "redevelopment project" may also include the preparation of a redevelopment plan, the planning, surveying, and other work incident to a redevelopment project, and the preparation of all plans and arrangements for carrying out a redevelopment project. "Redevelopment plan" means a plan for the acquisition, clearance, reconstruction, rehabilitation or future use of a redevelopment project area.

(k) "Redevelopment company" means a private or public corporation or body corporate (including a public housing authority) carrying out a plan under this section.

(l) "Rentals" means rents specified in a lease to be paid by the lessee to the city.

(m) "Public body" means the state or any city, county, town, village, board, commission, authority, district or any other subdivision or public body of the state.

(4) POWER OF CITIES. (a) Every city is hereby granted (in addition to its other powers) all powers necessary or convenient to carry out and effectuate the purposes and provisions of this section, including the following powers in addition to others herein granted:

1. To prepare or cause to be prepared redevelopment plans and to undertake and carry out redevelopment projects within its corporate limits.

2. To enter into any contracts determined by the local legislative body to be necessary to effectuate the purposes of this section.

3. Within its boundaries, to acquire by purchase, eminent domain or otherwise, any real or personal property or any interest therein, together with any improvements thereon, necessary or incidental to a redevelopment project; to hold, improve, clear or prepare for redevelopment any such property; to sell, lease, subdivide, retain for its own use, mortgage, or otherwise incumber or dispose of any such property or any interest therein; to enter into contracts with redevelopers of property containing covenants, restrictions, and conditions regarding the use of such property in accordance with a redevelopment plan and such other covenants, restrictions and conditions as it may deem necessary to prevent a recurrence of blighted areas or to effectuate the purposes of this section; to make any of such covenants, restrictions, conditions or covenants running with the land, and to provide appropriate remedies for any breach thereof.

4. To borrow money and issue bonds, and to apply for and accept advances, loans, grants, contributions, and any other form of financial assistance from the federal, state or county government, or other public body or from any sources, for the purpose of this section; to give such security as may be required, and to enter into and carry out contracts in connection therewith.

(b) Condemnation proceedings for the acquisition of real property necessary or incidental to a redevelopment project shall be conducted in accordance with ch. 32 or any other laws applicable to the city.

(c) Notwithstanding any other provision of law, the local legislative body may designate, by ordinance or resolution, any local housing authority existing under ss. 66.40 to 66.404, any local redevelopment authority existing under s. 66.431, or both jointly, or any local community development authority existing under s. 66.4325, as the agent of the city to perform any act, except the development of the general plan of the city, which may otherwise be performed by the planning commission under this section.

(5) GENERAL AND PROJECT AREA REDEVELOPMENT PLANS. (a) The planning commission is hereby directed to make and, from time to time, develop a comprehensive or general plan of the city, including the appropriate maps, charts, tables and descriptive, interpretive and analytical matter, which plan is intended to serve as a general framework or guide of development within which the various area and redevelopment projects under this section may be more precisely planned and calculated, and which comprehensive or general plan shall include at least a land use plan which designates the proposed general distribution and general locations and extents of the uses of the land for housing, business, industry, recreation, education, public buildings, public reservations and other general categories of public and private uses of the land.

(b) For the exercise of the powers granted and for the acquisition and disposition of real property for the redevelopment of a project area, the following steps and plans shall be requisite, namely:

1. Designation by the planning commission of the boundaries of the project area proposed by it for redevelopment, submission of such boundaries to the local legislative body and the adoption of a resolution by said local legislative body declaring such area to be a blighted area in need of redevelopment.

2. Adoption by the planning commission and approval by the local legislative body of the redevelopment plan of the project area. Such redevelopment plan shall conform to the general plan of the city and shall be sufficiently complete to indicate its relationship to definite local objectives as to appropriate land uses, improved traffic, public transportation, public utilities, recreational and community facilities, and other public improvements in the project area, and shall include, without being limited to, a statement of the boundaries of the project area; a map showing existing uses and conditions of real property therein; a land use plan showing proposed uses of the area; information showing the standards of population density, land coverage, and building intensity in the area after redevelopment; a statement of proposed changes, if any, in zoning ordinances or maps and building codes and ordinances; a statement as to the kind and number of site improvements and additional public utilities which will be required to support the new land uses in the area after redevelopment; and a statement of a feasible method proposed for the relocation of families to be displaced from the project area.

3. Approval of a redevelopment plan of a project area by the local legislative body may be given only after a public hearing conducted by it, and a finding by it that said plan is feasible and in conformity with the general plan of the city. Notice of such hearing, describing the time, date, place and purpose of the hearing and generally identifying the project area, shall be published as a class 2 notice, under ch. 985, the last insertion to be at least 10 days prior to the date set for the hearing. All interested parties shall be afforded a reasonable opportunity at the hearing to express their views respecting the proposed plan, but the hearing shall be only for the purpose of assisting the local legislative body in making its determination.

(c) In relation to the location and extent of public works and utilities, public buildings and other public uses in the general plan or in a project area plan, the planning commission is directed to confer with such other public officials, boards, authorities and agencies under whose administrative jurisdictions such uses respectively fall.

(d) After a project area redevelopment plan of a project area shall have been adopted by the planning commission and approved by the local legislative body, the planning commission may at any time certify said plan to the local legislative body, whereupon said body shall proceed to exercise the powers granted to it in this section for the acquisition and assembly of the real property of the area. Following such certification, no new construction shall be authorized by any agencies, boards or commissions of the city, in such area, unless as authorized by the local legislative body including substantial remodeling or conversion or rebuilding, enlargement or extension of major structural improvements on existing buildings, but not including ordinary maintenance or remodeling or changes necessary to continue the occupancy.

(6) TRANSFER, LEASE OR SALE OF REAL PROPERTY IN PROJECT AREAS FOR PUBLIC AND PRIVATE USES. (a) After the real property in the project area shall have been assembled, the city shall have power to lease or sell all or any part of said real property (including streets or parts thereof to be closed or vacated in accordance with the plan) to a redevelopment company or to an individual or a partnership for use in accordance with the redevelopment plan. Such real property shall be leased or sold at its fair value for uses in accordance with the redevelopment plan notwithstanding such value may be less than the cost of acquiring and preparing such property for redevelopment. In determining such fair value, a city shall take into account and give consideration to the uses and purposes required by the plan; the restrictions upon and covenants, conditions and obligations assumed by the purchaser or lessee, the objectives of the redevelopment plan for the prevention of the recurrence of slum or blighted areas; and such other matters as the city shall deem appropriate.

(b) Any such lease or sale may be made without public bidding, but only after a public hearing by the planning commission upon the proposed lease or sale and the provisions thereof; and notice of the hearing shall be published as a class 2 notice, under ch. 985.

(c) The terms of such lease or sale shall be fixed by the planning commission and approved by the local legislative body and the instrument of lease may provide for renewals upon reappraisals and with rentals and other provisions adjusted to such reappraisals. Every such lease or sale shall provide that the lessee or purchaser shall carry out or cause to be carried out the approved project area redevelopment plan or approved modifications thereof and that no use shall be made of any land or real property included in the lease or sale nor any building or structure erected thereon which does not conform to such approved plan or approved modifications thereof. In the instrument or instruments of lease or sale, the planning commission, with the approval of the local legislative body, may include such other terms, conditions and provisions as in its judgment will provide reasonable assurance of the priority of the obligations of the lease or sale and of conformance to the plan over any other obligations of the lessee or purchaser and also assurance of the financial

and legal ability of the lessee or purchaser to carry out and conform to the plan and the terms and conditions of the lease or sale; also, such terms, conditions and specifications concerning buildings, improvements, subleases or tenancy, maintenance and management and any other matters as the planning commission, with the approval of the local legislative body, may impose or approve, including provisions whereby the obligations to carry out and conform to the project area plan shall run with the land. In the event that maximum rentals to be charged to tenants of housing be specified, provision may be made for periodic reconsideration of such rental bases.

(d) Until the planning commission certifies, with the approval of the local legislative body, that all building constructions and other physical improvements specified to be done and made by the purchaser of the area have been completed, the purchaser shall have no power to convey the area, or any part thereof, without the consent of the planning commission and the local legislative body, and no such consent shall be given unless the grantee of the purchaser obligates itself or himself, by written instrument, to the city to carry out that portion of the redevelopment plan which falls within the boundaries of the conveyed property and also that the grantee, his or its heirs, representatives, successors and assigns, shall have no right or power to convey, lease or let the conveyed property or any part thereof, or erect or use any building or structure erected thereon free from obligation and requirement to conform to the approved project area redevelopment plan or approved modifications thereof.

(f) The planning commission may, with the approval of the local legislative body, cause to have demolished any existing structure or clear the area of any part thereof, or may specify the demolition and clearance to be performed by a lessee or purchaser and the time schedule for same. The planning commission, with the approval of the local legislative body, shall specify the time schedule and conditions for the construction of buildings and other improvements.

(g) In order to facilitate the lease or sale of a project area or, in the event that the lease or sale is of parts of an area, the city shall have the power to include in the cost payable by it the cost of the construction of local streets and sidewalks within the area or of grading and other local public surface or subsurface facilities necessary for shaping the area as the site of the redevelopment of the area. The city may arrange with the appropriate federal, state or county agencies for the reimbursement of such outlays from funds or assessments raised or levied for such purposes.

(7) HOUSING FOR DISPLACED FAMILIES. In connection with every redevelopment plan the housing authority shall formulate a feasible method for the temporary relocation of persons living in areas that are designated for clearance and redevelopment. In addition the housing authority and the local legislative body will assure that decent, safe and sanitary dwellings substantially equal in number to the number of substandard dwellings to be removed in carrying out the redevelopment are available, or will be provided, at rents or prices within the financial reach of the income groups displaced.

(8) USE-VALUE APPRAISALS. After the city shall have assembled and acquired the real property of the project area, it shall, as an aid to it in determining the rentals and other terms upon which it will lease or the price at which it will sell the area or parts thereof, place a use value upon each piece or tract of land within the area which, in accordance with the plan, is to be used for private uses or for low-rent housing, such use value to be based on the planned use; and, for the purposes of this use valuation, it shall cause a use valuation appraisal to be made by the local tax commissioner or assessor; but nothing contained in this section shall be construed as requiring the city to base its rentals or selling prices upon such appraisal.

(9) PROTECTION OF REDEVELOPMENT PLAN. (a) Previous to the execution and delivery by the city of a lease or conveyance to a redevelopment company, or previous to the consent by the city to an assignment or conveyance by a lessee or purchaser to a redevelopment company, the articles or certificate of incorporation or association or charter or other basic instrument of such company shall contain provisions so defining, limiting and regulating the exercise of the powers of the company that neither the company nor its stockholders, its officers, its directors, its members, its beneficiaries, its bondholders or other creditors or other persons shall have any power to amend or to effect the amendment of the terms and conditions of the lease or the terms and conditions of the sale without the consent of the planning commission, together with the approval of the local legislative body, or, in relation to the project area development plan, without the approval of any proposed modification in accordance with the provisions of subsection (10); and no action of stockholders, officers, directors, bondholders, creditors, partners or other persons, nor any reorganization, dissolution, receivership, consolidation, foreclosure or any other change in the status or obligation of any redevelopment company, partnership or individual in any litigation or proceeding in any federal or other court shall effect

any release or any impairment or modification of the lease or terms of sale or of the project area redevelopment plan unless such consent or approval be obtained.

(b) Redevelopment corporations may be organized under the general corporation law of the state and shall have the power to be a redevelopment company under this section, and to acquire and hold real property for the purposes set forth in this section, and to exercise all other powers granted to redevelopment companies in this section, subject to the provisions, limitations and obligations herein set forth.

(c) A redevelopment company, individual or partnership to which any project area or part thereof is leased or sold under this section shall keep books of account of its operations of or transactions relating to such area or part entirely separate and distinct from its or his accounts of and for any other project area or part thereof or any other real property or enterprise; and no lien or other interest shall be placed upon any real property in said area to secure any indebtedness or obligation of the redevelopment company, individual, or partnership incurred for or in relation to any property or enterprise outside of said area.

(10) MODIFICATION OF DEVELOPMENT PLANS. An approved project area redevelopment plan may be modified at any time or times after the lease or sale of the area or part thereof provided that the modification be consented to by the lessee or purchaser, and that the proposed modification be adopted by the planning commission and then submitted to the local legislative body and approved by it. Before approval, the local legislative body shall hold a public hearing on the proposed modification, notice of the time and place of which shall be given by mail sent at least 10 days prior to the hearing to the then owners of the real properties in the project area and of the real properties immediately adjoining or across the street from the project area. The local legislative body may refer back to the planning commission any project area redevelopment plan, project area boundaries or modification submitted to it, together with its recommendation for changes in such plan, boundaries or modification and, if such recommended changes be adopted by the planning commission and in turn formally approved by the local legislative body, the plan, boundaries or modification as thus changed shall be and become the approved plan, boundaries or modification.

(11) LIMITATION UPON TAX EXEMPTION. Nothing contained in this section shall be construed to authorize or require the exemption of any real property from taxation, except real property sold, leased or granted to and acquired by a public housing authority. No real property acquired pursuant to this section by a private redevelopment company, individual or partnership either by lease or purchase shall be exempt from taxation by reason of such acquisition.

(12) FINANCIAL ASSISTANCE. The city may accept grants or other financial assistance from the federal, state and county governments or from other sources to carry out the purposes of this section, and may do all things necessary to comply with the conditions attached to such grants or loans.

(13) CO-OPERATION AND USE OF CITY FUNDS. (a) To assist any redevelopment project located in the area in which it is authorized to act, any public body may, upon such terms as it may determine: Furnish services or facilities, provide property, lend or contribute funds, and perform any other action of a character which it is authorized to perform for other purposes.

(b) Every city may appropriate and use its general funds to carry out the purposes of this section and to obtain such funds may, in addition to other powers set forth in this section, incur indebtedness, and issue bonds in such amount or amounts as the local legislative body determines by resolution to be necessary for the purpose of raising funds for use in carrying out the purposes of this section; provided, that any issuance of bonds by a city pursuant to this provision shall be in accordance with such statutory and other legal requirements as govern the issuance of obligations generally by the city.

(14) LIMITED OBLIGATIONS. For the purpose of carrying out or administering a redevelopment plan or other functions authorized under this section, any city is hereby authorized (without limiting its authority under any other law) to issue from time to time bonds of the city which are payable solely from and secured by a pledge of and lien upon any or all of the income, proceeds, revenues, funds and property of the city derived from or held by it in connection with redevelopment projects undertaken pursuant to this section, including the proceeds of grants, loans, advances or contributions from the federal, state or county governments or from other sources (including financial assistance furnished by the city or any other public body). Bonds issued pursuant to this authority shall be in such form, mature at such time or times, bear interest at such rate or rates, be issued and sold in such manner, and contain such terms, covenants, and conditions as the local legislative body of the city shall, by resolution, determine. Such bonds shall be fully negotiable, shall not require a referendum, and shall not be subject to the provisions of any other law or charter relating to the issuance or sale of bonds. Obligations

under this section sold to the United States government need not be sold at public sale. As used in this section, "bonds" shall mean any bonds (including refunding bonds), notes, interim certificates, debentures or other obligations.

(15) CONSTRUCTION. This section shall be construed liberally to effectuate the purposes hereof and the enumeration therein of specific powers shall not operate to restrict the meaning of any general grant of power contained in this section or to exclude other powers comprehended in such general grant.

(16) VALIDATION. All contracts, agreements, obligations and undertakings of cities entered into before July 10, 1953 and all proceedings, acts and things undertaken before such date, performed or done pursuant to, or purporting to be pursuant to, the blighted area law and s. 67.04 (2) (zn), are hereby validated, ratified, confirmed, approved and declared legal in all respects, notwithstanding any defect or irregularity therein or any want of statutory authority.

(17) LIQUIDATION AND DISPOSAL. Projects held under this section may be liquidated and disposed of under s. 66.40 (25).

History: 1975 c. 94, 311

66.431 Blight elimination and slum clearance act. (1) SHORT TITLE. This section shall be known and may be cited as the "Blight Elimination and Slum Clearance Act".

(2) FINDINGS. In addition to the findings and declarations made in ss. 66.43 (2) and 66.435, which findings and declarations are in all respects affirmed, restated and incorporated herein, it is further found and declared that the existence of substandard, deteriorated, slum and blighted areas is a matter of state-wide concern; that it is the policy of this state to protect and promote the health, safety, morals and general welfare of the people of the state in which such areas exist by the elimination and prevention of such areas through the utilization of all means appropriate for that purpose, thereby encouraging well-planned, integrated, stable, safe and healthful neighborhoods, the provision of healthful homes, a decent living environment and adequate places for employment of the people of this state and its communities in such areas; that the purposes of this section are to provide further for the elimination and prevention of substandard, deteriorated, slum and blighted areas through redevelopment and other activities by state-created agencies and the utilization of all other available public and private agencies and resources, thereby carrying out the policy of this state as heretofore declared; that state agencies are necessary in order to carry out in the most effective and efficient manner the state's policy and declared purposes for the prevention and elimination of substandard, deteriorated, slum and blighted areas; and that such state agencies shall be available in all the cities in the state to be known as the redevelopment authorities of the particular cities, to carry out and effectuate the provisions of this section when the local legislative bodies of the cities determine there is a need for them to carry out within their cities the powers and purposes of this section; and any assistance which may be given by cities or any other public bodies in connection therewith, are public uses and purposes for which public money may be expended; and that the necessity in the public interest for the provisions herein enacted is declared a matter of legislative determination. Nothing contained herein is deemed to contravene, repeal or rescind the finding or declaration of necessity prior to the recreation thereof on June 1, 1958.

(3) REDEVELOPMENT AUTHORITY. (a) Whereas, it is hereby found and declared that a redevelopment authority, functioning within a city in which there exists substandard, deteriorating, deteriorated, insanitary, slum and blighted areas, constitutes a more effective and efficient means for preventing and eliminating slums and blighted areas in such city and preventing the recurrence thereof; therefore, there is hereby created in every such city a redevelopment authority, known as the redevelopment authority of the city of ..... (which shall be hereafter referred to as "authority," and when so referred to, it shall be deemed to mean and apply to a redevelopment authority) for the purpose of carrying out blight elimination, slum clearance, and urban renewal programs and projects as hereinafter set forth, together with all powers necessary or incidental to effect adequate and comprehensive blight elimination, slum clearance and urban renewal programs and projects. Such authority shall be authorized to transact business and exercise any of the powers herein granted to it following the adoption by the local legislative body of a resolution declaring in substance that there exists within such city a need for blight elimination, slum clearance and urban renewal programs and projects. Upon the adoption of such resolution by the local legislative body by a two-thirds vote of its members present, a certified copy thereof shall be transmitted to the mayor or other head of the city government. Upon receiving such certified copy of such resolution, the mayor or other head of the city government shall, with the confirmation of four-fifths of the local legislative body, appoint 7 resident freeholders as commissioners of the authority. No more than 2 of such commissioners shall be officers of the

city in which the authority is created. The powers of the authority shall be vested in the commissioners. In making appointments of commissioners, the appointing power shall give due consideration to the general interest of the appointee in a redevelopment, slum clearance or urban renewal program and shall, insofar as is possible, designate representatives from the general public, labor, industry, finance or business group, and civic organizations. Appointees shall have sufficient ability and experience in related fields, especially in the fields of finance and management, to assure efficiency in the redevelopment program, its planning and direction. One of such 7 commissioners shall be a member of the local legislative body who shall serve ex officio. Commissioners shall receive their actual and necessary expenses, including local traveling expenses incurred in the discharge of their duties.

(b) The commissioners who are first appointed shall be designated by the appointing power to serve for the following terms: 2 for one year, 2 for 2 years, 1 for 3 years, 1 for 4 years, and 1 for 5 years, from the date of their appointment. Thereafter, the term of office shall be for 5 years. A commissioner shall hold his office until a successor has been appointed and qualified. Removals with respect to commissioners of the authority shall be governed by s. 66.40. Vacancies and new appointments shall be filled in the same manner as provided in par. (a).

(c) The filing of a certified copy of the resolution above referred to with the city clerk shall be prima facie evidence of the authority's right to proceed, and such resolution shall not be subject to challenge because of any technicality. In any suit, action or proceeding commenced against the authority, a certified copy of such resolution shall be deemed conclusive evidence that such authority is established and authorized to transact business and exercise its powers hereunder.

(d) Following the adoption of such resolution, such city shall thereafter be precluded from exercising the powers provided in s. 66.43 (4), and the authority has exclusive power to proceed to carry on the blight elimination, slum clearance and urban renewal projects in such city, except that such city is not precluded from applying, accepting and contracting for federal grants, advances and loans under the housing and community development act of 1974 (P.L. 93-383).

(e) 1. Such authority shall have no power, whatsoever, in connection with any public housing project;

2. Persons otherwise entitled to any right, benefit, facility or privilege under this section shall not, with reference thereto, be denied such right, benefit, facility or privilege in any manner for any purpose nor be discriminated against because of sex, race, color, creed or national origin.

(f) In carrying out this section, the authority is deemed an independent, separate and distinct public body and a body corporate and politic, exercising public powers determined to be necessary by the state to protect and promote the health, safety and morals of its residents, and is authorized to take title to real and personal property in its own name; and such authority shall proceed with the acquisition of property by eminent domain under ch. 32, or any other law relating specifically to eminent domain procedures of redevelopment authorities.

(g) The authority may employ such personnel as is required for the purpose of carrying on its duties and responsibilities under civil service. The authority may appoint an executive director whose qualifications shall be determined by the authority. Such director shall also act as secretary of such authority and may have such duties, powers and responsibilities as may be from time to time delegated to him by the authority. All of the employes, including the director of the authority, shall be eligible to participate in the same pension system provided for city employes.

(4) DEFINITIONS. As used or referred to in this section unless the context clearly indicates otherwise:

(a) "City" means any city in the state.

(b) "Public body" means the state or any city, county, town, village, town board, commission, authority, district, or any other subdivision or public body of the state.

(d) "Local legislative body" means the board of aldermen, common council, council, commission or other board or body vested by the charter of the city or other law with jurisdiction to enact ordinances or local laws.

(e) "Blighted area" means any area (including a slum area) in which there is a predominance of buildings or improvements, whether residential or nonresidential, which by reason of dilapidation, deterioration, age or obsolescence, inadequate provision for ventilation, light, air, sanitation, or open spaces, high density of population and overcrowding, or the existence of conditions which endanger life or property by fire and other causes, or any combination of such factors is conducive to ill health, transmission of disease, infant mortality, juvenile delinquency, or crime, and is detrimental to the public health, safety, morals or welfare, or any area which by reason of the presence of a substantial number of substandard, slum, deteriorated or deteriorating structures, predominance of defective or inadequate street layout, faulty lot layout in relation to size, adequacy,

accessibility or usefulness, insanitary or unsafe conditions, deterioration of site or other improvements, diversity of ownership, tax or special assessment delinquency exceeding the fair value of the land, defective or unusual conditions of title, or the existence of conditions which endanger life or property by fire and other causes, or any combination of such factors, substantially impairs or arrests the sound growth of a city, retards the provision of housing accommodations or constitutes an economic or social liability and is a menace to the public health, safety, morals, or welfare in its present condition and use, or any area which is predominantly open and which because of obsolete platting, diversity of ownership, deterioration of structures or of site improvements, or otherwise, substantially impairs or arrests the sound growth of the community.

(f) "Blight elimination, slum clearance and urban renewal program", "blight elimination and urban renewal program", "redevelopment, slum clearance or urban renewal program", "redevelopment or urban renewal program", and "redevelopment program", mean undertakings and activities for the elimination and for the prevention of the development or spread of blighted areas.

(g) "Blight elimination, slum clearance and urban renewal project", "redevelopment and urban renewal project", "redevelopment or urban renewal project", "redevelopment project", "urban renewal project" and "project" mean undertakings and activities in a project area for the elimination and for the prevention of the development or spread of slums and blight, and may involve clearance and redevelopment in a project area, or rehabilitation or conservation in a project area, or any combination or part thereof in accordance with a "redevelopment plan", "urban renewal plan", "redevelopment or urban renewal plan", "project area plan" or "redevelopment and urban renewal plan" (either one of which means the redevelopment plan of the project area prepared and approved as provided in sub. (6)). Such undertakings and activities may include:

1. Acquisition of a blighted area or portions thereof;

2. Demolition and removal of buildings and improvements;

3. Installation, construction, or reconstruction of streets, utilities, parks, playgrounds, and other improvements necessary for carrying out in the project area the objectives of this section in accordance with the redevelopment plan;

4. Disposition of any property acquired in the project area (including sale, initial leasing or retention by the authority itself) at its fair value for uses in accordance with the redevelopment plan;

5. Carrying out plans for a program of voluntary or compulsory repair and rehabilitation of buildings or other improvements in accordance with the redevelopment plan; and

6. Acquisition of any other real property in the project area where necessary to eliminate unhealthful, insanitary or unsafe conditions, lessen density, eliminate obsolete or other uses detrimental to the public welfare, or otherwise to remove or prevent the spread of blight or deterioration, or to provide land for needed public facilities.

(h) "Project area" means a blighted area which the local legislative body declares to be in need of a blight elimination, slum clearance and urban renewal project.

(i) "Real property" includes all lands, together with improvements and fixtures thereon, and property of any nature appurtenant thereto, or used in connection therewith, and every estate, interest, right and use, legal or equitable, therein, including terms for years and liens by way of judgment, mortgage or otherwise.

(j) "Bonds" means any bonds (including refunding bonds), notes, interim certificates, certificates of indebtedness, debentures or other obligations.

(5) POWERS OF REDEVELOPMENT AUTHORITIES. (a) Every authority is granted, in addition to any other powers, all powers necessary or incidental to carry out and effectuate the purposes of this section, including the following powers:

1. To prepare or cause to be prepared redevelopment plans and urban renewal plans and to undertake and carry out redevelopment and urban renewal projects within the corporate limits of the city in which it functions.

2. To enter into any contracts determined by the authority to be necessary to effectuate the purposes of this section. All contracts, other than those for personal or professional services, in excess of $3,000 shall be subject to bid and awarded to the lowest qualified and competent bidder. The authority shall advertise for bids by a class 2 notice, under ch. 985, published in the city in which the project is to be developed.

3. Within the boundaries of the city to acquire by purchase, lease, eminent domain, or otherwise, any real or personal property or any interest therein, together with any improvements thereon, necessary or incidental to a redevelopment or urban renewal project; to hold, improve, clear or prepare for redevelopment or urban renewal any such property; to sell, lease, subdivide, retain or make available for the city's use; to mortgage or otherwise encumber or dispose of any such property or any interest therein; to

enter into contracts with redevelopers of property containing covenants, restrictions and conditions regarding the use of such property in accordance with a redevelopment or urban renewal plan, and such other covenants, restrictions and conditions as the authority deems necessary to prevent a recurrence of blighted areas or to effectuate the purposes of this section; to make any of such covenants, restrictions, conditions or covenants running with the land and to provide appropriate remedies for any breach thereof; to arrange or contract for the furnishing of services, privileges, works or facilities for, or in connection with a project; to temporarily operate and maintain real property acquired by it in a project area for or in connection with a project pending the disposition of the property for such uses and purposes as may be deemed desirable even though not in conformity with the redevelopment plan for the area; within the boundaries of the city to enter into any building or property in any project area in order to make inspections, surveys, appraisals, soundings or test borings, and to obtain an order for this purpose from a court of competent jurisdiction in the event entry is denied or resisted; to own and hold property and to insure or provide for the insurance of any real or personal property or any of its operations against any risks or hazards, including the power to pay premiums on any such insurance; to invest any project funds held in reserves or sinking funds or any such funds not required for immediate disbursement in property or securities in which savings banks may legally invest funds subject to their control; to redeem its bonds issued under this section at the redemption price established therein or to purchase such bonds at less than redemption price, all such bonds so redeemed or purchased to be canceled; to develop, test and report methods and techniques, and carry out demonstrations and other activities, for the prevention and elimination of slums and blight; and to disseminate blight elimination, slum clearance and urban renewal information.

4. a. To borrow money and issue bonds; to execute notes, debentures and other forms of indebtedness; and to apply for and accept advances, loans, grants, contributions and any other form of financial assistance from the city in which it functions, from the federal government, the state, county, or other public body, or from any sources, public or private for the purposes of this section, and to give such security as may be required and to enter into and carry out contracts or agreements in connection therewith, and to include in any contract for financial assistance with the federal government for or with respect to blight elimination and slum clearance and urban renewal such conditions imposed pursuant to federal laws as the authority deems reasonable and appropriate and which are not inconsistent with the purposes of this section.

b. Any debt or obligation of the authority shall not be deemed the debt or obligation of the city, county, state or any other governmental authority other than the redevelopment authority itself.

c. To issue bonds from time to time in its discretion to finance its activities under this section, including, without limiting the generality thereof, the payment of principal and interest upon any advances for surveys and plans, and shall have power to issue refunding bonds for the payment or retirement of such bonds previously issued by it. Such bonds shall be made payable, as to both principal and interest, solely from the income, proceeds, revenues, and funds of the authority derived from or held in connection with its undertaking and carrying out of projects under this section; provided that payment of such bonds, both as to principal and interest, may be further secured by a pledge of any loan, grant or contribution from the federal government or other source, in aid of any projects or activities of the authority under this section, and by a mortgage of any such projects, or any part thereof, title to which is in the authority. Bonds issued under this subsection shall not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction of the state, city or of any public body other than the authority issuing the bonds, and shall not be subject to any other law or charter relating to the authorization, issuance or sale of bonds. Bonds issued under this section are declared to be issued for an essential public and governmental purpose and, together with interest thereon and income therefrom, shall be exempt from all taxes. Bonds issued under this subsection shall be authorized by resolution of the authority and may be issued in one or more series and shall bear such date, be payable upon demand or mature at such time, bear interest at such rate, be in such denomination, be in such form either with or without coupon or registered, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable in such medium of payment, at such place, and be subject to such terms of redemption (with or without premium), be secured in such manner, and have such other characteristics, as is provided by the resolution, trust indenture or mortgage issued pursuant thereto. Such bonds may be sold at not less than par at public sale held after a class 2 notice, under ch. 985, published prior to such sale in a newspaper having general circulation in the city and in such other medium of publication

as the authority determines or may be exchanged for other bonds on the basis of par. Such bonds may be sold to the federal government at private sale (without publication of any notice) at not less than par, and, if less than all of the authorized principal amount of such bonds is sold to the federal government, the balance may be sold at private sale at not less than par at an interest cost to the authority of not to exceed the interest cost to the authority of the portion of the bonds sold to the federal government. In case any of the officials of the authority whose signatures appear on any bonds or coupons issued under this subsection cease to be such officials before the delivery of such bonds, such signatures shall, nevertheless, be valid and sufficient for all purposes, the same as if such officials had remained in office until such delivery. Any provision of any law to the contrary notwithstanding, any bonds issued pursuant to this subsection shall be fully negotiable. In any suit, action or proceeding involving the validity or enforceability of any bond issued under this subsection or the security therefor, any such bond reciting in substance that it has been issued by the authority in connection with a project or activity under this subsection, shall be conclusively deemed to have been issued for such purpose and such project or activity shall be conclusively deemed to have been planned, located and carried out in accordance with this section.

5. To exercise such other and further powers as may be required or necessary in order to effectuate the purposes hereof.

6. The chairman of the authority or the vice chairman in the absence of the chairman, selected by vote of the commissioners, and the executive director or the assistant director in the absence of the executive director is authorized to execute on behalf of the authority all contracts, notes and other forms of obligation when authorized by at least 4 of the commissioners of the authority to do so.

7. The authority is authorized to commence actions in its own name and shall be sued in the name of the authority. The authority shall have an official seal.

(b) 1. Condemnation proceedings for the acquisition of real property necessary or incidental to a redevelopment project shall be conducted in accordance with ch. 32, or any other law relating specifically to eminent domain procedures of redevelopment authorities.

3. Where a public hearing has been held with respect to a project area under this section the authority may proceed with such project and the redevelopment plan by following the procedure set forth in ch. 32. Any owner of property who has filed objections to the plan as provided under sub. (6) may be entitled to a remedy as determined by s. 32.06 (5).

4. The authority may acquire by purchase real property within any area designated for urban renewal or redevelopment purposes under this section prior to the approval of either the redevelopment or urban renewal plans or prior to any modification of the plan, providing approval of such acquisition is granted by the local governing body. In the event of the acquisition of such real property the authority may demolish or remove structures so acquired with the approval of the local governing body. In the event that real property so acquired is not made part of the urban renewal project the authority shall bear any loss that may arise as a result of the acquisition, demolition or removal of structures acquired under this section; however, the local legislative body if it has given its approval to the acquisition of such property shall reimburse the authority for any loss sustained as provided for in this subsection. Any real property acquired in a redevelopment or in an urban renewal area pursuant to this subsection may be disposed of in accordance with the provisions of this section providing the local governing body has approved the acquisition of the property for the project.

(6) COMPREHENSIVE PLAN OF REDEVELOPMENT; DESIGNATION OF BOUNDARIES; APPROVAL BY LOCAL LEGISLATIVE BODY. (a) The authority may make or cause to be made and prepare or cause to be prepared a comprehensive plan of redevelopment and urban renewal which shall be consistent with the general plan of the city, including the appropriate maps, tables, charts and descriptive and analytical matter. Such plan is intended to serve as a general framework or guide of development within which the various area and redevelopment and urban renewal projects may be more precisely planned and calculated. The comprehensive plan shall include at least a land use plan which designates the proposed general distribution and general locations and extents of the uses of the land for housing, business, industry, recreation, education, public buildings, public reservations and other general categories of public and private uses of the land. The authority is authorized to make or have made all other surveys and plans necessary under this section, and to adopt or approve, modify and amend such plans.

(b) For the exercise of the powers granted and for the acquisition and disposition of real property in a project area, the following steps and plans shall be requisite:

1. Designation by the authority of the boundaries of the proposed project area, submission of such boundaries to the local legislative body, and adoption of a resolution by two-thirds of

such local legislative body declaring such area to be a blighted area in need of a blight elimination, slum clearance and urban renewal project. Thereafter, the local legislative body may, by resolution by two-thirds vote, prohibit for an initial period of not to exceed 6 months from enactment of such resolution any new construction in such area except upon resolution by the local legislative body that such proposed new construction, on such reasonable conditions as may be fixed therein, will not substantially prejudice the preparation or processing of a plan for the area and is necessary to avoid substantial damage to the applicant. Such order of prohibition shall be subject to successive renewals for like periods by like resolutions; but no new construction contrary to any such resolution of prohibition shall be authorized by any agency, board or commission of the city in such area except as herein provided. No such prohibition of new construction shall be construed to forbid ordinary repair or maintenance, or improvement necessary to continue occupancy under any regulatory order.

2. Approval by the authority and by two-thirds of the local legislative body of the redevelopment plan of the project area which has been prepared by the authority. Such redevelopment plan shall conform to the general plan of the city and shall be sufficiently complete to indicate its relationship to definite local objectives as to appropriate land uses, improved traffic, public transportation, public utilities, recreational and community facilities, and other public improvements in the project area, and shall include, without being limited to, a statement of the boundaries of the project area; a map showing existing uses and conditions of real property therein; a land use plan showing proposed uses of the area; information showing the standards of population density, land coverage and building intensity in the area after redevelopment; present and potential equalized value for property tax purposes; a statement of proposed changes, if any, in zoning ordinances or maps and building codes and ordinances; a statement as to the kind and number of site improvements and additional public utilities which will be required to support the new land uses in the area after redevelopment; and a statement of a feasible method proposed for the relocation of families to be displaced from the project area.

3. Approval of a redevelopment plan of a project area by the authority may be given only after a public hearing conducted by the authority and a finding by the authority that such plan is feasible and in conformity with the general plan of the city. Notice of such hearing, describing the time, date, place and purpose of the hearing and generally identifying the project area, shall be published as a class 2 notice, under ch. 985, the last insertion to be at least 10 days prior to the date set for the hearing. In addition thereto, at least 20 days prior to the date set for the hearing on the proposed redevelopment plan of the project area a notice shall be transmitted by certified mail, with return receipt requested, to each owner of real property of record within the boundaries of the redevelopment plan. If transmission of such notice by certified mail with return receipt requested cannot be accomplished, or if the letter is returned undelivered, then notice may be given by posting the same at least 10 days prior to the date of hearing on any structure located on the property; or if such property consists of vacant land, a notice may be posted in some suitable and conspicuous place on such land. Such notice shall state the time and place at which the hearing will be held with respect to the redevelopment plan and that the owner's property might be taken for urban renewal. For the purpose of ascertaining the name of the owner of record of the real property within such project boundaries, the records, at the time of the approval by the redevelopment authority of the project boundaries, of the register of deeds of the county in which such property is located shall be deemed conclusive. Failure to receive such notice shall not invalidate the plan. An affidavit of mailing of such notice or posting thereof filed as a part of the records of the authority shall be deemed prima facie evidence of the giving of such notice. All interested parties shall be afforded a full opportunity to express their views respecting the proposed plan at such public hearing, but the hearing shall only be for the purpose of assisting the authority in making its determination and in submitting its report to the local legislative body. Any technical omission in the procedure outlined herein shall not be deemed to invalidate the plan. Any owner of property included within the boundaries of the redevelopment plan and objecting to such plan shall be required to state his objections and the reasons therefor, in writing, and file the same with the authority either prior to, at the time of the public hearing, or within 15 days thereafter, but not subsequently thereto. He shall state his mailing address and sign his name thereto. The filing of such objections in writing shall be a condition precedent to the commencement of an action to contest the right of the redevelopment authority to condemn the property under s. 32.06 (5).

(c) In relation to the location and extent of public works and utilities, public buildings and public uses in a comprehensive plan or a project area plan, the authority is directed to confer with the planning commission and with such other public officials, boards, authorities and

agencies of the city under whose administrative jurisdictions such uses respectively fall.

(d) At any time after such redevelopment plan has been approved both by the authority and the local legislative body, it may be amended by resolution adopted by the authority, and such amendment shall be submitted to the local legislative body for its approval by a two-thirds vote before the same shall become effective. It shall not be required in connection with any amendment to the redevelopment plan, unless the boundaries described in the plan are altered to include other property that the provisions with respect to public hearing and notice be followed.

(e) After a project area redevelopment plan of a project area has been adopted by the authority, and the local legislative body has by a two-thirds vote approved the redevelopment plan the authority may at any time certify said plan to the local legislative body, whereupon the authority shall proceed to exercise the powers granted to it for the acquisition and assembly of the real property of the area. The local legislative body shall upon the certification of such plan by the authority direct that no new construction shall be permitted, and thereafter no new construction shall be authorized by any agencies, boards or commissions of the city in such area unless as authorized by the local legislative body, including substantial remodeling or conversion or rebuilding, enlargement, or extension or major structural improvements on existing buildings, but not including ordinary maintenance or remodeling or changes necessary to continue the occupancy.

(f) Any city in which a redevelopment authority is carrying on redevelopment under this section may make grants, loans, advances or contributions for the purpose of carrying on redevelopment, urban renewal and any other related purposes.

(9) TRANSFER, LEASE OR SALE OF REAL PROPERTY IN PROJECT AREAS FOR PUBLIC AND PRIVATE USES. (a) 1. Upon the acquisition of any or all of the real property in the project area, the authority has power to lease, sell or otherwise transfer all or any part of said real property (including streets or parts thereof to be closed or vacated in accordance with the plan) to a redevelopment company, association, corporation or public body, or to an individual or partnership, for use in accordance with the redevelopment plan. No such assembled lands of the project area shall be either sold or leased by the authority to a housing authority created under s. 66.40 for the purpose of constructing public housing projects upon such land unless the sale or lease of such lands has been first approved by the local legislative body by a vote of not less than four-fifths of the members elected. Such real property shall be leased or sold at its fair market value for uses in accordance with the redevelopment plan, notwithstanding such value may be less than the cost of acquiring and preparing such property for redevelopment. In determining such fair market value, an authority shall give consideration to the uses and purposes required by the plan; the restrictions upon and covenants, conditions and obligations assumed by the purchaser or lessee, the objectives of the redevelopment plan for the prevention or recurrence of slum and blighted areas; and such other matters as the authority deems appropriate. A copy of the plan shall be recorded in the office of the register of deeds in the county where such redevelopment project is located, and any amendment to such redevelopment plan, approved as herein provided for, shall also be recorded in the office of the register of deeds of such county. Before the transfer, lease or sale of any real property in the project area occurs, a report as to the terms, conditions and other material provisions of the proposed sale, lease or other disposition of either a part (where only a part of the land assembled is to be disposed) or of all of the land assembled shall be submitted to the local legislative body, and such local legislative body shall approve such report prior to the authority proceeding with the disposition of such real property.

2. Any lease, including renewal options, which can total more than 5 years shall be approved by the local legislative body.

(b) Any such lease or sale may be made without public bidding, but only after public hearing is held by the authority after notice to be published as a class 2 notice, under ch. 985, and the hearing shall be predicated upon the proposed sale or lease and the provisions thereof.

(c) The terms of such lease or sale shall be fixed by the authority, and the instrument of lease may provide for renewals upon reappraisals and with rentals and other provisions adjusted to such reappraisals. Every such lease or sale shall provide that the lessee or purchaser shall carry out or cause to be carried out the approved project area redevelopment plan or approved modifications thereof, and that the use of such land or real property included in the lease or sale, and any building or structure erected thereon, shall conform to such approved plan or approved modifications thereof. In the instrument of lease or sale, the authority may include such other terms, provisions and conditions as in its judgment will provide reasonable assurance of the priority of the obligations of the lease or sale and of conformance to the plan over any other obligations of the lessee or purchaser, and also assurance of the financial and legal

ability of the lessee or purchaser to carry out and conform to the plan and the terms and conditions of the lease or sale; also, such terms, conditions and specifications concerning buildings, improvements, subleases or tenancy, maintenance and management, and any other matters as the authority may impose or approve, including provisions whereby the obligations to carry out and conform to the project area plan shall run with the land. If maximum rentals to be charged to tenants are specified, provision may be made for periodic reconsideration of such rental bases.

(d) Until the authority certifies that all building constructions and other physical improvements specified by the purchaser have been completed, the purchaser shall have no power to convey the area, or any part thereof, without the consent of the authority and no such consent shall be given unless the grantee of the purchaser obligates himself, by written instrument, to the authority to carry out that portion of the redevelopment plan which falls within the boundaries of the conveyed property and also that the grantee, his heirs, representatives, successors and assigns, shall have no right or power to convey, lease or let the conveyed property or any part thereof, or erect or use any building or structure erected thereon free from obligation and requirement to conform to the approved project area redevelopment plan or approved modifications thereof.

(e) The authority may cause to have demolished any existing structure or clear the area of any part thereof, or specify the demolition and clearance to be performed by a lessee or purchaser and a time schedule for the same. The authority shall specify the time schedule and conditions for the construction of buildings and other improvements.

(f) In order to facilitate the lease or sale of a project area, or if the lease or sale is part of an area, the authority has the power to include in the cost payable by it the cost of the construction of local streets and sidewalks in the area, or of grading and any other local public surface or subsurface facilities or any site improvements necessary for shaping the area as the site of the redevelopment of the area. The authority may arrange with the appropriate federal, state, county or city agencies for the reimbursement of such outlays from funds or assessments raised or levied for such purposes.

(10) HOUSING FOR DISPLACED FAMILIES; RELOCATION PAYMENTS. In connection with every redevelopment plan, the authority shall formulate a feasible method for the temporary relocation of persons living in areas that are designated for clearance and redevelopment. In addition, the authority shall prepare a plan which shall be submitted to the local legislative body for approval which shall assure that decent, safe and sanitary dwellings substantially equal in number to the number of substandard dwellings to be removed in carrying out the redevelopment are available or will be provided at rents or prices within the financial reach of the income groups displaced. The authority is authorized to make relocation payments to or with respect to persons (including families, business concerns and others) displaced by a project for moving expenses and losses of property for which reimbursement or compensation is not otherwise made, including the making of such payments financed by the federal government.

(11) MODIFICATION OF REDEVELOPMENT PLAN. (a) An approved project area redevelopment plan may be modified at any time after the lease or sale of the area or part thereof provided that the modification is consented to by the lessee or purchaser, and that the proposed modification is adopted by the authority and then submitted to the local legislative body and approved by it. Before approval, the authority shall hold a public hearing on the proposed modification, and notice of the time and place of hearing shall be sent by mail at least 10 days prior to the hearing to the owners of the real properties in the project area and of the real properties immediately adjoining or across the street from the project area. The local legislative body may refer back to the authority any project area redevelopment plan, project area boundaries or modifications submitted to it, together with recommendations for changes in such plan, boundaries or modification, and if such recommended changes are adopted by the authority and in turn approved by the local legislative body, the plan, boundaries or modifications as thus changed shall be the approved plan, boundaries or modification.

(b) Whenever the authority determines that a redevelopment plan with respect to a project area which has been approved and recorded in the register of deed's office is to be modified in order to permit land uses in the project area, other than those specified in the redevelopment plan, the authority shall notify all purchasers of property within the project area of the authority's intention to modify the redevelopment plan, and it shall hold a public hearing with respect to such modification. Notice shall be given to the purchasers of such property by personal service at least 20 days prior to the holding of such public hearing, or in the event such purchasers cannot be found notice shall be given by registered mail to such purchasers at their last known address. Notice of such public hearing shall also be given by publication as a class 2 notice, under ch. 985. Such notice shall specify the project

area and recite the proposed modification and its purposes. The public hearing shall be merely advisory to the authority. After the authority, following the public hearing, determines that the modification of the redevelopment plan will not affect the original objectives of such plan and that it will not produce conditions leading to a reoccurrence of slums or blight within the project area, the authority may by resolution act to modify such plan so as to permit additional land uses in such project area, subject to approval by the legislative body by a two-thirds vote of the members elect. If the local legislative body approves such modification to the redevelopment plan, an amendment to the plan containing such modification shall be filed with the register of deeds of the county in which such project area is located and shall be supplemental to the redevelopment plan theretofore recorded. Following such action with respect to modification of the redevelopment plan, the plan shall be deemed amended and no legal rights shall accrue to any person or to any owner of property in such project area by reason of the modification of such redevelopment plan.

(c) The provisions herein shall be construed liberally to effectuate the purposes hereof and substantial compliance shall be deemed adequate. Technical omissions shall not invalidate the procedure set forth herein with respect to acquisition of real property necessary or incidental to a redevelopment project.

(12) LIMITATION UPON TAX EXEMPTION. The real and personal property of the authority is declared to be public property used for essential public and governmental purposes, and such property and an authority shall be exempt from all taxes of the state or any state public body; but the city in which a redevelopment or urban renewal project is located may fix a sum to be paid annually in lieu of such taxes by the authority for the services, improvements or facilities furnished to such project by such city provided that the authority is financially able to do so, but such sum shall not exceed the amount which would be levied as the annual tax of the city upon such project. However, no real property acquired pursuant to this act by a private company, corporation, individual or partnership, either by lease or purchase, shall be exempt from taxation by reason of such acquisition.

(13) CO-OPERATION BY PUBLIC BODIES AND USE OF CITY FUNDS. To assist any redevelopment or urban renewal project located in the area in which the authority is authorized to act, any public body may, upon such terms as it determines: furnish services or facilities, provide property, lend or contribute funds, and perform any other action of a character which it is authorized to perform for other general purposes, and to enter into co-operation agreements and related contracts in furtherance of the purposes enumerated. Any city and any public body may levy taxes and assessments and appropriate such funds and make such expenditures as may be necessary to carry out the purposes of this subsection, but taxes and assessments shall not be levied under this subsection by a public body which has no power to levy taxes and assessments for any other purpose.

(14) OBLIGATIONS. For the purpose of financially aiding an authority to carry out blight elimination, slum clearance and urban renewal programs and projects, the city in which such authority functions is authorized (without limiting its authority under any other law) to issue and sell general obligation bonds in the manner and in accordance with the provisions of ch. 67, except that no referendum shall be required, and to levy taxes without limitation for the payment thereof, as provided in s. 67.035. Such bonds shall be fully negotiable and except as provided in this subsection shall not be subject to any other law or charter pertaining to the issuance or sale of bonds.

(15) BUDGET. The local legislative body shall approve the budget for each fiscal year of the authority, and shall have the power to alter or modify any item of said budget relating to salaries, office operation or facilities.

(16) LEGAL SERVICES TO AUTHORITY. The legal department of any city in which the authority functions can provide legal services to such authority and a member of the legal department having the necessary qualifications may, subject to approval of the authority, be its counsel; the authority may also retain specialists to render legal services as required by it.

(17) CONSTRUCTION. This section shall be construed liberally to effectuate the purposes hereof and the enumeration therein of specific powers shall not operate to restrict the meaning of any general grant of power contained in this section or to exclude other powers comprehended in such general grant.

History: 1973 c. 172; 1975 c. 4, 94, 350.

Obligations, including notes, issued by a redevelopment authority under 66.431, Stats. 1969, to evidence a direct loan from the federal government are subject to the provisions of said statute which limit the interest rate thereon to 6% per annum. 59 Atty. Gen. 256.

See note to 895.35, citing 63 Atty. Gen. 421.

Redevelopment authority may condemn any property within the project area even though some portions of the urban renewal area are not in fact blighted. 65 Atty. Gen. 116.

66.432 Local equal opportunities. (1) DECLARATION OF POLICY. The right of all persons to have equal opportunities for housing regardless of their sex, race, color, physical condition, developmental disability as defined in

s. 51.01 (5), religion, national origin or ancestry is a matter both of statewide concern under s. 101.22 and also of local interest under this section and s. 66.433. The enactment of s. 101.22 by the legislature shall not preempt the subject matter of equal opportunities in housing from consideration by local governments, and shall not exempt cities, villages, towns and counties from their duty, nor deprive them of their right, to enact ordinances which prohibit discrimination in any type of housing solely on the basis of sex, race, color, physical condition, developmental disability as defined in s. 51.01 (5), religion, national origin or ancestry.

(2) ANTIDISCRIMINATION HOUSING ORDINANCES. Cities, villages and towns may enact ordinances prohibiting discrimination in the sale or rental of any type of housing within their respective boundaries solely on the basis of sex, race, color, physical condition, developmental disability as defined in s. 51.01 (5), religion, national origin or ancestry. Such an ordinance may be similar to s. 101.22 or may be more inclusive in its terms or in respect to the different types of housing subject to its provisions, but any such ordinance establishing a forfeiture as a penalty for violation shall not be less than the statutory forfeitures under s. 101.22. Counties may enact such ordinances under ss. 59.07 (11) and 66.433.

(3) CONTINGENCY RESTRICTION. No city, village, town or county shall enact an ordinance under sub. (2), which contains a provision making its effective date or the operation of any of its provisions contingent on the enactment of an ordinance on the same or similar subject matter by one or more other cities, villages, towns or counties.

History: 1971 c. 185 s. 7; 1975 c. 94, 275, 422; 1977 c. 418 s. 929 (55).

66.4325 Housing and community development authorities. (1) AUTHORIZATION. Any city may, by a two-thirds vote of the members of the city council present at the meeting, adopt an ordinance or resolution creating a housing and community development authority which shall be known as the "Community Development Authority" of such city. It shall be deemed a separate body politic for the purpose of carrying out blight elimination, slum clearance, urban renewal programs and projects and housing projects. The ordinance or resolution creating a housing and community development authority may also authorize such authority to act as the agent of the city in planning and carrying out community development programs and activities approved by the mayor and common council under the federal housing and community development act of 1974 and as agent to perform all acts, except the development of the general plan of the city, which may be otherwise performed by the planning commission under s. 66.405 to 66.425, 66.43, 66.435 or 66.46. A certified copy of such ordinance or resolution shall be transmitted to the mayor. The ordinance or resolution shall also:

(a) Provide that any redevelopment authority created under s. 66.431 operating in such city and any housing authority created under s. 66.40 operating in such city, shall terminate its operation as provided in sub. (5); and

(b) Declare in substance that a need for blight elimination, slum clearance, urban renewal and community development programs and projects and housing projects exists in the city.

(2) APPOINTMENT OF MEMBERS. Upon receipt of a certified copy of such ordinance or resolution, the mayor shall, with the confirmation of the council, appoint 7 resident persons having sufficient ability and experience in the fields of urban renewal, community development and housing, as commissioners of the community development authority.

(a) Two of the commissioners shall be members of the council and shall serve ex officio during their term of office as council members.

(b) The first appointments of the 5 noncouncil members shall be for the following terms: 2 for one year and one each for terms of 2, 3 and 4 years. Thereafter the terms of noncouncil members shall be 4 years and until their successors are appointed and qualified.

(c) Vacancies shall be filled for the unexpired term as provided in this subsection.

(d) Commissioners shall be reimbursed their actual and necessary expenses including local travel expenses incurred in the discharge of their duties, and may, in the discretion of the city council, receive other compensation.

(3) EVIDENCE OF AUTHORITY. The filing of a certified copy of the ordinance or resolution referred to in sub. (1) with the city clerk shall be prima facie evidence of the community development authority's right to transact business and such ordinance or resolution is not subject to challenge because of any technicality. In any suit, action or proceeding commenced against the community development authority, a certified copy of such ordinance or resolution is conclusive evidence that such community development authority is established and authorized to transact business and exercise its powers under this section.

(4) POWERS AND DUTIES. The community development authority shall have all powers, duties and functions set out in ss. 66.40 and

66.431 for housing and redevelopment authorities and as to all housing projects initiated by the community development authority it shall proceed under s. 66.40, and as to all projects relating to blight elimination, slum clearance, urban renewal and redevelopment programs it shall proceed under s. 66.405 to 66.425, 66.43, 66.431, 66.435 or 66.46 as determined appropriate by the common council on a project by project basis. As to all community development programs and activities undertaken by the city under the federal housing and community development act of 1974, the community development authority shall proceed under all applicable laws and ordinances not inconsistent with the laws of this state. In addition, if provided in the resolution or ordinance, the community development authority may act as agent of the city to perform all acts, except the development of the general plan of the city, which may be otherwise performed by the planning commission under s. 66.405 to 66.425, 66.43, 66.435 or 66.46.

(5) TERMINATION OF HOUSING AND REDEVELOPMENT AUTHORITIES. Upon the adoption of an ordinance or resolution creating a community development authority, all housing and redevelopment authorities previously created in such city under ss. 66.40 and 66.431 shall terminate.

(a) Any programs and projects which have been begun by housing and redevelopment authorities shall, upon adoption of such ordinance or resolution be transferred to and completed by the community development authority. Any procedures, hearings, actions or approvals taken or initiated by the redevelopment authority under s. 66.431 on pending projects is deemed to have been taken or initiated by the community development authority as though the community development authority had originally undertaken such procedures, hearings, actions or approvals.

(b) Any form of indebtedness issued by a housing or redevelopment authority shall, upon the adoption of such ordinance or resolution, be assumed by the community development authority except as indicated in par. (e).

(c) Upon the adoption of such ordinance or resolution, all contracts entered into between the federal government and a housing or redevelopment authority, or between such authorities and other parties shall be assumed and discharged by the community development authority except for the termination of operations by housing and redevelopment authorities. Housing and redevelopment authorities may execute any agreements contemplated by this subsection. Contracts for disposition of real property entered into by the redevelopment authority with respect to any project shall be deemed contracts of the community development authority without the requirement of amendments thereto. Contracts entered into between the federal government and the redevelopment authority or the housing authority shall bind the community development authority in the same manner as though originally entered into by the community development authority.

(d) A community development authority may execute appropriate documents to reflect its assumption of the obligations set forth in this subsection.

(e) A housing authority which has outstanding bonds or other securities that require the operation of the housing authority in order to fulfill its commitments with respect to the discharge of principal or interest or both, may continue in existence solely for such purpose. The ordinance or resolution creating the community development authority shall delineate the duties and responsibilities which shall devolve upon the housing authority with respect thereto.

(f) The termination of housing and redevelopment authorities pursuant to this section shall not be subject to s. 66.40 (26).

(6) CONTROLLING STATUTE. The powers conferred under this section shall be in addition and supplemental to the powers conferred by any other law. Insofar as this section is inconsistent with any other law, this section shall control.

(7) CONSTRUCTION. This section shall be construed liberally to effectuate its purposes and the enumeration of specific powers herein does not restrict the meaning of any general grant of power contained in this section nor does it exclude other powers comprehended in such general grant.

History: 1975 c. 311.

66.433 Community relations-social development commissions. (1) DEFINITION. "Municipality" as used herein means a city, village, town, school district or county.

(2) CREATION. Each municipality is authorized and urged to either establish by ordinance a community relations-social development commission or to participate in such a commission established on an intergovernmental basis within the county pursuant to enabling ordinances adopted by the participating municipalities; but a school district may establish or participate in such a commission by resolution instead of by ordinance. Such intergovernmental commission may be established in cooperation with any nonprofit corporation located in the county and composed primarily of public and private welfare agencies devoted to any of the purposes set forth in this section.

Every such ordinance or resolution shall substantially embody the language of sub. (3). Each municipality may appropriate money to defray the expenses of such commission. If such commission is established on an intergovernmental basis within the county, the provisions of s. 66.30, relating to local co-operation, are applicable thereto as optional authority and may be utilized by participating municipalities to effectuate the purposes of this section, but a contract between municipalities is not necessary for the joint exercise of any power authorized for the joint performance of any duty required herein.

(3) PURPOSE AND FUNCTIONS OF COMMISSION. (a) The purpose of the commission is to study, analyze and recommend solutions for the major social, economic and cultural problems which affect people residing or working within the municipality including, without restriction because of enumeration, problems of the family, youth, education, the aging, juvenile delinquency, health and zoning standards, and discrimination in housing, employment and public accommodations and facilities on the basis of sex, class, race, religion or ethnic or minority status.

(b) The commission may:

1. Include within its studies problems related to pornography, industrial strife and the inciting or fomenting of class, race or religious hatred and prejudice.

2. Encourage and foster participation in the fine arts.

(c) The commission shall:

1. Recommend to the municipal governing body and chief executive or administrative officer the enactment of such ordinances or other action as they deem necessary:

a. To establish and keep in force proper health standards for the community and beneficial zoning for the community area in order to facilitate the elimination of blighted areas and to prevent the start and spread of such areas;

b. To ensure to all municipal residents, regardless of sex, race or color, the rights to possess equal housing accommodations and to enjoy equal employment opportunities.

2. Co-operate with state and federal agencies and nongovernmental organizations having similar or related functions.

3. Examine the need for publicly and privately sponsored studies and programs in any field of human relationship which will aid in accomplishing the foregoing objectives, and initiate such public programs and studies and participate in and promote such privately sponsored programs and studies.

4. Have authority to conduct public hearings within the municipality and to administer oaths to persons testifying before it.

5. Employ such staff as is necessary to implement the duties assigned to it.

(4) COMPOSITION OF COMMISSION. The commission shall be nonpartisan and composed of citizens residing in the municipality, including representatives of the clergy and minority groups, and the composition thereof, number and method of appointing and removing the members thereof shall be determined by the local legislative bodies creating or participating in such commission. Of the persons first appointed, one-third shall hold office for one year, one-third for 2 years, and one-third for 3 years from the first day of February next following their appointment, and until their respective successors are appointed and qualified. All succeeding terms shall be for 3 years. Any vacancy shall be filled for the unexpired term in the same manner as original appointments. Every person appointed as a member of the commission shall take and file the official oath.

(5) ORGANIZATION. The commission shall meet in January, April, July and October of each year, and may meet at such additional times as the members determine or the chairman directs. Annually, it shall elect from its membership a chairman, vice chairman and secretary. A majority of the commission shall constitute a quorum. Members of the commission shall receive no compensation, but each member shall be entitled to his actual and necessary expenses incurred in the performance of his duties. The commission may appoint consulting committees consisting of either members or nonmembers or both, the appointees of which shall be reimbursed their actual and necessary expenses. All expense accounts shall be paid by the commission on certification by the chairman or acting chairman.

(6) OPEN MEETINGS. All meetings of the commission and its consulting committees shall be publicly held and open to all citizens at all times as required by subch. IV of ch. 19.

(7) DESIGNATION OF COMMISSIONS AS CO-OPERATING AGENCIES UNDER FEDERAL LAW. (a) The commission may be the official agency of the municipality to accept assistance under title II of the federal economic opportunity act of 1964. No assistance shall be accepted with respect to any matter to which objection is made by the legislative body creating such commission, but if the commission is established on an intergovernmental basis and such objection is made by any participating legislative body said assistance may be accepted with the approval of a majority of the legislative bodies participating in such commission.

(b) The commission may be the official agency of the municipality to accept assistance

from the community relations service of the U.S. department of justice under title X of the federal civil rights act of 1964 to provide assistance to communities in resolving disputes, disagreements or difficulties relating to discriminatory practices based on sex, race, color or national origin which may impair the rights of persons in the municipality under the constitution or laws of the United States or which affect or may affect interstate commerce.

(8) OTHER POWERS OF THE COUNTY BOARD OF SUPERVISORS. County boards may appropriate county funds for the operation of community relations-social development commissions established or reconstituted under this section, including those participated in on an equal basis by nonprofit corporations located in the county and comprised primarily of public and private welfare agencies devoted to any of the purposes set forth in this section. The legislature finds that the expenditure of county funds for the establishment or support of such commissions is for a public purpose.

(9) INTENT. It is the intent of this section to promote fair and friendly relations among all the people in this state, and to that end race, creed or color ought not to be made tests in the matter of the right of any person to sell, lease, occupy or use real estate or to earn his livelihood or to enjoy the equal use of public accommodations and facilities.

(10) SHORT TITLE. This section shall be known and may be cited as "The Wisconsin Bill of Human Rights".

History: 1975 c. 94; 1975 c. 426 s. 3

Functions of a community relations-social development commission are not limited to study, analysis and planning, but have authority to carry out some human relations programs providing services directly to citizens. 63 Atty. Gen. 182

66.434 Community action agencies. A city, village or town may appropriate funds for promoting and assisting any community action agency designated by the U.S. community services administration pursuant to the community services act of 1974.

History: 1977 c. 29

66.435 Urban renewal act. (1) SHORT TITLE. This section shall be known and may be cited as the "Urban Renewal Act".

(2) FINDINGS. It is hereby found and declared that there exists in municipalities of the state slum, blighted and deteriorated areas which constitute a serious and growing menace injurious to the public health, safety, morals and welfare of the residents of the state, and the findings and declarations made before August 3, 1955 in s. 66.43 (2) are in all respects affirmed and restated; that while certain slum, blighted or deteriorated areas, or portions thereof, may require acquisition and clearance, as provided in s. 66.43, since the prevailing condition of decay may make impracticable the reclamation of the area by conservation or rehabilitation in such a manner that the conditions and evils hereinbefore enumerated may be eliminated, remedied or prevented, and to the extent feasible salvable slum and blighted areas should be conserved and rehabilitated through voluntary action and the regulatory process; and all acts and purposes provided for by this section are for and constitute public uses and are for and constitute public purposes, and that moneys expended in connection with such powers are declared to be for public purposes and to preserve the public interest, safety, health, morals and welfare. Any municipality in carrying out the provisions of this section shall afford maximum opportunity consistent with the sound needs of the municipality as a whole to the rehabilitation or redevelopment of areas by private enterprise.

(3) URBAN RENEWAL PROJECTS. In addition to its authority under any other section, a municipality is authorized to plan and undertake urban renewal projects. As used in this section, an urban renewal project may include undertakings and activities for the elimination and for the prevention of the development or spread of slums or blighted, deteriorated or deteriorating areas and may involve any work or undertaking for such purpose constituting a redevelopment project or any rehabilitation or conservation work, or any combination of such undertaking or work. For this purpose, "rehabilitation or conservation work" may include (a) carrying out plans for a program of voluntary or compulsory repair and rehabilitation of buildings or other improvements; (b) acquisition of real property and demolition, removal or rehabilitation of buildings and improvements thereon where necessary to eliminate unhealthful, insanitary or unsafe conditions, lessen density, reduce traffic hazards, eliminate obsolete or other uses detrimental to the public welfare, or to otherwise remove or prevent the spread of blight or deterioration, or to provide land for needed public facilities; (c) installation, construction or reconstruction of streets, utilities, parks, playgrounds, and other improvements necessary for carrying out the objectives of the urban renewal project; and (d) the disposition, for uses in accordance with the objectives of the urban renewal project, of any property or part thereof acquired in the area of such project, provided, that such disposition shall be in the manner prescribed in this section for the disposition of property in a redevelopment project area.

(4) WORKABLE PROGRAM. (a) The governing body of the municipality, or such public officer or public body as it designates, including a housing authority organized and created under s. 66.40, a redevelopment authority created under s. 66.431 or a community development authority created under s. 66.4325, is authorized to prepare a workable program for utilizing appropriate private and public resources to eliminate, and prevent the development or spread of, slums and urban blight and deterioration, to encourage needed urban rehabilitation, to provide for the redevelopment of blighted, deteriorated or slum areas, or to undertake such of the aforesaid activities or other feasible activities as may be suitably employed to achieve the objectives of such a program; and such governing body may by resolution or ordinance provide the specific means by which such workable program can be effectuated and may confer upon its officers and employes the power required to carry out a program of rehabilitation and conservation for the restoration and removal of blighted, deteriorated or deteriorating areas. Whenever any municipality finds that thereexists in such municipality dwellings or other structures which are unfit for human habitation due to dilapidation, defects increasing the hazards of fire, accidents or other calamities, lack of ventilation, light or sanitary facilities, or due to other conditions, any one of which is sufficient for action, rendering such dwellings or other structures unsafe or insanitary or dangerous or detrimental to the health, safety or morals, or otherwise inimical to the welfare of the residents of such municipality, power is expressly conferred upon such municipality to enact such resolutions or ordinances deemed appropriate and effectual in order to prevent the conditions herein set forth and to require or cause the repair, closing or demolition or removal of such dwellings or other structures. For the purposes of such resolutions or ordinances a "dwelling" means any building, or structure, or part thereof, used and occupied for human habitation or intended to be so used, and includes any appurtenances belonging thereto or usually enjoyed therewith. The term "structure" shall also include fences, garages, sheds, and any type of store, commercial, industrial or manufacturing building. Such ordinances or resolutions shall require that whenever there has been a violation, or whenever there are reasonable grounds to believe there has been a violation, of any provision of any such ordinances or resolutions, notice of such violation or alleged violation shall be given to the person or persons responsible therefor by appropriately designated public officers or employes of such municipality. Every such notice shall: 1. Be put in writing; 2. Include a description of the real estate sufficient for identification; 3. Include a statement of the reason or reasons why it is being issued; 4. Specify a time for the performance of any act which it requires; and 5. Be served upon the responsible person or persons. Such notice of violation shall be deemed to be properly served upon such person if a copy thereof is delivered to him personally or, if not found, by leaving a copy thereof at his usual place of abode, in the presence of someone in the family of suitable age and discretion who shall be informed of the contents thereof, or by sending a copy thereof by registered mail or by certified mail with return receipt requested to his last known address, or if the registered or certified letter with the copy of the notice is returned showing the letter has not been delivered to him, by posting a copy thereof in a conspicuous place in or about the dwelling or other structure affected by the notice. Any person affected by any such notice may request and shall be granted a hearing on the matter before a board or commission established by the governing body of such municipality, or before a full-time commissioner of health; and such person shall file in the office of the designated board, commission, or commissioner of health, a written petition requesting such hearing and setting forth a statement of the grounds therefor within 20 days after the day the notice was served. Within 10 days of receipt of such petition the designated board, commission, or commissioner of health, shall set a time and place for such hearing and shall give the petitioner written notice thereof. At such hearing the petitioner shall be given an opportunity to be heard and to show cause why such notice should be modified or withdrawn. The hearing before the designated board, commission, or commissioner of health, shall be commenced not later than 30 days after the date on which the petition was filed. Upon written application of the petitioner to the designated board, commission, or commissioner of health, the date of the hearing may be postponed for a reasonable time beyond such 30-day period, if, in the judgment of the designated board, commission, or commissioner of health, the petitioner has submitted a good and sufficient reason for such postponement. Any notice served pursuant to this section shall become an order if a written petition for a hearing is not filed in the office of the designated board, commission, or commissioner of health, within 20 days after such notice is served. The designated board, commission or commissioner of health, has the power to administer oaths and affirmations in connection with the conduction of any hearing held in accordance with this section. After such hearing

the designated board, commission, or commissioner of health, shall sustain, modify or cancel the notice, depending upon its findings as to whether the provisions of the resolutions or ordinances enacted by the municipality have been complied with. The designated board, or commission, or commissioner of health, may also modify any notice so as to authorize a variance from the provisions of the resolutions or ordinances enacted by the municipality when, because of special conditions, enforcement of the provisions of the enacted resolutions or ordinances will result in practical difficulty or unnecessary hardship; provided, that the intent of the enacted resolutions or ordinances will be observed and public health and welfare secured. If the designated board, commission, or commissioner of health, sustains or modifies such a notice, it shall be deemed to be an order, and the persons affected thereby shall comply with all provisions of such order within a reasonable period of time, as determined by the board, commission, or commissioner of health. The proceedings at such hearing, including the findings and decisions of the board, commission, or commissioner of health, shall be reduced to writing and entered as a matter of public record in the office of the board, commission, or commissioner of health. Such record shall also include a copy of every notice or order issued in connection with the matter. A copy of the written decision of the board, commission, or commissioner of health, shall then be served, in the same manner prescribed for service of notice, on the person who filed the petition for hearing. Whenever the commissioner of health finds that an emergency exists which requires immediate action to protect the public health, he may, without notice or hearing, issue an order reciting the existence of such an emergency and requiring that such action be taken as he deems necessary to meet the emergency. Notwithstanding other provisions of this section, such order shall be effective immediately. Any person to whom such order is directed shall comply therewith, but upon petition to the commissioner of health shall be afforded a hearing as prescribed in this section. After such hearing, depending upon the findings of the commissioner of health as to whether an emergency still exists, which requires immediate action to protect the public health, the said commissioner of health shall continue such order in effect or modify or revoke it.

(b) Any person feeling aggrieved by the determination of any board, commission or commissioner of health, following review of an order issued by officers and employes of a municipality under this section may appeal directly to the circuit court of the county in which the dwelling or other structure is located by filing a petition for review with the clerk of the circuit court within 30 days after a copy of the order of the board, commission or commissioner of health has been served upon the person. The petition shall state the substance of the order appealed from and the grounds upon which the person believes the order to be improper. A copy of the petition shall be served upon the board, commission or commissioner of health whose determination is being appealed. The copy shall be served personally or by registered or certified mail within the 30-day period provided in this paragraph. A reply or answer shall be filed by the board, commission or commissioner of health within 15 days from the receipt of the petition. A copy of the written proceedings of the hearing held by the board, commission or commissioner of health which led to service of the order being appealed, shall be included with the reply or answer when filed. If it appears to the court that the petition is filed for purposes of delay, it shall, upon application of the municipality, promptly dismiss the petition. Either party to the proceedings may then petition the court for an immediate hearing on the order. The court shall review the order, the copy of written proceedings of the hearing conducted by the board, commission or commissioner of health and shall take such testimony as in its judgment may be appropriate, and following a hearing upon the order without a jury, the court shall make its determination. If the court affirms the determination made by the board, commission or commissioner of health, the court shall fix a time within which the order appealed from shall become operative. Either party may appeal from the determination made by the circuit court to the court of appeals within 60 days following the determination of the circuit court, but not thereafter. If the court of appeals or supreme court affirms the order appealed from, the court shall set the time within which the order shall become effective.

(5) GENERAL POWERS CONFERRED UPON MUNICIPALITIES. The governing body of any municipality shall have and there is hereby expressly conferred upon it all powers necessary and incidental to effect a program of urban renewal, including functions with respect to rehabilitation and conservation for the restoration and removal of blighted, deteriorated or deteriorating areas, and such local governing body is hereby authorized to adopt such resolutions or ordinances as may be required for the purpose of carrying out that program and the objectives and purposes of this section. In

connection with the planning, undertaking and financing of the urban renewal program or projects, the governing body of any municipality and all public officers, agencies and bodies shall have all the rights, powers, privileges and immunities which they have with respect to a redevelopment project under s. 66.43.

(6) ASSISTANCE TO URBAN RENEWAL BY MUNICIPALITIES AND OTHER PUBLIC BODIES. Any public body is hereby authorized to enter into agreements (which may extend over any period, notwithstanding any provision or rule of law to the contrary) with any other public body or bodies respecting action to be taken pursuant to any of the powers granted by this section, including the furnishing of funds or other assistance in connection with an urban renewal plan or urban renewal project.

(7) POWERS HEREIN GRANTED TO BE SUPPLEMENTAL AND NOT IN DEROGATION. (a) Nothing in this section shall be construed to abrogate or impair the powers of the courts or of any department of any municipality to enforce any provisions of its charter or its ordinances or regulations, nor to prevent or punish violations thereof.

(b) Nothing in this section shall be construed to impair or limit in any way the power of the municipality to define and declare nuisances and to cause their removal or abatement, by summary proceedings or otherwise.

(c) The powers conferred by this section shall be in addition and supplemental to the powers conferred by any other law; and this section shall be construed liberally to effectuate the purposes hereof and the enumeration therein of specific powers shall not operate to restrict the meaning of any general grant of power contained in this section or to exclude other powers comprehended in such general grant.

History: 1975 c. 311; 1977 c. 187.

66.436 Villages to have certain city powers. Villages shall have all of the powers of cities under ss. 66.405 to 66.425, 66.43, 66.431, 66.4325, 66.435 and 66.46.

History: 1975 c. 105, 311.

66.44 War housing by housing authorities. (1) Any housing authority established pursuant to ss. 66.40 to 66.404 may undertake the development or administration or both of projects to provide housing for persons (and their families) engaged or to be engaged in war industries or activities and may exercise any of its rights, powers, privileges and immunities to aid and co-operate with the federal government (or any agency thereof) in making housing available for persons (and their families) engaged or to be engaged in war industries or activities; may act as agent for the federal government in developing and administering such housing; may lease such housing from the federal government (or any agency thereof); and may arrange with public bodies and private agencies for such services and facilities as may be needed for such housing; provided, that any such housing shall not be subject to ss. 66.401 (2) and 66.402. Without limiting any existing power, the powers of any public body in the state pursuant to s. 66.403 may be exercised with respect to such housing. With the consent, by resolution, of the governing body of any city or county adjacent but outside of the area of operation of a housing authority, the housing authority may exercise its powers under this section within the territorial boundaries of such city or county.

(2) Any project of a housing authority, for which the federal government has heretofore made or contracted to make financial assistance available, may be administered to provide housing for persons engaged or to be engaged in war industries or activities.

66.45 Municipal co-operation; federal rivers, harbors or water resources projects. Any county, town, city or village acting under its powers and in conformity with state law may enter into an agreement with an agency of the federal government to co-operate in the construction, operation or maintenance of any federally authorized rivers, harbors or water resources management or control project or to assume any potential liability appurtenant to such a project and may do all things necessary to consummate the agreement. If such a project will affect more than one municipality, the municipalities affected may jointly enter into such an agreement with an agency of the federal government carrying such terms and provisions concerning the division of costs and responsibilities as may be mutually agreed upon. The municipalities concerned may by agreement submit any determinations of the division of construction costs, responsibilities, or any other liabilities among them to an arbitration board. The determination of such a board shall be final. This section shall not be construed as a grant or delegation of power or authority to any county, town, city, village or other local municipality to do any work in or place any structures in or on any navigable water except as it is otherwise expressly authorized by state law to do.

66.46 Tax increment law. (1) SHORT TITLE. This section shall be known and may be cited as the "Tax Increment Law".

(2) DEFINITIONS. In this section, unless a different intent clearly appears from the context:

(a) "Blighted area" means any area (including slum area) in which the structures, buildings or improvements, which by reason of dilapidation, deterioration, age or obsolescence, inadequate provision for ventilation, light, air, sanitation, or open spaces, high density of population and overcrowding, or the existence of conditions which endanger life or property by fire and other causes, or any combination of such factors is conducive to ill health, transmission of disease, infant mortality, juvenile delinquency, or crime, and is detrimental to the public health, safety, morals or welfare, or any area which by reason of the presence of a substantial number of substandard, slum, deteriorated or deteriorating structures, predominance of defective or inadequate street layout, faulty lot layout in relation to size, adequacy, accessibility or usefulness, insanitary or unsafe conditions, deterioration of site or other improvements, diversity of ownership, tax or special assessment delinquency exceeding the fair value of the land, defective or unusual conditions of title, or the existence of conditions which endanger life or property by fire and other causes, or any combination of such factors, substantially impairs or arrests the sound growth of a city, retards the provision of housing accommodations or constitutes an economic or social liability and is a menace to the public health, safety, morals, or welfare in its present condition and use, or any area which is predominantly open and which because of obsolete platting, diversity of ownership, deterioration of structures or of site improvements, or otherwise, substantially impairs or arrests the sound growth of the community.

(b) "City" means any city in this state.

(c) "Local legislative body" means the common council.

(d) "Personal property" has the meaning prescribed in s. 70.04.

(e) "Planning commission" means a plan commission created under s. 62.23, a board of public land commissioners if the city has no plan commission, or a city plan committee of the local legislative body, if the city has neither such a commission nor such a board.

(f) "Project costs" mean any expenditures made or estimated to be made or monetary obligations incurred or estimated to be incurred by the city which are listed in a project plan as costs of public works or improvements within a tax incremental district or, to the extent provided in subd. 10, without the district, plus any costs incidental thereto, diminished by any income, special assessments, or other revenues, other than tax increments, received or reasonably expected to be received by the city in connection with the implementation of such plan. Such project costs include, but are not limited to:

1. Capital costs, including but not limited to, the actual costs of the construction of public works or improvements, new buildings, structures, and fixtures; the demolition, alteration, remodeling, repair or reconstruction of existing buildings, structures and fixtures; the acquisition of equipment; and the clearing and grading of land.

2. Financing costs, including, but not limited to, all interest paid to holders of evidences of indebtedness issued to pay for project costs and any premium paid over the principal amount thereof because of the redemption of such obligations prior to maturity.

3. Real property assembly costs, meaning any deficit incurred resulting from the sale or lease as lessor by the city of real or personal property within a tax incremental district for consideration which is less than its cost to the city.

4. Professional service costs, including, but not limited to, those costs incurred for architectural, planning, engineering, and legal advice and services.

5. Imputed administrative costs, including, but not limited to, reasonable charges for the time spent by city employes in connection with the implementation of a project plan.

6. Relocation costs, including, but not limited to, those relocation payments made following condemnation under ss. 32.19 and 32.195.

7. Organizational costs, including, but not limited to, the costs of conducting environmental impact and other studies and the costs of informing the public with respect to the creation of tax incremental districts and the implementation of project plans.

8. The amount of any contributions made under s. 66.431 (13) in connection with the implementation of the project plan.

9. Payments made, in the discretion of the local legislative body, which are found to be necessary or convenient to the creation of tax incremental districts or the implementation of project plans.

10. That portion of costs related to the construction or alteration of sewerage treatment plants, water treatment plants or other environmental protection devices, storm or sanitary sewer lines, water lines, or amenities on streets or the rebuilding or expansion of streets the construction, alteration, rebuilding or expansion of which is necessitated by the project plan for a district, whether or not the construction, alteration, rebuilding or expansion is within the district.

(g) "Project plan" means the properly approved plan for the development or redevelopment of a tax incremental district, including all properly approved amendments thereto.

(h) "Real property" has the meaning prescribed in s. 70.03.

(i) "Tax increment" means that amount obtained by multiplying the total county, city, school and other local general property taxes levied on all taxable property within a tax incremental district in a year by a fraction having as a numerator the value increment for that year in such district and as a denominator that year's equalized value of all taxable property in the district. In any year, a tax increment is "positive" if the value increment is positive; it is "negative" if the value increment is negative.

(j) "Tax incremental base" means the aggregate value, as equalized by the department of revenue, of all taxable property located within a tax incremental district on the date as of which such district is created, determined as provided in sub. (5) (b) except that the value of merchants' stock-in-trade, manufacturers' materials and finished products and livestock included in the tax incremental base shall be adjusted as provided in s. 70.57 (5).

(k) "Tax incremental district" means a contiguous geographic area within a city defined and created by resolution of the local legislative body.

(l) "Taxable property" means all real and personal taxable property located in a tax incremental district.

(m) "Value increment" means the equalized value of all taxable property in a tax incremental district in any year minus the tax incremental base. In any year "value increment" is positive if the tax incremental base is less than the aggregate value of taxable property as equalized by the department of revenue; it is negative if that base exceeds that aggregate value.

(3) POWERS OF CITIES. In addition to any other powers conferred by law, a city may exercise any powers necessary and convenient to carry out the purposes of this section, including the power to:

(a) Create tax incremental districts and to define the boundaries of such districts;

(b) Cause project plans to be prepared, to approve such plans, and to implement the provisions and effectuate the purposes of such plans;

(c) Issue tax incremental bonds and notes;

(d) Deposit moneys into the special fund of any tax incremental district; or

(e) Enter into any contracts or agreements, including agreements with bondholders, determined by the local legislative body to be necessary or convenient to implement the provisions and effectuate the purposes of project plans. Such contracts or agreements may include conditions, restrictions, or covenants which either run with the land or which otherwise regulate the use of land.

(f) Designate, by ordinance or resolution, the local housing authority, the local redevelopmental authority, or both jointly, or the local community development authority, as agent of the city, to perform all acts, except the development of the master plan of the city, which are otherwise performed by the planning commission under this section and s. 66.435.

(4) CREATION OF TAX INCREMENTAL DISTRICTS AND APPROVAL OF PROJECT PLANS. In order to implement the provisions of this section, the following steps and plans are required:

(a) Holding of a public hearing by the planning commission at which interested parties are afforded a reasonable opportunity to express their views on the proposed creation of a tax incremental district and the proposed boundaries thereof. Notice of such hearing shall be published as a class 2 notice, under ch. 985. Prior to such publication, a copy of the notice shall be sent by first class mail to the chief executive officer of all local governmental entities having the power to levy taxes on property located within the proposed district and to the school board of any school district which includes property located within the proposed district.

(b) Designation by the planning commission of the boundaries of a tax incremental district recommended by it to be created and submission of such recommendation to the local legislative body.

(c) Adoption by the local legislative body of a resolution which:

1. Describes the boundaries, which may, but need not, be the same as those recommended by the planning commission, of a tax incremental district with sufficient definiteness to identify with ordinary and reasonable certainty the territory included therein. In this connection, the local legislative body shall take care that the boundaries include only those whole units of property as are assessed for general property tax purposes.

2. Creates such district as of a date therein provided. If the resolution is adopted during the period between January 2 and September 30, then such date shall be the next preceding January 1. If such resolution is adopted during the period between October 1 and December 31, then such date shall be the next subsequent January 1. If the resolution is adopted on January 1, the district shall have been created as of the date of the resolution.

3. Assigns a name to such district for identification purposes. The first such district created

shall be known as "Tax Incremental District Number One, City of ....". Each subsequently created district shall be assigned the next consecutive number.

4. Contains findings that:

a. Not less than 25%, by area, of the real property within such district meets at least one of the following criteria: 1) is a "blighted area"; 2) is in need of "rehabilitation or conservation work" within the meaning of s. 66.435 (3); or 3) is suitable for "industrial sites" within the meaning of s. 66.52; and

b. The improvement of such area is likely to enhance significantly the value of substantially all of the other real property in such district. It shall not be necessary to identify the specific parcels meeting such criteria; and

c. The aggregate value of equalized taxable property of the district plus all existing districts does not exceed 5% of the total value of equalized taxable property within the city.

(d) Preparation and adoption by the planning commission of a proposed project plan for each tax incremental district.

(e) Holding of a public hearing by the planning commission at which interested parties are afforded a reasonable opportunity to express their views on the proposed project plan. The hearing may be held in conjunction with the hearing provided for in par. (a). Notice of the hearing shall be published as a class 2 notice, under ch. 985. Prior to such publication, a copy of the notice shall be sent by 1st class mail to the chief executive officer of all local governmental entities having the power to levy taxes on property within the district and to the school board of any school district which includes property located within the proposed district.

(f) Adoption by the planning commission of a project plan for each tax incremental district and submission of the plan to the local legislative body. The plan shall include a statement listing the kind, number and location of all proposed public works or improvements within the district or, to the extent provided in sub. (2) (f) 10, outside the district, an economic feasibility study, a detailed list of estimated project costs, and a description of the methods of financing all estimated project costs and the time when the costs or monetary obligations related thereto are to be incurred. The plan shall also include a map showing existing uses and conditions of real property in the district; a map showing proposed improvements and uses in the district; proposed changes of zoning ordinances; master plan, map, building codes and city ordinances; a list of estimated nonproject costs; and a statement of the proposed method for the relocation of any persons to be displaced.

(g) Approval by the local legislative body of a project plan within 6 months after the department of revenue certifies to the city clerk the tax incremental base of the district. The approval shall be by resolution which contains findings that the plan is feasible and in conformity with the master plan, if any, of the city.

(h) The planning commission may at any time, by resolution, adopt an amendment to a project plan, which amendment shall be subject to approval by the local legislative body and approval of the amendment shall require the same findings as provided in par. (g). Adoption of an amendment to a project plan shall be preceded by a public hearing held by the plan commission at which interested parties shall be afforded a reasonable opportunity to express their views on the amendment. Notice of the hearing shall be published as a class 2 notice, under ch. 985. Prior to such publication, a copy of the notice shall be sent by 1st class mail to the chief executive officer of all local governmental entities having the power to levy taxes on property within the district and to the school board of any school district which includes property located within the proposed district.

(5) DETERMINATION OF TAX INCREMENT AND TAX INCREMENTAL BASE. (a) Upon the creation of a tax incremental district or upon adoption of any amendment subject to par. (c), its tax incremental base shall be determined as soon as reasonably possible.

(b) Upon application in writing by the city clerk, in such form as the department of revenue may prescribe, the department shall determine according to its best judgment from all sources available to it the full aggregate value of the taxable property in such district, which aggregate valuation, upon certification thereof by it to the city clerk, constitutes the tax incremental base of such district.

(c) If the city adopts an amendment to the original project plan for any district which includes additional project costs for which tax increments may be received by such city, the tax incremental base for such district shall be redetermined pursuant to par. (b) as of the January 1 following the effective date of such amendment, except that if the effective date of the amendment is January 1 of any year, the redetermination shall be made on that date. The tax incremental base as redetermined under this paragraph is effective for the purposes of this section only if it exceeds the original tax incremental base determined under par. (b).

(cm) The city clerk shall annually, after May 1 but before May 21, by written notice, inform the department of revenue of any amendment to the project plan which has been adopted. The city clerk shall also give written notice of the

adoption of an amendment to the department of revenue within 60 days after its adoption. The department of revenue may prescribe forms to be used by the city clerk when giving notice as required by this paragraph.

(d) The department of revenue shall not certify the tax incremental base as provided in par. (b) until it determines that each of the procedures and documents required by sub. (4) has been timely completed and all notices required under sub. (4) timely given. The facts supporting any document adopted or action taken to comply with sub. (4) shall not be subject to review by the department of revenue under this paragraph.

(e) It is a rebuttable presumption that any property within a tax incremental district acquired or leased as lessee by the city, or any agency or instrumentality thereof, within the one year immediately preceding the date of the creation of such district was so acquired or leased in contemplation of the creation of such district. Such presumption may be rebutted by the city with proof that such property was so leased or acquired primarily for a purpose other than to reduce the tax incremental base. If such presumption is not rebutted, in determining the tax incremental base of such district, but for no other purpose, the taxable status of such property shall be determined as though such lease or acquisition had not occurred.

(f) The city assessor shall identify upon the assessment roll returned and examined under s. 70.45 those parcels of property which are within each existing tax incremental district, specifying thereon the name of each district. A similar notation shall also appear on the tax roll made by the city clerk under s. 70.65.

(g) The department of revenue shall annually give notice to the designated finance officer of all governmental entities having the power to levy taxes on property within each district as to the equalized value of such property and the equalized value of the tax increment base. Such notice shall also explain that the entire amount of a tax increment allocable to a city will be paid to the city as provided under sub. (6) (b) from the taxes collected.

(6) ALLOCATION OF POSITIVE TAX INCREMENTS. (a) Positive tax increments with respect to a tax incremental district are allocated to the city which created such district for each year commencing after the date when a project plan is adopted under sub. (4) (g) until the earlier of:

1. That time, after the completion of all public improvements specified in the plan or amendments thereto, when the city has received aggregate tax increments with respect to such district in an amount equal to the aggregate of all expenditures previously made or monetary obligations previously incurred for project costs for such district; or

2. Fifteen years after the last expenditure identified in the plan is made. No expenditure may be provided for in the plan more than 5 years after the district is created unless an amendment is adopted by the local legislative body under sub. (5) (c).

(b) Notwithstanding any other provision of law, every officer charged by law to collect and pay over or retain local general property taxes shall, first, on the next settlement date provided by law, pay over to the city treasurer out of all the taxes which the officer has collected the total amount of a tax increment allocable to that city.

(c) All tax increments received with respect to a tax incremental district shall, forthwith upon receipt by the city treasurer, be deposited into a special fund for such district. The city treasurer may deposit additional moneys into such fund pursuant to an appropriation by the local legislative body. Moneys shall be paid out of such fund only to pay project costs with respect to such district, to reimburse the city for such payments, or to satisfy claims of holders of tax incremental bonds or notes issued with respect to such district. Subject to any agreement with bondholders, moneys in such fund may be temporarily invested in the same manner as other city funds. After all project costs and all tax incremental bonds and notes with respect to such district have been paid or the payment thereof provided for, subject to any agreement with bondholders, if there remain in such fund any moneys, they shall be paid over to the treasurer of each county, school district or other tax levying municipality or to the general fund of the city in such amounts as belong to each respectively, having due regard for what portion of such moneys, if any, represents tax increments not allocated to the city and what portion thereof, if any, represents voluntary deposits of the city into such fund.

(7) TERMINATION OF TAX INCREMENTAL DISTRICTS. The existence of a tax incremental district shall terminate when:

(a) Positive tax increments are no longer allocable with respect to a district under sub. (6) (a); or

(b) The local legislative body, by resolution, dissolves the district at which time the city shall become liable for all unpaid project costs actually incurred, except this paragraph does not make the city liable for any tax incremental bonds or notes issued.

(9) FINANCING OF PROJECT COSTS. (a) Payment of project costs may be made by any one or more of the following methods or any combination thereof:

1. Payment by the city from the special fund of the tax incremental district;

2. Payment out of its general funds;

3. Payment out of the proceeds of the sale of bonds or notes issued by it under ch. 67;

4. Payment out of the proceeds of the sale of public improvement bonds issued by it under s. 66.059;

5. Payment as provided under s. 66.54 (2) (c), (d), or (e);

6. Payment out of the proceeds of mortgage bonds or notes or mortgage certificates issued by it under s. 66.066;

7. Payment out of the proceeds of revenue bonds issued by it under s. 66.51;

8. Payment out of the proceeds of the sale of tax incremental bonds or notes issued by it under this subsection; or

9. Payment out of the proceeds of revenue bonds issued by the city as provided by s. 66.521, for a purpose specified in that section.

(b) 1. For the purpose of paying project costs or of refunding notes issued under ch. 67 or this subsection for the purpose of paying project costs, the local legislative body may issue tax incremental bonds or notes payable out of positive tax increments. Each such bond or note and all interest coupons appurtenant thereto are declared to be a negotiable instrument. Such bonds and notes shall not be included in the computation of the constitutional debt limitation of such city. Bonds and notes issued under this subsection, together with the interest and income therefrom, shall be taxed in the same manner as are municipal bonds issued under s. 67.04.

2. Tax incremental bonds or notes shall be authorized by resolution of the local legislative body without the necessity of a referendum or any elector approval, but such referendum or election may be held, through the procedures provided in s. 66.521 (10) (d). Such resolution shall state the name of the tax incremental district, the amount of bonds or notes authorized, and the interest rate or rates to be borne by such bond or notes. Such resolution may prescribe the terms, form and content of such bonds or notes and such other matters as the local legislative body deems useful.

3. Tax incremental bonds or notes may not be issued in an amount exceeding the aggregate project costs. Such bonds or notes shall mature over a period not exceeding 20 years from the date thereof or a period terminating with the date of termination of the tax incremental district, whichever period terminates earlier. Such bonds or notes may contain a provision authorizing the redemption thereof, in whole or in part, at stipulated prices, at the option of the city, on any interest payment date and shall provide the method of selecting the bonds or notes to be redeemed. The principal and interest on such bonds and notes may be payable at any time and at any place. Such bonds or notes may be payable to bearer or may be registered as to the principal or principal and interest. Such bonds or notes may be in any denominations. Such bonds or notes may be sold at public or private sale. Insofar as they are consistent with this subsection, the provisions of ch. 67 relating to procedures for issuance, form, contents, execution, negotiation, and registration of municipal bonds and notes are incorporated herein by reference.

4. Tax incremental bonds or notes are payable only out of the special fund created under sub. (6) (c). Each such bond or note shall contain such recitals as are necessary to show that it is only so payable and that it does not constitute an indebtedness of such city or a charge against its general taxing power. The local legislative body shall irrevocably pledge all or a part of such special fund to the payment of such bonds or notes. Such special fund or the designated part thereof may thereafter be used only for the payment of such bonds or notes and interest thereon until the same have been fully paid; and a holder of such bonds or notes or of any coupons appertaining thereto shall have a lien against such special fund for payment of such bonds or notes and interest thereon and may either at law or in equity protect and enforce such lien.

5. To increase the security and marketability of tax incremental bonds or notes, the city may:

a. Create a lien for the benefit of the bondholders upon any public improvements or public works financed thereby or the revenues therefrom; or

b. Make such covenants and do any and all such acts, not inconsistent with the Wisconsin constitution, as may be necessary or convenient or desirable in order to additionally secure such bonds or notes or tend to make the bonds or notes more marketable according to the best judgment of the local legislative body.

(10) OVERLAPPING TAX INCREMENTAL DISTRICTS. (a) Subject to any agreement with bondholders, a tax incremental district may be created, the boundaries of which overlap one or more existing districts, except that districts created as of the same date may not have overlapping boundaries.

(b) If the boundaries of 2 or more tax incremental districts overlap, in determining how positive tax increments generated by that area which is within 2 or more districts are allocated among such districts, but for no other purpose, the aggregate value of the taxable property in such area as equalized by the department of revenue in any year as to each earlier created

district is deemed to be that portion of the tax incremental base of the district next created which is attributable to such overlapped area.

(11) EQUALIZED VALUATION FOR APPORTIONMENT OF PROPERTY TAXES. (a) With respect to the county, school districts, and any other local governmental body having the power to levy taxes on property located within a tax incremental district, the calculation of the equalized valuation of taxable property in a tax incremental district for the apportionment of property taxes may not exceed the tax incremental base of the district until the district is terminated.

(b) The tax increment share of any local taxing jurisdiction paid under this section shall not be counted as part of local tax levies or in the calculation of allowable local levies under ss. 61.46 (3), 62.12 (4m), 65.07 (2) and 70.62 (4) unless the tax increments, in whole or in part, revert to the jurisdiction of origin on termination of a tax incremental district.

(13) The department of local affairs and development, in cooperation with other state agencies and local governments, shall make a comprehensive report to the governor and legislature at the beginning of each biennium, beginning with the 1977 biennium, as to the effects and impact of tax incremental financing projects socially, economically and financially.

History: 1975 c. 105, 199, 311; 1977 c. 29 ss. 724m, 725, 1646 (1), (3); 1977 c. 418.

Tax increment law appears constitutional on its face. 65 Atty. Gen. 194.

66.465 Reinvestment neighborhoods.

(1) DEFINITIONS. In this section:

(a) An "area in need of rehabilitation" is a neighborhood or area in which buildings, by reason of age, obsolescence, inadequate or outmoded design, or physical deterioration have become economic or social liabilities, or both; in which such conditions impair the economic value of such neighborhood or area, infecting it with economic blight, and which is characterized by depreciated values, impaired investments, and reduced capacity to pay taxes; in which the existence of such conditions and the failure to rehabilitate such buildings results in a loss of population from the neighborhood or area and further deterioration, accompanied by added costs for creation of new public facilities and services elsewhere; in which it is difficult and uneconomic for individual owners independently to undertake to remedy such conditions; in which it is necessary to create, with proper safeguards, inducements and opportunities for the employment of private investment and equity capital in the rehabilitation of such buildings; and in which the presence of such buildings and conditions has resulted, among other consequences, in a severe shortage of financial resources available to finance the purchase and rehabilitation of housing and an inability or unwillingness on the part of private lenders to make loans for and an inability or unwillingness on the part of present and prospective owners of such housing to invest in the purchase and rehabilitation of housing in such neighborhood or area.

(b) "Local legislative body" means the common council, village board of trustees or town board of supervisors.

(c) "Municipality" means any city, village or town in this state.

(d) "Planning commission" means a plan commission created under s. 62.23 or a plan committee of the local legislative body.

(e) "Reinvestment neighborhood or area" means a geographic area within any municipality not less than one-half of which, by area, meets 3 of the 5 following conditions:

1. It is an area in need of rehabilitation as defined in par. (a).

2. It has a rate of owner-occupancy of residential buildings substantially below the average rate for the municipality as a whole.

3. It is an area within which the market value of residential property, as measured by the rate of change during the preceding 5 years in the average sale price of residential property, has decreased or has increased at a rate substantially less than the rate of increase in average sale price of residential property in the municipality as a whole.

4. It is an area within which the number of persons residing has decreased during the past 5 years, or in which the number of persons residing has increased during that period at a rate substantially less than the rate of population increase in the municipality as a whole.

5. It is an area within which the effect of such detrimental conditions as may exist is to discourage private lenders from making loans for and present or prospective property owners from investing in the purchase and rehabilitation of housing.

(2) DESIGNATION OF REINVESTMENT NEIGHBORHOODS OR AREAS. Any municipality may designate reinvestment neighborhoods or areas after complying with the following steps:

(a) Holding of a public hearing by the planning commission or by the local governing body at which interested parties are afforded a reasonable opportunity to express their views on the proposed designation of a reinvestment neighborhood or area and the proposed boundaries thereof. Notice of such hearing shall be published as a class 2 notice, under ch. 985. Prior to such publication, a copy of the notice

shall be sent by 1st class mail to the department of local affairs and development, and a copy shall be posted in each school building and in at least 3 other places of public assembly within the reinvestment neighborhood or area proposed to be designated.

(b) Designation by the planning commission of the boundaries of a reinvestment neighborhood or area recommended by it to be designated and submission of such recommendation to the local legislative body.

(c) Adoption by the local legislative body of a resolution which:

1. Describes the boundaries of a reinvestment neighborhood or area with sufficient definiteness to identify with ordinary and reasonable certainty the territory included therein. Such boundaries may, but need not, be the same as those recommended by the planning commission.

2. Designates such reinvestment neighborhood or area as of a date provided in the resolution.

3. Contains findings that the area to be designated constitutes a reinvestment neighborhood or area.

History: 1977 c. 418.

66.47 County-city hospitals; village powers. (1) DEFINITIONS. "Ordinance" as used in this section, unless the context requires or specifies otherwise, means an ordinance adopted by the governing body of a city or county and concurred in by the other governing body or bodies, and "board" means the joint county-city hospital board established pursuant to this section.

(2) COUNTY-CITY HOSPITALS. Any county and city or cities partly or wholly within the county may by ordinance jointly construct or otherwise acquire, equip, furnish, operate and maintain a general county-city hospital. Such hospital is subject to ch. 150.

(3) FINANCING. The governing bodies of the respective county and city or cities shall have the power to borrow money, appropriate funds, and levy taxes needed to carry out the purposes of this section. Funds to be used for the purposes specified in this section may be provided by the respective county, city or cities by general obligation bonds issued under chapter 67 or by revenue bonds issued under section 66.51. Any bonds issued pursuant to this section shall be executed on behalf of the county by the county board chairman and the county clerk and on behalf of a city by the mayor or other chief executive officer thereof and by the city clerk.

(4) COST SHARING. The ordinance shall provide for a sharing of all of the cost of construction or other acquisition, equipment, furnishing, operation and maintenance of such hospital on an agreed percentage basis.

(5) HOSPITAL BOARD. The ordinance shall provide for the establishment of a joint county-city hospital board to be composed as follows: 2 to be appointed by the county board chairman and confirmed by the county board, one for a one-year and one for a 2-year term; 2 by the mayor or other chief executive officer and confirmed by the city council, one for a one-year and one for a 2-year term; and one jointly by the county board chairman and the mayor or other chief executive officer of the city or cities, for a term of 3 years, confirmed by the county board and the city council or councils. Their respective successors shall be appointed and confirmed in like manner for terms of 3 years. All appointees shall serve until their successors are appointed and qualified. Terms shall begin as specified in the ordinance. Vacancies shall be filled for the unexpired term in the manner in which the original appointment was made.

(6) VALIDATION OF PRIOR ACTIONS. The actions of any county and city or cities taken before April 17, 1949 in the construction or other acquisition, equipment, furnishing, operation and maintenance of a joint county-city hospital which would have been valid if this section had then been in effect are hereby validated.

(7) ORGANIZATION OF BOARDS; OFFICERS; COMPENSATION; OATHS; BONDS. (a) When all members have qualified the board shall meet at the place designated in the ordinance and organize by electing from its membership a president, a vice president, a secretary and a treasurer, each to hold office for one year. The offices of secretary and treasurer may be combined if the board so decides. Members shall receive such compensation as shall be provided in the ordinance, and shall be reimbursed their actual and necessary expenses. With the approval of the board, the treasurer may appoint an assistant treasurer, who need not be a member of the board, to perform such services as shall be specified by the board.

(b) Members, and any assistant treasurer, shall qualify by taking the official oath, and the treasurer and any assistant treasurer shall furnish a bond in such sum as shall be specified by the board and be in the form and conditioned as provided in section 19.01 (2) and (3). The oaths and bonds shall be filed with the county clerk. The cost of the bond shall be paid by the board.

(8) POWERS OF BOARD. The board shall have power subject to provisions of the ordinance:

(a) To contract for the construction or other acquisition, equipment or furnishing of a general county-city hospital.

(b) To contract for the construction or other acquisition of additions or improvements to, or alterations in, such hospital and the equipment or furnishing of any such addition.

(c) To employ a manager of the hospital and other necessary personnel and fix their compensation.

(d) To enact, amend and repeal rules and regulations, not inconsistent with law, for the admission to, and government of patients at, the hospital, for the regulation of the board's meetings and deliberations, and for the government, operation and maintenance of the hospital and the employes thereof.

(e) To contract for and purchase all fuel, food, equipment, furnishings and supplies reasonably necessary for the proper operation and maintenance of the hospital.

(f) To audit all accounts and claims against the hospital or against the board, and, if approved, pay the same from the fund specified in subsection (10). All expenditures made pursuant to this section shall be within the limits of the ordinance.

(g) To sue and be sued, and to collect or compromise any and all obligations due to the hospital; all money received shall be paid into the joint hospital fund.

(h) To make such studies and recommendations to the county board and city council or city councils relating to the operation of the hospital or the building of facilities therefor as the board may deem advisable or said governing bodies request.

(i) To employ counsel on either a temporary or permanent basis.

(9) BUDGET. The board shall annually, prior to the time of the preparation of either the county or city budget under section 65.90, prepare a budget of its anticipated receipts and expenditures for the ensuing fiscal year and determine the proportionate cost to the county and the participating city or cities pursuant to the terms of the ordinance. A certified copy of the budget, which shall include a statement of the net amount required from the county and city or cities, shall be delivered to the clerks of the respective municipalities. It shall be the duty of the county board and the common council of the city or cities to consider such budget, and determine the amount to be raised by the respective municipalities in the proportions determined by the ordinance. Thereupon the county and city or cities respectively shall levy a tax sufficient to produce the amount to be raised by said county and city or cities.

(10) HOSPITAL FUND. A joint county-city hospital fund shall be created and established in a public depository to be specified in the ordinance. The treasurer of the respective county and city or cities shall pay or cause to be paid into such fund the respective amounts to be paid thereto by such county and city or cities as specified by the ordinance and resolutions of the respective municipalities when such amounts have been collected. All of the moneys which shall come into said fund are hereby appropriated to the board for the execution of its functions as provided by the ordinance and the resolutions of the respective municipalities. The moneys in the fund shall be paid out by the treasurer of the hospital board only upon the approval or direction of the board.

(11) CORRELATION OF LAWS. (a) In any case where a bid is a prerequisite to contract in connection with a county or city hospital under section 66.29, it shall also be a prerequisite to a valid contract by the board; and for such purpose the board shall be deemed a municipality and the contract a public contract under section 66.29.

(b) All statutory requirements, not inconsistent with the provision of this section, applicable to general county or city hospitals shall apply to hospitals referred to in this section.

(12) REPORTS. The board shall report its activities to the county board and the city council or councils annually, or oftener as either of said municipalities may require.

(14) POWERS OF VILLAGES. Villages shall have all the powers granted to cities under subs. (1) to (12) and whenever any village shall exercise such powers the word "city" wherever it appears in subs. (1) to (12) means "village" unless the context otherwise requires. Any village participating in the construction or other acquisition of a general county-village hospital or in the operation thereof, pursuant to this section, shall have the power to enter into lease agreements leasing such hospital and the equipment and furnishings therein to a nonprofit corporation.

History: 1977 c. 29.

66.48 Art museums. Any city may establish, purchase land and erect buildings for, and equip, manage and control an art museum or museums; or enter into a contract with any art museum or art institute located in said city for the education of the people thereof in art, for such compensation as shall be determined by the common council of such city. Any such city may levy taxes, issue bonds, or appropriate money for said purposes.

History: 1971 c. 152 s. 28.

66.49 Civic centers. (1) RECREATION AND AMUSEMENT. Any village or city may by ordinance, adopted by a majority of all the members of the board or council, provide for the erection, maintenance and operation of a public auditorium, opera house, or other recreation and amusement building. The erection and contracts therefor shall be governed by the provisions of law applicable to other public buildings therein. The board or council shall adopt regulations for maintenance and operation.

(2) REST ROOMS. Any city may erect, purchase, lease, or take by gift or devise, land and buildings for public rest rooms, and may equip, maintain and operate the same.

(3) COMFORT STATIONS. Every village and city may provide and maintain a sufficient number of suitable and adequate public comfort stations for both sexes. The department of health and social services shall establish regulations governing their location, construction, equipment and maintenance and may prescribe minimum standards that shall be uniform throughout the state. The board or council may establish further regulations.

(4) COMFORT STATIONS AND REST ROOMS. The state, every county, city, village, and town maintaining places of public assemblage or camp sites may also provide and maintain a sufficient number of suitable and adequate public comfort stations for both sexes and may establish rest rooms separate or in connection with such comfort stations.

(5) PUBLIC CONCERTS. Any town, village or city may conduct public concerts in auditoriums and such other public places within its boundaries as the board or council shall determine. Such concerts shall be conducted by the department having charge of such place and the expenses thereof above receipts, if any, shall be paid out of such fund as the board or council shall determine. A fee to said concerts may be charged for the purpose of defraying the expenses thereof in whole or in part.

History: 1971 c. 152 s. 30.

66.50 Municipal hospital board. (1) In any city or village, however organized, having a municipal hospital therein, the board of trustees or other governing board of such municipal hospital shall have power and authority, except as otherwise provided by ordinance:

(a) To prescribe rules of order for the regulation of their own meetings and deliberations and to alter, amend or repeal the same from time to time;

(b) To enact, amend and repeal rules and regulations relating to the government, operation and maintenance of such hospital and relating to the employes thereof;

(c) To contract for and purchase all fuel, food and other supplies reasonably necessary for the proper operation and maintenance of such hospital;

(d) To enact, amend and repeal rules and regulations for the admission to and government of patients at such hospital;

(e) To enter into contract for the construction, installation or making of additions or improvements to or alterations of such hospital whenever such additions, improvements or alterations have been ordered and funds provided therefor by the city council;

(f) To engage all necessary employes at such hospital for a period not to exceed one year under any one contract and at a salary not to exceed the sum of twenty-five dollars per week, excluding board and laundry, unless a larger salary be expressly authorized by the city council;

(g) To audit all accounts and claims against said hospital or against said board of trustees and, if approved, such shall be paid by the city or village clerk and treasurer in the manner provided by section 66.042.

(2) All expenditures made pursuant to this section shall be within the limits authorized by the governing body of the municipality.

66.501 Hospital facilities lease from nonprofit corporation. (1) POWERS AND DUTIES OF GOVERNING BODY. For the purpose of providing adequate hospital facilities in the state of Wisconsin to serve cities and villages and inhabitants thereof and the hospital service area, and all lands, buildings, improvements, facilities or equipment or other capital items necessary or desirable in connection therewith and the ultimate acquisition thereof by the city or village, for the acquisition of lands for future hospital development, and to refinance indebtedness previously or hereafter created by a nonprofit corporation for the purpose of acquiring lands or providing hospital buildings or additions or improvements thereto, or for any one or more of said purposes, the governing body of any city or village shall have the following powers:

(a) Without limitation by any other statute, to sell and convey title to a nonprofit corporation any land and any existing buildings thereon owned by the city or village for such consideration and upon such terms and conditions as in the judgment of the governing body of the city or village are in the public interest.

(b) To lease to a nonprofit corporation for terms not exceeding 40 years each any land and existing buildings thereon owned by the city or village upon such terms, conditions and rentals

as in the judgment of the governing body of the city or village are in the public interest.

(c) To lease or sublease from such corporation, for terms not exceeding 40 years, and to make available for public use, any lands or any such land and existing buildings conveyed or leased to such corporation under pars. (a) and (b), and any new buildings erected upon such land or upon any other land owned by such corporation, upon such terms, conditions and rentals, subject to available appropriations, and ultimate acquisition, as in the judgment of the governing body of the city or village are in the public interest. With respect to any property conveyed to such corporation under par. (a), the lease from such corporation may be subject or subordinated to one or more mortgages of such property granted by such corporation.

(d) To apply all net revenues derived from the operation of any lands or buildings to the payment of rentals due and to become due under any lease or sublease made under par. (c).

(e) To pledge and assign all or any part of the revenues derived from the operation of any lands or such new buildings as security for the payment of rentals due and to become due under any lease or sublease of such new buildings made under par. (c).

(f) 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 such new buildings in an amount which together with other moneys of the city or village available for such purpose will produce net revenue sufficient to pay the rentals due and to become due under such lease or sublease.

(g) To apply all or any part of the revenues derived from the operation of any lands or existing buildings to the payment of rentals due and to become due under any lease or sublease made under par. (c).

(h) To pledge and assign all or any part of the revenues derived from the operation of any lands or existing buildings to the payment of rentals due and to become due under any lease or sublease made under par. (c).

(i) 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 any lands or existing buildings in an amount calculated to produce net revenues sufficient to pay the rentals due and to become due under such lease or sublease.

(j) To operate the hospital, until it is ultimately acquired in such a manner as to provide revenues therefrom sufficient to pay the costs of operation and maintenance of the hospital and to provide for the payments due the nonprofit corporation.

(2) MUNICIPAL LIABILITY. The city or village shall be liable for accrued rentals and for any other default under any lease or sublease made under sub. (1) (c) and may be sued therefor on contract.

(3) NO DEBT INCLUSION. Nothing under this section shall be deemed to incur any municipal debt. No obligation under this section shall be included in arriving at constitutional debt limitations.

(4) POWERS AND DUTIES OF NONPROFIT CORPORATION. In addition to all other powers granted nonprofit corporations, the nonprofit corporation shall have the following additional powers and duties when leasing hospital facilities to a city or village:

(a) To acquire by purchase, gift or lease real property and buildings thereon from a city or village or other person, to construct hospital facilities thereon and to lease the same to a city or village for terms not exceeding 40 years, and to transfer such land and buildings to the city or village upon termination of such lease.

(b) To borrow money and pledge income and rentals as security.

(5) BIDS FOR CONSTRUCTION. The nonprofit corporation shall let all contracts exceeding $1,000 for the construction, maintenance or repair of hospital facilities to the lowest responsible bidder after advertising for bids by the publication of a class 2 notice under ch. 985. Sections 66.29 and 66.293 shall apply to such bids and contracts.

(6) DEFINITIONS. Unless context otherwise requires, the terms "buildings", "new buildings" and "existing buildings" as used in this section include all buildings, structures, improvements, facilities, equipment or other capital items which the governing body of the city or village determines to be necessary or desirable for the purpose of providing hospital facilities. The term "nonprofit corporation" means a nonstock, nonprofit corporation organized under chapter 181.

66.505 County-city auditoriums. (1) DEFINITIONS. "Ordinance" as used in this section, unless the context requires or specifies otherwise, means an ordinance adopted by the governing body of a city or county and concurred in by the other governing body, "board" means the joint county-city auditorium board established pursuant to this section, "auditorium" shall include a building of either arena or music hall type construction or a combination of such types of construction, and such building may include facilities for a variety of events including sports, dances, convention exhibitions, trade shows, meetings, rallies, theatrical exhibitions, concerts

and other events attracting spectators and participants.

(2) COUNTY-CITY AUDITORIUMS. Any county and city partly or wholly within the county may by ordinance jointly construct or otherwise acquire, equip, furnish, operate and maintain a county-city auditorium.

(3) FINANCING. The governing bodies of the respective county and city or cities shall have the power to borrow money, appropriate funds, and levy taxes needed to carry out the purposes of this section. Funds to be used for the purposes specified in this section may be provided by the respective county, city or cities by general obligation bonds issued under ch. 67 or by revenue bonds issued under s. 66.51 or by the issuance of both general obligation bonds under ch. 67 and revenue bonds issued under s. 66.51. Any bonds issued pursuant to this section shall be executed on behalf of the county by the county board chairman and the county clerk and on behalf of a city by the mayor or other chief executive officer thereof and by the city clerk.

(4) COST SHARING. The ordinance shall provide for a sharing of all of the cost of construction or other acquisition, equipment, furnishing, operation and maintenance of such auditorium on an agreed percentage basis.

(5) AUDITORIUM BOARD. The ordinance shall provide for the establishment of a joint county-city auditorium board to be composed as follows: The mayor, or chief executive of the city and the chairman of the county board, who shall serve as ex officio members of the board during their respective terms of office; in addition thereto the board shall be composed of 4 members to be appointed by the county board chairman and confirmed by the county board, one for a one-year, one for a 2-year, one for a 3-year and one for a 4-year term, and 4 members to be appointed by the mayor or other chief executive officer of the city and confirmed by the city council, one for a one-year, one for a 2-year, one for a 3-year and one for a 4-year term; in the case of the members of the board appointed by the mayor or chief executive of the city, not more than 2 public officials (either elected or appointed) shall be eligible to be members of the board, and in the case of the members of the board appointed by the county board chairman, not more than 2 public officials (either elected or appointed) shall be eligible to be members of the board. Their respective successors shall be appointed and confirmed in like manner for terms of 4 years. All appointees shall serve until their successors are appointed and qualified. Terms shall begin as specified in the ordinance. Vacancies shall be filled for the unexpired term in the manner in which the original appointment was made.

(6) ORGANIZATION OF BOARDS; OFFICERS; COMPENSATION; OATHS; BONDS. (a) When all members have qualified the board shall meet at the place designated in the ordinance and organize by electing from its membership a president, a vice president, a secretary and a treasurer, each to hold office for one year. The offices of secretary and treasurer may be combined if the board so decides. Members may receive such compensation as may be provided in the ordinance and shall be reimbursed their actual and necessary expenses for their services, provided that ex officio members shall not receive compensation other than any actual and necessary expenses for their services. With the approval of the board, the treasurer may appoint an assistant secretary and assistant treasurer, who need not be members of the board, to perform such services as shall be specified by the board.

(b) Members, and any assistant secretary and assistant treasurer, shall qualify by taking the official oath, and the treasurer and any assistant treasurer shall furnish a bond in such sum as shall be specified by the board and be in the form and conditioned as provided in s. 19.01 (2) and (3). The oaths and bonds shall be filed with the county clerk. The cost of the bond shall be paid by the board.

(7) POWERS OF BOARD. The board shall have power subject to provisions of the ordinance:

(a) To contract for the construction or other acquisition, equipping or furnishing of a county-city auditorium, and may accept donated services and gifts, grants or donations of money or property and use the same for the purposes given and consistent with this section, and may contract for and authorize the installation of equipment and furnishings of the auditorium, or any part thereof by private individuals, persons or corporations by donations, loan, lease or concession.

(b) To contract for the construction or other acquisition of additions or improvements to, or alterations in, such auditorium and the equipment or furnishing of any such addition; and may contract for or authorize the installation of equipment and furnishings in such addition, or any part thereof, by private individuals, persons or corporations by donation, loan or concession.

(c) To employ a manager of the auditorium and other necessary personnel and fix their compensation.

(d) To enact, amend and repeal rules and regulations, not inconsistent with law, for the leasing of, charges for admission to, and government of audiences and participants in events at the auditorium, for the regulation of the board's

meetings and deliberations, and for the government, operation and maintenance of the auditorium and the employes thereof.

(e) To contract for, purchase or hire all fuel, equipment, furnishings, and supplies, services and help reasonably necessary for the proper operation and maintenance of the auditorium, and to contract for, purchase, hire, promote, conduct and operate, either by lease of the auditorium building or parts thereof or by direct operation by the auditorium board, meetings, concerts, theatricals, sporting events, conventions and other entertainment or events suitable to be held at the auditorium; and to handle and make all proper arrangements for the sale and disposition of admission tickets to auditorium events and the establishment of seating arrangements and priorities.

(f) To audit all accounts and claims against the auditorium or against the board, and, if approved, pay the same from the fund specified in sub. (9). All expenditures made pursuant to this section shall be within the limits of the ordinance.

(g) To sue and be sued, and to collect or compromise any and all obligations due to the auditorium; all money received shall be paid into the joint auditorium fund.

(h) To make such studies and recommendations to the county board and city council relating to the operation of the auditorium or the building of facilities therefor as the board may deem advisable or said governing bodies request.

(i) To employ counsel on either a temporary or permanent basis.

(8) BUDGET. The board shall annually, prior to the time of the preparation of either the county or city budget under s. 65.90, prepare a budget of its anticipated receipts and expenditures for the ensuing fiscal year and determine the proportionate cost to the county and the participating city pursuant to the terms of the ordinance. A certified copy of the budget, which shall include a statement of the net amount required from the county and city, shall be delivered to the clerks of the respective municipalities. It shall be the duty of the county board and the common council of the city to consider such budget, and determine the amount to be raised by the respective municipalities in the proportions determined by the ordinance. Thereupon the county and city respectively shall levy a tax sufficient to produce the amount to be raised by said county and city.

(9) AUDITORIUM FUND. A joint county-city auditorium fund shall be created and established in a public depository to be specified in the ordinance. The treasurer of the respective county and city shall pay or cause to be paid into such fund the respective amounts to be paid thereto by such county and city as specified by the ordinance and resolutions of the respective municipalities when such amounts have been collected. All of the moneys which shall come into said fund are hereby appropriated to the board for the execution of its functions as provided by the ordinance and the resolutions of the respective municipalities. The moneys in the fund shall be paid out by the treasurer of the auditorium board only upon the approval or direction of the board.

(10) CORRELATION OF LAWS. (a) In any case where a bid is a prerequisite to contract in connection with a county or city auditorium under s. 66.29, it shall also be a prerequisite to a valid contract by the board; and for such purpose the board shall be deemed a municipality and the contract a public contract under s. 66.29.

(b) All statutory requirements, not inconsistent with the provisions of this section, applicable to city auditoriums shall apply to auditoriums provided for in this section.

(11) REPORTS. The board shall report its activities to the county board and the city council annually, or oftener as either of said municipalities may require.

66.508 County-city safety building. (1) DEFINITIONS. "Ordinance" as used in this section, unless the context requires or specifies otherwise, means an ordinance adopted by the governing body of a city or county and concurred in by the other governing body, and "board" means the joint county-city safety building board established pursuant to this section.

(2) COUNTY-CITY SAFETY BUILDING. Any county and city partly or wholly within the county may by ordinance jointly construct or otherwise acquire, equip, furnish, operate and maintain a county-city safety building.

(3) FINANCING. The governing bodies of the respective county and city shall have the power to borrow money, appropriate funds, and levy taxes needed to carry out the purposes of this section. Funds to be used for the purposes specified in this section may be provided by the respective county or city by general obligation bonds issued under ch. 67 or by revenue bonds issued under s. 66.51 or by the issuance of both general obligation bonds under ch. 67 and revenue bonds issued under s. 66.51. Any bonds issued pursuant to this section shall be executed on behalf of the county by the county board chairman and the county clerk and on behalf of a city by the mayor or other chief executive officer thereof and by the city clerk.

(4) COST SHARING. The ordinance shall provide for a sharing of all of the cost of construction or other acquisition, equipment, furnishing, operation and maintenance of such safety building on an agreed percentage basis.

(5) SAFETY BUILDING BOARD. The ordinance shall provide for the establishment of a joint county-city safety building board to be composed of 3 members to be appointed by the county board, one for a one-year, one for a 2-year and one for a 3-year term, and 3 members to be appointed by the city council, one for a one-year, one for a 2-year and one for a 3-year term, and one additional member appointed by the other members for a 3-year term. The membership of such board shall include the chairman of the county board and the mayor of the city, who shall be initially designated as members for the 3-year terms. Their respective successors shall be appointed and confirmed in like manner for terms of 3 years. All appointees shall serve until their successors are appointed and qualified. Terms shall begin as specified in the ordinance. If a member of the board ceases to hold his city or county office his membership on the board also terminates. Vacancies shall be filled for the unexpired term in the manner in which the original appointment was made. Members of the board shall be officials of the county or city.

(6) ORGANIZATION OF BOARDS; OFFICERS; COMPENSATION; OATHS; BONDS. (a) When all members have qualified the board shall meet at the place designated in the ordinance and organize by electing from its membership a president, a vice president, a secretary and a treasurer, each to hold office for one year. The offices of secretary and treasurer may be combined if the board so decides. Members may receive such compensation as may be provided in the ordinance and shall be reimbursed their actual and necessary expenses for their services. The board may appoint an assistant secretary and assistant treasurer, who need not be members of the board, to perform such services as shall be specified by the board.

(b) Members, and any assistant secretary and assistant treasurer, shall qualify by taking the official oath, and the treasurer and any assistant treasurer shall furnish a bond in such sum as shall be specified by the board and be in the form and conditioned as provided in s. 19.01 (2) and (3). The oaths and bonds shall be filed with the county clerk. The cost of the bond shall be paid by the board.

(7) POWERS OF BOARD. The board shall have power subject to provisions of the ordinance:

(a) To contract for the construction or other acquisition, equipping or furnishing of a county-city safety building, and may accept donated services and gifts, grants or donations of money or property and use the same for the purposes given and consistent with this section, and may contract for and authorize the installation of equipment and furnishings of the safety building, or any part thereof by private individuals, persons or corporations by donations, loan, lease or concession.

(b) To contract for the construction or other acquisition of additions or improvements to, or alterations in, such safety building and the equipment or furnishing of any such addition; and may contract for or authorize the installation of equipment and furnishings in such addition, or any part thereof, by private individuals, persons or corporations by donation, loan or concession.

(c) To employ a superintendent of the safety building and other necessary personnel and fix their compensation.

(d) To enact, amend and repeal rules and regulations, not inconsistent with law, for the regulation of the board's meetings and deliberations, and for the government, operation and maintenance of the safety building and the employes thereof.

(e) To contract for, purchase or hire all fuel, equipment, furnishings, and supplies, services and help reasonably necessary for the proper operation and maintenance of the safety building.

(f) To audit all accounts and claims against the safety building or against the board, and, if approved, pay the same from the fund specified in sub. (9). All expenditures made pursuant to this section shall be within the limits of the ordinance.

(g) To sue and be sued, and to collect or compromise any and all obligations due to the safety building; all money received shall be paid into the joint safety building fund.

(h) To make such studies and recommendations to the county board and city council relating to the operation of the safety building or the building of facilities therefor as the board may deem advisable or said governing bodies request.

(i) To employ counsel on either a temporary or permanent basis.

(8) BUDGET. The board shall annually, prior to the time of the preparation of either the county or city budget under s. 65.90, prepare a budget of its anticipated receipts and expenditures for the ensuing fiscal year and determine the proportionate cost to the county and the city pursuant to the terms of the ordinance. A certified copy of the budget, which shall include a statement of the net amount required from the county and city, shall be delivered to the clerks of the respective municipalities. It shall be the duty of the county board and the common

council of the city to consider such budget, and determine the amount to be raised by the respective municipalities in the proportions determined by the ordinance. Thereupon the county and city respectively shall levy a tax sufficient to produce the amount to be raised by said county and city.

(9) SAFETY BUILDING FUND. A joint county-city safety building fund shall be created and established in a public depository to be specified in the ordinance. The treasurer of the respective county and city shall pay or cause to be paid into such fund the respective amounts to be paid thereto by such county and city as specified by the ordinance and resolutions of the respective municipalities when such amounts have been collected. All of the moneys which shall come into said fund are hereby appropriated to the board for the execution of its functions as provided by the ordinance and the resolutions of the respective municipalities. The moneys in the fund shall be paid out by the treasurer of the safety building board only upon the approval or direction of the board.

(10) CORRELATION OF LAWS. In any case where a bid is a prerequisite to contract in connection with a county or city safety building under s. 66.29, it shall also be a prerequisite to a valid contract by the board; and for such purpose the board shall be deemed a municipality and the contract a public contract under s. 66.29.

(11) REPORTS. The board shall report its activities to the county board and the city council annually, or oftener as either of said municipalities may require.

(13) INSURANCE. The board may procure and enter contracts for any type of insurance and indemnity against loss or damage to property from any cause, including loss of use and occupancy, against death or injury of any person, against employers' liability, against any act of any member, officer or employe of the board in the performance of his duties, or any other insurable risk.

(14) CONSTRUCTION. Nothing in this section shall be construed as relieving, modifying or interfering with the responsibilities for operating jails which are vested in sheriffs under s. 59.23 (1) and chiefs of police under s. 62.09 (13) (b).

66.51 Revenue bonds for counties and cities. (1) (a) Every county or city, or both jointly, may construct, purchase, acquire, develop, improve, operate or maintain a county or city building, or both jointly, for a courthouse, safety building, city hall, hospital, armory, library, auditorium and music hall, municipal parking lots or other parking facilities, or municipal center or any combination thereof, or a university of Wisconsin center, if the operation of such center has been approved by the board of regents of the university of Wisconsin system.

(b) The county board, common council of any city, or both jointly, are authorized in their discretion, for any of its corporate purposes as set forth in this subsection, to issue bonds on which the principal and interest are payable from the income and revenues of such project financed with the proceeds of such bonds or with such proceeds together with the proceeds of a grant from the federal government to aid in the financing and construction thereof. In the case of municipal parking lots or other parking facilities such bonds may in addition be payable as to both principal and interest from income and revenues from other similar projects, parking meters, parking fees, or any other income or revenue obtained through parking, or any combination thereof.

(c) The credit of the county, or city, or both jointly, shall not be pledged to the payment of such bonds, but shall be payable only from the income and revenues described in par. (b) or the funds received from the sale or disposal thereof. If the county board, or common council of a city, or both jointly, so determine, such bonds shall be secured either by a trust indenture pledging such revenues or by a mortgage on the property comprising such project and the revenues therefrom.

(2) The bonds or other evidences of indebtedness shall state upon their face that the county, or city, or both jointly, shall not be a debt thereof or be liable therefor. Any indebtedness created by this section shall not be considered an indebtedness of such county or city and shall not be included in such amounts of determining the constitutional five per cent debt limitations.

(3) The provisions of s. 66.066 relating to the issuance of revenue bonds by cities for public utility purposes insofar as applicable shall apply to the issuance of revenue bonds under this section.

(4) All actions of any county or city, including all contracts, agreements, obligations and undertakings entered into pursuant to such actions, before December 4, 1955, in connection with the construction or other acquisition, equipment, furnishing, operation and maintenance of a joint county-city safety building, which would have been valid if this act (1955) had been in effect when such actions were taken, are hereby validated.

History: 1971 c. 100 s. 23; 1977 c. 26.

66.52 Promotion of industry. (1) It is declared to be the policy of the state to encourage and promote the development of industry to provide greater employment opportunities and to broaden the state's tax base to relieve the tax burden of residents and home owners. It is recognized that the availability of suitable sites is a prime factor in influencing the location of industry but that existing available sites may be encroached upon by the development of other uses unless protected from such encroachment by purchase and reservation. It is further recognized that cities, villages and towns have broad power to act for the commercial benefit and the health, safety and public welfare of the public. However, to implement that power, legislation authorizing borrowing is necessary. It is, therefore, declared to be the policy of the state to authorize cities, villages and towns to borrow for the reservation and development of industrial sites, and the expenditure of funds therefor is determined to be a public purpose.

(2) For financing purposes, the purchase, reservation and development of industrial sites undertaken by any city, village or town is a public utility within the meaning of s. 66.066. In financing under that section, rentals and fees shall be considered as revenue. Any indebtedness created hereunder shall not be included in arriving at the constitutional debt limitation.

(3) Sites purchased for industrial development under this section or pursuant to any other authority may be developed by the city, village or town by the installation of utilities and roadways but not by the construction of buildings or structures. Any such sites may be sold or leased for industrial purposes but only for a fair consideration to be determined by the governing body.

66.521 Promotion of industry. (1) FINDINGS. (a) It is found and declared that industries located in this state have been induced to move their operations in whole or in part to, or to expand their operations in, other states to the detriment of state, county and municipal revenue raising through the loss or reduction of income taxes, real estate and other local taxes, and thereby causing an increase in unemployment; that such conditions now exist in certain areas of the state and may well arise in other areas; that economic insecurity due to unemployment is a serious menace to the general welfare of not only the people of the affected areas but of the people of the entire state; that unemployment results in obligations to grant public assistance and in the payment of unemployment compensation; that the absence of new economic opportunities has caused workers and their families to migrate elsewhere to find work and establish homes, which has resulted in a reduction of the tax base of counties, cities and other local governmental jurisdictions impairing their financial ability to support education and other local governmental services; that security against unemployment and the preservation and enhancement of the tax base can best be provided by the promotion, attraction, stimulation, rehabilitation and revitalization of commerce, industry and manufacturing; that there is a need to stimulate a larger flow of private investment funds from banks, investment houses, insurance companies and other financial institutions. It is therefore declared to be the policy of this state to promote the right to gainful employment, business opportunities and general welfare of the inhabitants thereof and to preserve and enhance the tax base by authorizing municipalities to acquire industrial buildings and to finance such acquisition through the issuance of revenue bonds for the purpose of fulfilling the aims of this section and such purposes are hereby declared to be public purposes for which public money may be spent and the necessity in the public interest for the provisions herein enacted is declared a matter of legislative determination.

(b) It is found and declared that the control of pollution of the environment of this state, the provision of medical, safe employment, telephone and telegraph, research, industrial park, dock, wharf, airport, recreational, convention center, trade center, headquarters and mass transit facilities in this state, and the furnishing of electric energy, gas and water in this state, are necessary to retain existing industry in, and attract new industry to, this state, and to protect the health, welfare and safety of the citizens of this state.

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

(a) "Municipality" means any city, village or town in this state.

(b) "Project" and "industrial project" mean any of the following:

1. Assembling, fabricating, manufacturing, mixing or processing facilities for any products of agriculture, forestry, mining or manufacture, even though such products may require further treatment before delivery to the ultimate consumer;

2. Generating, manufacturing or distributing facilities for electric energy, gas or water;

3. Telephone and telegraph facilities;

4. Pollution control facilities, including any environmental studies and monitoring systems connected therewith;

5. Sewage and solid and liquid waste disposal facilities;

6. Printing facilities;

7. Hospital, clinic or nursing home facilities;

8. Industrial park facilities;

9. Dock, wharf, airport or mass transit facilities;

10. National or regional headquarters facilities;

11. Recreational facilities, convention centers and trade centers, as well as hotels, motels or marinas related thereto;

12. Facilities to provide service activities, including but not limited to warehousing, storage, distribution, research and data processing, used in conjunction with the projects enumerated in this subdivision;

13. Facilities required for compliance with a lawful order of the U.S. occupational safety and health administration or any similar governmental agency; and

14. In addition to subd. 12, warehouse facilities used primarily for:

a. The storage or distribution of industrial materials, components and equipment used in assembling, fabricating, manufacturing and processing products described under subd. 1; or

b. The storage or distribution of products described under subd. 1 which remain, while in such warehouse facilities, under the control of the person assembling, fabricating, manufacturing or processing such products.

15. Facilities for compliance with a lawful order of any state or federal governmental agency controlling the use of land with respect to any of the industries, activities or facilities enumerated in this paragraph.

(c) "Improve", "improving", "improvements" and "facilities" embrace any real or personal property or mixed property of any kind of whatever useful life that can be used or that will be useful in an industrial project including, but not limited to, sites for buildings, equipment or other improvements, rights-of-way, roads, streets, sidings, foundations, tanks, structures, pipes, pipelines, reservoirs, lagoons, utilities, materials, equipment, fixtures, machinery, furniture, furnishings, improvements, instrumentalities, pollution control facilities, and other real, personal or mixed property of every kind.

(d) "Governing body" means the board, council or other body in which the legislative powers of the municipality are vested.

(e) "Equip" means to install or place on or in any building or improvements or the site thereof equipment of any kind, including, without limiting the generality of the foregoing, machinery, utility service connections, pollution control facilities, building service equipment, fixtures, heating equipment and air conditioning equipment.

(f) "Eligible participant" includes any person who enters into a revenue agreement with a municipality with respect to an industrial project. If more than one eligible participant is a party to a revenue agreement, the undertaking of each shall be either several or joint and several as the revenue agreement provides. An eligible participant need not be directly or indirectly a user of the project.

(g) "Initial resolution" means a resolution of the governing body expressing an intention, which may be subject to conditions therein stated, to issue revenue bonds under this section in an amount stated, or a sum not to exceed a stated amount, on behalf of a specified eligible participant, for a stated purpose.

(h) "Pollution control facilities" include, without limitation because of enumeration, any facilities, temporary or permanent, which are reasonably expected to abate, reduce or aid in the prevention, measurement, control or monitoring of noise, air or water pollutants, solid waste and thermal, radiation or other pollutants, including facilities installed principally to supplement or to replace existing property or equipment not meeting or allegedly not meeting acceptable pollution control standards or which are to be supplemented or replaced by other pollution control facilities.

(i) "Indenture" means an instrument under which bonds may be issued and the rights and security of the bondholders are defined, whether such instrument is in the form of an indenture of trust, deed of trust, resolution of the governing body, mortgage, security agreement, instrument of pledge or assignment or any similar instrument or any combination of the foregoing and whether or not such instrument creates a lien on property.

(j) "Revenue bonds" and "bonds" means bonds, notes or any other contract or instrument evidencing a debt or providing for the payment of money entered into or issued in connection with a revenue agreement.

(k) "Revenue agreement" includes any lease, sublease, instalment or direct sales contract, service contract, take or pay contract, loan agreement or similar agreement wherein an eligible participant agrees to pay the municipality an amount of funds sufficient to provide for the prompt payment of the principal of, and interest on, the revenue bonds and agrees to cause the project to be constructed.

(l) "Trustee" means any corporation, bank or other entity authorized under any law of the United States or of any state to exercise trust powers or any natural person, or any one or more of them, acting as trustee, cotrustee or successor trustee under an indenture pursuant to designation of the governing body.

(3) POWERS. Any municipality may:

(a) Construct, equip, reequip, acquire by gift, lease or purchase, install, reconstruct, rebuild, rehabilitate, improve, supplement, replace, maintain, repair, enlarge, extend or remodel industrial projects.

(b) Borrow money and issue revenue bonds:

1. To finance all or any part of the costs of the construction, equipping, reequipping, acquisition, purchase, installation, reconstruction, rebuilding, rehabilitation, improving, supplementing, replacing, maintaining, repairing, enlarging, extending or remodeling of industrial projects and the improvement of sites therefor;

2. To fund the whole or any part of any revenue bonds theretofore issued by such municipality, including any premium payable with respect thereto and any interest accrued or to accrue thereon; or

3. For any combination of the purposes under subd. 1 or 2.

(c) Enter into revenue agreements with eligible participants with respect to industrial projects.

(d) Mortgage all or any part of the industrial project or assign the revenue agreements in favor of the holders of the bonds issued therefor and in connection therewith may irrevocably waive any rights it would otherwise have to redeem the mortgaged premises in the event of foreclosure.

(e) Sell and convey the industrial project and site, including without limitation the sale and conveyance thereof subject to a mortgage, for such price and at such time as the governing body determines, but no sale or conveyance of any industrial project or site shall be made in any manner as to impair the rights or interests of the holders of any bonds issued for the industrial project.

(f) Finance an industrial project which is located entirely within the geographic limits of the municipality or some contiguous part of which is located within and some contiguous part outside the geographic limits of the municipality; or, finance an industrial project which is located entirely outside the geographic limits of the municipality, but only if the revenue agreement with respect to such project also relates to another project of the same eligible participant some part of which is located within such limits. Exercise of the power granted by this subsection shall not give rise to any power on the part of such municipality to annex, tax, zone or exercise any other municipal power with respect to that part of such project located outside of the geographic limits of such municipality.

(g) Consent, whenever it deems it necessary or desirable in fulfillment of the purposes of this section, to a modification of a rate of interest, a time of payment of any instalment of principal or interest or any other term of the revenue agreement, indenture or bonds.

(h) Provide for any type of insurance against any risk including, without limitation, insurance on the revenues to be derived pursuant to the revenue agreement or on the obligation to make payment of the principal of or interest on the bonds.

(4) BONDS. (a) All bonds issued by a municipality under the authority of this section shall be limited obligations of the municipality. The principal of and interest on such bonds shall be payable solely out of the revenues derived pursuant to the revenue agreement pertaining to the project to be financed by the bonds so issued under this section, or, in the event of default of such agreement and to the extent that the municipality so provides in the proceedings of the governing body whereunder the bonds are authorized to be issued, out of any revenues derived from the sale, releasing or other disposition of the project, or out of any collateral securing the revenue agreement, or out of the proceeds of the sale of bonds. Bonds and interest coupons issued under authority of this section shall never constitute an indebtedness of the municipality, within the meaning of any state constitutional provision or statutory limitation, and shall not constitute nor give rise to a pecuniary liability of the municipality or a charge against its general credit or taxing powers. Such limitation shall be plainly stated on the face of each such bond.

(b) The bonds may be executed and delivered at any time; be in such form and denominations, without limitation as to the denomination of any bond, any other law to the contrary notwithstanding; be of such tenor; be fully registered, registrable as to principal or in bearer form; be transferable; be payable in one or more instalments and at such time, not exceeding 35 years from their date; be payable prior to maturity on such terms and conditions; be payable both with respect to principal and interest at such place in or out of this state; bear interest at such rate, either fixed or variable in accordance with such formula; be evidenced in such manner; and may contain other provisions not inconsistent herewith, all as shall be provided in respect of the foregoing or other matters in the proceedings of the governing body whereunder the bonds are authorized to be issued.

(c) Unless otherwise expressly or implicitly provided in the proceedings of the governing body whereunder the bonds are authorized to be issued, bonds issued under this section shall be subject to the general provisions of law, not inconsistent with this section, presently existing or that may hereafter be enacted, respecting the authorization, execution and delivery of the bonds of such municipality.

(d) Any bonds, issued under the authority of this section, may be sold at public or private sale in such manner, at such price and at such time as may be determined by the governing body. The municipality may pay all expenses, premiums and commissions which the governing body may deem necessary or advantageous in connection with the authorization, sale and issuance thereof.

(e) All bonds, issued under the authority of this section and all interest coupons applicable thereto, shall be construed to be negotiable instruments, even though they are payable solely from a specified source.

(5) PLEDGE OF REVENUES AND PROCEEDINGS FOR ISSUANCE OF BONDS. (a) The principal of, and interest on, any bonds issued under authority of this section shall be secured by a pledge of the revenues out of which such bonds shall be made payable. They may, but need not, be secured by any one or more of the following:

1. A real estate mortgage or a security interest covering all or any part of the project from which the revenues so pledge may be derived;

2. A pledge of the revenue agreement; or

3. An assignment of the revenue agreement and any security given therefor.

(b) The proceedings under which the bonds are authorized to be issued under this section, and any indenture given to secure the same, may contain any agreements and provisions customarily contained in instruments securing bonds, including, but not limited to:

1. Provisions respecting custody of the proceeds from the sale of the bonds including their investment and reinvestment until used to defray the cost of the project;

2. Provisions respecting the fixing and collection of the proceeds under the revenue agreement pertaining to any project covered by such proceedings or indenture;

3. The terms to be incorporated in the revenue agreement pertaining to such project;

4. The maintenance and insurance of such project;

5. The creation, maintenance, custody, investment and reinvestment and use of special funds from the revenues of such project; and

6. The rights and remedies available in case of a default to the bondholders or to any trustee for the bondholders.

(c) A municipality may provide that proceeds from the sale of bonds and special funds from the revenues of the project and any funds held in reserve or sinking funds shall be invested and reinvested in such securities and other investments as are provided in the proceedings under which the bonds are authorized to be issued. The municipality may also provide that such proceeds or funds or investments and the revenues derived pursuant to the revenue agreement shall be received, held and disbursed by one or more banks or trust companies located in or out of this state. A municipality may also provide that the project and improvements shall be constructed or installed by the municipality, the eligible participant or the eligible participant's designee or any one or more of them on real estate owned by the municipality, the eligible participant or the eligible participant's designee and that the bond proceeds shall be disbursed by the trustee bank or trust company during construction upon the estimate, order or certificate of the eligible participant or the eligible participant's designee. In making such agreements or provisions, a municipality shall not obligate itself, except with respect to the project and the application of the revenues therefrom, and shall not incur a pecuniary liability or a charge upon its general credit or against its taxing powers.

(d) The proceedings authorizing any bonds under this section, or any indenture securing such bonds, may provide that if there is a default in the payment of the principal of, or the interest on, such bonds or in the performance of any agreement contained in such proceedings or indenture, the payment and performance may be enforced by the appointment of a receiver with power to charge, collect and apply the revenues from the project in accordance with such proceedings or the provisions of such indenture.

(e) Any indenture made under this section to secure bonds and which constitutes a lien on property may also provide that if there is a default in the payment thereof or a violation of any agreement contained therein, it may be foreclosed and the collateral sold under proceedings in any manner permitted by law. Such indenture may also provide that any trustee thereunder or any pledgee or assignee thereof or the holder of any bonds secured thereby may become the purchaser at any foreclosure sale if he is the highest bidder therefor.

(f) The revenue agreement may include such provisions as the municipality deems appropriate to effect the financing of the project, including a provision for payments thereunder to be made in instalments and the securing of the obligation for any such payments by lien or security interest in the undertaking either senior or junior to, or ranking equally with, any lien, security interest or rights of others.

(6) DETERMINATION OF REVENUE PAYMENT. (a) Prior to the execution of a revenue agreement with respect to any project, the governing body must determine:

1. The amount necessary in each year to pay the principal of, and the interest on, the bonds proposed to be issued to finance such project;

2. The amount necessary to be paid each year into any reserve funds which the governing body deems advisable to establish in connection with the retirement of the proposed bonds and the maintenance of the project; and

3. Unless the terms of the revenue agreement provide that the eligible participant shall provide for maintenance of the project and the carrying of all proper insurance with respect thereto, the estimated cost of maintaining the project in good repair and keeping it properly insured.

(b) The determination and findings of the governing body shall be embodied in the proceedings under which the proposed bonds are to be issued; but the foregoing amounts need not be expressed in dollars and cents in the revenue agreement and proceedings under which the bonds are authorized to be issued, but may be set forth in the form of a formula. Prior to the issuance of the bonds authorized by this section the municipality shall enter into a revenue agreement providing for payment to the municipality or to the trustee for the account of the municipality of such amounts as, upon the basis of such determination and findings, will be sufficient to pay the principal of, and interest on, the bonds issued to finance the project; to build up and maintain any reserves deemed advisable by the governing body, in connection therewith; and, unless the revenue agreement obligates the eligible participant to provide for the maintenance of and insurance on the project, to pay the costs of maintaining the project in good repair and keeping it properly insured.

(7) APPLICATION OF PROCEEDS LIMITED. The proceeds from the sale of any bonds, issued under this section, shall be applied only for the purpose for which the bonds were issued and if, for any reason, any portion of such proceeds are not needed for the purpose for which the bonds were issued, such unneeded portion of said proceeds shall be applied, directly or indirectly, to the payment of the principal or the interest on the bonds. The following costs may be financed as part of any bond issue:

(a) The actual cost of the construction of any part of a project which may be constructed including but not limited to, permit and license fees, preparation of cost estimates, feasibility studies, consultants, architects', engineers' and similar fees;

(b) The purchase price and installation cost of any part of a project that may be acquired by purchase;

(c) The costs of environmental studies and monitoring systems in connection with the industrial project;

(d) The costs of moving to the situs of the project property previously owned or leased by an eligible participant;

(e) The current fair market value of any real property and improvements thereto acquired as a part of the project and any costs directly related to such real property;

(f) The current fair market value of any personal property acquired as a part of the project;

(g) All expenses in connection with the authorization, sale and issuance of the bonds;

(h) The interest on the bonds, or on any debt which is replaced by the proceeds of the bonds, for a reasonable time prior to construction or acquisition, during construction or acquisition and for not exceeding 6 months after completion of construction or acquisition; and

(i) A reserve for payment of the principal of and interest on the bonds.

(8) PURCHASE. The municipality may, by or with the consent of the eligible participant, accept any bona fide offer to purchase the project which is sufficient to pay all the outstanding bonds, interest, taxes, special levies and other costs that have been incurred. The municipality may also, by or with the consent of the eligible participant, accept any bona fide offer to purchase any unimproved land which is a part of the project, if the purchase price is not less than the cost of such land to the municipality computed on a prorated basis and if such purchase price is applied directly or indirectly to the payment of the principal or interest on the bonds.

(9) PAYMENT OF TAXES. When any industrial project acquired by a municipality under this section is used by a private person as a lessee, sublessee or in any capacity other than owner, that person shall be subject to taxation in the same amount and to the same extent as though that person were the owner of the property. Taxes shall be assessed to such private person using the real property and collected in the same manner as taxes assessed to owners of real property. When due, the taxes shall constitute a debt due from such private person to the taxing unit and shall be recoverable as provided by law, and such unpaid taxes shall become a lien against the property with respect to which they were assessed, superior to all other liens and shall be placed on their tax roll when there has been a conveyance of the property in the same manner as are other taxes assessed against real property.

(10) PROCEDURE. (a) Any action required or permitted by this section to be taken by a governing body may be taken at any lawful meetings thereof. A simple majority of a quorum of such governing body shall be sufficient for any such action. The ayes and noes need not be taken with respect to any such action and such action need not be officially read prior to adoption. Failure to publish any such action shall not affect the validity thereof.

(b) Upon the adoption of an initial resolution under this section, public notice of such adoption shall be given to the electors of the municipality prior to the issuance of the bonds therein described, by publication as a class 1 notice, under ch. 985. The notice need not set forth the full contents of the resolution, but shall state the maximum amount of the bonds, the name of the eligible participant, the purpose thereof, and that the resolution was adopted under this section. No other public notice of the authorization, issuance or sale of bonds under this section is required.

(c) A copy of the initial resolution together with a copy of the public notice of its adoption shall be filed with the secretary of business development within 10 days following publication of notice. Prior to the closing of the bond issue, the secretary may require additional information from the eligible participant or the municipality. After the closing of the bond issue, the secretary shall be notified of the closing date, any substantive changes made to documents previously filed with the secretary and the principal amount of the financing.

(d) The governing body may issue bonds under this section without submitting the proposition to the electors of the municipality for approval unless within 30 days from the date of publication of notice of adoption of the initial resolution for such bonds, a petition, signed by not less than 5% of the registered electors of the municipality, or, if there is no registration of electors in the municipality, by 10% of the number of electors of the municipality voting for the office of governor at the last general election as determined under s. 115.01 (13), is filed with the clerk of the municipality requesting a referendum upon the question of the issuance of the bonds. If such a petition is filed, the bonds shall not be issued until approved by a majority of the electors of the municipality voting thereon at a general or special election.

(11) CERTAIN LAWS NOT APPLICABLE. With respect to the enforcement of any construction lien or other lien under ch. 289 arising out of the construction of projects financed under this section, no deficiency judgment or judgment for costs may be entered against the municipality. Projects financed under this section shall not be deemed to be public works, public improvements or public construction within the meaning of ss. 59.08, 62.15, 289.14, 289.15 and 289.155 and contracts for the construction of such projects shall not be deemed to be public contracts within the meaning of ss. 59.08 and 66.29 unless factors such as and including municipal control over the costs, construction and operation of the project and the beneficial ownership of the project warrant such conclusion.

(12) VALIDATION OF CERTAIN BONDS AND PROCEEDINGS. Notwithstanding this section or any other law:

(a) In the absence of fraud, all bonds heretofore issued purportedly pursuant to this section, and all proceedings heretofore taken purportedly pursuant to this section for the authorization and issuance of such bonds or of bonds not yet issued, and the sale, execution and delivery of such bonds heretofore issued, are hereby validated, ratified, approved and confirmed, notwithstanding any lack of power, however patent, other than constitutional, of the issuing municipality or the governing body or officer thereof, to authorize and issue such bonds, or to sell, execute or deliver the same, and notwithstanding any defects or irregularities, however patent, other than constitutional, in such proceeding or in such sale, execution or delivery of such bonds heretofore issued. All such bonds heretofore issued are binding, legal obligations in accordance with their terms.

(b) Any proceedings for the authorization and issuance of bonds pursuant to this section now in process may be continued under this section as it heretofore existed or as it is now constituted. All such continued proceedings are hereby validated, ratified, approved and confirmed; and all bonds hereafter issued as a result of such proceedings are binding, legal obligations in accordance with their terms.

(13) COST OF INDUSTRIAL PROJECT ELIGIBLE FOR FINANCING. (a) In this subsection:

1. "Placed into service" means having become a completed part of a facility which is in fact operational at the level of pollution control for which it was designed.

2. "Substantially" refers to an expenditure of more than 50% of the financed cost of acquiring the property involved.

(b) This section may be used to finance all or any part of the cost, tangible or intangible, whenever incurred, of providing an industrial project under this section, whether or not such industrial project is in existence on the date of adoption of the initial resolution or of issuance of the bonds; whether new or previously used; whether or not previously owned by the eligible participant, the eligible participant's designee or

a party affiliated with either; and notwithstanding that this section was not in effect or did not permit such financing on the date of such adoption or at the time such ownership was acquired, except as follows:

1. No part of the costs of constructing or acquiring personal property owned by the eligible participant, the eligible participant's designee or a party affiliated with either at any time prior to the date of adoption of the initial resolution may be so financed except such costs for:

a. Pollution control facilities which have not been placed into service on the date of adoption of the initial resolution; or

b. Personal property which will either be substantially reconstructed, rehabilitated, rebuilt or repaired in connection with the financing or which represents less than 10% of the entire financing. Personal property shall be deemed owned only after 50% of the acquisition cost thereof has been paid and such property has been delivered and installed.

2. No part of the costs of acquiring real property or of acquiring or constructing improvements thereto may be so financed except such costs:

a. For pollution control facilities which have not been placed into service on the date of adoption of the initial resolution;

b. For real property which will be substantially improved in connection with the project or which represents less than 10% of the entire financing;

c. For acquiring improvements which will themselves be substantially improved in connection with the project, which represent less than 10% of the entire financing, or the cost of which is less than 33% of the cost of the real property to which they are appurtenant which is also being acquired; or

d. As are incurred after the date of adoption of the initial resolution for constructing improvements.

History: 1973 c. 265; 1977 c. 28.

This section is constitutional. It does not constitute a denial of equal protection of the law because the legislative classification is proper. State ex rel. Hammermill Paper Co. v. La Plante, 58 W (2d) 32, 205 NW (2d) 784.

This section is not unconstitutional upon its face. 59 Atty. Gen. 106.

Industrial development revenue bonding is not available for a project for a new automobile showroom, warehouse, and repair facility of a retail automobile dealership. 62 Atty. Gen. 141.

Typical turn-key projects financed by industrial development revenue bonds under 66.521 are not subject to 66.293 (3), concerning prevailing wage rates. 63 Atty. Gen. 145.

"Clinic" under (2) (b) 7. defined. 64 Atty. Gen. 133.

Sub. (11) does not require a municipality to obtain performance bonds for typical industrial revenue bond projects constructed by private industry. 64 Atty. Gen. 169.

The financing of corporate expansion through industrial revenue bonds. Mulcahy, Guszkowski, 57 MLR 201.

66.526 Uniform salaries in first class cities. The common council of any city of the first class, however incorporated, may at any regular or special meeting, at any time during the calendar year, adopt a uniform and comprehensive salary or wage ordinance, or both, based on a classification of officers, employments and positions in the city service and of and including any and all offices and positions whatsoever in the employment of such city, whether previously so classified or not, provided provision has been made in the budget of the current year for the total sum of money required for the payment of salaries and wages for such employment and a tax levied to include the same, with the following exception: That wages may be fixed at any such time by resolution alone and that the common council may, at any time during the calendar year, at any such meeting determine a cost-of-living increment or deduction, to be paid in addition to such wages or salaries, based on a proper finding of the United States bureau of labor statistics. Any such common council may, at any such meeting, provide for overtime pay of employes worked in excess of 40 hours per week.

66.527 Recreation authority. (1) Funds for the establishment, operation and maintenance of a department of recreation may be provided by the governing body of any town or school district after compliance with s. 65.90.

(2) (a) Any such governmental unit may delegate the power to establish, maintain and operate a department of public recreation to a board of recreation, which shall consist of 3 members and shall be appointed by the chairman or other presiding officer of the governing body. The first appointments shall be made so that one member will serve one year, one for 2 years and one for 3 years; thereafter appointments shall be for terms of 3 years.

(b) When 2 or more of the aforesaid governing units desire to conduct, jointly, a department of public recreation, the joint recreation board shall consist of not less than 3 members who shall be selected by the presiding officers of such governmental units acting jointly. Appointments shall be made for terms as provided in paragraph (a).

(c) The members of any such recreation board shall serve gratuitously.

(d) Such recreation board is authorized to conduct the activities of such public recreation department, to expend funds therefor, to employ a supervisor of recreation, to employ assistants, to purchase equipment and supplies, and generally to supervise the administration, maintenance and operation of such department and recreational activities authorized by the board.

(3) (a) The public recreation board has the right to conduct public recreation activities on property purchased or leased by any such governing unit for recreational purposes and under its own custody, on other public property under the custody of any other public authority, body or board with the consent of such public authority, body or board, or on private property with the consent of its owner, and such board with the approval of the appointing board, may accept gifts and bequests of land, money or other personal property, and use the same in whole or in part, or the income therefrom or the proceeds from the sale of any such property in the establishment, maintenance and operation of recreational activities.

(b) The board shall annually submit to the governing body a report of its activities and showing receipts and expenditures. Such reports shall be submitted not less than 15 days prior to the annual meeting of such governmental unit.

(c) An audit shall be made of the accounts of such recreational board in the same manner as provided for audits for towns or school districts as the case may be.

(d) The persons selected by the recreation board shall furnish a surety bond in such amount as shall be fixed by the governing body.

History: 1975 c. 233

66.53 Repayment of assessments in certain cases. Whenever in any city any contract for improvements has been or may be hereafter declared void by any court of last resort on the following grounds: want of power to make such contract; made contrary to a prohibition against contracting in any other than a specified way; or forbidden by statute, and if the governing body of such city shall not have adopted the resolution referred to in subsection (1) of section 66.295 relating to payment of any person who has furnished any benefits pursuant to said void contract, the governing body of such city may provide that all persons who have paid all or any part of any assessment levied against the abutting property owners by reason of such improvement may be reimbursed the amount of such assessment so paid from such fund as the governing body may determine.

66.54 Special improvement bonds; certificates. (1) DEFINITIONS. Wherever used or referred to in this section, unless a different meaning clearly appears from the context:

(a) "Municipality" means county, city, village, town, farm drainage board, sanitary districts, utility districts, public inland lake protection and rehabilitation districts, and all other public boards, commissions or districts, except 1st class cities, authorized by law to levy special assessments for public improvements against the property benefited by the special improvements.

(b) "Governing body" means the body or board vested by statute with the power to levy special assessments for public improvements.

(c) "Contractor" means the person, firm or corporation performing the work or furnishing the materials, or both, for a public improvement.

(d) "Public improvement" means the result of the performance of work or the furnishing of materials or both, for which special assessments are authorized to be levied against the property benefited thereby.

(e) "Sinking fund" means the fund, however derived, set aside for the payment of principal and interest on contractor's certificates or bonds issued under this section.

(2) METHODS OF PAYMENT FOR PUBLIC IMPROVEMENTS. In addition to the other methods prescribed by law, payment of the cost of any public improvement authorized by the governing body of any municipality on or after July 1, 1943, may be made by any one of the following methods or a combination thereof:

(a) Payment by the municipality out of its general funds.

(b) Payment out of the proceeds of the sale of bonds issued by it, pursuant to section 67.04.

(c) Contractor's certificates, constituting a lien against a specific parcel of real estate.

(d) General obligation--local improvement bonds, or the proceeds thereof.

(e) Special assessment B bonds, or the proceeds thereof.

(3) PRELIMINARY PAYMENT ON COST OF PUBLIC IMPROVEMENTS. Whenever it is determined that the cost of any public improvement about to be made is to be paid, wholly or in part, by special assessments against the property to be benefited by the improvement, the resolution authorizing such public improvement shall provide and require that the whole, or any stated proportion, or no part of the estimated aggregate cost of such public improvement, which is to be levied as special assessments, shall be paid into the municipal treasury in cash. No such public improvement shall be commenced nor any contract let therefor unless and until such payment, if any, required by said resolution, is paid into the treasury of the municipality by the owner or persons having an interest in the property to be benefited, which payment shall be credited on the amount of the special assessments levied or to be levied against benefited property designated by the payer. In the event that a preliminary payment is required by said resolution, the refusal of one or more owners or persons having an interest in the property to be

benefited to pay such preliminary payments shall not prevent the making of such improvement, if the entire specified sum is obtained from the remaining owners or interested parties.

(4) DISCOUNT ON CONTRACT PRICE. Every bid hereafter received for any public improvement which is not to be paid wholly in cash shall contain a provision that all payments made in cash by the municipality as provided by contract or made on special assessments as hereinafter provided shall be subject to a specified rate of discount. The municipal treasurer shall issue a receipt for every such payment made on any special assessment, stating the date and amount of the cash payment, the discount and the total credit including such discount, on a specified special assessment or assessments. The treasurer shall on the same day deliver a duplicate of such receipt to the clerk, who shall credit the specified assessments accordingly. All moneys so received shall be paid to the contractor as provided by the contract.

(5) PAYMENT BY MUNICIPALITY. Whenever any such public improvement has been paid for by the municipality, contractor's certificates as provided for in subsection (6), or general obligation-local improvement bonds as provided for in subsection (9), or special assessment B bonds as provided for in subsection (10) may be issued to the municipality as the owner thereof. All of the provisions of said subsections (6), (9) and (10) applicable to the contractor or to the owner of such contractor's certificates or to such general obligation-local improvement bonds or to such special assessment B bonds shall be deemed to include the municipality which has paid for such improvement and to which such contractor's certificates, general obligation-local improvement bonds or special assessment B bonds have been issued, except as in this section otherwise provided.

(6) PAYMENT BY CONTRACTOR'S CERTIFICATE. (a) Whenever any public improvement has been made and has been accepted by the governing body of the municipality, it may cause to be issued to the contractor for such public improvement, a contractor's certificate as to each parcel of land against which special assessments have been levied for the unpaid balance of the amount chargeable thereto, describing each parcel. Such certificate shall be substantially in the following form:

$ .... No. ....

(name of municipality)
CONTRACTOR'S CERTIFICATE
FOR CONSTRUCTION OF ....
(name of municipality)
ISSUED PURSUANT TO
SECTION 66.54 (6) WIS. STATS.

We, the undersigned officers of the (name of municipality), hereby certify that (name and address of contractor) has performed the work of constructing .... in .... benefiting the following premises, to wit: (insert legal description) in the (name of municipality) .... County, Wisconsin, pursuant to a contract entered into by said (name of municipality) with the said (name of contractor), dated ...., and that .... entitled to the sum of .... dollars, being the unpaid balance due for said work chargeable to the property hereinabove described.

NOW, THEREFORE, If the said sum shall not be paid to the treasurer of (name of municipality) before the first day of December, next, the same shall be extended upon the tax roll of the (name of municipality) against the property above described as listed therein, and collected for, as provided by law.

This certificate is transferable by indorsement but such assignment or transfer shall be invalid unless the same shall be recorded in the office of the clerk of the (name of municipality) and the fact of such recording is indorsed on this certificate. THE HOLDER OF THIS CERTIFICATE SHALL HAVE NO CLAIM UPON THE (Name of municipality) IN ANY EVENT, EXCEPT FROM THE PROCEEDS OF THE SPECIAL ASSESSMENTS LEVIED FOR SAID WORK AGAINST THE ABOVE DESCRIBED LAND.

This certificate shall bear interest from its date to January 1 next succeeding. This certificate may be exchanged for the tax sale certificate resulting from the sale of the above described lands for failure to pay the special assessment levied for the work hereinabove described.

Given under our hands at (name of municipality), this .... day of ...., 19 ....

....
(Mayor, President, Chairman)
Countersigned:
....
Clerk, (name of municipality)

ASSIGNMENT RECORD

Assigned by .... (Original Contractor) to .... (Name of Assignee) of .... (Address of Assignee) .... (Date and signature of clerk)

(b) Such certificate shall in no event be a municipal liability and shall so state in boldface type printed on the face thereof. Upon issuance of said certificate, the clerk of the municipality shall at once deliver to the municipal treasurer a schedule of each such certificate showing the date, amount, number, date of maturity, person to whom issued and parcel of land against which the assessment is made. The treasurer shall thereupon notify, by mail, the owner of said parcel as the same appears on the last assessment roll, that payment is due on said certificate

at the office of said treasurer, and if such owner shall pay such amount or part thereof so due, said clerk shall cause the same to be paid to the registered holder of said certificate, and shall indorse such payment on the face of said certificate and on his record thereof. The clerk shall keep a record of the names of the persons, firms or corporations to whom such contractor's certificates shall be issued and of the assignees thereof when the fact of assignment is made known to such clerk. Assignments of such contractor's certificates shall be invalid unless recorded in the office of the clerk of the municipality and the fact of such recording be indorsed on said certificate. Upon final payment of the certificate, the same shall be delivered to the treasurer of the municipality and by him delivered to such clerk. On the first of each month, to and including December 1, the treasurer shall certify to the clerk a detailed statement of all payments made on such certificates.

(c) After the expiration of 90 days from the date of such certificate or any general obligation-local improvement bond or special assessment B bond hereinafter provided for, the same shall be conclusive evidence of the legality of all proceedings up to and including the issue thereof and prima facie evidence of the proper construction of the improvement.

(d) If said certificates are not paid before December 1 in the year in which they are issued, the comptroller or clerk of the municipality shall thereupon include in the statement of special assessments to be placed in the next tax roll an amount sufficient to pay such certificates, with interest thereon from the date of such certificates to January 1 next succeeding, and thereafter the same proceedings shall be had as in the case of general property taxes, except as in this section otherwise provided. Such delinquent taxes shall be returned to the county treasurer in trust for collection and not for credit. All moneys collected by the municipal treasurer or by the county treasurer and remitted to the municipal treasurer on account of such special assessments and all the tax certificates issued to the county on the sale of the property for such special assessment, if the same is returned delinquent, shall be delivered to the owner of the contractor's certificate on demand.

(7) ANNUAL INSTALMENTS OF SPECIAL ASSESSMENTS. (a) The governing body of any municipality may provide that special assessments levied to defray the cost of any public improvement or project constituting part of a general public improvement, except sprinkling or oiling streets, may be paid in annual instalments.

(b) The first instalment shall include a proportionate part of the principal of the special assessment, determined by the number of instalments, together with interest on the whole assessment from such date, not prior to the date of the notice hereinafter provided for, and to such date, not later than December 31, in the year in which same is to be collected as shall be determined by the governing body, and each subsequent instalment shall include a like proportion of the principal and one year's interest upon the unpaid portion of such assessment.

(c) The first instalment shall be entered in the first tax roll prepared after said instalments shall have been determined as a special tax on the property upon which the special assessment was levied, and thereafter this tax shall be treated in all respects as any other municipal tax, except as in this section otherwise provided. One of the subsequent instalments shall be entered in a like manner and with like effect in each of the annual tax rolls thereafter until all are levied.

(d) If any instalment so entered in the tax roll shall not be paid to the municipal treasurer with the other taxes it shall be returned to the county as delinquent and accepted and collected by the county in the same manner as delinquent general taxes on real estate, except as in this section otherwise provided.

(e) Whenever the governing body determines to permit any special assessments for any local improvements to be paid in instalments it shall publish a class 1 notice, under ch. 985. Such notice shall be substantially in the following form:

INSTALMENT ASSESSMENT NOTICE.

Notice is hereby given that a contract has been (or is about to be) let for (describe the improvement) and that the amount of the special assessment therefor has been determined as to each parcel of real estate affected thereby and a statement of the same is on file with the .... clerk; it is proposed to collect the same in .... instalments, as provided for by section 66.54 of the Wisconsin statutes, with interest thereon at .... per cent per annum; that all assessments will be collected in instalments as above provided except such assessments on property where the owner of the same shall file with the .... clerk within 30 days from date of this notice a written notice that he elects to pay the special assessment on his property, describing the same, to the .... treasurer on or before the next succeeding November 1. If, after making such election, said property owner fails to make the payment to the .... treasurer, the .... clerk shall place the entire assessment on the next succeeding tax roll.

Dated ....

.... [Clerk of (name of municipality)]

(f) After the time for making such election shall have expired, any assessment may be paid in full before due, only upon the payment of such portion of the interest to become due thereon as the governing body shall determine.

(g) A schedule of the assessments and instalments thereof shall be recorded in the office of the clerk of the municipality forthwith.

(h) All special assessments and instalments of special assessments which are returned to the county as delinquent by any municipal treasurer pursuant to this section shall be accepted by the county in accordance with the provisions of this section, shall be set forth in a separate column of the delinquent return and shall be plainly distinguished in such return from special assessments or instalments of special assessments issued under laws in effect on and prior to June 30, 1943 which shall continue to be returned as provided in section 62.21.

(8) SPECIAL ASSESSMENT BONDS, INSTALMENTS. In order to provide immediately the cash for the payment of the cost of any public improvement, the municipality may issue bonds payable in instalments of like number as the instalments of the underlying special assessment levied to pay for such public improvement. Such bonds may be:

(a) General obligation-local improvement bonds.

(b) Special assessment B bonds.

(9) GENERAL OBLIGATION-LOCAL IMPROVEMENT BONDS. (a) For the purpose of anticipating the collection of special assessments payable in instalments as provided in this section and after such instalments have been determined, the governing body may issue general obligation-local improvement bonds as more particularly described in this subsection.

(b) The issue of such bonds shall be in an amount not to exceed the aggregate unpaid special assessments levied for the public improvement which such issue is to finance. A single issue of such bonds may be used to finance one or more different local improvements for which special assessments are authorized to be made in the same year. The provisions of sections 67.035, 67.06, 67.07, 67.08 and 67.11, where not contrary to the provisions of this section, shall be applicable to such bonds. Such bonds shall mature in the same number of instalments as said special assessments, but the date of maturity of each instalment of said bonds shall be fixed in October, November or December. The first maturity of such bonds may be in the second year following the date of levy of the first instalment of the underlying special assessment. At the time of the authorization of such bonds, the governing body of the municipality shall levy a tax upon all the taxable property of said municipality sufficient to provide for the payment of the principal and interest of said bonds at maturity, which tax levy shall be irrepealable. All collections of instalments of the special assessments levied to pay for such public improvement, either before or after delinquency thereof, shall be placed by the municipal treasurer in a special sinking fund, designated and identified for such issue of such bonds, and shall be used only for the payment of said bonds and interest of such issue. The annual instalment of the irrepealable tax levied for the purpose of payment of such bonds and interest thereon, shall be diminished by the amount on hand in such sinking fund on November 1 of each tax levy year after deducting any unpaid interest and principal due in that year, and said amount so on hand in said fund shall be applied to the payment of the next succeeding instalment of principal and interest named on said bonds. Any deficiency in the sinking fund for the payment of such bonds and interest thereon at maturity shall be paid out of the general fund of the municipality and such general fund shall be reimbursed from the collection of such part of the aforesaid irrepealable tax as is actually levied. Any surplus in said sinking fund after all bonds and interest thereon are fully paid, shall be paid into the general fund.

(c) If any instalment of the aforesaid special assessment so entered in the tax roll shall not be paid to the municipal treasurer with the other taxes, it shall be returned to the county treasurer as delinquent in trust for collection. If the tax sale certificate resulting from the sale of said delinquent special assessment is bid in at the annual county tax sale by any person, firm or corporation other than the county, the county treasurer shall pay to the municipality the full amount received therefor, including interest, and the municipal treasurer shall thereupon pay the amount of such remittance into such special sinking fund for the redemption of such bonds.

(d) If at any sale of taxes by the county treasurer no bid by any person, firm or corporation shall be made for any lot or parcel of land subject to special assessment which was returned to the county treasurer as delinquent, pursuant to paragraph (c) hereof, and said land is bid in by the county, the tax sale certificate evidencing the sale of said land may thereafter upon request therefor by the municipal treasurer duly authorized by the governing body of the municipality, which returned said special assessment as delinquent, be assigned to said municipality in its corporate name, and thereupon said municipality shall be vested with the same rights as are other tax sale certificate purchasers or owners, including the right to take

a tax deed in its name, except as in this section otherwise provided.

(e) Whenever such a certificate shall have been so acquired by any municipality, the governing body thereof, to protect its interest, may authorize and direct its treasurer to bid in and become the exclusive purchaser in the corporate name of such municipality of such land at any sale of the same by the county treasurer for any tax or tax lien, and the said municipality shall be vested with the same rights as are other purchasers, except as in this section otherwise provided, and provided further that said municipality shall, before becoming the exclusive purchaser of said land for delinquent taxes or special assessment taxes, purchase, redeem, or acquire by assignment, any outstanding tax sale certificates of date equal or subsequent to the certificate of tax sale held by the municipality, upon which it bases its right to become such exclusive purchaser. When a tax deed shall be issued to such municipality, the deed may be issued in the same manner in which tax deeds are issued to individuals. The land covered by said deed shall be exempt from further general property taxes until January 1 following the date on which the same is sold by the municipality taking the tax deed and until such sale the municipal clerk shall annually, before January 1, furnish the assessor of said municipality a list of the lands of such municipality exempt from taxation under this paragraph, and such assessor shall mark said lands exempt.

(10) SPECIAL ASSESSMENT B BONDS. (a) For the purpose of anticipating the collection of special assessments payable in instalments, as provided in this section and after said instalments have been determined, the governing body may issue special assessment B bonds payable out of the proceeds of such special assessments as provided in this section. Such bonds shall in no event be a general municipal liability.

(b) The issue of such bonds shall be in an amount not to exceed the aggregate unpaid special assessments levied for the public improvement which such issue is to finance. A separate bond shall be issued for each separate assessment and said bond shall be secured by and be payable out of only the assessment against which it is issued. Such bonds shall mature in the same number of instalments as said special assessments. Such bonds shall carry coupons equal in number to the number of special assessments, which coupons shall be detachable and entitle the owner thereof to the payment of principal and interest collected on the underlying special assessments. Such bond shall be signed by the chief executive and the clerk of the municipality and the corporate seal of the municipality shall be affixed thereto and the bond shall contain such recitals as may be necessary to show that it is payable only out of the special assessment on the particular property against which it is issued and the purpose for which same was levied and such other provisions as the governing body shall deem proper to insert.

(ba) Payments of principal and interest shall conform as nearly as may be to the payments to be made on the instalments of the assessment, and the principal and interest to be paid on the bonds shall not exceed the principal and interest to be received, on the assessment. All collections of instalments of the special assessments levied to pay for such public improvement, either before or after delinquency thereof shall be placed by the municipal treasurer in a special sinking fund designated and identified for such issue of bonds and shall be used only for the payment of said bonds and interest of such issue. Any surplus in said sinking fund after all bonds and interest thereon are fully paid, shall be paid into the general fund.

(c) Such bonds must be registered in the name of the owner thereof on the records of the clerk of the municipality by which said bonds were issued. Upon transfer of the ownership of such bonds the fact of such transfer must be noted upon the bond and on the record of the clerk of such municipality. Any transfer not so recorded shall be null and void and the clerk of the municipality shall be entitled to make payments of principal and interest to the owner of the bond as registered on the books of the municipality.

(d) Principal and interest collected on the underlying special assessments as well as interest collected on the delinquent special assessments and on delinquent tax certificates issued therefor shall be paid by the treasurer of the municipality out of the sinking fund created for the issue of such bonds to the registered holder thereof upon the presentation and surrender of the coupons due attached to said bonds. Whenever such underlying special assessment is not paid and the same is struck off to the county at the tax sale, the registered owner of the bond may surrender his coupon to the county treasurer who thereupon shall assign to him the tax sale certificate underlying such special assessment. If any instalment of the aforesaid special assessment entered in the tax roll shall not be paid to the municipal treasurer with the other taxes, it shall be returned to the county treasurer as delinquent in trust for collection.

(e) If the tax sale certificate resulting from the sale of said delinquent special assessment is bid in at the county tax sale, or redeemed subsequent to the tax sale by any person, firm or

corporation other than the county, the county treasurer shall pay to the municipality, the full amount received therefor, including interest, and the municipal treasurer shall thereupon pay the amount of such remittance into a special sinking fund created for the payment of such special assessment B bonds.

(11) AREA GROUPING OF SPECIAL ASSESSMENTS. (a) Whenever the governing body determines to issue bonds pursuant to subs. (9) and (10), it may group the special assessments levied against benefited lands and issue such bonds against such special assessments so grouped as a whole. All such bonds shall be equally secured by such assessments without priority one over the other.

(b) The following provisions shall be applicable to area-grouped special assessment B bonds issued under this section:

1. For the purpose of anticipating the collection of special assessments payable in instalments under this section and after said instalments have been determined, the governing body may issue area-grouped special assessment B bonds payable out of the proceeds of such special assessments as provided herein. Such bonds shall in no event be a general municipal liability.

2. The issue of such bonds shall be in an amount not to exceed the aggregate unpaid special assessments levied for the public improvement or projects which such issue is to finance. Such bonds shall mature over substantially the same period of time in which the special assessment instalments are to be paid. Such bonds shall be bearer bonds or may be registered bonds as to principal or as to principal and interest as determined by the governing body. The bonds shall be signed by the chief executive and the clerk of the municipality, and the corporate seal of the municipality shall be affixed thereto, and it shall contain such recitals as are necessary to show that they are payable only from the special sinking fund provided for in subd. 4 and a fund created under sub. (15) for the collection and payment of such special assessment and such other provisions as the governing body deems proper to insert.

3. Upon transfer of the ownership of any such bonds registered in the name of the owner thereof on the records of the clerk of the municipality by which the bonds were issued, the fact of such transfer shall be noted on the bond and on the record of the municipal clerk. Any transfer not so recorded shall be void and the municipal clerk shall be entitled to make payments to the owner of the bond as registered on the books of the municipality.

4. All collections of principal and interest on the underlying special assessments and instalments thereof, either before or after delinquency, and on delinquent tax certificates issued therefor, shall be placed by the municipal treasurer in a special sinking fund created, designated and identified for the issue of such bonds and used only for payment of said bonds and interest thereon to the holders of the bonds or coupons in accordance with the terms of the issue. Any surplus in the sinking fund, after all bonds and interest thereon are fully paid, shall be paid into the general fund.

5. If the tax sale certificate resulting from the sale of said delinquent special assessment is bid in at the county tax sale, or redeemed subsequent to the tax sale by any person other than the county, the county treasurer shall pay to the municipality the full amount received therefor, including interest, and the municipal treasurer shall thereupon pay the amount of such remittance into the special sinking fund created for the payment of such bonds.

6. Except in cities authorized by law or charter to sell lands for nonpayment of taxes and special assessments, and in counties in which the county board has authorized the county treasurer to settle in full for delinquent special assessments, with interest, under s. 74.031 (9), whenever any part of an underlying special assessment is not paid, and the same is not bid in under subd. 5, the governing body shall direct the treasurer of the municipality to bid in and become exclusive purchaser of the certificate underlying such delinquent special assessment or part thereof and the county treasurer shall thereupon strike off to the municipality and assign to the municipal treasurer the tax sale certificate underlying such assessment. Such certificate shall be a part of the sinking fund under subd. 4 and shall be held in trust for the holders of the bonds issued for such assessments. The governing body of the municipality shall direct the municipal treasurer to remove the trust imposed upon such certificate by purchasing the certificate in the name of the municipality and paying into said sinking fund in the amount equivalent to the sum owing on the underlying special assessment for principal and interest. Funds for such purpose may be obtained by transfer from a sinking fund created under sub. (15).

7. A holder of the bonds or of any coupons attached thereto shall have a lien against the special sinking fund for payment of said bonds in interest thereon and against any sinking fund created under sub. (15) and may either at law or in equity protect and enforce such lien and compel performance of all duties required by

this section of the municipality issuing said bonds.

(12) DISPOSITION OF SPECIAL ASSESSMENT PROCEEDS WHERE IMPROVEMENT PAID FOR OUT OF GENERAL FUND OR BONDS ISSUED UNDER SECTION 67.04. Whenever special assessments are levied for any public improvements, all amounts collected on such special assessments or received from the county shall be placed in the general fund of the municipality in case the payment for the improvement was made out of its general fund, or in the sinking fund required for the payment of bonds issued under section 67.04 if such improvement was paid out of the proceeds thereof. Such special assessments, when delinquent, shall be returned in trust for collection and the municipality shall have the same rights as provided in subsection (9) (c), (d) and (e).

(13) LIEN OF TAX SALE CERTIFICATES. The lien of any tax sale certificate issued pursuant to this section shall be superior to the lien of all tax sale certificates of prior date but shall be subordinate to the lien of all general property tax sale certificates of the same or a subsequent date not outlawed by limitation. The limitation prescribed by section 75.20 as to tax sale certificates issued to and owned by counties and municipalities shall apply as to all tax sale certificates issued pursuant to the terms of this section to any municipality as defined in subsection (1) (a).

(14) PAYMENT REQUIRED TO OBTAIN TAX DEED. At the time of obtaining a tax deed on a tax certificate based on a special assessment levied under the provisions of section 66.54, the applicant therefor shall be required to pay to the county treasurer a sum equal to the principal amount of city, village or town general and school taxes included in all tax certificates not outlawed by limitation held by the county treasurer, and dated prior to the special tax certificates on which the tax deed is applied for. The county treasurer shall apply such payments as a partial redemption of such respective tax certificates.

(15) SINKING FUND FOR SPECIAL ASSESSMENT B BONDS. Whenever the governing body determines to issue special assessment B bonds pursuant to subsection (10), it may establish in its treasury a fund not less than 15 per cent of the amount of special assessment instalments, due and collectible, for the installation of that particular special improvement. Such fund is to be designated as a sinking fund for the particular bond issue, and shall be maintained until such indebtedness is paid or otherwise extinguished. Any surplus in the sinking fund after all the bonds have been paid or canceled shall be carried into the general fund of the municipal treasury. The source of said fund shall be established either from the general fund of the municipal treasury or by the levy of an irrepealable and irrevocable general tax. Such bonds shall in no event be a general municipal liability.

History: 1973 c. 172; 1977 c. 29 s. 1646 (3); 1977 c. 391.

66.60 Special assessments and charges. **(1)** (a) As a complete alternative to all other methods provided by law, any city, town or village may, by resolution of its governing body, levy and collect special assessments upon property in a limited and determinable area for special benefits conferred upon such property by any municipal work or improvement; and may provide for the payment of all or any part of the cost of the work or improvement out of the proceeds of such special assessments.

(b) The amount assessed against any property for any work or improvement which does not represent an exercise of the police power shall not exceed the value of the benefits accruing to the property therefrom, and for those representing an exercise of the police power, the assessment shall be upon a reasonable basis as determined by the governing body of the city, town or village.

(2) Prior to the exercise of any powers conferred by this section, the governing body shall declare by preliminary resolution its intention to exercise such powers for a stated municipal purpose. Such resolution shall describe generally the contemplated purpose, the limits of the proposed assessment district, the number of instalments in which the special assessments may be paid, or that the number of instalments will be determined at the hearing required under sub. (7), and direct the proper municipal officer or employe to make a report thereon. Such resolution may limit the proportion of the cost to be assessed.

(3) The report required by sub. (2) shall consist of:

(a) Preliminary or final plans and specifications.

(b) An estimate of the entire cost of the proposed work or improvement.

(c) An estimate, as to each parcel of property affected, of:

1. The assessment of benefits to be levied.

2. The damages to be awarded for property taken or damaged.

3. The net amount of such benefits over damages or the net amount of such damages over benefits.

(d) A statement that the property against which the assessments are proposed is benefited, where the work or improvement constitutes an exercise of the police power. In such case the

estimates required under par. (c) shall be replaced by a schedule of the proposed assessments.

(4) A copy of the report when completed shall be filed with the municipal clerk for public inspection and, if property of the state may be subject to assessment under s. 66.64, a copy of the report shall also be filed with the board of commissioners of public lands and the department of administration and, if the assessment of a project, as defined under s. 66.64 (2) (a), is $50,000 or more, the building commission. The building commission shall review the assessment and shall determine within 90 days of receipt of the report if the assessment is just and legal and if the proposed improvement is compatible with state plans for the facility which is the subject of the proposed improvement. No project assessed at $50,000 or more may be commenced and no contract on such project may be let without the approval of the building commission under this subsection. The building commission shall submit a copy of all of its decisions under this subsection to the board of commissioners of public lands.

(5) The cost of any work or improvement to be paid in whole or in part by special assessment on property may include the direct and indirect cost thereof, the damages occasioned thereby, the interest on bonds or notes issued in anticipation of the collection of the assessments, a reasonable charge for the services of the administrative staff of the city, town or village and the cost of any architectural, engineering and legal services, and any other item of direct or indirect cost which may reasonably be attributed to the proposed work or improvement. The amount to be assessed against all property for any such proposed work or improvement shall be apportioned among the individual parcels in the manner designated by the governing body.

(6) If any property deemed benefited shall by reason of any provision of law be exempt from assessment therefor, such assessment shall be computed and shall be paid by the city, town or village.

(6a) A parcel of land against which has been levied a special assessment for the sanitary sewer or water main laid in one of the streets upon which it abuts, shall be entitled to such deduction or exemption as the governing body determines to be reasonable and just under the circumstances of each case, when a special assessment is levied for the sanitary sewer or water main laid in the other street upon which such corner lot abuts. The governing body may allow a similar deduction or exemption from special assessments levied for any other public improvement.

(7) Upon the completion and filing of the report required by sub. (3) the city, town or village clerk shall cause notice to be given stating the nature of the proposed work or improvement, the general boundary lines of the proposed assessment district including, in the discretion of the governing body, a small map thereof, the place and time at which the report may be inspected, and the place and time at which all persons interested, or their agents or attorneys, may appear before the governing body or committee thereof or the board of public works and be heard concerning the matters contained in the preliminary resolution and the report. Such notice shall be published as a class 1 notice, under ch. 985, in the city, town or village and a copy of such notice shall be mailed, at least 10 days before the hearing or proceeding, to every interested person whose post-office address is known, or can be ascertained with reasonable diligence. The hearing shall commence not less than 10 and not more than 40 days after such publication.

(8) (a) After the hearing upon any proposed work or improvement, the governing body may approve, disapprove or modify, or it may rerefer the report prepared pursuant to subs. (2) and (3) to the designated officer or employe with such directions as it deems necessary to change the plans and specifications and to accomplish a fair and equitable assessment.

(b) If an assessment of benefits be made against any property and an award of compensation or damages be made in favor of the same property, the governing body shall assess against or award in favor thereof only the difference between such assessment of benefits and the award of damages or compensation.

(c) When the governing body finally determines to proceed with the work or improvement, it shall approve the plans and specifications therefor and adopt a resolution directing that such work or improvement be carried out in accordance with the report as finally approved and that payment therefor be made as therein provided.

(d) The city, town or village clerk shall publish the final resolution as a class 1 notice, under ch. 985, in the assessment district and a copy of such resolution shall be mailed to every interested person whose post-office address is known, or can be ascertained with reasonable diligence.

(e) When the final resolution is published, all work or improvements therein described and all awards, compensations and assessments arising therefrom are deemed legally authorized and made, subject to the right of appeal under sub. (12).

(9) Where more than a single type of project is undertaken as part of a general improvement affecting any property, the governing body may finally combine the assessments for all purposes as a single assessment on each property affected, provided that each property owner shall be enabled to object to any such assessment for any single purpose or for more than one purpose.

(10) Whenever the actual cost of any project shall, upon completion or after the receipt of bids, be found to vary materially from the estimates, or whenever any assessment is void or invalid for any reason, or whenever the governing body shall determine to reconsider and reopen any assessment, it is empowered, after giving notice as provided in sub. (7) and after a public hearing, to amend, cancel or confirm any such prior assessment, and thereupon notice of the resolution amending, canceling or confirming such prior assessment shall be given by the clerk as provided in sub. (8) (d).

(11) If the cost of the project shall be less than the special assessments levied, the governing body, without notice or hearing, shall reduce each special assessment proportionately and where any assessments or instalments thereof have been paid the excess over cost shall be applied to reduce succeeding unpaid instalments, where the property owner has elected to pay in instalments, or refunded to the property owner.

(12) (a) If any person having an interest in any parcel of land affected by any determination of the governing body, pursuant to sub. (8) (c), (10) or (11), feels himself aggrieved thereby he may, within 90 days after the date of the notice or of the publication of the final resolution pursuant to sub. (8) (d), appeal therefrom to the circuit court of the county in which such property is situated by causing a written notice of appeal to be served upon the clerk of such city, town or village and by executing a bond to the city, town or village in the sum of $150 with 2 sureties or a bonding company to be approved by the city, town or village clerk, conditioned for the faithful prosecution of such appeal and the payment of all costs that may be adjudged against him. The clerk, in case such appeal is taken, shall make a brief statement of the proceedings had in the matter before the governing body, with its decision thereon, and shall transmit the same with the original or certified copies of all the papers in the matter to the clerk of the circuit court.

(b) Such appeal shall be tried and determined in the same manner as cases originally commenced in such court, and costs awarded as provided in s. 895.43.

(c) In case any contract has been made for making the improvement such appeal shall not affect such contract, and certificates or bonds may be issued in anticipation of the collection of the entire assessment for such improvement, including the assessment on any property represented in such appeal as if such appeal had not been taken.

(d) Upon appeal pursuant to this subsection, the court may, based upon the improvement as actually constructed, render a judgment affirming, annulling or modifying and affirming, as modified, the action or decision of the governing body. If the court finds that any assessment or any award of damages is excessive or insufficient, such assessment or award need not be annulled, but the court may reduce or increase the assessment or award of damages and affirm the same as so modified.

(e) An appeal under this subsection shall be the sole remedy of any person aggrieved by a determination of the governing body, whether or not the improvement was made according to the plans and specifications therefor, and shall raise any question of law or fact, stated in the notice of appeal, involving the making of such improvement, the assessment of benefits or the award of damages or the levy of any special assessment therefor. The limitation provided for in par. (a) shall not apply to appeals based upon fraud or upon latent defects in the construction of the improvement discovered after such period.

(f) It shall be a condition to the maintenance of such appeal that any assessment appealed from shall be paid as and when the same or any instalments thereof become due and payable, and upon default in making such payment, any such appeal shall be dismissed.

(15) Every special assessment levied under this section shall be a lien on the property against which it is levied on behalf of the municipality levying same or the owner of any certificate, bond or other document issued by public authority, evidencing ownership of or any interest in such special assessment, from the date of the determination of such assessment by the governing body. The governing body shall provide for the collection of such assessments and may establish penalties for payment after the due date. The governing body shall provide that all assessments or instalments thereof which are not paid by the date specified shall be extended upon the tax roll as a delinquent tax against the property and all proceedings in relation to the collection, return and sale of property for delinquent real estate taxes shall apply to such special assessment, except as otherwise provided by statute.

(16) (a) In addition to all other methods provided by law, special charges for current

services rendered may be imposed by the governing body by allocating all or part of the cost to the property served. Such may include, without limitation because of enumeration, snow and ice removal, weed elimination, street sprinkling, oiling and tarring, repair of sidewalks or curb and gutter, garbage and refuse disposal, sewer service and tree care. The provisions for notice of such charge shall be optional with the governing body except that in the case of street tarring and the repair of sidewalks, curb or gutters, a class 1 notice, under ch. 985, shall be published at least 20 days before the hearing or proceeding and a copy of the notice shall be mailed at least 10 days before the hearing or proceeding to every interested person whose post-office address is known, or can be ascertained with reasonable diligence. Such notice shall specify that on a certain date a hearing will be held by the governing body as to whether the service in question shall be performed at the cost of the property owner, at which hearing anyone interested will be heard.

(b) Such special charges shall not be payable in instalments. If not paid within the period fixed by the governing body, such a delinquent special charge shall become a lien as provided in sub. (15) as of the date of such delinquency, and shall automatically be extended upon the current or next tax roll as a delinquent tax against the property and all proceedings in relation to the collection, return and sale of property for delinquent real estate taxes shall apply to such special charge.

(c) Subsection (2) shall not be applicable to proceedings under this subsection.

(17) If any special assessment or special charge levied pursuant to this section shall be held invalid because such statutes shall be found to be unconstitutional, the governing body of such municipality may thereafter reassess such special assessment or special charge pursuant to the provisions of any applicable law.

(18) The governing body of any city, town or village may, without any notice or hearing, levy and assess the whole or any part of the cost of any municipal work or improvement as a special assessment upon the property specially benefited thereby whenever notice and hearing thereon is in writing waived by all the owners of property affected by such special assessment.

History: 1971 c. 313; 1973 c. 19; 1977 c. 29; 1977 c. 285 s. 12; 1977 c. 418.

Cross References: As to the phrase "except as otherwise provided by statute" in (15), see several provisions in 66.54 which specify that delinquent assessments are to be returned to the county treasurer in trust for collection and not for credit. See also 74.03 (8) (g) and 74.031 (9) which provide that a county board may authorize settlement in full for delinquent assessments.

Under (15) the assessment lien is effective from the date of determination of the assessment, not from date of publication of the resolution. Dittner v. Town of Spencer, 55 W (2d) 707, 201 NW (2d) 45.

A presumption arises that the assessment was made on the basis of benefits actually accrued. Language to the contrary in Schilnecht v. Milwaukee, 245 W 33, overruled. In levying a special assessment for benefits to residential property from a public improvement, benefit to the property as commercial property may be considered only where the assessing authority can prove there is a reasonable probability of rezoning the property in the near future. Molbreak v. Village of Shorewood Hills, 66 W (2d) 687, 225 NW (2d) 894.

Where original assessment by city is held procedurally invalid, city has option under (10) to start over using correct procedure. Christenson v. Green Bay, 72 W (2d) 565, 241 NW (2d) 193.

Property assessed under police power must benefit from the municipal improvement. In re Installation of Storm Sewers, Etc. 79 W (2d) 279, 255 NW (2d) 521.

Where landowners who were not treated in a discriminatory manner did not avail themselves of statutory right to appeal the merits of assessment against land based on report under (2), they were not deprived of due process or equal protection and could not maintain action under civil rights act for damages. Kasper v. Larson, 372 F Supp. 881.

66.604 Lien of special assessment. A special assessment levied under any authority whatsoever shall be a lien on the property against which it is levied on behalf of the municipality levying the same or the owner of any certificate, bond or other document issued by the municipality, evidencing ownership of any interest in such special assessment, from the date of the levy, to the same extent as a lien for a tax levied upon real property and shall be accorded the same priorities provided in s. 66.54 (13).

66.605 Special assessments. Notwithstanding any other statute, the due date of any special assessment levied against property abutting on or benefited by a public improvement may be deferred on such terms and in such manner as prescribed by its governing body while no use of the improvement is made in connection with the property. Such special assessment may be paid in instalments within the time prescribed by the governing body. Any such special assessment shall be a lien against the property from the date of the levy.

History: 1975 c. 224.

66.610 Pedestrian malls in cities of the 1st class. (1) PURPOSE. The purpose of this section is to authorize any city of the 1st class to undertake, develop, finance, construct and operate pedestrian malls as local improvements.

(2) DEFINITIONS. As used in this section:

(a) "Annual pedestrian mall improvement" includes, without limitation because of enumeration, any reconstruction, replacement or repair of trees, plantings, furniture, shelters or other pedestrian mall facilities.

(b) "Annual pedestrian mall improvement cost" includes, without limitation because of enumeration, planning consultant fees, public

liability and property damage insurance premiums, reimbursement of the city's reasonable and necessary costs incurred in operating and maintaining a pedestrian mall, levying and collecting special assessments and taxes, publication costs, and any other costs related to annual improvements and the operation and maintenance of a pedestrian mall.

(c) "Board of assessment" means the board created under chapter 275, laws of 1931, as amended, for the purpose of estimating benefits and damages in connection with the creation or improvement of a pedestrian mall.

(d) "Business district" means an existing recognized area of a city principally used for commerce or trade.

(e) "City" means a city of the 1st class.

(f) "Commissioner of public works" means the board of public works, commissioner of public works, or any other city board or officer vested with authority over public works.

(g) "Community development advisory body" means any corporation or unincorporated association whose shareholders or members are owners or occupants of property included in a proposed or existing pedestrian mall district.

(h) "Council" and "common council" mean the governing body of the city.

(i) "Intersecting street" means, unless the council declares otherwise, any street which meets or intersects a pedestrian mall, but includes only those portions thereof which lay between the mall or mall intersection and the first intersection of such intersecting street with a street open to general vehicular traffic.

(j) "Mall intersection" means any intersection of a city street which is part of a pedestrian mall with any other street.

(k) "Owner" includes any person holding the record title of an estate in possession in fee simple or for life, or a vendor of record under a land contract for the sale of an estate in possession in fee simple or for life.

(l) "Pedestrian mall" means any street, land or appurtenant fixture designed primarily for the movement, safety, convenience and enjoyment of pedestrians.

(m) "Pedestrian mall improvement" means, without limitation because of enumeration, any construction or installation of pedestrian thoroughfares, perimeter parking facilities, public seating, park areas, outdoor cafes, skywalks, sewers, shelters, trees, flower or shrubbery plantings, sculptures, newsstands, telephone booths, traffic signs, sidewalks, traffic lights, kiosks, water pipes, fire hydrants, street lighting, ornamental signs, ornamental lights, graphics, pictures, paintings, trash receptacles, display cases, marquees, awnings, canopies, overhead or underground radiant heating pipes or fixtures, walls, bollards, chains and all such other fixtures, equipment, facilities and appurtenances which, in the council's judgment, will enhance the movement, safety, convenience and enjoyment of pedestrians and benefit the city and the affected property owners.

(n) "Pedestrian mall district" means any geographical division of the city designated by the board of assessment for the purpose of undertaking, developing, financing, constructing and operating a pedestrian mall.

(o) "Skywalk" means any elevated pedestrian way.

(p) "Street" means any public road, street, boulevard, highway, alley, lane, court or other way used for public travel.

(3) ACQUISITION, IMPROVEMENT AND ESTABLISHMENT OF PEDESTRIAN MALLS. (a) Upon petition of any community development advisory body or upon its own motion, the council may by resolution designate lands to be acquired, improved and operated as pedestrian malls or may by ordinance designate streets, including a federal, state, county or any other highway system with the approval of the jurisdiction responsible for maintaining that highway system, in or adjacent to business districts to be improved for primarily pedestrian uses. The council may acquire by gift, purchase, eminent domain, or otherwise, land, real property or rights-of-way for inclusion in a pedestrian mall district or for use in connection with pedestrian mall purposes. The council may also make improvements on mall intersections, intersecting streets or upon facilities acquired for parking and other related purposes, if such improvements are necessary or convenient to the operation of the mall.

(b) In establishing or improving a pedestrian mall, the council may narrow any street designated a part of a pedestrian mall, reconstruct or remove any street vaults or hollow sidewalks existing by virtue of a permit issued by the city, construct crosswalks at any point on the pedestrian mall, or cause the roadway to curve and meander within the limits of the street without regard to the uniformity of width of the street or curve or absence of curve in the center line of such street.

(c) 1. Subject to subd. 2, the council may authorize the payment of the entire cost of any pedestrian mall improvement established under this section by appropriation from the general fund, by taxation or special assessments, and by the issuance of municipal bonds, general or particular special improvement bonds, mortgage bonds, mortgages or certificates, or by any combination of such financing methods.

2. If such improvement is financed by special assessments and special improvement bonds are

not issued, such special assessments, when collected, shall be applied to the payment of the principal and interest on any general obligation bonds issued or to the reduction of general taxes if such general obligation bonds or general tax levy are used to finance the improvement.

(d) The council may exercise the powers granted by this subsection only if it makes the findings required under sub. (4) and complies with the procedures and requirements under subs. (5), (6) and (8).

(4) PRELIMINARY FINDINGS. No pedestrian mall may be established under sub. (3) unless the council finds that:

(a) The proposed pedestrian mall will be located primarily in or adjacent to a business district.

(b) There exist reasonably convenient alternate routes for private vehicles to other parts of the city and state.

(c) The continued unlimited use by private vehicles of the streets or parts thereof in the proposed mall district endangers pedestrian safety.

(d) Properties abutting the proposed mall can be reasonably and adequately provided with emergency vehicle services and delivery and receiving of merchandise or materials either from other streets or alleys or by the limited use of the pedestrian mall for such purposes.

(e) It is in the public interest to use such street or portions thereof primarily for pedestrian purposes.

(5) PROCEDURES. (a) Before establishing a pedestrian mall or undertaking any pedestrian mall improvement, the council shall by resolution authorize the commissioner of public works and the local planning agency to make studies and prepare preliminary plans for the proposed project. The local planning agency shall hold a public hearing on these studies and preliminary plans.

(b) Upon receiving the authority under par. (a) and upon completion of the public hearing, the commissioner of public works shall prepare a report which shall include:

1. A plat and survey showing the character, course and extent of the proposed pedestrian mall.

2. A description of any proposed alterations of any street and of any public or private utilities running under or over any public way.

3. A description of the methods to be used in completing the project, including information on grading, drainage, planting, street lighting, paving, curbing, sidewalks, the types of construction materials and the proposed initial distribution and location of any movable furniture, sculptures, pedestrian or vehicle traffic control devices, flowers and plantings and any other structures or facilities.

4. A description of the property necessary to be acquired or interfered with and the identity of the owner of each such parcel if the same can be readily ascertained by the commissioner.

5. An estimate of the cost of each item in the proposed project, described separately or in reasonable classifications detailed to the council's satisfaction.

(c) In preparing such report, the commissioner of public works shall consult with any community development advisory body which has been organized in the proposed pedestrian mall district.

(d) After referring the report described in par. (b) to the city plan commission for review and recommendations, the commissioner of public works shall submit such report, with the city plan commission's recommendations, if any, to the council and shall file a copy in the office of the city clerk. The council may then refer the report and recommendations, with any modifications it deems necessary, to the board of assessment for action pursuant to chapter 275, laws of 1931, as amended.

(e) Notwithstanding any other provision of this section, if a petition protesting the establishment of a pedestrian mall or a pedestrian mall improvement, duly signed and acknowledged by the owners of 51% or more of the front footage of lands abutting a street or part thereof proposed as a pedestrian mall, is filed with the city clerk at any time prior to the conclusion of all proceedings required under this section, the council shall terminate its proceedings, and no proposal for the establishment of the same or substantially the same mall may be introduced or adopted within one year after such termination.

(f) Proceedings governing the establishment of a pedestrian mall or the undertaking of a pedestrian mall improvement shall be governed by chapter 275, laws of 1931 as the same has been and from time to time may be amended, the provisions of which are made a part of this section so far as applicable and not inconsistent herewith.

(6) ORDINANCES; REQUIRED PROVISIONS. Any ordinance establishing a pedestrian mall shall:

(a) Contain the findings required under sub. (4).

(b) Designate the streets, including intersecting streets, or parts thereof to be used as a pedestrian mall.

(c) Limit the use of the surface of such street or part thereof to pedestrian users and to emergency, public works, maintenance and utility transportation vehicles during such times as the

council determines appropriate to enhance the purposes and function of the pedestrian mall.

(7) USE BY PUBLIC CARRIERS. If the council finds that a street or part thereof which is designated as a pedestrian mall is served by a common carrier engaged in mass transportation of persons within the city and that continued use of such street or part thereof by such common carrier will benefit the city, the public and adjacent property, the council may permit such carrier to use such street or part thereof for such purposes to the same extent and subject to the same obligations and restrictions which are applicable to such carrier in the use of other streets of the city. Upon like findings, the council may permit use of such street or part thereof by taxicabs or other public passenger carriers.

(8) PERMITS. (a) If, at the time an ordinance establishing a pedestrian mall is adopted, any property abutting such pedestrian mall or part thereof does not have access to some other street or alley for the delivery or receiving of merchandise or materials, such ordinance shall provide for either:

1. The issuance of special access permits to the affected owners for such purposes; or

2. The designation of the hours or days on which such pedestrian mall may be used for such purposes without unreasonable interference with the use of the mall or part thereof by pedestrians and other authorized vehicles.

(b) The council may issue temporary permits for closing a pedestrian mall or any part thereof to all vehicular traffic for the promotion and conduct of sidewalk art fairs, sidewalk sales, craft shows, entertainment programs, special promotions and for such other special activities consistent with the ordinary purposes and functions of the pedestrian mall.

(9) EXCESS ESTIMATED COST; ASSESSMENT ADJUSTMENTS. (a) If, after the completion of any pedestrian mall improvement, the commissioner of public works certifies that the actual cost is less than the estimated cost upon which any aggregate assessment is based, such aggregate assessment shall be reduced, subject to par. (c), by a percentage amount of the excess estimated cost which is equal to the percentage of the estimated cost financed by such aggregate assessment. The city comptroller shall certify to the city treasurer the amount refundable under this subsection.

(b) If such aggregate assessment has been fully collected, the city treasurer shall refund the excess assessment to the affected property owners on a pro rata basis.

(c) If such aggregate assessment has not been fully collected, the amount of the refundable assessment shall be reduced by a sum determined by the council to be sufficient to cover anticipated assessment collection deficiencies, and the balance, if any, shall be refunded to the affected owners on a pro rata basis. The treasurer shall deduct the appropriate amount from instalments due after the receipt of the certificate from the city comptroller.

(10) ANNUAL COSTS; SPECIAL ACCOUNT. (a) Concurrently with the submission of the plan, and annually thereafter by June 15 of each year, the city comptroller and the commissioner of public works, with the assistance of a community development advisory body, if any, shall furnish the council with a report estimating the cost of improving, operating and maintaining any pedestrian mall district for the next fiscal year. Under the plan in effect, such report shall include itemized cost estimates of any proposed changes in the plan under consideration by the council and also a detailed summary of the estimated costs chargeable to the following categories:

1. The amount of the annual costs chargeable to the general fund. Such amount may not exceed that amount which the city normally allocates from the general fund for maintenance and operation of a street of similar size and location not improved as a pedestrian mall.

2. The amount of the annual costs chargeable to owners of property in the district who are benefited by such annual mall improvements. The aggregate amount assessed against such owners may not exceed the aggregate benefits accruing to all such assessable property.

3. The amount of the annual costs, if any, to be specially taxed against taxable property in the district. Such amount shall be determined by deducting from the estimated annual costs the amounts under subds. 1 and 2 and the amount of anticipated rentals received from vendors using pedestrian mall facilities.

(b) Moneys appropriated and collected for annual pedestrian mall improvement costs shall be credited to a special account. The council may incur such annual costs as it deems necessary, whether or not they have been included in the budget for that fiscal year, except that such nonbudgeted expenditures shall be included in the estimate required under par. (a) for the next following fiscal year. Any unexpended balances in such special account remaining at the end of a fiscal year shall be carried over to the appropriate category of the estimate required under par. (a) for the next following fiscal year.

(11) NUISANCES: LIMITATION OF LIABILITY. (a) The installation of any furniture, structure or facility or the permitting of any use in a pedestrian mall district under a final plan adopted under this section may not be deemed a

nuisance or unlawful obstruction or condition by reason of the location of such installation or use.

(b) Such installation or use may not cause the city or any person acting under permit to be liable for injury to persons or property in the absence of negligence in the construction, maintenance, operation or conduct of such installation or use.

(12) INTERPRETATION: AMENDMENT AND REPEAL. No action by the council establishing a pedestrian mall or undertaking a pedestrian mall improvement under this section may be construed as a vacation, abandonment or discontinuance of any street or public way. This section may not be construed to prevent the city from abandoning the establishment or operation of a pedestrian mall, changing the extent of a pedestrian mall, amending the description of the district to be assessed or taxed for annual improvement costs, or changing or repealing any limitations on the use of a pedestrian mall by private vehicles or any plan, rule or regulation adopted for the operation of a pedestrian mall.

(13) SUBSTANTIAL COMPLIANCE; VALIDITY. Substantial compliance with the requirements of this section is sufficient to give effect to any proceedings hereunder and any error, irregularity or informality not affecting substantial justice does not affect the validity of such proceedings.

History: 1975 c. 255

Note: Chapter 255, laws of 1975, which created this section, contains a statement of legislative findings and public policy.

66.615 Sidewalks. (1) PART OF STREET; OBSTRUCTIONS. Streets shall provide a right of way for vehicular traffic and, where the council so requires, a sidewalk on either or both sides thereof; the sidewalk shall be for the use of persons on foot, and no person shall be allowed to encumber the same with boxes or other material; but such sidewalk shall be kept clear for the uses specified herein.

(2) GRADE. In all cases where the grades of sidewalks shall not have been specially fixed by ordinance the sidewalks shall be laid to the established grade of the street.

(3) CONSTRUCTION AND REPAIR. (a) *Authority of council.* The council may from time to time by ordinance or resolution determine where sidewalks shall be constructed and establish the width, determine the material and prescribe the method of construction of standard sidewalks, and the standard so fixed may be different for different streets, and may order by ordinance or resolution sidewalks to be laid as provided in this subsection.

(b) *Board of public works.* The board of public works may order any sidewalk which is unsafe, defective or insufficient to be repaired or removed and replaced with a sidewalk in accordance with the standard fixed by the council.

(c) *Notice.* A copy of the ordinance, resolution or order directing such laying, removal, replacement or repair shall be served upon the owner, or an agent, of each lot or parcel of land in front of which such work is ordered. The board of public works, or either the street commissioner or the city engineer if so requested by the council, may serve the notice. Service of the notice may be made by:

1. Personal delivery;

2. Certified or registered mail; or

3. Publication in the official newspaper as a class 1 notice, under ch. 985, together with mailing by 1st class mail if the name and mailing address of the owner or an agent can be readily ascertained.

(d) *Default of owner.* Whenever any such owner shall neglect for a period of 20 days after such service to lay, remove, replace or repair any such sidewalk the city may cause such work to be done at the expense of such owner. All work for the construction of sidewalks shall be let by contract to the lowest responsible bidder except as provided in s. 62.15 (1).

(e) *Minor repairs.* If the cost of repairs of any sidewalk in front of any lot or parcel of land does not exceed the sum of $100, the board of public works, street commissioner or city engineer if so required by the council, may immediately repair such sidewalk, without notice or letting the work by contract, and charge the cost thereof to the owner of such lot or parcel of land, as provided in this section.

(f) *Expense.* The board of public works shall keep an accurate account of the expenses of laying, removing and repairing sidewalks in front of each lot or parcel of land whether the work is done by contract or otherwise, and report the same to the comptroller who shall annually prepare a statement of the expense so incurred in front of each lot or parcel of land and report the same to the city clerk, and the amount therein charged to each lot or parcel of land shall be entered by such clerk in the tax roll as a special tax against said lot or parcel of land, and the same shall be collected in all respects like other taxes upon real estate. The council by resolution or ordinance may provide that the expense so incurred may be paid in up to 10 annual instalments and upon such determination, the comptroller shall prepare the expense statement as herein required in such manner and with such frequency as the improved instalment payment schedule allows. If annual instalments for such expense are authorized, the city clerk shall charge the amount to each lot or parcel of land and enter it on the tax roll as a special tax

against such lot or parcel each year until all instalments have been entered, and the same shall be collected in all respects like other taxes upon real estate. The council may provide that the street commissioner or city engineer shall perform the duties imposed by this section on the board of public works.

(5) SNOW AND ICE. The board of public works shall keep the sidewalks of the city clear of snow and ice in all cases where the owners or occupants of abutting lots fail to do so, and the expense of so doing in front of any lot or parcel of land shall be included in the statement to the comptroller required by sub. (3) (f), and in his statement to the city clerk and in the special tax to be levied as therein provided. The city may also impose a fine or penalty for neglecting to keep sidewalks clear of snow and ice.

(6) REPAIR AT CITY EXPENSE. Whenever the council shall by resolution or ordinance so determine, sidewalks shall be kept in repair by and at the expense of the city, or the council may direct that a certain proportion of the cost of construction, reconstruction or repair be paid by the city and the balance by abutting property owners.

(7) RULES. The council may from time to time make all needful rules and regulations by ordinance for carrying the aforesaid provisions into effect, for regulating the use of the sidewalks of the city and preventing their obstruction.

(10) The provisions of this section shall not apply to cities of the first class but shall be applicable to villages and when applied to villages:

(a) "City" means village.

(b) "Council" means village board.

(c) "Board of public works" means the committee or officer designated to handle street or sidewalk matters.

(d) "Comptroller" means clerk.

History: 1975 c. 172, 356, 421, 422.

A city cannot delegate its primary responsibility to maintain its sidewalks, nor delegate or limit its primary liability by ordinance. Kobelinski v. Milwaukee & S. Transport Corp. 56 W (2d) 504, 202 NW (2d) 415.

Defendant property owners' failure to remove snow and ice from sidewalk in violation of municipal ordinance did not constitute negligence per se. Hagerty v. Village of Bruce, 82 W (2d) 208, 262 NW (2d) 102.

66.616 Curb ramping. (1) The standard for construction of curbs and sidewalks on each side of any city or village street, or any connecting highway or town road for which curbs and sidewalks have been prescribed by the governing body of the town, city or village having jurisdiction thereover, shall be not less than 2 ramps per lineal block giving on the crosswalks at intersections, or a single ramp so located at street corner radius to provide legal access to both crosswalks at intersections.

(2) Standards set for curb and sidewalk ramping under sub. (1) shall not apply to any curb or sidewalk existing on August 16, 1973 but shall apply to all new curb and sidewalk construction and to all replacement curbs and sidewalks constructed at locations considered to be legal crosswalks and thereby give reasonable access to the crosswalk for handicapped persons, including persons in wheelchairs.

(3) Curb ramps shall conform to the following requirements:

(a) The ramp shall be no less than 40 inches wide. Ramp slope shall not exceed 1 inch in 12 inches from the flow line elevation of gutter construction. Sides of ramp shall be sloped from sidewalk to ramp elevations with the widest portion of side slope not more than 18 inches nor less than 12 inches in width at the curb. The ramp shall be either bordered on both sides and curb line with a 4 inch wide yellow stripe, or the surface treatment on ramp shall have integral coloration.

(b) The ramp shall be located at crosswalk intersections in one of the following locations:

1. At the center of the street corner radius to accommodate crossing for either direction at the intersection. The entire curb radius shall not be made into a ramp, but shall provide for standard sidewalk apron and curb on both sides of ramp. Where markings are required by municipal law, safety zone marking shall be provided in the street or town road 40 inches out and tangent with the curb, joining with the standard safety pedestrian crossing markings in the street or town road;

2. Only if subd. 1 is not feasible, centered on line with the sidewalk and pedestrian traffic and the ramp surfaces shall contain surface projections which will clearly indicate to the sense of touch that the surface differs from that of the sidewalk and paved street; or

3. Only if both subds. 1 and 2 are not feasible, at such other suitable location as near to the crosswalk as circumstances permit. Where markings are required by municipal law, safety zone markings shall be provided in the street or town road 40 inches out and parallel with the curb, joining with the standard safety pedestrian crossing markings in the street or town road.

(4) When new curbing and ramps are constructed on only one side of the street or town road, means for access to the opposite crossing shall be provided by permanent construction on all property owned by a governmental unit or zoned commercial in conformance with sub. (3).

(5) The district attorney, on his own motion or upon the complaint of any person, may bring

an action in circuit court to require a municipality to comply with this section.

History: 1971 c. 283; 1973 c. 98, 243; 1977 c. 29 s. 1654 (3).

66.62 Special assessments. (1) In addition to other methods provided by law, the common council of any city of the second, third or fourth class, or the village board of any village, may by ordinance provide that the cost of installing or constructing any public work or improvement shall be charged in whole or in part to the property benefited thereby, and to make an assessment against such property in such manner as such council or village board determines. Such special assessment shall be a lien against the property from the date of the levy.

(2) Every such ordinance shall contain provisions for reasonable notice and hearing. Any person against whose land a special assessment is levied under any such ordinance shall have the right to appeal therefrom in the manner prescribed in s. 66.60 (12) within 40 days of the date of the final determination of the governing body.

66.625 Laterals and service pipes. Whenever the governing body shall by resolution require water, heat, sewer and gas laterals or service pipes to be constructed from the lot line or near the lot line to the main or from the lot line to the building to be serviced, or both, it may provide that when the work is done by the city or village or under a city or village contract, a record of the cost of constructing such laterals or service pipes shall be kept and such cost, or the average current cost of laying such laterals or service pipes, shall be charged and be a lien against the lot or parcel served.

66.63 Assessment of condemnation benefits. (1) As a complete alternative to any other method provided by law, for the purpose of payment of the expenses, including such excess of damages and all other expenses and costs incurred for the taking of private property for the purpose set forth in ss. 32.02 (1), 61.34 (3) and 62.22, the governing body of the town, city or village may, by resolution, levy and assess the whole or any part of such expenses, as a special assessment upon such property as they determine is specially benefited thereby, and they shall include in said levy the whole or any part of the excess of benefits over total damages, if any, making therein a list of every lot or parcel of land so assessed, the name of the owner thereof, if known, and the amount levied thereon.

(2) Such resolution shall be published as a class 2 notice, under ch. 985, and a notice therewith that at a time stated therein, the governing body will meet at their usual place of meeting and hear all objections which may be made to such assessment or to any part thereof. If such resolution levies an assessment against property outside the corporate limits, notice as provided herein shall be given by mailing a copy of the resolution and the notice by registered mail to the last known address of the owner of such property. A copy of such resolution shall be filed with the clerk of the town in which the property is located.

(3) At the time so fixed the governing body shall meet and hear all such objections, and for that purpose may adjourn to a date set by the governing body, until the hearing is completed, and shall by resolution confirm or modify such assessment in whole or in part. At any time before the first day of November thereafter any party liable may pay any such assessment to the town, city or village treasurer. On such first day of November, if any such assessment remains unpaid, the treasurer shall make a certified statement showing what assessments so levied remain unpaid, and file the same with the clerk, who shall extend the same upon the tax roll of such municipality, in addition to and as part of all other taxes therein levied on such land, to be collected therewith.

(4) At the time of making out the tax roll, next after the filing of any assessment to pay the expenses incurred in proceedings for the condemnation of lands outside the corporate limits, the town clerk shall enter in said roll the benefits not offset by damages or an excess of benefits over damages which shall be levied on the land described as a special assessment and shall be collected the same as other taxes. Such amounts when collected shall be paid over to the city or village treasurer to be applied in payment of any damages or excess of damages over benefits awarded by such assessment; and in case the amount of such special assessments are insufficient to pay all damages or excess of damages over benefits so awarded, then the difference shall be paid by the city or village. Any such damages or excess of damages over benefits may be paid out of such fund prior to the collection of such special assessments, to be reimbursed therefrom when collected.

(5) Any person against whose land an assessment of benefits is made pursuant to this section may appeal therefrom as prescribed in s. 32.06 (10) within 30 days of the adoption of the resolution required under sub. (3).

66.635 Reassessment of invalid condemnation and public improvement assessments. (1) If in any action other than an action

pursuant to s. 66.60 (12), for the recovery of damages arising from a failure to make a proper assessment of benefits and damages, as provided by law, or failure to observe any provision of law, or because of any act or defect in any proceeding in which benefits and damages are assessed, and in any action to set aside any special assessment, special assessment certificate, bond or note, tax sale or tax-sale certificate based upon such special assessment, the court determines that such assessment is invalid by reason of a defective assessment of benefits and damages, or for any cause, it shall stay all proceedings, frame an issue therein and summarily try the same and determine the amount which the plaintiff justly ought to pay or which should be justly assessed against the property in question. Such amount shall be ordered to be paid into court for the benefit of the parties entitled thereto within a time to be fixed. Upon compliance with said order judgment shall be entered for the plaintiff with costs. If the plaintiff fails to comply with such order the action shall be dismissed with costs.

(2) If the common council or village board determines that any special assessment is invalid for any reason, it may reopen and reconsider such assessment as provided in s. 66.60 (10).

66.64 Special assessments for local improvements. (1) The property of the state, except that held for highway right-of-way purposes, and the property of every county, city, village, town, school district, sewerage district or commission, sanitary or water district or commission, or any public board or commission within this state, and of every corporation, company or individual operating any railroad or street railway, telegraph, telephone, electric light or power system, or doing any of the business mentioned in ch. 76, and of every other corporation or company whatever, shall be in all respects subject to all special assessments for local improvements. Certificates and improvement bonds therefor may be issued and the lien thereof enforced against such property, except property of the state, in the same manner and to the same extent as the property of individuals. Such assessments shall not extend to the right, easement or franchise to operate or maintain railroads, street railways, telegraph, telephone or electric light or power systems in streets, alleys, parks or highways. The amount represented by any certificate or improvement bond issued as aforesaid shall be a debt due personally from such corporation, company or individual, payable in the case of a certificate when the taxes for the year of its issue are payable, and in the case of a bond according to the terms thereof.

(2) (a) In this subsection, "assessment" means a special assessment on property of the state and "project" means any continuous improvement within overall project limits regardless of whether small exterior segments are left unimproved. The board of commissioners of public lands shall determine if an assessment is just and legal. If the assessment of a project is less than $50,000, the board shall order the assessment paid under s. 20.865 (3) (b). If the assessment of a project is $50,000 or more and if, the building commission approves the assessment under s. 66.60 (4), the board shall order the assessment paid under s. 20.865 (3) (b).

(b) The board of commissioners of public lands shall transmit a certified copy of any order to pay an assessment to the department of administration, and upon its audit and warrant drawn upon the state treasurer the amount of the assessment shall be paid out of the appropriation under s. 20.865 (3) (b), and when paid shall be charged to the general, conservation or transportation funds as equitably as possible in the judgment of the board when considering the agencies or departments occupying or having jurisdiction over the state property involved.

History: 1977 c. 29; 1977 c. 418 ss. 431, 924 (48).

See note to 60.309, citing 64 Atty. Gen. 206.

66.645 Duty of officers; action to collect tax. (1) The officers now authorized by law to collect and receive the same from individuals shall have full power to receive and collect all such special assessments in the same manner as the same are now collected from individuals, and in addition thereto such officers shall have power at the direction of the proper authorities of the city or village making such special assessments, upon the nonpayment of any such special assessments by any corporation, company, or individual mentioned in s. 66.64 within the time now limited by law for the payment of such special assessments by individuals, or in the case of a county, city, village, town, and school district, after the time now prescribed by law in the case of other claims, to institute and prosecute an action to collect the same in the name and at the cost of such city or village. A like action may be maintained by the owner or holder of any special assessment certificate or improvement bond issued as aforesaid in his own name and at his own cost. In such action, when brought in the name of such city or village, it shall be sufficient to allege that the defendant is indebted upon a special assessment, specifying the amount due and the date of the warrant issued for the collection of the same, and when brought by such owner or holder, to set up a copy

of such certificate or bond, specify the amount due and when payable, and allege that the defendant is liable therefor. On the trial of such action, when brought in the name of the city or village, the production of the proper warrant for the collection of such assessment together with the tax roll or list showing the amount thereof; and when brought by such owner or holder, the production of such certificate or improvement bond, tax roll, or list showing the amount thereof and warrant for its collection shall be prima facie evidence of the correctness and validity of such assessment, certificate, or improvement bond and of the liability of the defendant for the amount thereof and interest thereon from the time the same became payable. Any judgment recovered in such action shall be collected in the manner now prescribed for the collection of judgments against such defendant.

(2) Any county treasurer to whom special assessments for improvements are returned may likewise institute and prosecute an action to collect the same in the name of the county when authorized to do so by the county board of supervisors.

66.65 Assessment against city, village or town property abutting on improvement. **(1)** A city, village or town may levy special assessments for municipal work or improvement under s. 66.60 upon property in an adjacent city, village or town, if such property abuts upon and benefits from such work or improvement and if the governing body of the municipality where the property is located, by resolution approves such levy. In any such case the owner of such property shall be entitled to the use of the work or improvement upon which such assessment is based upon the same conditions as the owner of property within the city, village or town.

(2) A special assessment under this section shall be a lien against the benefited property and shall be collected by the treasurer in the same manner as the taxes of the municipality and paid over by him to the treasurer of the municipality levying such assessment.

66.694 Special assessments against railroad for street improvement. **(1)** If any city or village in this state causes any street, alley or public highway within its corporate limits to be improved by grading, curbing, paving or otherwise improving the same, where the cost of such improvement, or a part thereof, is assessed against abutting property, and such street, alley or public highway is crossed by the track or tracks of any railroad and engaged as a common carrier, the common council or board of public works of such city, or the trustees of such village shall at any time after the completion and acceptance of such improvement by the municipality, cause to be filed with the local agent of the railroad corporation operating such railroad, a statement showing the amount chargeable to such railroad corporation for such improvement, which shall be an amount equal to the cost of constructing the improvement along the street, alley or public highway immediately in front of and abutting its right-of-way on each side of the street, alley or public highway, based upon the price per square yard, lineal foot or other unit of value used in determining the total cost of the improvement.

(2) The amount so charged against any railroad corporation for improving the street, fronting or abutting its right of way, shall not exceed the average amount per front foot assessed against the remainder of the property fronting or abutting on said street, alley or public highway so improved. The amount arrived at as above set forth and contained in said statement, shall be due and payable by said railroad corporation to the said municipality, causing the same to be filed within 30 days of the date when the same shall be presented to the local representative of said railroad corporation.

History: 1977 c. 72.

66.695 Action to recover assessment. In case any railroad corporation shall fail or refuse to pay to any city or village the amount set forth in any such statement or claim for the making of street improvements, as provided in s. 66.694, within the time therein specified, said city or village shall have a valid claim for such amount against said railroad corporation, and may maintain an action therefor in any circuit court within this state to recover the same.

66.696 Improvement of streets by abutting railroad company. If the track or tracks of any railroad are laid upon or along any street, alley or public highway within any city or village, the corporation operating the railroad or railroads shall maintain and improve such portion of the length of the street as is occupied by its tracks. The railroad corporation shall grade, pave or otherwise improve such street or portion thereof in such manner and with such materials as the common council of the city, or the village board may by resolution or ordinance determine. The railroad corporation is not required to pave or improve that portion of the street, alley or public highway occupied by it with different material or in a different manner from that in which the remainder of the street is paved or improved. The railroad corporation shall be liable to pay for paving, grading or otherwise improving a street only to the extent that the

actual cost of the improvement exceeds the estimated cost of the improvement were the street not occupied by the tracks of the railroad.

History: 1977 c. 72

66.697 Notice to railroad company; time for construction. (1) When any city or village shall have ordered any street, alley or public highway to be paved, graded, curbed or improved, as provided in s. 66.696, the clerk of such city or village shall cause to be served upon the local agent of such railroad corporation, a notice setting forth the action taken by such city or village relative to the improvement of such street.

(2) If the railroad corporation shall elect to construct said street improvement, it shall within 10 days of the receipt of said notice from the clerk of such city or village, file with said clerk a notice of its intention to construct said street improvement, and it shall be allowed until the thirtieth day of June thereafter to complete said work, unless said work is ordered after May twentieth of any year, and in that case said railroad corporation shall be allowed 40 days from the time the clerk of the municipality presents the notice to the railroad agent, in which to complete said work.

66.698 Construction by municipality; assessment of cost. (1) Whenever any city or village shall order any street, alley or public highway improved, as provided in s. 66.696, and notice shall be served on the railroad corporation, as provided in s. 66.697, and the railroad corporation shall not elect to construct the improvement as therein provided, or having elected to construct the improvement, shall fail to construct the same within the time provided in s. 66.697 the city or village shall at once proceed to let a contract for the construction of the improvement, and cause the street to be improved as theretofore determined, and when the improvement shall be completed and accepted by the city or village, the clerk of the city or village shall present to the local agent of the railroad corporation a statement of the actual cost of the improvement, and the railroad corporation shall within 20 days of such receipt thereof pay to the treasurer of such city or village the amount as shown by such statement of cost presented as aforesaid.

(2) In case any railroad corporation shall fail to pay the cost of constructing any pavement or other street improvement as herein provided, the city or village causing the same to be constructed shall have the right to enforce collection of such amount by an action at law against said railroad corporation as provided in s. 66.695.

66.699 Effect of sections 66.694 to 66.698. Sections 66.694 to 66.698 shall not operate to repeal any existing law, but shall provide a method of compelling a railroad corporation to pay its proportionate share of street, alley or public highway improvements in case any city or village shall elect to follow the provisions thereof.

66.70 Political subdivisions prohibited from levying tax on incomes. No county, city, village, town, or other unit of government authorized to levy taxes shall assess, levy or collect any tax on income, or measured by income, and any such tax so assessed or levied is void.

66.73 Citizenship day. To redirect the attention of the citizens of Wisconsin (particularly those who are about to exercise the franchise for the first time) to the fundamentals of American government and to American traditions, any county, municipal or school board may annually provide for and appropriate funds for a program of citizenship education which stresses, through free and frank discussion of a nonpolitical, nonsectarian and nonpartisan nature, the doctrine of democracy, the duties and responsibilities of elective and appointive officers, the responsibilities of voters in a republic and the organization, functions and operation of government. This program should culminate in a ceremony of induction to citizenship for those who have been enfranchised within the past year. Any county may determine to conduct such ceremony either on or within the octave of the day designated by congress or proclaimed by the president of the United States as Citizenship Day. The board may carry out this function in such manner as it determines. The secretary of state, department of public instruction and other state officers and departments shall cooperate with the participating units of government by the dissemination of available information which will stimulate interest in the government of Wisconsin and its subdivisions.

History: 1971 c. 152 s. 33.

66.75 Room tax. The governing body of a town, village or city may enact an ordinance imposing a tax on the privilege of furnishing, at retail, rooms or lodging to transients by hotelkeepers, motel operators and other persons furnishing accommodations that are available to the public, irrespective of whether membership is required for use of the accommodations. In this section "transient," "hotel" and "motel" have the meaning set forth in s. 77.52 (2) (a) 1. Any tax so imposed shall not be subject to the selective sales tax imposed by s. 77.52 (2) (a) 1.

66.80 Benefit funds for officers and employes of first class cities. **(1)** In all cities of the first class in this state, whether organized under general or special charter, annuity and benefit funds shall be created, established, maintained and administered (by such city) for all officers and employes of such cities, who at the time this section shall come into effect are not contributors, participants or beneficiaries in any pension fund now in operation in such city by authority of law; provided that before this section shall be in effect in any city to which it applies, it must first have been approved by a majority vote of the members elect of the common council of such city.

(2) Upon approval by a majority vote of the members of the common council of such city the common council shall create a retirement board, the members of which shall serve without compensation, which board shall have full power and authority to administer such annuity and benefit fund, and to make such rules and regulations under which all participants shall contribute to and receive benefits from such fund. The common council may provide for contribution by the city to such annuity and benefit fund.

(3) The common council of such city may provide for annuity and benefit funds for officers and employes of boards, agencies, departments, commissions and divisions of the city government, including a housing authority created under the provisions of s. 66.40.

66.805 Death benefit payments to foreign beneficiaries. A retirement system of any city of the first class may provide by appropriate enactment of the local legislative body that no beneficiary may be designated for the payment of any retirement allowance, pension or proceeds of a member of such retirement system if such beneficiary is not a resident of either the United States or Canada. If a beneficiary is designated who is neither a resident of the United States nor Canada, any contributions or retirement allowance which would have been paid to such beneficiary had he been a resident of either the United States or Canada shall be deemed payable to the estate of the deceased member of such retirement system. The local legislative body of the city of the first class may also provide by appropriate enactment that if a death benefit would be payable because of the death of a member of the retirement system and the designated beneficiary of such death benefit is not a resident of either the United States or Canada, the death benefit which would have been paid had he been a resident of either the United States or Canada, shall be deemed payable to the estate of the deceased member.

66.81 Exemption of funds and benefits from taxation, execution and assignment. All moneys and assets of any retirement system of any city of the first class and all benefits and allowances and every portion thereof, both before and after payment to any beneficiary, granted under any such retirement system shall be exempt from any state, county or municipal tax or from attachment or garnishment process, and shall not be seized, taken, detained or levied upon by virtue of any executions, or any process or proceeding whatsoever issued out of or by any court of this state, for the payment and ratification in whole or in part of any debt, claim, damage, demand or judgment against any member of or beneficiary under any such retirement system, and no member of or beneficiary under any such retirement system shall have any right to assign his benefit or allowance, or any part thereof, either by way of mortgage or otherwise; however, this prohibition shall not apply to assignments made for the payment of insurance premiums. The exemption from taxation contained herein shall not apply with respect to any tax on income.

66.82 Investment of retirement funds in cities of the first class. The board of any retirement system in a city of the 1st class, whose funds are independent of control by the investment board, shall have the power in addition to others heretofore provided to invest funds from such system, in excess of the amount of cash required for current operations, in loans, securities and any other investments authorized for investment of funds of the Wisconsin retirement system under s. 25.17 (3) (a) and (4). Such independent retirement system board shall be then subject to the conditions imposed on the investment board in making such investments under s. 25.17 (3) (e) to (g), (4), (7), (8) and (15) but is exempt from the operation of ch. 881. In addition to all other authority for the investment of funds granted to the board of any retirement system of a city of the 1st class whose funds are independent of the control of the investment board, such board of such city may invest its funds in accordance with s. 206.34 of the 1969 statutes.

History: 1971 c. 41 s. 12; 1971 c. 260 s. 92 (4).

66.92 Housing for veterans; authority to promote; state co-operation. **(1)** Any county, city, village or town or agency thereof may appropriate money, grant the use of land, buildings or property owned or leased by it, or take such other action as may be deemed advisable or necessary to promote and provide housing for veterans and servicemen.

(2) In the event that an agency created or designated by a county or municipality to administer anything authorized under this section is unable to secure satisfactory and acceptable bid or bids the agency may nevertheless negotiate necessary contracts authorized by the sponsoring county or municipality subject to the approval of the county or municipality.

(3) The department of veterans affairs shall furnish any county, city, village, town or agency thereof with information and assistance to facilitate housing for veterans and military personnel and the department shall call upon the department of local affairs and development for assistance in carrying out the purpose of this subsection. The department shall furnish such assistance when requested and the salaries and expenses therefor shall be paid out of the appropriation for the department of veterans affairs.

History: 1977 c. 29.

66.93 Sites for veterans' memorial halls. Any city, town or village may donate to any organization specified in section 70.11 (9) land upon which is to be erected a memorial hall to contain the memorial tablet specified in said section.

66.94 Metropolitan transit authority. (1) DEFINITIONS. The following terms when used in this section, unless a different meaning clearly appears from the context, shall have the following meanings:

(a) "Authority" means any metropolitan transit authority established pursuant to this section.

(b) "Board" means the metropolitan transit board.

(c) "Transportation system" means all land, shops, structures, equipment, property, franchises and rights of whatever nature required for transportation of passengers for hire, freight and express, except all transportation facilities extending beyond the boundaries of the metropolitan district, and except all express and freight operations not operated in combination with transportation of passengers, including, however, without limitation, street railways, elevated railroads, subways, underground railroads, motor vehicles, trackless trolley busses, motor busses, and any combination thereof, or any other form of mass transportation operation.

(d) "Metropolitan district" or "district" embraces all the territory in any county having a population of 125,000 or more and in those cities, villages and towns located in counties immediately adjacent thereto having a population of less than 125,000, through or into which a transportation system extends from such county.

(e) "Bonds" shall mean any bonds, interim certificates, certificates of indebtedness, equipment obligations, notes, debentures or other obligations of the authority, issued pursuant to this section.

(f) "Trust indenture" shall include instruments pledging the revenues of real or personal properties.

(g) "Contract" shall mean any agreement of the authority whether contained in a resolution, trust indenture, lease, bond or other instrument.

(h) "Real property" shall include lands, lands under water, structures, and any and all easements, franchises and incorporeal hereditaments, and every estate and right therein, legal and equitable, including terms for years and liens by way of judgments, mortgages or otherwise.

(i) "Obligee of the authority" or "obligee" shall include any bondholder, trustee or trustees for any bondholders, any lessor, demising property to the authority used in connection with the function of the transit board, or any assignee or assignees of such lessor's interest, or any part thereof, and the United States of America when it is a party to any contract with the authority.

(j) "Municipalities" means cities, villages and towns.

(2) CREATION OF THE AUTHORITY. There is hereby authorized to be created in each county having a population of 125,000 or more a political subdivision, body politic and corporate of the state, under the name of "Metropolitan Transit Authority" which shall exercise the powers conferred by this section within the metropolitan district of which such county is a part.

(3) ORIGINAL EXERCISE OF POWERS. The authority shall not exercise any of the powers hereby granted until both of the following have occurred:

(a) This section is adopted by the electors of one or more cities, villages and towns having a population in the aggregate of more than 100,000 within the metropolitan district; and

(b) The legislative body of the municipality in such district then having more than 50 per cent of public transportation routes, computed upon a mileage basis, enacts an ordinance that accepts the authority for such municipality and designates the date when such authority shall commence to exercise its powers granted under this section. Repeal of that ordinance, subsequent to the exercise by the authority of such powers, shall not affect the continuation of the authority's operations or the exercise of its powers.

(4) MANNER OF ADOPTION. This section may be adopted by any city, village or town within the metropolitan district in the following manner: The governing body of any municipality, by ordinance passed at least 30 days prior to submission of the question, may direct that the question of the adoption of this section be submitted to the electors therein at any general, special, judicial or local election. The clerk of such municipality or the election commission of any city of the first class shall thereupon submit the question to popular vote. Public notice of the election shall be given in the same manner as in case of a regular municipal election except that such notice shall be published or posted at least 20 days prior to the election. If a majority of those voting on the question vote in the affirmative thereon, this section shall be adopted in such municipality. The proposition on the ballot to be used at such election shall be in substantially the following form:

Shall section 66.94 of the Wisconsin statutes which creates a metropolitan transit authority for ownership and operation of a public mass transportation system in the metropolitan district be adopted?

YES □ NO □

(5) LEGAL STATUS. (a) *Actions, seal, office.* The authority may sue and be sued in its corporate name. It may adopt a corporate seal and change the same at pleasure. The principal office of the authority shall be located within the metropolitan district.

(b) *Exempt from taxation.* The authority, its property (real or personal), franchises and income and the bonds, certificates and other obligations issued by it, and the interest thereon, shall be exempt from all ad valorem and income taxes by the state, any county, municipality, public corporation or other political subdivision or agency of the state.

(c) *Tax equivalent.* In lieu of the property taxes levied under chapter 76, and in lieu of the income taxes levied under chapter 71 which, but for the provisions of paragraph (b), would be due and payable as the state's share of such property and income taxes, there shall be paid to the state treasurer, as a tax equivalent but not in excess of the state's current share of said property and income taxes, the net revenues of the next preceding year, after the payment of (1) all operating costs, including all charges which may be incurred pursuant to subsections (29) and (34) and all other costs and charges incidental to the operation of the transportation system; (2) interest on and principal of all bonds payable from said revenues and to meet all other charges upon such revenues as provided by any trust agreement executed by the authority in connection with the issuance of bonds or certificates; (3) all costs and charges incurred pursuant to subsections (32) and (33) and any other costs and charges for acquisition, installation, construction or replacement or reconstruction of equipment, structures or rights-of-way not financed through the issuance of bonds or certificates under subsection (15); and (4) any compensation required to be paid to any municipality for the use of streets, viaducts, bridges, subways and other public ways. Deficiencies in any annual tax equivalent shall not be cumulative.

(6) MEMBERS OF THE BOARD. The governing and administrative body of the authority shall be a board consisting of 7 members to be known as the metropolitan transit board. Members of the board must live within the metropolitan district. They shall be persons of recognized business ability. No member of the board or employe of the authority shall hold any other office or employment under the federal, state or any county or any municipal government except as honorary office without compensation or an office in the military service. No member of the board shall hold any other office in or be employed by the authority. No member of the board or employe of the authority shall have any private financial interest or profit directly or indirectly in any contract, work or business of the authority nor in the sale of or lease of any property to or from the authority. No member of the board shall be paid any salary, fee or compensation for services except that the member shall be reimbursed for actual expenses incurred in the performance of duties.

(7) SELECTION AND REPLACEMENT. (a) *Appointment and terms of office.* The members of the board shall hold office for terms of 7 years, except for the initial terms herein provided. Three members shall be appointed by the mayor and confirmed by the common council of the city having the largest population within the district. These appointments shall be for initial terms of 1, 3 and 7 years, respectively. Three members shall be appointed by the governor for initial terms of 2, 4 and 6 years, respectively. The 6 members so appointed will nominate the seventh member by majority vote for an initial term of 5 years, and his appointment shall be approved and made by the governor. If no seventh member is nominated either by the original board within 60 days of its appointment, or by any subsequent board within 60 days after a vacancy occurs in the office of the seventh member, then the governor shall appoint the seventh member. At the expiration of initial terms, successors shall be appointed in the same manner for terms of 7 years. Five members shall constitute a quorum.

(b) *Successors, vacancies.* Successors to members shall be appointed in the same manner as their predecessors. In the event of a vacancy, a successor shall be appointed in like manner. In addition to death, resignation, legal incompetency or conviction of a felony, a member shall vacate his office by removing his permanent residence from the district.

(8) RESIGNATIONS AND REMOVALS. Any member may resign from his office to take effect when his successor has been appointed and is qualified. The appointing authority may remove any member of the board appointed by him in case of incompetency, neglect of duty or malfeasance in office. They may give him a copy of such charges and an opportunity to be heard publicly thereon in person or by counsel upon not less than 10 days' notice. Upon failure of a member to qualify within the time required or abandonment of his office or his removal from office, his office shall become vacant.

(9) GENERAL POWERS. The authority shall have power to acquire, construct or operate and maintain for public service a transportation system or systems or any part thereof in the district and the power to dispose of the same and to enter into agreement for the operation of such system or parts thereof with others and all other powers necessary or convenient to accomplish the purposes of this section.

(10) POWER TO ACQUIRE EXISTING TRANSPORTATION FACILITIES. The authority may acquire by purchase, condemnation, lease, gift or otherwise, all or any part of the plant, equipment, rights and property, reserve funds, employe's pension or retirement funds, special funds, franchises, licenses, patents, permits, and papers, documents and records belonging to any person or public body operating a transportation system within the district, and to lease any municipality or privately owned facilities for operation and maintenance by the authority.

(11) POWER TO ACQUIRE AND DISPOSE OF PROPERTIES. The authority shall have power to acquire by purchase, condemnation, lease, gift or otherwise any other property and rights useful for its purposes, and to sell, lease, transfer or convey any property or rights when no longer useful, or to exchange the same for other property or rights which are useful for its purposes.

(12) JOINT USE OF PROPERTY. The authority shall have power to enter into agreements for the joint use by the authority and any railroad, person or public body owning or operating any transportation facilities either within or without the district of any property or rights of the authority or such railroad, person or public body operating any transportation facilities for any suitable purpose and for the establishment of through routes, joint fares and transfer of passengers.

(13) RIGHT OF EMINENT DOMAIN. (a) *As to what property.* The authority shall have the right of eminent domain to acquire any existing transportation facilities within the district and any private property or property devoted to any public use which is necessary for the purposes of the authority except such property which is used for the purpose of operating transportation facilities extending beyond the boundaries of the district. The authority shall have the right where necessary to acquire by eminent domain the right to use jointly all such property which is used for the purpose of operating transportation facilities extending beyond the boundaries of the district. The right of eminent domain shall be exercised in accordance with the procedure set out in chapter 32 or in accordance with any other applicable laws.

(14) POWER TO OPERATE LOCAL TRANSPORTATION FACILITIES. (a) *Use of public ways.* The authority shall have the right, but not exclusive of the public right, to use any public road, street or other public way in the district for interurban transportation of passengers, but shall not have the right to use any street or other public way in any municipality for local transportation of passengers within such municipality unless this section shall have been adopted by such municipality, and the governing body of such municipality shall have given its consent thereto by ordinance. The right to use any road, street or other public way, or to operate over any bridge, viaduct or elevated structures above and subways beneath the surface of any road, street or public ground, including approaches, entrances, sidings, stations and connections for the purpose of local transportation in any municipality adopting this section, shall be upon such terms as are determined by the municipality in which such rights of way or facilities are located, and shall be subject to such reasonable rules and regulations and the payment of such license fees as the grantor may by ordinance from time to time prescribe.

(b) *Right to existing service.* Nothing contained herein shall deprive any town, city or village of the transportation facility existing at the time of the effective date of this paragraph or the right to seek extensions thereof as contemplated by statutes.

(15) POWER TO BORROW MONEY. (a) *Purpose.* The authority shall have the continuing power to borrow money for the purpose of acquiring any transportation system or part thereof (including any cash funds of such system reserved to replace worn out or obsolete

equipment and facilities), for acquiring necessary cash working funds or establishing reserve funds, for acquiring, constructing, reconstructing, extending or improving its transportation system or any part thereof and for acquiring any property and equipment useful for the construction, reconstruction, extension, improvement or operation of its transportation system or any part thereof. For the purpose of evidencing the obligation of the authority to repay any money borrowed the authority may, pursuant to ordinance adopted by the board, from time to time issue and dispose of interest-bearing revenue bonds or certificates and may also from time to time issue and dispose of such bonds or certificates to refund any bonds or certificates previously issued in accordance with the terms expressed therein.

(b) *Source of payment.* All such bonds shall be payable solely from the revenues or income to be derived from the operation of such transportation system.

(c) *Terms.* They may bear such date or dates, may mature at such time or times not exceeding 40 years from the date of issue, may bear interest at such rate to be paid semiannually, may be in such form, may carry such registration privileges, may be executed in such manner, may be payable at such place, may be made subject to redemption in such manner and upon such terms with or without premium as is stated on the face thereof, may be authenticated in such manner and may contain such terms and covenants as may be provided in such ordinance.

(d) *Negotiability.* Notwithstanding the form thereof, in the absence of an express recital to the contrary on the face thereof, all such bonds shall be negotiable instruments.

(e) *Temporary financing.* Pending the preparation and execution of any such bonds temporary bonds may be issued with or without interest coupons as may be provided by ordinance.

(f) *Trust agreement; lien.* To secure the payment of any such bonds and for the purpose of setting forth the covenants and undertakings of the authority in connection with the issuance thereof and of any additional bonds payable from such revenue or income, as well as the use and application of the revenue or income to be derived from the transportation system, the authority may execute and deliver trust agreements but no lien upon any physical property of the authority shall be created thereby.

(g) *Remedy for breach.* A remedy for any breach of the terms of any such trust agreement by the authority may be by mandamus proceedings in any court of competent jurisdiction to compel performance and compliance therewith, but the trust agreement may prescribe by whom or on whose behalf such action may be instituted.

(h) *Public credit not pledged.* Under no circumstances shall any bonds of the authority become an indebtedness or obligation of the state or of any county, city, town, village, school district or other municipal corporation, nor shall any such bond become an indebtedness of the authority within the purview of any constitutional limitation or provision, and it shall be plainly stated on the face of each bond and certificate that it does not constitute such an indebtedness or obligation but is payable solely from the revenues or income as aforesaid. For the purpose of debt limitation, the authority shall be considered a public utility.

(i) *Sale of securities.* Before any such bonds (excepting refunding bonds) are sold, the entire authorized issue, or any part thereof, shall be offered for sale as a unit after advertising for bids, by a class 2 notice, under ch. 985, published in the district, the last insertion to be at least 10 days before bids are required to be filed. All bids shall be sealed, filed and opened as provided by ordinance and the bonds shall be awarded to the highest and best bidder or bidders therefor. The authority shall have the right to reject all bids and readvertise for bids in the manner provided for in the initial advertisement. If no bids are received, such bonds may be sold at not less than par value, without further advertising, within 60 days after the bids are required to be filed pursuant to any advertisement.

(16) FINANCING OF EQUIPMENT. (a) *Purchase of equipment.* The authority shall have power to purchase equipment such as cars, trackless trolleys and motor busses, and may execute agreements, leases and equipment trust certificates in the form customarily used in such cases appropriate to effect such purchase and may dispose of such equipment trust certificates. All money required to be paid by the authority under the provisions of such agreements, leases and certificates shall be payable solely from the revenue or income to be derived from the transportation system and from grants and loans as provided in subsection (18). Payment for such equipment, or rentals therefor, may be made in instalments, and the deferred instalments may be evidenced by equipment trust certificates payable solely from such revenue or income, and it may be provided that title to such equipment shall not vest in the authority until the equipment trust certificates are paid.

(b) *Security.* The agreement to purchase may direct the vendor to sell and assign the equipment to a bank or trust company, duly authorized to transact business in the state, as trustee for the benefit and security of such certificates and may direct the trustee to deliver

the equipment to one or more designated officers of the authority and authorize the trustee simultaneously therewith to execute and deliver a lease of the equipment to the authority. Each vehicle so purchased and leased shall have the name of the owner and lessor plainly marked on both sides thereof followed by the words "Owner and Lessor".

(c) *Provisions of agreements.* Such agreements, leases and certificates shall be authorized by ordinance of the board and shall contain such covenants, conditions and provisions as may be deemed necessary or appropriate to insure the payment of the certificates from the revenue or income to be derived from the transportation system.

(d) *Related agreements to be consistent.* The covenants, conditions and provisions of the agreements, leases and certificates shall not conflict with any of the provisions of any trust agreement securing the payment of bonds or certificates of the authority.

(17) RIGHT TO INVEST IN SECURITIES OF AUTHORITY. The state and all counties, cities, villages, incorporated towns and other municipal corporations, political subdivisions and public bodies, and public officers of any thereof, all banks, bankers, trust companies, savings banks and institutions, building and loan associations, investment companies and other persons carrying on a banking business, all insurance companies, insurance associations and other persons carrying on an insurance business, and all executors, administrators, guardians, trustees and other fiduciaries may legally invest any sinking funds, moneys or other funds belonging to them or within their control in any bonds or certificates issued pursuant to this section, but nothing contained in this subsection shall be construed as relieving any person from any duty of exercising reasonable care in selecting securities for purchase or investment.

(18) POWER OF AUTHORITY TO ACCEPT PUBLIC GRANTS AND LOANS. The authority shall have power to apply for and accept grants and loans from the federal government, the state or any municipality, or any agency or instrumentality thereof, to be used for any of the purposes of the authority and to enter into any agreement in relation to such grants or loans when such agreement does not conflict with any of the provisions of any trust agreements securing the payment of bonds or certificates of the authority.

(19) POWER OF AUTHORITY TO INVEST AND REINVEST FUNDS. The authority shall have power to invest and reinvest any funds held in reserve or sinking funds not required for immediate disbursement in bonds or notes of the United States, bonds of the state, or of any county or municipality in which the authority is engaged in the operation of its business, and, at not to exceed their par value or their call price, in bonds or certificates of the authority, and to sell these securities whenever the funds are needed for disbursements. Such investment or reinvestment of any funds shall not be in conflict with any provisions of any trust agreement securing the payment of bonds or certificates of the authority.

(20) INSURANCE AND INDEMNITY CONTRACTS. The authority shall have power to procure and enter into contracts for any type of insurance and indemnity against loss or damage to property from any cause, including loss of use and occupancy, against death or injury of any person, against employers' liability, against any act of any member, officer or employe of the board or of the authority in performance of the duties of his office or employment or any other insurable risk.

(21) POWER OF TAXATION DENIED TO AUTHORITY. The authority shall not have power to levy taxes for any purpose whatsoever.

(22) ORDINANCES, RULES AND REGULATIONS. The board shall have power to pass all ordinances and make all rules and regulations proper or necessary to regulate the use, operation and maintenance of its property and facilities, and to carry into effect the powers granted to the authority.

(23) ORGANIZATION OF BOARD. As soon as possible after the appointment of the initial members, the board shall organize for the transaction of business, select a chairman and a temporary secretary from its own number, and adopt by-laws, rules and regulations to govern its proceedings. The initial chairman and each of his successors shall be elected by the board from time to time for the term of his office as a member of the board or for the term of 3 years, whichever is shorter and shall be eligible for reelection.

(24) CONDUCT OF BOARD MEETINGS. Regular meetings of the board shall be held at least once in each calendar month, at a time and place fixed by the board. Five members of the board shall constitute a quorum for the transaction of business, but a lesser number may adjourn a meeting to a definite date or sine die at its option. All action of the board shall be by ordinance or resolution and the affirmative vote of at least 4 members shall be necessary for the adoption of any ordinance or resolution. All such ordinances and resolutions before taking effect shall be approved by the chairman of the board by signing the same, and such as he shall not approve he shall return to the board with his

objections thereto in writing at the next regular meeting of the board. But in case the chairman shall fail so to return any ordinance or resolution, he shall be deemed to have approved the same and it shall take effect accordingly. Upon the return of any ordinance or resolution by the chairman with his objections, it shall be reconsidered by the board, and if upon such reconsideration it is again passed by the affirmative vote of at least 5 members, it shall go into effect notwithstanding the veto of the chairman. All ordinances, resolutions and all proceedings of the authority and all documents and records in its possession shall be public records, and open to public inspection, except such documents and records as shall be kept or prepared by the board for use in negotiations, action or proceedings to which the authority is a party.

(25) SECRETARY AND TREASURER. The board shall appoint a secretary and a treasurer, who need not be members of the board, to hold office during the pleasure of the board, and fix their duties and compensation. The secretary shall not be engaged in any other business or employment during his tenure of office. Before entering upon the duties of their respective offices they shall take and subscribe an official oath, and the treasurer shall execute an official bond with corporate sureties to be approved by the board. The bond shall be payable to the authority in whatever penal sum may be directed by the board conditioned upon the faithful performance of the duties of the office and the payment of all money received by him according to law and the orders of the board. The board may, at any time, require a new bond from the treasurer in such penal sum as it may determine. The obligation of the sureties shall not extend to any loss sustained by the insolvency, failure or closing of any national or state bank wherein the treasurer has deposited funds if the bank has been approved by the board as a depository. The oaths of office and bond shall be filed in the principal office of the authority.

(26) MANNER OF HANDLING FUNDS. All funds shall be deposited in the name of the authority and shall be withdrawn only by check or draft signed in the manner as provided by the board. The board may designate any of its members or any employe to affix the signature of the chairman and another to affix the signature of the treasurer to any check or draft for payment of salaries or wages and for the payment of any other obligation of not more than $1,000. In case any officer whose signature appears upon any check, draft, bond, certificate or interest coupon, issued pursuant to this section, ceases to hold his office, his signature nevertheless shall be valid and sufficient for all purposes with the same effect as if he had remained in office.

(27) APPOINTMENT OF A GENERAL MANAGER. The board shall appoint a general manager who shall be a person of recognized ability and experience in the operation of transportation systems to hold office during the pleasure of the board. The general manager shall have management of the properties and business of the authority and the employes thereof, subject to the general control of the board. The general manager shall direct the enforcement of all ordinances, resolutions, rules and regulations of the board, and shall perform such other duties as may be prescribed from time to time by the board. The board may appoint a general attorney and a chief engineer, and shall provide for the appointment of such other officers, attorneys, engineers, consultants, agents and employes as may be necessary for the construction, extension, operation, maintenance and policing of its properties. It shall define their duties and may require bonds of them. The general manager, general attorney, chief engineer and all other officers provided for under this subsection shall be exempt from subscribing any oath of office. The compensation of all officers, attorneys, consultants, agents and employes shall be fixed by the board.

(28) SUPERVISION OF OFFICERS AND EMPLOYES. The board shall classify all the officers, positions and grades of regular employment required, excepting that of the general manager, secretary, treasurer, general attorney, and chief engineer, with reference to the duties thereof and the compensation fixed therefor, and adopt rules governing appointments to any of such offices or positions on the basis of merit and efficiency. No discrimination shall be made in any appointment or promotion because of sex, race, creed, color, or political or religious affiliation. No officer or employe shall be discharged or demoted except for cause which is detrimental to the service. Any officer or employe who is discharged or demoted may file a complaint in writing with the board within 10 days after notice of the person's discharge or demotion. If any employe is a member of a labor organization, the complaint may be filed by such organization for and in behalf of such employe. The board shall grant a hearing on such complaint within 30 days thereafter. The time and place of the hearing shall be fixed by the board and due notice thereof given to the complainant, the labor organization by or through which the complaint was filed and the general manager. The hearing shall be conducted by the board, or any member thereof or any officers' committee or employes' committee appointed by the board.

The complainant may be represented by counsel. If the board finds, or approves a finding of the member or committee appointed, that the complainant has been unjustly discharged or demoted, the complainant shall be restored to the person's office or position with back pay. The decision of the board shall be final and not subject to review. The board may abolish any office or reduce the force of employes for lack of work or lack of funds, but in so doing the officer or employe with the shortest service record in each class and grade shall be first released from service and shall be reinstated in order of seniority when additional force of employes is required.

(29) EMPLOYES. (a) *Collective bargaining.* The authority shall have the same rights, duties and obligations with respect to collective bargaining by and with its employes as do public utility corporations.

(b) *Employes of existing systems.* If the authority acquires any existing transportation system or part thereof, all of the employes in the operating and maintenance divisions of such system or part thereof and all other employes, except executive officers, shall be transferred to and appointed as employes of the authority, subject to all rights and benefits of this section, and such employes shall be given seniority credit in accordance with the records of their previous employer.

(c) *Retirement systems.* Members and beneficiaries of any pension or retirement system or other benefits established by such previous employer shall continue to have the rights, privileges, benefits, obligations and status with respect to such established system. There shall be established and maintained by the authority a sound pension and retirement system adequate to provide for all payments when due under such established system or as modified from time to time by ordinance of the board. For this purpose, both the board and the participating employes shall make such periodic payments to the established system as may be determined by such ordinance. The board, in lieu of social security payments, shall make payments into such established system at least equal in amount to the amount so required to be paid by private corporations. Provision shall be made by the board for all officers and employes of the authority appointed pursuant to this section to become, subject to reasonable rules and regulations, members or beneficiaries of the pension or retirement system with uniform rights, privileges, obligations and status as to the class in which such officers and employes belong.

(30) ESTABLISHMENT OF FARES AND STANDARDS OF SERVICE. (a) *Powers of board.* The board shall, notwithstanding any law to the contrary, have exclusive authority and it shall be its duty to establish rates, fares and other charges, and to make all rules and regulations for the operation of the transportation system. The board shall also have the authority, subject to the jurisdiction of the department of transportation or transportation commission as to the reasonableness and adequacy thereof, to determine and make effective standards of service, and to establish, change, extend, shorten or abandon routings all in accordance with the statutes in such cases made and provided subject to the provisions of any ordinance of any municipality granting rights to the authority.

(b) *Fares.* Rates, fares and other charges for transportation shall be so fixed that revenues shall at all times be sufficient in the aggregate for:

1. Payment of all operating costs, including all charges which may be incurred pursuant to subsections (29) and (34) and all other costs and charges incidental to the operation of the transportation system;

2. Payment of interest and principal of all bonds payable from said revenues and to meet all other charges upon such revenues as provided by any trust agreement executed by the authority;

3. Payment of all costs and charges incurred pursuant to subsections (32) and (33) and any other costs and charges for acquisition, installation, construction or replacement or reconstruction of equipment, structures or rights of way not financed through the issuance of bonds or certificates under subsection (15); and

4. Any compensation required to be paid to any municipality for the use of streets, viaducts, bridges, subways and other public ways.

(31) CHARGES FOR GOVERNMENT TRANSPORTATION. The board may provide free transportation within any municipality in which they are employed for firemen when in uniform, and policemen when in uniform and when not in uniform and certified for special duty and for its employes when in uniform or upon presentation of identification, and may enter into agreements with the United States post office department for the transportation of mail and the payment of compensation in lieu of fares for the transportation of letter carriers when in uniform.

(32) MODERNIZATION FUND. It shall be the duty of the board, as promptly as possible, to rehabilitate, reconstruct and modernize all portions of any transportation system acquired by the authority and to maintain at all times an adequate and modern transportation system suitable and adapted to the needs of the municipalities served, and for safe, comfortable and convenient service. To that end the board shall

establish a modernization fund which shall include, but is not limited to cash in renewal, equipment or depreciation funds which are part of transportation systems or part thereof acquired by the authority and any excess cash derived from the sale of revenue bonds or certificates. The moneys in the modernization fund shall be disbursed for the purpose of acquiring or constructing extensions and improvements and betterment of the system, to make replacements of property damaged or destroyed or in necessary cases where depreciation fund is insufficient, to purchase and cancel its revenue bonds and certificates prior to their maturity at a price not exceeding par, and to redeem and cancel its revenue bonds and certificates according to their terms. The board may make temporary loans from the modernization fund for use as initial working capital.

(33) DEPRECIATION POLICY. To assure modern, attractive transportation service the board may establish a depreciation policy which makes provision for the continuous and prompt replacement of worn out and obsolete property and the board may make provision for such depreciation of the property of the authority as is not offset by current expenditures for maintenance, repairs and replacements. The board from time to time shall make a determination of the relationship between the service condition of the properties of the authority and the then established depreciation rates and reserves and may make adjustments or modifications of such rates in such amounts as it may deem appropriate because of experience and estimated consumption of service life of road, plant and equipment.

(34) DAMAGE RESERVE FUND. (a) *Establishment of fund.* The board shall withdraw from the gross receipts of the authority and charge to operating expenses such an amount of money as in the opinion of the board shall be sufficient to provide for the adjustment, defense and satisfaction of all suits, claims, demands, rights and causes of action and the payment and satisfaction of all judgments entered against the authority for damage caused by injury to or death of any person and for damage to property resulting from the construction, maintenance and operation of the transportation system. The board shall deposit such moneys in a fund to be known and designated as the damage reserve fund.

(b) *Use of fund.* The board shall use the moneys in the damage reserve fund to pay all expenses and costs arising from the adjustment, defense and satisfaction of all suits, claims, demands, rights and causes of action and the payment and satisfaction of all judgments entered against the authority for damages caused by injury to or death of any person and for damage to property resulting from the construction, maintenance and operation of the transportation system.

(c) *Liability insurance.* The cost of obtaining and maintaining insurance against such contingencies shall be paid out of the moneys in the damage reserve fund. All moneys received from such insurance coverage or protection shall be paid into the damage reserve fund.

(d) *Worker's compensation.* The authority and its employes shall be subject to chapter 102.

(35) CLAIMS AGAINST AUTHORITY FOR PERSONAL INJURIES, DEATHS OR PROPERTY DAMAGES. Civil actions to enforce claims against the authority for personal injuries, wrongful deaths or property damages may be commenced and prosecuted upon the same terms and conditions and in the same manner as such actions are commenced and prosecuted against street railway companies which are in private ownership.

(36) SPECIAL FUNDS. The authority may establish and create such other and additional special funds as may be found desirable by the board and in and by such ordinances may provide for payments into all special funds from specified sources with such preferences and priorities as may be deemed advisable and may also by any such ordinances provide for the custody, disbursement and application of any moneys in any such special funds consistent with the provisions of this section.

(37) PUBLIC BIDDING ON CONTRACTS. (a) *Exceptions.* All contracts for the sale of property of the value of more than $2,500 or for any concession in or lease of property of the authority for a term of more than one year shall be awarded to the highest responsible bidder, after advertising for bids by publishing a class 2 notice, under ch. 985. All construction contracts and contracts for supplies, materials, equipment and services, when the expense thereof will exceed $2,500, shall be let to the lowest responsible bidder, after advertising for bids, excepting (1) when by vote of at least 5 members of the board, it is determined that an emergency requires immediate delivery of supplies, materials or equipment or performance of services; (2) when repair parts, accessories, equipment or services are required for equipment or services previously furnished or contracted for; (3) when the nature of the services required is such that competitive bidding is not in the best interest of the public, including, without limiting the generality of the foregoing, the services of accountants, architects, attorneys, engineers, physicians, superintendents of construction, and others possessing a high degree of skill; (4) when services such as water, light, heat, power,

telephone or telegraph are required. All contracts involving less than $2,500 shall be let by competitive bidding whenever possible, and in any event in a manner calculated to insure the best interests of the public.

(b) *Rejection of bids.* In determining the responsibility of any bidder, the board may take into account past dealings with the bidder, experience, adequacy of equipment, ability to complete performance within the time set, and other factors beside financial responsibility, but in no case shall any such contract be awarded to any other than the highest bidder (in case of sale, concession or lease) or the lowest bidder (in case of purchase or expenditure) unless authorized or approved by a vote of at least 5 members of the board, and unless such action is accompanied by a statement in writing setting forth the reasons, which statement shall be kept on file in the principal office of the authority and open to public inspection.

(c) *Evasion, collusion.* Contracts shall not be split into parts involving expenditure of less than $2,500 for the purpose of avoiding the provisions of this section, and all such split contracts shall be void. If any collusion occurs among bidders or prospective bidders in restraint of freedom of competition, by agreement to bid a fixed amount or to refrain from bidding or otherwise, the bids of such bidders shall be void. Each bidder shall accompany his bid with a sworn statement that he has not been a party to any such agreement.

(d) *Employes not to bid.* Members of the board, officers and employes of the authority, and their relatives within the fourth degree by the terms of the civil law, are forbidden to be interested directly or indirectly in any contract for construction or maintenance work or for the delivery of materials, supplies or equipment.

(e) *Readvertising.* The board shall have the right to reject all bids and to readvertise for bids. If after such readvertisement no responsible and satisfactory bid within the terms of the advertisement shall be received, the board may award such contract without competitive bidding, if it shall not be less advantageous to the authority than any valid bid received pursuant to advertisement.

(f) *Rules of the board.* The board shall adopt rules and regulations to carry into effect the provisions of this subsection.

(38) ADVERTISEMENT FOR BIDS. Advertisements for bids shall be published as a class 2 notice, under ch. 985, in the metropolitan district, the last insertion to be at least 10 days before the time for receiving bids. Such advertisement shall state the time and place for receiving and opening of bids, and by reference to plans and specifications on file at the time of the first publication, or in the advertisement itself, shall describe the character of the proposed contract in sufficient detail to fully advise prospective bidders of their obligations and to insure free and open competitive bidding. All bids in response to advertisements shall be sealed and shall be publicly opened by the board, and all bidders shall be entitled to be present in person or by representatives. Cash or a certified or satisfactory cashier's check, as a deposit of good faith, or a bid bond with satisfactory surety or sureties in a reasonable amount to be fixed by the board before advertising for bids, shall be required with the proposal of each bidder. Bond for faithful performance of the contract with surety satisfactory to the board and adequate insurance may be required by the board. The contract shall be awarded as promptly as possible after the opening of bids. All bids shall be placed on file open to public inspection. All bids shall be void if any disclosure of the terms of any bid in response to an advertisement is made or permitted to be made by the board before the time fixed for opening bids.

(39) ESTABLISHMENT OF FISCAL YEAR. The board shall establish a fiscal operating year. At least 30 days prior to the beginning of the first full fiscal year after creation of the authority, and annually thereafter, the board shall cause to be prepared a tentative budget which shall include all operation and maintenance expense for the ensuing fiscal year. The tentative budget shall be considered by the board at a public meeting, held after publication in the district of a class 1 notice, under ch. 985, not less than 10 days prior to such meeting; subject to any revision and amendments as may be determined, it shall be adopted prior to the first day of the ensuing fiscal year as the budget for that year. No expenditures for operations and maintenance in excess of the budget shall be made during any fiscal year except by the affirmative vote of at least 5 members of the board. It shall not be necessary to include in the annual budget any statement of necessary expenditures for pensions or retirement annuities, for interest or principal payments on bonds, or for capital outlays, but the board shall provide for payment of same from appropriate funds.

(40) ANNUAL REPORT. As soon after the end of each fiscal year as may be expedient, the board shall print a detailed report and financial statement of its operations and of its assets and liabilities. A reasonably sufficient number of copies of such report shall be printed for distribution to persons interested, upon request, and a copy thereof shall be filed with the governor, the county clerks of the counties in which the authority is engaged in the operation of its business and the clerk of each municipality which has adopted this section or granted rights to the

authority by ordinance. A separate copy of such report shall be mailed to the principal officer and the governing body of each such municipality.

(42) CONFLICT OF LAWS. In so far as any provision of this section is inconsistent with the provisions of any other law, the provisions of this section shall be controlling, except as provided in subsection (44).

(43) APPLICATION OF SECTION. This section shall be construed as constituting complete statutory authority for the creation of metropolitan transit authorities and the acquisition, ownership and operation of a transportation system by such authority and for the issuance of bonds as herein authorized, any other law relating to the matters herein contained to the contrary notwithstanding.

(44) PUBLIC UTILITY LABOR DISPUTES. Notwithstanding any provision of this section the authority shall be deemed an employer under chapter 111, subchapter III, and the authority shall be subject to the same laws as other similar organizations engaged in like activities, and any provision of this section in conflict with the provisions of this subsection is to the extent of such conflict superseded by the provisions of this subsection.

History: 1973 c. 172, 243; 1975 c. 94 ss. 38, 91 (9), (12); 1975 c. 147 s. 54; 1975 c. 199; 1977 c. 29 s. 1654 (9) (h)

Railroad property is subject to special assessment for sanitary sewer even though the sewer is of no immediate benefit. Soo Line RR. Co. v. Neenah, 64 W. (2d) 665, 221 NW (2d) 907.

66.943 City transit commission. (1) Any city in this state may enact an ordinance for the establishment, maintenance and operation of a comprehensive unified local transportation system, the major portion of which is or is to be located within or the major portion of the service of which is or is to be supplied to the inhabitants of such city, and which system is used or to be used for the transportation of persons or freight.

(2) The transit commission shall be designated "Transit Commission" preceded by the name of the enacting city.

(3) In this section:

(a) "Transit commission" or "commission" means the local transit commission created hereunder.

(b) "Comprehensive unified local transportation system" means a transportation system comprised of motor bus lines and any other local public transportation facilities or freight transportation facilities, the major portions of which are within the city.

(4) The transit commission shall consist of not less than 3 members to be appointed by the mayor and approved by the council, one of whom shall be designated chairman.

(5) (a) The first members of the transit commission shall be appointed for staggered 3-year terms. The term of office of each member thereafter appointed shall be 3 years.

(b) No transit commissioner shall hold any other public office.

(c) No person holding stocks or bonds in any corporation subject to the jurisdiction of the transit commission, or who is in any other manner directly or indirectly pecuniarily interested in any such corporation, shall be a member of the nor employed by the transit commission.

(6) The transit commission may appoint a secretary and employ such accountants, engineers, experts, inspectors, clerks and other employes and fix their compensation, and purchase such furniture, stationery and other supplies and materials, as are reasonably necessary to enable it properly to perform its duties and exercise its powers.

(7) (a) The transit commission may adopt rules relative to the calling, holding and conduct of its meetings, the transaction of its business, the regulation and control of its agents and employes, the filing of complaints and petitions and the service of notices thereof and conduct hearings.

(b) For the purpose of receiving, considering and acting upon any complaints or applications which may be presented to it or for the purpose of conducting investigations or hearings on its own motion the transit commission shall hold regular meetings at least once a week except in the months of July and August in each year and special meetings on the call of the chairman or at the request of the city council.

(c) The transit commission may adopt a seal, of which judicial notice shall be taken in all courts of this state. Any process, writ, notice or other instrument which the commission may be authorized by law to issue shall be deemed sufficient if signed by the secretary of the commission and authenticated by such seal. All acts, orders, decisions, rules and records of the commission, and all reports, schedules and documents filed with the commission may be proved in any court in this state by a copy thereof certified by the secretary under the seal of the commission.

(8) Except as further provided in this subsection, the jurisdiction, powers and duties of the transit commission shall extend to the comprehensive unified local transportation system for which the commission is established including any portion of such system extending into adjacent or suburban territory within this state lying outside of the city not more than 30 miles from the nearest point marking the corporate limits of the city. The jurisdiction, powers and duties of a

transit commission providing rail service shall extend to the comprehensive unified local rail transportation system for which the commission is established including any portion of such system extending into adjacent or suburban territory lying outside of the city and in an adjoining state whose laws permit, subject to the laws of that state but subject to the laws of this state in all matters relating to rail service.

(9) Initial acquisition of the properties for the establishment of and to comprise the comprehensive unified local transportation system shall be subject to s. 66.065 or ch. 197.

(10) Any city or village may by contract under s. 66.30 establish a joint municipal transit commission with the powers and duties of city transit commissions under this section. Membership on such a joint transit commission shall be as provided in the contract established thereunder.

(11) In lieu of providing transportation services, a municipality may contract with a private organization for such services.

History: 1975 c. 224; 1977 c. 418.

66.944 Transit employes; retirement fund. (1) This section shall apply to all affected employes of a transportation system which is acquired by a city, a city transit commission or a metropolitan transit authority on or after June 30, 1975.

(2) Within 60 days after May 19, 1978, or within 60 days after a system is acquired by a city, a city transit commission or a metropolitan transit authority, whichever is later, an election shall be conducted by the department of employe trust funds under procedures adopted by the department of employe trust funds. If all of the affected employes of the transportation system vote to be included within the Wisconsin retirement fund rather than their present retirement system, their eligibility for participation within the Wisconsin retirement fund shall be computed from the date of acquisition.

(3) Notwithstanding s. 66.94 (29) or any other law, after the election under sub. (2), no city, city transit commission or metropolitan transit authority may be required to contribute to more than one retirement fund for the affected employes.

History: 1977 c. 418.

66.945 Creation, organization, powers and duties of regional planning commissions. (1) DEFINITIONS. In this section:

(a) "Governing body" means the town, village or county board or the legislative body of a city.

(b) "Local governmental units" or "local units" means cities, villages, towns and counties.

(c) "Population" means the population of a local unit as shown by the last federal census or by any subsequent population estimate under s. 16.96.

(2) CREATION OF REGIONAL PLANNING COMMISSIONS. (a) A regional planning commission may be created by the governor, or such state agency or official as he designates, upon petition in the form of a resolution by the governing body of a local governmental unit and the holding of a public hearing on such petition. If the petition is joined in by the governing bodies of all the local units in the proposed region, including the county board of any county, part or all of which is in the proposed region, the governor may dispense with the hearing. Notice of any public hearing shall be given by the governor by mail at least 10 days in advance to the clerk of each local unit in the proposed region.

(b) If the governor finds that there is a need for a regional planning commission, and if the governing bodies of local units within the proposed region which include over 50% of the population and equalized assessed valuation of the region as determined by the last previous equalization of assessments, consent to the formation of such regional planning commission, the governor may create the regional planning commission by order and designate the area and boundaries of the commission's jurisdiction taking into account the elements of homogeneity based upon, but not limited to, such considerations as topographic and geographic conformations, extent of urban development, the existence of special or acute agricultural, forestry, conservation or other rural problems, uniformity of social or economic interests and values, park and recreational needs, civil defense, or the existence of physical, social and economic problems of a regional character.

(c) Territory included within a regional planning commission that consists of one county or less in area also may be included in the creation of a multicounty regional planning commission. Such creation does not require that the existing regional planning commission consisting of one county or less in area be terminated or altered, but upon creation of the multicounty commission, the existing commission shall cease to have authority to make charges upon participating local governmental units pursuant to sub. (14) and shall adopt a name other than "regional planning commission".

(2m) LIMITATION ON TERRITORY. No regional planning commission may be created to include territory located in 3 or more uniform state districts as established by 1970 executive order 22 (August 24, 1970). Any existing regional planning commission which includes territory located in 3 or more such uniform state

districts shall be dissolved no later than December 31, 1972.

(3) COMPOSITION OF REGIONAL PLANNING COMMISSIONS. (a) The membership composition of a regional planning commission which includes a city of the first class shall be as follows:

1. One member appointed by the county board of each county, part or all of which is initially within the region or is later added.

2. Two members from each participating county shall be appointed by the governor. At least one such appointee shall be a person, selected from a list of 2 or more persons nominated by the county board, who has experience in local government in elective or appointive offices or who is professionally engaged in advising local governmental units in the fields of land-use planning, transportation, law, finance, engineering or recreation and natural resources development. The governor in making appointments hereunder shall give due weight to the place of residence of the appointees within the various counties encompassed by the region.

3. The secretary of the department of local affairs and development or his designee shall serve as an ex officio, nonvoting member of each regional planning commission organized pursuant to this section.

(b) For any region which does not include a city of the first class, the membership composition of a regional planning commission shall be in accordance with resolutions approved by the governing bodies of a majority of the local units in the region, and these units shall have in the aggregate at least half the population of the region. For the purposes of this determination a county, part or all of which is within the region, shall be counted as a local unit, but the population of an approving county shall not be counted. In the absence of the necessary approval by the local units, the membership composition of a commission shall be determined as follows:

1. For regions which include land in more than one county par. (a) shall apply.

2. For regions which include land in only one county the commission shall consist of 3 members appointed by the county board; and 3 members appointed by the governing body of each city in the region having a population of 20,000 or more (if there is no city of 20,000 or more the governor shall appoint one member from each city with a population of 5,000 or more within the region); and in addition 3 members shall be appointed at large by the governor. All governor appointees shall be persons who have experience in local government in elective or appointive offices or who are professionally engaged in advising local governmental units in the fields of land-use planning, transportation, law, finance or engineering.

(c) Terms of office for regional planning commission members shall be as follows:

1. If the composition of the commission is approved by local units under par. (b), the terms shall be as prescribed in the resolutions of approval.

2. For members of all other commissions the term is 6 years after the initial term. At the first meeting of the commission it shall be determined by lot which of the initial members shall have 2, 4 and 6-year terms, respectively, and each group shall be as nearly equal as may be.

(d) All regional planning commission members shall be electors of the state and reside within the region.

(4) COMPENSATION; EXPENSES. A per diem compensation may be paid members of regional planning commissions. This shall not affect in any way remuneration received by any state or local official who, in addition to his responsibilities and duties as a state or local official, serves also as a member of the regional planning commission. All members may be reimbursed for actual expenses incurred as members of the commission in carrying out the work of the commission.

(5) CHAIRMAN; RULES OF PROCEDURE; RECORDS. Each regional planning commission shall elect its own chairman and executive committee and shall establish its own rules of procedure, and may create and fill such other offices as it may determine necessary. The commission may authorize the executive committee to act for it on all matters pursuant to rules adopted by it. The commission shall meet at least once each year. It shall keep a record of its resolutions, transactions, findings and determinations, which shall be a public record.

(6) DIRECTOR AND EMPLOYES. The regional planning commission shall appoint a director and such employes as it deems necessary for its work and may hire such experts and consultants for part-time or full-time service as may be necessary for the prosecution of its responsibilities.

(7) ADVISORY COMMITTEES OR COUNCILS; APPOINTMENT. The regional planning commission may appoint advisory committees or councils whose membership may consist of individuals whose experience, training or interest in the program may qualify them to lend valuable assistance to the regional planning commission by acting in an advisory capacity in consulting with the regional planning commission on all phases of the commission's program. Members of such advisory bodies shall receive no compensation for their services but may be reimbursed for actual expenses incurred in the performance of their duties.

(8) FUNCTIONS, GENERAL AND SPECIAL. (a) The regional planning commission may conduct all types of research studies, collect and analyze data, prepare maps, charts and tables, and conduct all necessary studies for the accomplishment of its other duties; it may make plans for the physical, social and economic development of the region, and may adopt by resolution any plan or the portion of any plan so prepared as its official recommendation for the development of the region; it may publicize and advertise its purposes, objectives and findings, and may distribute reports thereon; it may provide advisory services on regional planning problems to the local government units within the region and to other public and private agencies in matters relative to its functions and objectives, and may act as a co-ordinating agency for programs and activities of such local units and agencies as they relate to its objectives. All public officials shall, upon request, furnish to the regional planning commission, within a reasonable time, such available information as it requires for its work. In general, the regional planning commission shall have all powers necessary to enable it to perform its functions and promote regional planning. The functions of the regional planning commission shall be solely advisory to the local governments and local government officials comprising the region.

(b) The regional planning commission shall make an annual report of its activities to the legislative bodies of the local governmental units within the region, and shall submit 2 copies of the report to the legislative reference bureau.

(9) PREPARATION OF MASTER PLAN FOR REGION. The regional planning commission shall have the function and duty of making and adopting a master plan for the physical development of the region. The master plan, with the accompanying maps, plats, charts, programs and descriptive and explanatory matter, shall show the commission's recommendations for such physical development and may include, among other things without limitation because of enumeration, the general location, character and extent of main traffic arteries, bridges and viaducts; public places and areas; parks; parkways; recreational areas; sites for public buildings and structures; airports; waterways; routes for public transit; and the general location and extent of main and interceptor sewers, water conduits and other public utilities whether privately or publicly owned; areas for industrial, commercial, residential, agricultural or recreational development. The regional planning commission may amend, extend or add to the master plan or carry any part or subject matter into greater detail.

(10) ADOPTION OF MASTER PLAN FOR REGION. The master plan shall be made with the general purpose of guiding and accomplishing a co-ordinated, adjusted and harmonious development of the region which will, in accordance with existing and future needs, best promote public health, safety, morals, order, convenience, prosperity or the general welfare, as well as efficiency and economy in the process of development. The regional planning commission may adopt the master plan as a whole by a single resolution, or, as the work of making the whole master plan progresses, may by resolution adopt a part or parts thereof, any such part to correspond generally with one or more of the functional subdivisions of the subject matter of the plan. The resolution shall refer expressly to the maps, plats, charts, programs and descriptive and explanatory matter, and other matters intended by the regional planning commission to form the whole or any part of the plan, and the action taken shall be recorded on the adopted plan or part thereof by the identifying signature of the chairman of the regional planning commission and a copy of the plan or part thereof shall be certified to the legislative bodies of the local governmental units within the region. The purpose and effect of adoption of the master plan shall be solely to aid the regional planning commission and the local governments and local government officials comprising the region in the performance of their functions and duties.

(11) MATTERS REFERRED TO REGIONAL PLANNING COMMISSION. The officer or public body of a local governmental unit within the region having final authority thereon shall refer to the regional planning commission, for its consideration and report the following matters: The location of or acquisition of land for any of the items or facilities which are included in the adopted regional master plan. Within 20 days after the matter is referred to the regional planning commission or such longer period as may be stipulated by the referring officer or public body, the commission shall report its recommendations to the referring officer or public body. The report and recommendations of the commission shall be advisory only. Local units and state agencies may authorize the regional planning commission with the consent of the commission to act for such unit or agency in approving, examining or reviewing plats, pursuant to ss. 236.10 (4) and 236.12 (2) (a).

(12) LOCAL ADOPTION OF PLANS OF REGIONAL COMMISSION; CONTRACTS. (a) Any local governmental unit within the region may adopt all or any portion of the plans and other programs prepared and adopted by the regional planning commission.

(b) In addition to the other powers specified in this section a regional planning commission may enter into a contract with any local unit within the region under s. 66.30 to make studies and offer advice on:

1. Land use, thoroughfares, community facilities, and public improvements;

2. Encouragement of economic and other developments.

(13) AID FROM GOVERNMENTAL AGENCIES; GIFTS AND GRANTS. Aid, in any form, for the purpose of accomplishing the objectives of the regional planning commission may be accepted from all governmental agencies whether local, state or federal, if the conditions under which such aid is furnished are not incompatible with the other provisions of this section. The regional planning commission may accept gifts and grants from public or private individuals or agencies if the conditions under which such grants are made are in accordance with the accomplishment of the objectives of the regional planning commission.

(14) BUDGET AND SERVICE CHARGES. (a) For the purpose of providing funds to meet the expenses of a regional planning commission, the commission shall annually on or before October 1 of each year prepare and approve a budget reflecting the cost of its operation and services to the local governmental units within the region. The amount of the budget charged to any local governmental unit shall be in the proportion of the equalized value for tax purposes of the land, buildings and other improvements thereon of such local governmental unit, within the region, to the total such equalized value within the region. The amount charged to a local governmental unit shall not exceed .003 per cent of such equalized value under its jurisdiction and within the region, unless the governing body of such unit expressly approves the amount in excess of such percentage. All tax or other revenues raised for a regional planning commission shall be forwarded by the treasurer of the local unit to the treasurer of the commission on written order of the treasurer of the commission.

(b) Where one-half or more of the land within a county is within a region, the chairman of the regional planning commission shall certify to the county clerk, prior to August 1 of each year, the proportionate amount of the budget charged to the county for the services of the regional planning commission. Unless the county board finds such charges unreasonable, and institutes the procedures set forth below for such a contingency, it shall take such necessary legislative action as to provide the funds called for in the certified statement.

(c) Where less than one-half of the land within a county is within a region, the chairman of the regional planning commission shall before August 1 of each year certify to the clerk of the local governmental unit involved a statement of the proportionate charges assessed to that local governmental unit. Such clerk shall extend the amount shown in such statement as a charge on the tax roll under s. 144.07 (2).

(d) If any local governmental unit makes a finding by resolution within 20 days of the certification to its clerk that the charges of the regional planning commission are unreasonable, it may:

1. Submit the issue to arbitration by 3 arbitrators, one to be chosen by the local governmental unit, one to be chosen by the regional planning commission and the third to be chosen by the first 2 arbitrators. If the arbitrators are unable to agree, the vote of 2 shall be the decision. They may affirm or modify the report, and shall submit their decision in writing to the local governmental unit and the regional planning commission within 30 days of their appointment unless the time be extended by agreement of the commission and the local governmental unit. The decision shall be binding. Election to arbitrate shall be waiver of right to proceed by action. Two-thirds of the expenses of arbitration shall be paid by the party requesting arbitration and the balance by the other, or

2. If a local governmental unit does not elect to arbitrate, it may institute a proceeding for judicial review under ch. 227.

(e) By agreement between the regional planning commission and a local governmental unit, special compensation to the commission for unique and special services provided to such local governmental unit may be arranged.

(f) The regional planning commission may accept from any local governmental unit supplies, the use of equipment, facilities and office space and the services of personnel as part or all of the financial support assessed against such local governmental unit.

(15) DISSOLUTION OF REGIONAL PLANNING COMMISSIONS. Upon receipt of certified copies of resolutions recommending the dissolution of a regional planning commission adopted by the governing bodies of a majority of the local units in the region, including the county board of any county, part or all of which is within the region, and upon a finding that all outstanding indebtedness of the commission has been paid and all unexpended funds returned to the local units which supplied them, or that adequate provision has been made therefor, the governor shall issue a certificate of dissolution of the commission which shall thereupon cease to exist.

(16) WITHDRAWAL. Within 90 days of the issuance by the governor of an order creating a regional planning commission, any local unit of

government within the boundaries of such region may withdraw from the jurisdiction of such commission by a two-thirds vote of the members-elect of the governing body after a public hearing. Notice thereof shall be given to the commission by registered mail not more than 3 nor less than 2 weeks prior thereto and by publication of a class 2 notice, under ch. 985. A local unit may withdraw from a regional planning commission at the end of any fiscal year by a two-thirds vote of the members-elect of the governing body taken at least 6 months prior to the effective date of such withdrawal. However, such unit shall be responsible for its allocated share of the contractual obligations of the regional planning commission continuing beyond the effective date of its withdrawal.

History: 1971 c. 225, 227; 1977 c. 29, 187, 418.

Withdrawal from the commission by municipality has no effect on county's authority to contract with the commission under this section. Tanck v. Dane County Regional Plan. Comm. 81 W (2d) 76, 260 NW (2d) 18.

See note to 59.97, citing 61 Atty. Gen. 220.

Representation provisions of (3) do not violate the one man, one vote principle. 62 Atty. Gen. 136.

Appointments to regional planning commissions on behalf of a county, under (3) (b) are made by the county board, unless the county has a county executive or a county administrator in which event such appointments are made by that county officer, under the authority set forth in either 59.032 (2) (c) or 59.033 (2) (c). 62 Atty. Gen. 197.

66.95 Prohibiting operators from leaving keys in parked motor vehicles. The governing body of any city may by ordinance require every passenger motor vehicle to be equipped with a lock suitable to lock either the starting lever, throttle, steering apparatus, gear shift lever or ignition system; prohibit any person from permitting a motor vehicle in his custody from standing or remaining unattended on any street, alley or in any other public place, except an attended parking area, unless either the starting lever, throttle, steering apparatus, gear shift or ignition of said vehicle is locked and the key for such lock is removed from the vehicle; and provide forfeitures for such violations. The foregoing provisions shall not apply to motor vehicles operated by common carriers of passengers under ch. 194.

66.96 Noxious weeds. (1) The term "noxious weeds" as used in this chapter includes the following: Canada thistle, leafy spurge and field bindweed (creeping Jenny) and any other such weeds as the governing body of any municipality or the county board of any county by ordinance or resolution declares to be noxious within its respective boundaries.

(2) Every person shall destroy all noxious weeds on all lands which he shall own, occupy or control. The person having immediate charge of any public lands shall destroy all noxious weeds on such lands. The highway patrolman on all federal, state or county trunk highways shall destroy all noxious weeds on that portion of the highway which he patrols. The town board shall cause to be destroyed all noxious weeds on the town highways.

(3) The term "destroy" means the complete killing of weeds or the killing of weed plants above the surface of the ground by the use of chemicals, cutting, tillage, cropping system, pasturing livestock, or any or all of these in effective combination, at such time and in such manner as will effectually prevent such plants from maturing to the bloom or flower stage.

(4) The chairman of each town, the president of each village and the mayor or manager of each city shall annually on or before May 15 publish a class 2 notice, under ch. 985, that every person is required by law to destroy all noxious weeds, as defined in this section, on lands in the municipality which the person owns, occupies or controls.

History: 1975 c. 394 s. 12; 1975 c. 421.

66.97 Weed commissioner; appointment, oath, term; exception. The chairman of each town, the president of each village, and the mayor of each city, shall appoint one or more commissioners of noxious weeds therein on or before May 15 in each year; such weed commissioner shall take the official oath, which oath shall be filed in the office of the town, village or city clerk, and shall hold office for one year and until a successor has qualified. If more than one commissioner is appointed, the town, city or village shall be divided into districts by the officer making the appointment, and each commissioner shall be assigned to a different district. The town chairman, village president or city mayor may appoint a resident of any district to serve as weed commissioner in any other district of the same town, village or city. This section shall not apply to cities of the 1st class, but in such cities the aldermanic district superintendent shall perform the duties of commissioners of weeds.

History: 1971 c. 304 s. 29 (1); 1975 c. 394 s. 12; 1975 c. 421.

66.98 Duties; powers; collection of tax. (1) Every weed commissioner shall carefully investigate concerning the existence of noxious weeds in the district; and if any person therein neglects to destroy any weeds as required by s. 66.96, the weed commissioner shall, after first giving 5 days' written notice by mail to the owner or occupant and in cities and villages without giving such written notice, destroy or cause all such weeds to be destroyed, in the manner deemed to be the most economical method, and for each day devoted to doing so the

weed commissioner shall receive such compensation as is determined by the town board, village board or city council upon presenting to the proper treasurer the account therefor, verified by oath and approved by the appointing officer. Such account shall specify by separate items the amount chargeable to each piece of land, describing the same, and shall, after being paid by the treasurer, be filed with town, city or village clerk, who shall enter the amount chargeable to each tract of land in the next tax roll in a column headed "For the Destruction of Weeds," as a tax on the lands upon which such weeds were destroyed, which tax shall be collected as other taxes are, or as taxes are collected on personal property pursuant to s. 74.11, except in case of lands which are exempt from taxation in the usual way. In case of railroad or other lands not taxed in the usual way the amount chargeable against the same shall be certified by the town, city or village clerk to the state treasurer who shall add the amount designated therein to the sum due from the company owning, occupying or controlling the lands specified, and the treasurer shall collect the same therefrom as prescribed in ch. 76, and return the amount collected to the town, city or village from which such certificate was received. Any such commissioner may after written notice given as herein provided and in cities and villages without giving such written notice, enter upon any lands upon which any of the weeds mentioned in s. 66.96 are growing, and cut or otherwise destroy them, without being liable to an action for trespass or any other action for damages resulting from such entry and destruction, if reasonable care is exercised in the performance of the duty hereby imposed.

(2) For each day consumed by the commissioners in carrying out their duties other than the destruction of weeds, they shall receive such compensation as may be determined by the village board, town board or city council to be paid out of the city, village or town treasury.

History: 1975 c. 394 ss. 12, 27; 1975 c. 421.

66.99 County weed commissioner; deputies. Any county may by resolution adopted by its county board provide for the appointment of a county weed commissioner, define the duties and fix the term of office and compensation. When any such weed commissioner has been appointed and has qualified, the commissioner has the powers and duties of the weed commissioners provided for in ss. 66.96 to 66.98. Each town chairman, village president or city mayor may appoint one or more deputy weed commissioners, who shall work in cooperation with the county weed commissioner in the district assigned by the appointing officer.

History: 1975 c. 394 ss. 12, 27; 1975 c. 421.