

60.13 Presiding officer.

(1) WHO PRESIDES.

(a) If present, the town board chairperson shall chair the town meeting. If the town board chairperson is absent, another town board supervisor shall chair the town meeting. If no town board supervisor is present, the town meeting shall elect the chairperson of the meeting.

(b) If the annual town meeting is held in a year when the office of town board chairperson is filled by election, the person holding the office on the day prior to the date of the election to fill the office shall preside at the annual town meeting and is entitled to receive the per diem which is ordinarily paid to the presiding officer. If such person is absent or refuses to serve as the presiding officer, the presiding officer shall be chosen under par. [\(a\)](#).

(2) DUTIES. The town meeting chairperson shall conduct the meeting's proceedings in accordance with accepted parliamentary procedure.

(3) ENFORCEMENT AUTHORITY. The town meeting chairperson shall maintain order and decorum, and may order any person to leave a town meeting if the person has conducted himself or herself in a disorderly manner and persisted in such conduct after being directed by the chairperson to cease the conduct. If the person refuses the chairperson's order to withdraw, the town meeting chairperson may order a constable or other law enforcement officer to take the person into custody until the meeting is adjourned.

66.0607 Withdrawal or disbursement from local treasury.

(1) Except as otherwise provided in subs. [\(2\)](#) to [\(5\)](#) and in s. [66.0608](#), in a county, city, village, town, or school district, all disbursements from the treasury shall be made by the treasurer 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. If the statutes provide for payment by the treasurer without an order of the clerk, the clerk shall draw and deliver to the treasurer an order for the payment before or at the time that the payment is required to be made by the treasurer. This section applies 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 other law, a county having a population of 500,000 or more may, by ordinance, adopt any other method of allowing vouchers, disbursing funds, reconciling outstanding county orders, reconciling depository accounts, examining county orders, and accounting consistent with accepted accounting and auditing practices, if the ordinance prior to its adoption is submitted to the department of revenue, which shall submit its recommendations on the proposed ordinance to the county board of supervisors.

(3) Except as provided in subs. [\(2\)](#), [\(3m\)](#) and [\(5\)](#), disbursements of county, city, village, town or school district funds from demand deposits shall be by draft or order check and withdrawals from savings or time deposits shall be by written transfer order. Written transfer orders may be executed only for the purpose of transferring deposits to an authorized deposit of the public depositor in the same or another authorized public depository. The transfer shall be made directly by the public depository from which the withdrawal is made. No draft or order check issued under this subsection may be released to the payee, nor is the draft or order check valid, unless signed by the clerk and treasurer. No transfer order is valid unless signed by the clerk and the

treasurer. Unless otherwise directed by ordinance or resolution adopted by the governing body, a certified copy of which shall be filed with each public depository concerned, the chairperson of the county board, mayor, village president, town chairperson or school district president shall countersign all drafts or order checks and all transfer orders. The governing body may also, by ordinance or resolution, authorize additional signatures. In lieu of the personal signatures of the clerk and treasurer and any other required signature, the facsimile signature adopted by the person and approved by the governing body may be affixed to the draft, order check or transfer order. The use of a facsimile signature does not relieve an official from any liability to which the official is otherwise subject, including the unauthorized use of the facsimile signature. A public depository is fully warranted and protected in making payment on any draft or order check or transferring pursuant to a transfer order bearing a facsimile signature affixed as provided by this subsection notwithstanding that the facsimile signature may have been affixed without the authority of the designated persons.

(3m) A county, city, village, town or school district may process periodic payments through the use of money transfer techniques, including direct deposit, electronic funds transfer and automated clearinghouse methods. The county, municipal or school district treasurer shall keep a record of the date, payee and amount of each disbursement made by a money transfer technique.

(4) Except as provided in sub. [\(3m\)](#), if a board, commission or committee of a 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 from the fund, independently of the governing body, payments under this section shall be made by drafts or order checks issued by the county, city, village, town or school clerk upon the filing with the clerk of certified bills, vouchers or schedules signed by the proper officers of the board, commission or committee, giving the name of the claimant or payee, and the amount and nature of each payment.

(5) In a 1st class city, municipal disbursements of public moneys shall be by draft, order, check, order check or as provided under sub. [\(3m\)](#). Checks or drafts 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 the 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 \(5\)](#) 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, draft, share draft, check or other draft signed by the person or persons designated by written authorization of the governing board as defined in s. [34.01 \(1\)](#). The authorization shall conform to any statute covering the disbursement of the funds. A public depository is fully warranted and protected in making payment in accordance with the latest authorization filed with it.

(7) No order may be issued by a county, city, village, town, special purpose district, school district, cooperative education service agency or technical college 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](#); [1979 c. 318](#); [1981 c. 20](#); [1983 a. 145](#); [1983 a. 189 s. 329 \(21\)](#); [1983 a. 192 s. 303 \(2\)](#); [1983 a. 368, 538](#); [1985 a. 91, 225](#); [1989 a. 56 s. 258](#); [1993 a. 399](#); [1999 a. 150 s. 109](#); Stats. 1999 s. 66.0607; [2001 a. 16](#).

323.14 Local government; duties and powers.

(1) ONGOING DUTIES.

(a)

1. Subject to subd. [3](#), each county board shall develop and adopt an emergency management plan and program that is compatible with the state plan of emergency management under s. [323.13 \(1\) \(b\)](#).

2. Each county board shall designate a head of emergency management. In counties having a county executive under s. [59.17](#), the county board shall designate the county executive or confirm his or her appointee as county head of emergency management. Notwithstanding sub. [\(2\) \(b\)](#), an individual may not simultaneously serve as the head of emergency management for 2 or more counties.

3. Each county board shall designate a committee of the board as a county emergency management committee. The chairperson of the county board shall designate the chairperson of the committee. In counties having a county executive under s. [59.17](#), the committee shall retain policy-making and rule-making powers in the establishment and development of county emergency management plans and programs.

(b)

1. The governing body of each city, village, or town shall develop and adopt an emergency management plan and program that is compatible with the state plan of emergency management adopted under s. [323.13 \(1\) \(b\)](#).

2. The governing body of each city, village, or town shall designate a head of emergency management services.

(2) ONGOING POWERS.

(a) The governing body of a local unit of government may appropriate funds and levy taxes for its emergency management program under sub. [\(1\)](#).

(b) Local units of government may cooperate under s. [66.0301](#) to furnish services, combine offices, and finance emergency management programs.

(c) Local units of government may contract for emergency management services with political subdivisions, agencies, and federally recognized American Indian tribes and bands of this state, and, upon prior approval of the adjutant general, with such entities in bordering states. A copy of each agreement shall be filed with the adjutant general within 10 days after execution of that agreement.

(3) DUTIES DURING AN EMERGENCY.

(a) If the governing body of a local unit of government declares an emergency under s. [323.11](#) and intends to make use of volunteer health care practitioners, as specified in s. [257.03](#), the governing body or its agent shall, as soon as possible, notify the department of health services of this intent.

(b) During a state of emergency declared by the governor, a local unit of government situated within the area to which the governor's executive order applies may employ personnel, facilities, and other resources consistent with the plan adopted under sub. [\(1\) \(a\) 1.](#) or [\(b\) 1.](#) to cope with the problems that resulted in the governor declaring the emergency. Nothing in this chapter prohibits local units of government from employing their personnel, facilities, and resources consistent with the plan adopted under sub. [\(1\) \(a\) 1.](#) or [\(b\) 1.](#) to cope with the problems of local disasters except where restrictions are imposed by federal regulations on property donated by the federal government.

(4) POWERS DURING AN EMERGENCY.

(a) The emergency power of the governing body conferred under s. [323.11](#) includes the general authority to order, by ordinance or resolution, whatever is necessary and expedient for the health, safety, protection, and welfare of persons and property within the local unit of government in the emergency and includes the power to bar, restrict, or remove all unnecessary traffic, both vehicular and pedestrian, from the highways, notwithstanding any provision of chs. [341](#) to [349](#).

(b) If, because of the emergency conditions, the governing body of the local unit of government is unable to meet promptly, the chief executive officer or acting chief executive officer of any local unit of government shall exercise by proclamation all of the powers conferred upon the governing body under par. (a) or s. [323.11](#) that appear necessary and expedient. The proclamation shall be subject to ratification, alteration, modification, or repeal by the governing body as soon as that body can meet, but the subsequent action taken by the governing body shall not affect the prior validity of the proclamation.

History: [2009 a. 42](#) ss. [98](#) to [102](#), [111](#), [112](#), [234](#) to [236](#), [294](#) to [299](#); Stats. 2009 s. 323.14.

7.30

4) APPOINTMENTS.

(a) Except in cities where there is a board of election commissioners, the mayor, president or board chairperson of each municipality shall nominate to the governing body no later than their last regular meeting in December of each odd-numbered year the necessary election officials for each polling place and any election officials required under s. [7.52 \(1\) \(b\)](#). If no regular meeting is scheduled, the mayor, president or chairperson shall call a special meeting for the purpose of considering nominations no later than December 31.

(b) The 2 dominant parties, under sub. (2), are each responsible for submitting a list of names from which all appointees to inspector positions, other than appointees to inspector positions authorized under sub. (1) (b), shall be chosen. Each person submitting the name of one or more nominees shall certify on his or her list of nominations that the person has contacted each nominee whose name appears on the list and that each nominee has agreed to serve as an election official. The nominations shall be submitted as follows:

1. In cities where there is a board of election commissioners, the county committee under s. [8.17](#) of each of the 2 recognized political parties described under sub. (2) shall submit a certified list no later than November 30 of each odd-numbered year containing the names of nominees from that party for each of the voting wards in the aldermanic district. For inspectors serving under s. [7.52 \(1\) \(b\)](#), the county committees under s. [8.17](#) of the 2 recognized political parties described under sub. (2) shall submit a certified list containing the names of nominees from that party who are to be appointed under s. [7.52 \(1\) \(b\)](#). The chairperson may designate any individual whose name is submitted as a first choice nominee. The chairperson shall sign any list submitted under this subdivision. The board of election commissioners shall appoint, no later than December 31 of odd-numbered years, at least 5 inspectors for each ward. Unless nonappointment is authorized under par. (e), the board of election commissioners shall appoint all first choice nominees for so long as positions are available. The board of election commissioners shall appoint other individuals in its discretion and may designate such alternates as it deems advisable.

2.

a. In a municipality other than a city or village located in a county having a population of more than 500,000, the committees organized under s. [8.17](#) for each of the 2 recognized political parties described under sub. [\(2\)](#) shall submit a list containing the names of nominees from that party. The chairperson of each of the 2 committees shall submit the list to the mayor, president, chairperson, or clerk of the municipality, or to his or her agent, or shall deliver or mail the list to the office of the municipality. If the chairperson submits the list to the municipal clerk or his or her agent, the clerk shall immediately forward the list to the mayor, president, or chairperson of the municipality. If committees are organized in subdivisions of a city, the chairperson of the city committee shall submit the list. If there is no municipal committee, the chairperson of the county or legislative district committee shall submit the list. Except as provided in par. [\(c\)](#), only those persons submitted by the chairperson of each committee under s. [8.17](#) may act as election officials. The chairperson of each committee under s. [8.17](#) may designate any individual whose name is submitted as a first choice nominee. The chairperson and secretary of the submitting committee shall sign the list.

b. In a city or village located in a county having a population of more than 500,000, other than a city where there is a board of election commissioners, if there is an aldermanic district or village member of a committee under s. [8.17](#) for the ward or wards where a polling place is located, the committee member shall submit a list containing the names of nominees from the recognized political party, described under sub. [\(2\)](#), represented by the committee member. For inspectors to be appointed under s. [7.52 \(1\) \(b\)](#), the committee members of the committees under s. [8.17](#) for the 2 recognized political parties described under sub. [\(2\)](#) for the municipality acting jointly shall submit a list containing the names of nominees from the party represented by the committee members of the committees for the municipality acting jointly. Nominations for inspectors to be appointed in a city or village where there is no aldermanic district or village committee member shall proceed in the same manner as in a municipality located in a county having a population of 500,000 or less. The appropriate committee member, committee members, or chairperson shall submit the list to the mayor, president, or clerk of the municipality, or to his or her agent, or shall deliver or mail the list to the office of the municipality. If the list is submitted to the municipal clerk or his or her agent, the clerk shall immediately forward the list to the mayor or president. Except as provided in par. [\(c\)](#), only those persons whose names are submitted as provided in this paragraph may act as election officials. The appropriate committee member, committee members, or chairperson may designate any individual whose name is submitted as a first choice nominee. The aldermanic district or village committee member or the chairperson of the appropriate committee shall sign the list.

c. Unless nonappointment is authorized under par. [\(e\)](#), upon submission of the lists of names as provided under subd. [2. a.](#) or [b.](#), the governing body shall appoint each first choice nominee for so long as positions to be filled from that list are available. The governing body shall appoint other nominees in its discretion. If any nominee is not appointed, the mayor, president, or chairperson of the municipality shall immediately nominate another person from the appropriate lists submitted and continue until the necessary number of election officials from each party is achieved at that meeting.

(c) Except with respect to inspectors who are appointed under sub. [\(1\) \(b\)](#), for so long as nominees are made available by the political parties under this section, appointments may be made only from the lists of nominees submitted under this subsection. If the lists are not submitted by November 30 of the year in which appointments are to be made, the board of election commissioners shall appoint, or the mayor, president or chairperson of a municipality

shall nominate, qualified persons whose names have not been submitted. The board of election commissioners shall give priority to appointing, and the mayor, president, or chairperson of the municipality shall give priority to nominating, qualified electors of the municipality for which no list of nominees was submitted. If an insufficient number of qualified electors of the municipality can be identified, the board of election commissioners may appoint, and the mayor, president, or chairperson of the municipality may nominate, qualified electors of a county within which the municipality is located. If an insufficient number of nominees appears on the lists as of November 30, the board of election commissioners shall similarly appoint, or the mayor, president or chairperson shall similarly nominate, sufficient individuals to fill the remaining vacancies. In addition, the mayor, president, or board chairperson of the municipality shall similarly nominate qualified persons to serve in the inspector positions authorized under sub. (1)(b). Any appointment under this paragraph which is made due to the lack of availability of names submitted under par. (b) may be made without regard to party affiliation.

(d) A party committee or aldermanic district or village committeeman or committeewoman under s. 8.17 may submit additional names for inclusion in its list of nominations under this section at any time for the purpose of filling vacancies that occur during a term of office. However, an appointment need at no time be delayed because of the lack of availability of party nominees.

(e) If an appointing authority believes that, for good cause, it should not appoint an individual whose name is submitted as a first choice nominee under par. (b), it may request the board to authorize nonappointment. The board may permit nonappointment of an individual for cause demonstrated by an appointing authority.

(1) CAUCUS.

8.05(1)(a)(a) When nomination papers are not used, there shall be a caucus to nominate candidates. The governing body shall between December 1 and January 1 decide the date of the caucus. The date of the caucus may be established between the first Tuesday in January and the last Tuesday in January. When possible, preference should be given to having the caucus on the last Tuesday in January.

(b) Whenever a caucus is held, the municipal clerk shall give notice of the date, time and place for the caucus by posting in the clerk's office and by one publication in a newspaper under ch. 985, at least 5 days before the date of the caucus.

(c) The town chairperson or village president together with the municipal clerk shall serve as caucus officials. If the chairperson or president is a candidate, he or she shall call for the election of officials to conduct the caucus. The officials shall be elected by acclamation or ballot as the meeting directs. The electors attending the meeting shall select 2 tellers to canvass the vote for each office at the caucus.

19.015 Actions by the state, municipality or district. Whenever the state or any county, town, city, village, school district or technical college district is entitled to recover any damages, money, penalty or forfeiture on any official bond, the attorney general, county chairperson, town chairperson, mayor, village president, school board president or technical college district board

chairperson, respectively, shall prosecute or cause to be prosecuted all necessary actions in the name of the state, or the municipality, against the officer giving the bond and the sureties for the recovery of the damages, money, penalty or forfeiture.

History: [1971 c. 154](#); [1983 a. 192](#); [1989 a. 56](#); [1993 a. 399](#).

24.67 Certificates of indebtedness.

(1) If the board approves the application, it shall cause certificates of indebtedness to be prepared in proper form and transmitted to the municipality, cooperative educational service agency, local professional baseball park district created under subch. [III of ch. 229](#), or federated public library system submitting the application. The certificate of indebtedness shall be executed and signed:

(a) For a school district, by its president.

(b) For a town, by its chairperson.

(c) For a village, by its president.

(d) For a city, by its mayor or city manager.

(e) For a technical college district, by its district board chairperson.

(f) For a county, by the chairperson of its board.

(g) For a public inland lake protection and rehabilitation district, by the chairperson of the board of commissioners.

(h) For a town sanitary district, by the president of the commission.

(i) For a metropolitan sewerage district created under s. [200.05](#), by the president of the commission.

(j) For a metropolitan sewerage system created under s. [200.23](#), by the chairperson of the commission.

(k) For a joint sewerage system, by the head of the commission.

(L) For a cooperative educational service agency, by the president of each school district for which the loan is made.

(m) For a federated public library system, by its president.

(n) For a drainage district created under ch. [88](#), by the president of the drainage district board.

(p) For a local professional baseball park district created under subch. [III of ch. 229](#), by the chairperson of the district board.

(2) The certificate of indebtedness shall be countersigned:

(a) For the county, town, village, or city, by the clerk of that county, town, village, or city.

(b) For a technical college district, by the district board secretary who shall return the certificate and deposit it with the board.

(c) For a public inland lake protection and rehabilitation district, by the secretary of the board of commissioners.

(d) For a town sanitary district, by the secretary of the commission.

(e) For a metropolitan sewerage district created under s. [200.05](#), by the secretary of the commission.

(f) For a metropolitan sewerage system created under s. [200.23](#), by the secretary of the commission.

(g) For a joint sewerage system, by a member of the commission designated by the commission who is not the person acting as head of the commission.

(h) For a federated public library system, by a member of the federated public library system board designated by that board who is not the president of that board.

(i) For a drainage district created under ch. [88](#), by the secretary of the drainage district board.

(j) For a local professional baseball park district created under subch. [III of ch. 229](#), by the secretary of the district board.

[24.67\(3\)](#) **(3)** If a municipality has acted under subs. [\(1\)](#) and [\(2\)](#), it shall certify that fact to the board. Upon receiving a certification from a municipality, or upon direction of the board if a loan is made to a cooperative educational service agency, drainage district created under ch. [88](#), local professional baseball park district created under subch. [III of ch. 229](#), or a federated public library system, the board shall disburse the loan amount, payable to the treasurer of the municipality, cooperative educational service agency, drainage district, or federated public library system making the loan or as the treasurer of the municipality, cooperative educational service agency, drainage district, local professional baseball park district, or federated public library system directs. The certificate of indebtedness shall then be conclusive evidence of the validity of the indebtedness and that all the requirements of law concerning the application for the making and acceptance of the loan have been complied with.

History: [1971 c. 154](#); [1979 c. 221](#); [1981 c. 169](#); Stats. 1981 s. 24.67; [1987 a. 76](#); [1993 a. 184](#), [399](#), [491](#); [1995 a. 27](#); [1999 a. 150](#) s. [672](#); [2001 a. 16](#); [2001 a. 30](#) s. [108](#); [2003 a. 33](#); [2007 a. 20](#); [2009 a. 28](#); [2011 a. 71](#).

26.13 Town fire wardens; duties, expenses.

(1) The chairperson of the town board of each town outside the limits of a forest protection area shall, by virtue of the office and the oath of the office, be town fire warden for the town. The fire warden shall assist and cooperate with the department in all matters relating to the prevention, detection and suppression of forest fires. If a town is unusually large or if special or peculiar conditions in connection with forest fires exist, the department may, upon recommendation of the town chairperson, annually appoint emergency fire wardens as necessary, whose duties and authority shall be the same as provided for emergency fire wardens serving in forest protection areas.

(2) All expenses arising from the prevention or suppression of forest fires by the town fire warden and by those called upon by the warden to assist in the work shall be borne by the town in which the expense was incurred. The town board may levy and assess a tax for defraying the expense. In addition the town board may levy a tax for the purchase of equipment for the suppression of forest fires. The taxes shall be collected in the same manner as other taxes, and when collected shall be paid into the town treasury from which the expense is paid.

[26.13\(3\)](#) **(3)** Whenever the town board of any town located outside of a forest protection area deems it imprudent to set fires upon any land within the town, they shall post or cause to be posted in 5 or more public places in each township in the town, notices which shall be prepared by the department, or place one such notice in the official county paper, forbidding the setting of fires in the township, and after the posting of the notices no person may set any fire upon any land in the town except for warming the person or cooking food, until written permission has been received from one of the fire wardens of the town.

History: [1977 c. 224](#); [1989 a. 56](#).

26.14 Forest fires, authority of fire fighters, compensation, penalties, civil liability.

(1) State forest rangers, town chairpersons, conservation wardens and other duly appointed deputies shall take prompt measures against the spread and illegal setting of forest fires. They may call upon any able-bodied citizen to assist in fighting fires in such manner as they direct.

(2) All such forest rangers, town chairpersons, emergency fire wardens, conservation wardens and other duly appointed deputies may in the performance of their official duty go on the lands of any person to fight forest fires, and in so doing may set back fires, dig trenches, cut fire lines or carry on all other customary activities in the fighting of forest fires, without incurring a liability to anyone.

(3) Emergency fire wardens, and all persons employed by them or by any other duly appointed fire warden for the purpose of suppressing forest fires, shall receive such hourly pay as the department may determine, for the time actually employed. Equipment operators and other specialists shall be paid the prevailing wage rate for comparable skills in each locality. And in addition thereto the department may allow the cost of meals, transportation and disbursements for emergency equipment. One-half of such expense shall be paid by the state and one-half by the county where such service was performed.

(4) Emergency fire wardens or those assisting them in the fighting of forest fires shall prepare itemized accounts of their services and the services of those employed by them, as well as other expenses incurred, on blanks to be furnished by the department and in a manner prescribed by the department, and make oaths or affirmation that said account is just and correct, which account shall be forwarded and approved for payment by the department. As soon as any such account has been paid by the secretary of administration the department of natural resources shall send to the proper county treasurer a bill for the county's share of such expenses. The county shall have 60 days within which to pay such bill, but if not paid within that time the county shall be liable for interest at the rate of 6% per year. If payment is not made within 60 days the department of administration shall include such amount as a part of the next levy against the county for state taxes, but no county shall be required to pay more than \$5,000 in any one year. Any unpaid levy under this section shall remain a charge against the county and the department of administration shall include such unpaid sums in the state tax levy of the respective counties in subsequent years.

(5) Any person who sets a fire or assists in the setting of a fire, including a back fire, on any lands in this state and fails to totally extinguish such fire before leaving it shall forfeit not more than \$100 for the first offense and shall be fined not more than \$500 or imprisoned for not more than 30 days or both for each subsequent offense.

(6) Any person who sets a fire or assists in setting a fire, including a back fire, on any lands in this state and allows the fire to escape and become a forest fire shall be fined not more than \$1,000 or imprisoned not more than 90 days or both.

(7) Any person who sets or assists in setting a fire upon marsh or other land in the state for the purpose of driving out game birds or animals shall be fined not more than \$1,000 or imprisoned not more than 90 days or both. The possession of firearms upon any marsh while it is on fire shall be prima facie evidence of such violation.

(8) Any person who intentionally sets fire to the land of another or to a marsh is guilty of a Class H felony.

(9)

(a) Nothing in this chapter shall be construed as affecting the right to damages. The liability of persons for damages is not limited to the destruction of merchantable timber but may also include the value of young or immature forest growth.

(b) Any person who sets a fire on any land and allows such fire to escape and become a forest fire shall be liable for all expenses incurred in the suppression of the fire by the state or town in which the fire occurred. An action under this paragraph shall be commenced within the time provided by s. [893.91](#) or be barred.

History: [1973 c. 336](#); [1975 c. 365](#); [1977 c. 449](#); [1979 c. 110 s. 60 \(13\)](#); [1979 c. 323](#); [1983 a. 36, 422](#); [1989 a. 56, 79](#); [1995 a. 291](#); [1997 a. 283](#); [2001 a. 109](#); [2003 a. 33](#).

A stipulation of facts stating that there was a "large grass fire" did not necessarily mean there was a forest fire as defined in s. 26.11 (2) [now s. 26.01 (2)]. *Town of Howard v. Soo Line Railroad Co.* [63 Wis. 2d 500](#), [217 N.W.2d 329](#) (1974).

An intentional or negligent act, or an omission if there is a duty to act, is a necessary prerequisite for imposition of fire suppression costs under sub. (9) (b). *DNR v. Wisconsin Power & Light Co.* [108 Wis. 2d 403](#), [321 N.W.2d 286](#) (1982).

62.13 Police and fire departments.

[62.13\(1\) \(1\)](#) COMMISSIONERS. Except as provided in subs. [\(2g\)](#), [\(2m\)](#), [\(2s\)](#), and [\(8\) \(b\)](#) each city shall have a board of police and fire commissioners consisting of 5 citizens, 3 of whom shall constitute a quorum. The mayor shall annually, between the last Monday of April and the first Monday of May, appoint in writing to be filed with the secretary of the board, one member for a term of 5 years. No appointment shall be made which will result in more than 3 members of the board belonging to the same political party. The board shall keep a record of its proceedings.

(j) The provisions of pars. [\(a\)](#) to [\(i\)](#) shall apply to disciplinary actions against the chiefs where applicable. In addition thereto, the board may suspend a chief pending disposition of charges filed by the board or by the mayor of the city.

66.0517 Weed commissioner.

(1) DEFINITION. In this section, "noxious weeds" has the meaning given in s. [66.0407 \(1\) \(b\)](#).

(2) APPOINTMENT.

(a) *Town, village and city weed commissioner.* The chairperson of each town, the president of each village and the mayor of each city may appoint one or more commissioners of noxious weeds on or before May 15 in each year. A weed commissioner shall take the official oath and the oath shall be filed in the office of the town, village or city clerk. A weed commissioner shall hold office for one year and until a successor has qualified or the town chairperson, village president or mayor determines not to appoint a weed commissioner. If more than one commissioner is appointed, the town, village or city shall be divided into districts by the officer making the

appointment and each commissioner shall be assigned to a different district. The town chairperson, village president or mayor may appoint a resident of any district to serve as weed commissioner in any other district of the same town, village or city.

3) POWERS, DUTIES AND COMPENSATION.

(a) *Destruction of noxious weeds.* A weed commissioner shall investigate the existence of noxious weeds in his or her district. If a person in a district neglects to destroy noxious weeds as required under s. [66.0407 \(3\)](#), the weed commissioner shall destroy, or have destroyed, the noxious weeds in the most economical manner. A weed commissioner may enter upon any lands that are not exempt under s. [66.0407 \(5\)](#) and cut or otherwise destroy noxious weeds without being liable to an action for trespass or any other action for damages resulting from the entry and destruction, if reasonable care is exercised.

(b) *Compensation of weed commissioner.*

1. Except as provided in sub. [\(2\) \(b\)](#), a weed commissioner shall receive compensation for the destruction of noxious weeds as determined by the town board, village board, or city council upon presenting to the proper treasurer the account for noxious weed destruction, verified by oath and approved by the appointing officer. The account shall specify by separate items the amount chargeable to each piece of land, describing the land, and shall, after being paid by the treasurer, be filed with the town, village, or city clerk. The clerk 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 the weeds were destroyed. The tax shall be collected under ch. [74](#), except in case of lands which are exempt from taxation, railroad lands, or other lands for which taxes are not collected under ch. [74](#). A delinquent tax may be collected as is a delinquent real property tax under chs. [74](#) and [75](#) or as is a delinquent personal property tax under ch. [74](#). In case of railroad lands or other lands for which taxes are not collected under ch. [74](#), the amount chargeable against these lands shall be certified by the town, village, or city clerk to the secretary of administration who shall add the amount designated to the sum due from the company owning, occupying, or controlling the lands specified. The secretary of administration shall collect the amount chargeable as prescribed in subch. [I of ch. 76](#) and return the amount collected to the town, city, or village from which the certification was received.

2. For the performance of duties other than the destruction of noxious weeds, a weed commissioner shall receive compensation to be determined by the town board, village board or city council.

History: [1999 a. 150](#); [2003 a. 33](#).

70.64 Review of equalized values.

(5) APPEARANCE. Not later than 30 days after the clerk of the county or taxation district has mailed the certified copies, unless the time is extended by order of the tax appeals commission, any county, town, city or village may cause an appearance to be entered in its behalf before the commission in support of the appeal and uniting with the appellant for the relief demanded; and by verified petition or statement showing grounds therefor may apply for other or further review and redetermination than that demanded in the appeal. Within the same time the county, town, city or village in the county may in the

same manner have its appearance entered in opposition to the appeal and to the relief demanded. Such appearances shall be authorized in the manner for authorizing an appeal under sub. (2). When so authorized the interests of the county, town, city or village authorizing it shall be in the charge of the chairperson, mayor or president thereof unless otherwise directed by the body authorizing such appearance; and attorneys may be employed in that behalf. In such appearances any 2 or more of the towns, cities and villages of the county may join if united in support of or in opposition to the appeal. Four copies of each appearance, petition or statement mentioned in this subsection shall be filed in the offices of the tax appeals commission and a copy of each mailed by certified mail to the department of revenue, to the county clerk, and to the clerk of each town, city and village within the county, and a copy to the attorney authorized to appear on behalf of the county or any town, city or village within the county.

70.67 Municipal treasurer's bond; substitute for.

(1) The treasurer of each town, city or village shall, unless exempted under sub. (2), execute and deliver to the county treasurer a bond, with sureties, to be approved, in case of a town treasurer, by the chairperson of the town, and in case of a city or village treasurer by the county treasurer, conditioned for the faithful performance of the duties of the office and that the treasurer will account for and pay over according to law all taxes of any kind which are received and which are required to be paid to the county treasurer. If such bond is executed, or the condition thereof guaranteed by personal sureties, the amount of the bonds shall be double the amount of state and county taxes apportioned to the town, village or city, provided that the amount of such bond shall not exceed the sum of \$500,000. When such bond is executed, or the condition thereof guaranteed, solely by a surety company as provided in s. 632.17 (2), such bond shall be in a sum equal to the amount of such state and county taxes, provided that the amount of such bond shall not exceed the sum of \$250,000. The county treasurer shall give to said town, city or village treasurer a receipt for said bond, and file and safely keep said bond in the office.

83.015 County highway committee.

(1) ELECTION; COMPENSATION; TERM.

(a) Except as otherwise provided in par. (c) each county board at the annual meeting shall by ballot elect a committee of not less than 3 nor more than 5 persons, to serve for one year, beginning either as soon as elected or on January 1 following their election, as designated by the county board, and until their successors are elected. Any vacancy in the committee may be filled until the next meeting of the county board by appointment made by the chairperson of the board. The committee shall be known as the "county highway committee", and shall be the only committee representing the county in the expenditure of county funds in constructing or maintaining, or aiding in constructing or maintaining highways.

(b) The members of the county highway committee shall be reimbursed for their necessary expenses incurred in the performance of their duties, and shall be paid the same per diem for time necessarily spent in the performance of their duties as is paid to members of other county board committees, not, however, exceeding \$500 for per diem, in addition to necessary expenses, to any member in any year. A different amount may be fixed as a maximum by the county board.

(c) Notwithstanding par. (a), each county board may fix the number of members on the county highway committee, the membership, manner of appointment, method of filling vacancies and the terms of the members.

[83.015\(1\)\(d\)](#) (d) The town chairperson of each town in which county aid construction is performed shall be a member of the county highway committee, or shall act with such committee, on all matters affecting such construction in the town, if the town has voted a portion of the cost thereof.

83.09 Emergency repairs of county trunk highways. Whenever a flood or other casualty renders any county trunk highway dangerous for travel, the town chairperson may immediately close it and notify the county highway commissioner thereof, and the commissioner shall promptly make repairs necessary to render the highway safe for travel. If sufficient funds are not available in the county maintenance fund, the commissioner may, with the consent of the chairperson of the county board or of the county highway committee, make the necessary repairs, and the cost thereof shall be paid as soon as funds are available.

History: [1983 a. 192 s. 303 \(2\)](#); [1989 a. 56 s. 258](#); [2003 a. 214](#).

NOTE: [2003 Wis. Act 214](#), which affected this section, contains extensive explanatory notes.

167.10 Regulation of fireworks.

(1) DEFINITION. In this section, "fireworks" means anything manufactured, processed or packaged for exploding, emitting sparks or combustion which does not have another common use, but does not include any of the following:

(a) Fuel or a lubricant.

(b) A firearm cartridge or shotgun shell.

(c) A flare used or possessed or sold for use as a signal in an emergency or in the operation of a railway, aircraft, watercraft or motor vehicle.

(d) A match, cigarette lighter, stove, furnace, candle, lantern or space heater.

(e) A cap containing not more than one-quarter grain of explosive mixture, if the cap is used or possessed or sold for use in a device which prevents direct bodily contact with a cap when it is in place for explosion.

(f) A toy snake which contains no mercury.

(g) A model rocket engine.

- (h) Tobacco and a tobacco product.
 - (i) A sparkler on a wire or wood stick not exceeding 36 inches in length that is designed to produce audible or visible effects or to produce audible and visible effects.
 - (j) A device designed to spray out paper confetti or streamers and which contains less than one-quarter grain of explosive mixture.
 - (k) A fuseless device that is designed to produce audible or visible effects or audible and visible effects, and that contains less than one-quarter grain of explosive mixture.
 - (L) A device that is designed primarily to burn pyrotechnic smoke-producing mixtures, at a controlled rate, and that produces audible or visible effects, or audible and visible effects.
 - (m) A cylindrical fountain that consists of one or more tubes and that is classified by the federal department of transportation as a Division 1.4 explosive, as defined in [49 CFR 173.50](#).
 - (n) A cone fountain that is classified by the federal department of transportation as a Division 1.4 explosive, as defined in [49 CFR 173.50](#).
 - (p) A novelty device that spins or moves on the ground.
- (2) SALE.** No person may sell or possess with intent to sell fireworks, unless any of the following apply:
- (a) The person sells the fireworks, or possesses the fireworks with intent to sell them, to a person holding a permit under sub. [\(3\) \(c\)](#).
 - (b) The person sells the fireworks, or possesses the fireworks with intent to sell them, to a city, village or town.
 - (bg) The person sells the fireworks, or possesses the fireworks with intent to sell them, to a person who is not a resident of this state.
 - (c) The person sells the fireworks, or possesses the fireworks with intent to sell them, for a purpose specified under sub. [\(3\) \(b\) 2.](#) to [6.](#)
- (3) USE.**
- (a) No person may possess or use fireworks without a user's permit from the mayor of the city, president of the village or chairperson of the town in which the possession or use is to occur or from a person designated by the mayor, president or chairperson to issue a user's permit. No person may use fireworks or a device listed under sub. [\(1\) \(e\)](#) to [\(g\)](#) or [\(i\)](#) to [\(n\)](#) while attending a fireworks display for which a permit has been issued to a person listed under par. [\(c\) 1.](#) to [5.](#) or under par. [\(c\) 6.](#) if the display is open to the general public.
 - (b) Paragraph [\(a\)](#) does not apply to:
 1. The city, village or town, but municipal fire and law enforcement officials shall be notified of the proposed use of fireworks at least 2 days in advance.
 2. The possession or use of explosives in accordance with rules or general orders of the department of safety and professional services.
 3. The disposal of hazardous substances in accordance with rules adopted by the department of natural resources.
 4. The possession or use of explosive or combustible materials in any manufacturing process.
 5. The possession or use of explosive or combustible materials in connection with classes conducted by educational institutions.
 6. A possessor or manufacturer of explosives in possession of a license or permit under [18 USC 841](#) to [848](#) if the possession of the fireworks is authorized under the license or permit.
 7. Except as provided in par. [\(bm\)](#), the possession of fireworks in any city, town or village while transporting the fireworks to a city, town or village where the possession of the fireworks is authorized by permit or ordinance.

(bm) Paragraph (a) applies to a person transporting fireworks under par. (b) 7. if, in the course of transporting the fireworks through a city, town or village, the person remains in that city, town or village for a period of at least 12 hours.

(c) A permit under this subsection may be issued only to the following persons:

1. A public authority.
2. A fair association.
3. An amusement park.
4. A park board.
5. A civic organization.
6. Any individual or group of individuals.
7. An agricultural producer for the protection of crops from predatory birds or animals.

(d) A person issued a permit for crop protection shall erect appropriate warning signs disclosing the use of fireworks for crop protection.

(e) The person issuing a permit under this subsection may require an indemnity bond with good and sufficient sureties or policy of liability insurance for the payment of all claims that may arise by reason of injuries to person or property from the handling, use or discharge of fireworks under the permit. The bond or policy, if required, shall be taken in the name of the city, village or town wherein the fireworks are to be used, and any person injured thereby may bring an action on the bond or policy in the person's own name to recover the damage the person has sustained, but the aggregate liability of the surety or insurer to all persons shall not exceed the amount of the bond or policy. The bond or policy, if required, together with a copy of the permit shall be filed in the office of the clerk of the city, village or town.

(f) A permit under this subsection shall specify all of the following:

1. The name and address of the permit holder.
2. The date on and after which fireworks may be purchased.
3. The general kind and approximate quantity of fireworks which may be purchased.
4. The date and location of permitted use.
5. Other special conditions prescribed by ordinance.

(fm) If a city, village, or town requires that a user's permit be signed or stamped, a person who is authorized to issue the permit under par. (a) may sign or stamp the permit before the permit is issued rather than signing or stamping the permit at the time that it is issued.

(g) A copy of a permit under this subsection shall be given to the municipal fire or law enforcement official at least 2 days before the date of authorized use. This paragraph does not apply to a permit authorizing only the sale or possession of fireworks that are classified by the federal department of transportation as Division 1.4 explosives, as defined in [49 CFR 173.50](#).

(h) A permit under this subsection may not be issued to a minor.

(4) OUT-OF-STATE AND IN-STATE SHIPPING. This section does not prohibit a vendor from selling fireworks to a nonresident person or to a person or group granted a permit under sub. (3) (c) 1. to 7. A vendor that ships fireworks sold under this subsection shall package and ship the fireworks in accordance with applicable state and federal law.

(5) LOCAL REGULATION.

(a) Subject to pars. (b) to (e), a city, village, town or county may enact an ordinance for any of the following:

1. Defining "fireworks" to include all items included under sub. (1) (intro.) and anything under sub. (1) (e), (f), (i), (j), (k), (L), (m) and (n).
2. Prohibiting the sale, possession or use, as defined by ordinance, of fireworks.
3. Regulating the sale, possession or use, as defined by ordinance, of fireworks.

- (b) An ordinance under par. (a) may not be less restrictive in its coverage, prohibition or regulation than this section but may be more restrictive than this section.
- (d) A county ordinance enacted under par. (a) does not apply and may not be enforced within any city, village or town that has enacted or enacts an ordinance under par. (a).
- (e) Notwithstanding par. (a) or par. (b), no city, village, town or county may enact an ordinance that prohibits the possession of fireworks in that city, town, village or county while transporting the fireworks to a city, town, village or county where the possession of the fireworks is authorized by permit or ordinance.

(6) STORAGE AND HANDLING.

- (a) No wholesaler, dealer or jobber may store or handle fireworks in premises unless the premises are equipped with fire extinguishers approved by the fire official of the municipality where the premises are located.
- (b) No person may smoke where fireworks are stored or handled.
- (c) A person who stores or handles fireworks shall notify the fire official of the municipality in which the fireworks are stored or handled of the location of the fireworks.
- (d) No wholesaler, dealer or jobber may store fireworks within 50 feet of a dwelling.
- (e) No person may store fireworks within 50 feet of a public assemblage or place where gasoline or volatile liquid is dispensed in quantities exceeding one gallon.

(6m) LICENSING AND INSPECTING MANUFACTURERS.

- (a) No person may manufacture in this state fireworks or a device listed under sub. (1) (e), (f) or (i) to (n) without a fireworks manufacturing license issued by the department of safety and professional services under par. (d).
- (b) No person may manufacture in this state fireworks or a device listed under sub. (1) (e), (f) or (i) to (n) unless the person complies with the rules of the department of safety and professional services promulgated under par. (e).
- (c) Any person who manufactures in this state fireworks or a device listed under sub. (1) (e), (f) or (i) to (n) shall provide the department of safety and professional services with a copy of each federal license issued under [18 USC 843](#) to that person.
- (d) The department of safety and professional services shall issue a license to manufacture fireworks or devices listed under sub. (1) (e), (f) or (i) to (n) to a person who complies with the rules of the department promulgated under par. (e). The department may not issue a license to a person who does not comply with the rules promulgated under par. (e). The department may revoke a license under this subsection for the refusal to permit an inspection at reasonable times by the department or for a continuing violation of the rules promulgated under par. (e).
- (e) The department of safety and professional services shall promulgate rules to establish safety standards for the manufacture in this state of fireworks and devices listed under sub. (1) (e), (f) or (i) to (n).
- (f) The department of safety and professional services may inspect at reasonable times the premises on which each person licensed under this subsection manufactures fireworks or devices listed under sub. (1) (e), (f) or (i) to (n).

(7) PARENTAL LIABILITY. A parent, foster parent, family-operated group home parent, or legal guardian of a minor who consents to the use of fireworks by the minor is liable for damages caused by the minor's use of the fireworks.

(7m) MUNICIPAL LIABILITY. No city, village, or town, or committee, official, or employee of a city, village, or town, is civilly liable for damage to any person or property caused by fireworks for the sole reason that the city, village, or town issued a permit in accordance with the

requirements of sub. (3) and any applicable requirements authorized under sub. (5), that authorized the purchase, possession, or use of the fireworks.

(8) ENFORCEMENT.

(a) A city, village or town may petition the circuit court for an order enjoining violations of sub. (2), (3) or (6) or an ordinance adopted under sub. (5).

(b) Fireworks stored, handled, sold, possessed or used by a person who violates this section, an ordinance adopted under sub. (5) or a court order under par. (a) may be seized and held as evidence of the violation. Except as provided in s. 968.20 (4), only the fireworks that are the subject of a violation of this section, an ordinance adopted under sub. (5) or a court order under par. (a) may be destroyed after conviction for a violation. Except as provided in s. 968.20 (4), fireworks that are seized as evidence of a violation for which no conviction results shall be returned to the owner in the same condition as they were when seized to the extent practicable.

(9) PENALTIES.

(a) A person who violates a court order under sub. (8) (a) shall be fined not more than \$10,000 or imprisoned not more than 9 months or both.

(b) A person who violates sub. (2), (3) or (6) or an ordinance adopted under sub. (5) shall forfeit not more than \$1,000.

(c) A parent or legal guardian of a minor who consents to the use of fireworks by the minor shall forfeit not more than \$1,000.

(g) Whoever violates sub. (6m) (a), (b) or (c) or a rule promulgated under sub. (6m) (e) is guilty of a Class G felony.

History: [1977 c. 260](#); [1983 a. 446, 538](#); [1985 a. 135](#); [1987 a. 377](#); [1987 a. 403 s. 256](#); [1989 a. 31](#); [1989 a. 56 s. 258](#); [1993 a. 208, 446, 491](#); [1995 a. 27 ss. 4464 to 4469 and 9116 \(5\)](#); [1995 a. 330](#); [1997 a. 3, 35, 283](#); [2001 a. 109](#); [2003 a. 298](#); [2007 a. 20](#); [2009 a. 28](#); [2011 a. 32](#).

NOTE: [2003 Wis. Act 298](#), which created sub. (7m), contains explanatory notes.

Cross-reference: See also ss. [SPS 305.21](#), [307.50](#), and [307.51](#), Wis. adm. code.

A fireworks purchaser must have a federal license, hold a valid permit under this section or be a municipality. There is no exception from this requirement because the seller holds a federal license. *City of Wisconsin Dells v. Dells Fireworks, Inc.* [197 Wis. 2d 1, 539 N.W.2d 916](#) (Ct. App. 1995).

Fireworks permits issued to groups do not authorize sales of fireworks to group members for their individual use. *City of Wisconsin Dells v. Dells Fireworks, Inc.* [197 Wis. 2d 1, 539 N.W.2d 916](#) (Ct. App. 1995), [94-1999](#).

Sub. (4) allows sales to purchasers physically outside of the state's boundaries but does not permit sales within the state's boundaries to nonresidents. Sub. (4) permits the purchase of restricted fireworks within the state only by purchasers with a permit or who fit within a specified exception under sub. (2). *State v. Victory Fireworks, Inc.* [230 Wis. 2d 721, 602 N.W.2d 128](#) (Ct. App. 1999), [99-0243](#).

778.11 Duty of town officers. The chairperson of the town shall cause an action to be commenced under this chapter for the recovery of any forfeiture which he or she knows or has reason to believe has been incurred in the town, if the forfeiture is recoverable before a

municipal court, and every other town officer knowing or having reason to believe that any forfeiture has been incurred shall forthwith notify the town chairperson.

History: [1977 c. 305](#); [1979 c. 32 s. 56](#); Stats. 1979 s. 778.11; [1989 a. 56 s. 258](#).

(1m) PAYMENT AND PERFORMANCE ASSURANCE REQUIREMENTS.

(c) *State contracts.* The following requirements apply to contracts with the state for performing, furnishing, or procuring labor, services, materials, plans, or specifications for a public improvement or public work:

1. In the case of a contract with a contract price exceeding \$10,000, as indexed under sub. [\(1s\)](#), but not exceeding \$100,000, as indexed under sub. [\(1s\)](#):

a. The contract shall include a provision which allows the state to make direct payment to subcontractors or to pay the prime contractor with checks that are made payable to the prime contractor and to one or more subcontractors. This subd. [1. a.](#) does not apply to any contract entered into by the state under authority granted under chs. [84](#), [85](#) and [86](#). This subd. [1. a.](#) also does not apply to any contract with a town, city, village, county or school district for the construction, improvement, extension, repair, replacement or removal of a transportation facility, as defined under s. [84.185 \(1\) \(d\)](#); bikeway, as defined under s. [84.60 \(1\) \(a\)](#); bridge; parking lot or airport facility.

b. The contract shall comply with written standards established by the department of administration. Written standards established under this subd. [1. b.](#) shall include criteria for determining whether the contract requires payment or performance assurances and, if so, what payment or performance assurances are required.

2. In the case of a contract with a contract price exceeding \$100,000, as indexed under sub. [\(1s\)](#), but not exceeding \$250,000, as indexed under sub. [\(1s\)](#):

a. The contract shall include a provision which allows the state to make direct payment to subcontractors or to pay the prime contractor with checks that are made payable to the prime contractor and to one or more subcontractors. This subd. [2. a.](#) does not apply to any contract entered into by the state under authority granted under chs. [84](#), [85](#) and [86](#). This subd. [2. a.](#) also does not apply to any contract with a town, city, village, county or school district for the construction, improvement, extension, repair, replacement or removal of a transportation facility, as defined under s. [84.185 \(1\) \(d\)](#); bikeway, as defined under s. [84.60 \(1\) \(a\)](#); bridge; parking lot or airport facility.

b. The contract shall require the prime contractor to provide a payment and performance bond meeting the requirements of par. [\(e\)](#), unless the department of administration allows the prime contractor to substitute a different payment assurance for the payment and performance bond. The department of administration may allow a prime contractor to substitute a different payment and performance assurance for the payment and performance bond only after the contract has been awarded and only if the substituted payment and performance assurance is for an amount at least equal to the contract price and is in the form of a bond, an irrevocable letter of credit or an escrow account acceptable to the department of administration. The department of administration shall establish written standards under this subd. [2. b.](#) governing when a different payment and performance assurance may be substituted for a payment and performance bond under par. [\(e\)](#).

3. In the case of a contract with a contract price exceeding \$250,000, as indexed under sub. (1s), the contract shall require the prime contractor to obtain a payment and performance bond meeting the requirements under par. (e).

(d) *Local government contracts.* The following requirements apply to contracts, other than contracts with the state, for performing, furnishing, or procuring labor, services, materials, plans, or specifications for a public improvement or public work:

1. In the case of a contract with a contract price exceeding \$10,000, as indexed under sub. (1s), but not exceeding \$50,000, as indexed under sub. (1s):

a. The contract shall include a provision which allows the governmental body that is authorized to enter into the contract to make direct payment to subcontractors or to pay the prime contractor with checks that are made payable to the prime contractor and to one or more subcontractors. This subd. 1. a. does not apply to any contract with a town, city, village, county or school district for the construction, improvement, extension, repair, replacement or removal of a transportation facility, as defined under s. 84.185 (1) (d); bikeway, as defined under s. 84.60 (1) (a); bridge; parking lot or airport facility.

b. The contract shall comply with written standards established by the public body authorized to enter into the contract. Written standards established under this subd. 1. b. shall include criteria for determining whether the contract requires payment or performance assurances and, if so, what payment or performance assurances are required.

2. In the case of a contract with a contract price exceeding \$50,000, as indexed under sub. (1s), but not exceeding \$100,000, as indexed under sub. (1s):

a. The contract shall include a provision which allows the governmental body that is authorized to enter into the contract to make direct payment to subcontractors or to pay the prime contractor with checks that are made payable to the prime contractor and to one or more subcontractors. This subd. 2. a. does not apply to any contract with a town, city, village, county or school district for the construction, improvement, extension, repair, replacement or removal of a transportation facility, as defined under s. 84.185 (1) (d); bikeway, as defined under s. 84.60 (1) (a); bridge; parking lot or airport facility.

779.14(1m)(d)2.b. b. Except as provided in sub. (4), the contract shall require the prime contractor to provide a payment and performance bond meeting the requirements of par. (e), unless the public body authorized to enter into the contract allows the prime contractor to substitute a different payment assurance for the payment and performance bond. The public body may allow a prime contractor to substitute a different payment and performance assurance for the payment and performance bond only if the substituted payment and performance assurance is for an amount at least equal to the contract price and is in the form of a bond, an irrevocable letter of credit or an escrow account acceptable to the public body. The public body shall establish written standards under this subd. 2. b. governing when a different payment and performance assurance may be substituted for a payment and performance bond under par. (e).

3. Except as provided in sub. (4), in the case of a contract with a contract price exceeding \$100,000, as indexed under sub. (1s), the contract shall require the prime contractor to obtain a payment and performance bond meeting the requirements under par. (e).

(e) *Bonding requirements.*

2. A bond required under par. (c) or (d) shall carry a penalty of not less than the contract price, and shall be conditioned for all of the following:

a. The faithful performance of the contract.

b. The payment to every person, including every subcontractor, supplier, or service provider, of all claims that are entitled to payment for labor, services, materials, plans, or specifications performed, furnished, or procured for the purpose of making the public improvement or performing the public work as provided in the contract and sub. [\(1e\)\(a\)](#).

3. A bond required under par. [\(c\)](#) shall be approved for the state by the state official authorized to enter the contract. A bond required under par. [\(d\)](#) shall be approved for a county by its corporation counsel, for a city by its mayor, for a village by its president, for a town by its chairperson, for a school district by its president and for any other public board or body by the presiding officer thereof.

4. No assignment, modification or change of the contract, change in the work covered thereby or extension of time for the completion of the contract may release the sureties on a bond required under par. [\(c\)](#) or [\(d\)](#).

5. Neither the invitation for bids nor the person having power to approve the prime contractor's bond may require that a bond required under par. [\(c\)](#) or [\(d\)](#) be furnished by a specified surety company or through a specified agent or broker.

(f) *Direct purchase contracts.* Paragraphs [\(c\)](#) and [\(d\)](#) do not apply to a contract for the direct purchase of materials by the state or by a local unit of government.