

office, to discharge the duties of the officer during the officer's suspension. If it is determined in the action or proceedings or is found upon investigation that the officer has not in any particular willfully neglected the officer's duty in connection with public moneys, and that fact is certified to the secretary of state by the judge, governor or other officer who conducted the action, proceedings or investigation, the suspended officer, unless the officer has been removed from office for any cause provided by law, shall thereby be restored to office, if the term for which the officer was elected or appointed has not expired, and shall thereby become entitled to the emoluments of the office for all of the time the officer would have served therein had the officer not been suspended as herein provided.

(2) This section in no manner impairs or restricts the power of the governor or other officer or body to remove any officer from office as provided by law.

History: 1991 a. 316.

17.09 Removal of elective county officers. Elective county officers may be removed from office as follows:

(1) COUNTY CLERK; TREASURER; SURVEYOR; SUPERVISOR. The county clerk, county treasurer or surveyor, or a county supervisor, by the county board, for cause, by a vote of two-thirds of all the supervisors entitled to seats on such board.

(2) CLERK OF CIRCUIT COURT. The clerk of the circuit court, by the judge or a majority of judges of the circuit court for the clerk's county, for cause.

(5) OTHER ELECTIVE COUNTY OFFICERS. The sheriff, coroner or register of deeds, by the governor, for cause.

History: 1977 c. 449; 1979 c. 32; 1989 a. 31.

Removal is governed by s. 17.16 and contemplates a determination of cause by the board. An ordinance making a violation *ipso facto* cause for removal impermissibly circumvents that procedure. 66 Atty. Gen. 148.

17.10 Removal of appointive county officers.

(1) APPOINTED BY GOVERNOR. County officers appointed by the governor may be removed by the governor for cause.

(2) APPOINTED BY COUNTY BOARD. County officers appointed by the county board may be removed by the county board for cause. All removals may be made by an affirmative vote of two-thirds of the supervisors entitled to seats on the county board.

(3) APPOINTED BY CHAIRPERSON OF COUNTY BOARD. County officers appointed by the chairperson of the county board may be removed by the chairperson for cause, except members of the county civil service commission who may be removed by the county board for cause under sub. (2). A county commissioner of elections so removed may appeal to the county board within 10 days after removal; the county board shall conduct a hearing in the manner determined by it and shall determine the question of removal.

(4) APPOINTED BY THE CIRCUIT JUDGE. County officers appointed by a judge or judges of the circuit court may be removed at pleasure by the judge or a majority of the judges authorized to appoint the officers' successors.

(5) APPOINTED BY THE COUNTY JUDGE. County officers appointed by the county judge may be removed at pleasure by the circuit judge or a majority of the circuit judges authorized to appoint the officers' successors.

(6) OTHERS. (a) Except as provided under par. (b), all other appointive county officers may be removed at pleasure by the officer or body that appointed them. Removals by a body, other than the county board, consisting of 3 or more members may be made by an affirmative vote of two-thirds of all the members thereof.

(b) The following appointive county officers may be removed for cause only:

1. Disposition staff and intake workers appointed to provide services under chs. 48 and 938.

2. Any person appointed to administer services under s. 46.22, 46.23, 51.42 or 51.437.

(7) GENERAL EXCEPTION. County officers appointed according to merit and fitness under and subject to a civil service law, or whose removal is governed by such a law, shall be removed only as therein provided.

History: 1977 c. 354; 1983 a. 192; 1985 a. 29; 1995 a. 77.

In a county that does not have a county executive or administrator, the personnel committee of the county board does not possess the statutory authority to remove the county social services director. The county board may not, under s. 59.025, 1993 stats., [now 59.03 (1)], transfer the authority to appoint. 81 Atty. Gen. 145.

Removal of the chairperson of a county board may be at the will of a simple majority of the board under s. 59.12. This section is inapplicable. Sub. (2) applies only to persons who are removed from a position as a county officer. Ending the tenure of a member of the county board as chair of the board does not oust that member from county office but only from a particular position on the board. OAG 1-07.

17.11 Suspension of district attorney or sheriff. (1) If any district attorney or sheriff is arrested for or charged with any offense against the laws of this state, or if the governor is credibly informed that any district attorney or sheriff is guilty of any offense against the laws of this state, or that proceedings are pending before any court or officer involving any criminal charge against any district attorney or sheriff, or that any district attorney or sheriff willfully neglects or refuses to perform that district attorney's or sheriff's duties, the governor shall in the case of a felony and may in the case of a misdemeanor suspend the district attorney or sheriff from office until the charge shall be investigated and finally determined. The governor shall, in the case of the district attorney, appoint the attorney general or one of the attorney general's assistants or some competent attorney of the state, and the governor shall, in the case of the sheriff, appoint a suitable person, to discharge the duties of the affected office during the suspension.

(2) (a) The state shall pay an attorney temporarily appointed under sub. (1) for his or her services and expenses in an amount determined and fixed by the governor.

(b) The county in which a person is temporarily appointed sheriff under sub. (1) shall pay the appointed sheriff for his or her services in an amount determined and fixed by the governor and certified by the governor to the county clerk of the county.

(3) Any attorney so temporarily appointed shall have all the power and discharge all the duties of the district attorney and that attorney shall speedily bring to a hearing and determination any charges made against the district attorney so suspended. Any person so temporarily appointed as sheriff shall have all the power and discharge all the duties of sheriff.

(4) If it is determined in the action or proceeding or is found upon the investigation that a district attorney or sheriff suspended under this section is not guilty of an offense, or has not willfully neglected or refused to perform his or her duties, as charged, that fact shall be certified by the governor to the department of administration if a district attorney is involved or to the county clerk of the sheriff's county if a sheriff is involved. Upon the certification, the district attorney or sheriff shall be:

(a) Entitled to the emoluments of the office for the time he or she would have served in the office had he or she not been suspended under this section; and

(b) Restored to office if the term for which he or she was elected or appointed has not expired.

(5) This section in no manner affects provisions of law relating to the removal from office of the district attorney or sheriff.

History: 1989 a. 31; 1991 a. 316.

17.12 Removal and suspension of city officers.

(1) GENERAL AND SPECIAL CHARTER. Officers of cities, except public officials, as defined in s. 62.51 (1) (b), operating under the general law or under special charter including school officers, may be removed as follows:

(a) *Elective.* Elective officers by recall as provided in s. 9.10, or by the common council, for cause.

(c) *Appointive.* Appointive officers, by whomsoever appointed, by the common council, for cause, except officers appointed by the council who may be removed by that body, at pleasure. Officers appointed by any other officer or body without

confirmation or concurrence by the council, by the officer or body that appointed them, at pleasure. The council may conduct a hearing thereon by a committee which committee shall proceed in such manner as may be determined by it and make full report to the council, which shall determine the question upon such appeal.

(d) *Votes required.* Removals by the common council may be made only by an affirmative vote of three-fourths of all the members thereof, and by any other body consisting of 3 or more members, by an affirmative vote of two-thirds of all the members thereof.

(2) **COMMISSION FORM.** Officers of cities operating under the commission form of government may be removed as follows:

(a) *Elective.* Elective officers by recall as provided in s. 9.10.

(c) *Appointive.* Appointive officers, by whomsoever appointed, by the council, at pleasure, by a majority vote; and officers appointed by any officer or body other than the council may also be removed from office by the officer or body that appointed them, at pleasure, by vote as provided in sub. (1) (d).

(3) **SUSPENSION.** The mayor of any city may summarily suspend from office any officer thereof whose removal is sought and against whom charges have been preferred therefor, and may appoint an officer to discharge the duties of such office until such charges have been disposed of. If such charges are dismissed, the officer so suspended shall thereby be restored to office and be entitled to the emoluments of the office for all of the time the officer would have served therein had the officer not been suspended.

(4) **GENERAL EXCEPTION.** But no officer of any city, appointed according to merit and fitness under and subject to a civil service or to a police and fire commission law, or whose removal is governed by such a law, shall be removed otherwise than as therein provided.

History: 1987 a. 382; 1991 a. 316; 1999 a. 150 s. 672.

City officers are subject to s. 17.03 vacancy provisions. *Wellnitz v. Wauwatosa Police and Fire Commissioners*, 151 Wis. 2d 306, 444 N.W.2d 412 (Ct. App. 1989).

17.13 Removal of village, town, town sanitary district, school district, and technical college officers. Officers of towns, town sanitary districts, villages, school districts, and technical college districts may be removed as follows:

(1) **APPOINTIVE OFFICERS.** Except as provided in s. 60.30 (1e) (c) and (f), any appointive village, town, town sanitary district, school district and technical college district officer, by the officer or body that appointed him or her, at pleasure. Removal of any such officer by a body shall be by a majority vote of all the members thereof.

(2) **ELECTIVE VILLAGE OFFICERS.** Any elective village officer by a majority vote of all the members of the village board, because of continued physical inability to perform the duties of office or gross neglect of duty.

(3) **ALL OFFICERS.** Any village, town, town sanitary district, school district or technical college district officer, elective or appointive, including those embraced within subs. (1) and (2), by the judge of the circuit court of the circuit wherein the village, town, town sanitary district, school district or technical college district is situated, for cause.

History: 1971 c. 154; 1977 c. 449; 1983 a. 532; 1993 a. 399; 1995 a. 34, 225; 1999 a. 9; 2007 a. 20.

If a statute provides that a public officer, including VTAE (technical college) board members, serves at pleasure but is appointed for a term, the officer may be summarily dismissed during the term. 62 Atty. Gen. 97.

A town board was restrained from discharging its police chief until the issue of impermissible consideration of the chief's political activities was resolved. *Kuhlmann v. Bloomfield Township*, 521 F. Supp. 1242 (1981).

17.14 Removal; assessors; boards of review; county boards; procedure. Any assessor and any member of a board of review or of a county board of supervisors, in addition to being removable as otherwise provided, may be removed by the circuit court for the county of the assessor or member, as follows:

(1) **ASSESSORS.** Any assessor for one or more of the following causes:

(a) Willful or intentional assessment of property at other than its true cash value with the intent to subject such property to more or less than its lawful share of taxes.

(b) Willful or intentional omission of taxable property from the assessment roll with intent to permit the same to escape taxation.

(c) Willful or intentional assessment of the property of one person at a lower value than the property of another or others whereby favoritism or discrimination between taxpayers in the district is shown.

(d) Solicitation or receipt of any favor, reward, money or other thing of value of or from the owner of any taxable property in the assessor's assessment district for the assessment or valuation of property at other than its true cash value.

(e) Solicitation or demand by any assessor of any owner of property liable to assessment in the assessor's assessment district to aid, assist or promote the business or interests of such assessor by means of which and by virtue of the office of assessor the assessor shall gain or receive pecuniary profit or advantage that the assessor could not otherwise have gained or received.

(f) Any violation of law in the valuation or assessment of property in the assessor's assessment district.

(g) Failure to use the "Wisconsin Property Assessment Manual" provided under s. 73.03 (2a) and as required by s. 70.32 (1) and 70.34. The certification of any assessor removed under this paragraph may for sufficient reason be reinstated by the secretary of revenue after one year upon formal application for reinstatement.

(h) Failure or refusal to deny claims for exemption or to terminate exemptions pursuant to direction of the secretary of revenue under s. 73.03 (45).

(2) **MEMBERS OF BOARDS OF REVIEW AND COUNTY BOARD.** Any supervisor, alderperson, trustee or other officer who acts as a member of a board of review or of the county board of supervisors, for one or more of the following causes:

(a) Willful or intentional valuation or equalization of property of persons or towns, cities or villages at other than the true cash value thereof, with the intent to subject the property of persons or of towns, cities or villages to more or less than their lawful share of taxes.

(b) Aiding, abetting or assisting in any understanding, combination or conspiracy to value or equalize the property in towns, cities or villages in a county at other than the true cash value, with intent to subject the property in one or more towns, cities or villages to more or less than its lawful share of taxes for state or county purposes or both.

(c) Any violation of law in the valuation or equalization of property in towns, cities or villages or in the discharge of official duties.

(3) **PROCEDURE.** Removals under this section may be made by the circuit judge, by order specifying the cause thereof, a copy of which order shall be certified by the circuit judge to the proper town, village or city clerk. The removal shall be made only upon a duly verified petition signed by a resident of the county setting forth fully the charges preferred against the officer. The district attorney of the county upon complaint showing cause therefor shall prepare the petition and have the petition duly verified by the complainant. The judge, upon the presentation of the petition, shall by an order to show cause, which shall be served upon the officer personally at least 10 days prior to the hearing, fix a time and place for hearing the matters alleged in the petition. The testimony shall be taken and the proceedings conducted under such reasonable regulations as the judge prescribes. The district attorney shall attend the hearing and conduct the proceedings on behalf of the petitioner. The removal of the officer shall disqualify the officer from holding the office for 3 years from the date of the order of removal.

(4) **COSTS.** If the court, after a hearing on the merits, dismisses the petition and further finds the complaint was willful and mali-