

official papers and files pertaining to the new town and a certified copy of all relevant official records, papers and files not removable to the office of the clerk of the new town. Any record, paper or file delivered to the office of the clerk of a new town under this section shall have the same effect as if originally filed there.

History: 1983 a. 532.

60.09 When a county constitutes a town. (1) GENERALLY. If a county is not divided into towns, it shall, for purposes of town government, be considered one town.

(2) MENOMINEE COUNTY. The county of Menominee consists of one town, known as the town of Menominee.

History: 1983 a. 532.

SUBCHAPTER III

TOWN MEETING

60.10 Powers of town meeting. (1) DIRECT POWERS. The town meeting may:

(a) *Raise money.* Raise money, including levying taxes, to pay for expenses of the town, unless the authority has been delegated to the town board under sub. (2) (a).

(b) *Town offices and officers.* 1. Fix the compensation of elective town offices under s. 60.32, unless the authority has been delegated to the town board under sub. (2) (k).

2. Combine the offices of town clerk and town treasurer under s. 60.305 (1).

2m. In a town with a population of 2,500 or more, provide for the appointment by the town board of the town clerk, town treasurer, or both, or of the combined office of town clerk and town treasurer under s. 60.305 (1), at a level of compensation to be set by the board that may not be reduced during the term to which the person is appointed.

3. Combine the offices of town assessor and town clerk under s. 60.305 (2).

4. Establish or abolish the office of town constable and establish the number of constables. Abolition of the office is effective at the end of the term of the person serving in the office.

5. Designate the office of town clerk, town treasurer or the combined office of clerk and treasurer as part-time under s. 60.305 (1) (b).

6. Designate town board supervisors as full-time officers.

(c) *Election of town officers.* 1. Adopt a plan under s. 5.60 (6) to elect town board supervisors to numbered seats.

2. Provide under s. 8.05 (3) (a) for the nomination of candidates for elective town offices at a nonpartisan primary election.

(e) *Cemeteries.* Authorize the acquisition and conveyance of cemeteries under s. 157.50 (1) and (3).

(f) *Administrator agreements.* Approve agreements to employ an administrator for more than 3 years under s. 60.37 (3) (d).

(g) *Hourly wage of certain employees.* Establish the hourly wage to be paid under s. 60.37 (4) to a town employee who is also an elected town officer, unless the authority has been delegated to the town board under sub. (2) (L).

(2) DIRECTIVES OR GRANTS OF AUTHORITY TO TOWN BOARD. Except as provided under par. (c), directives or grants of authority to the town board under this subsection may be general and continuing or may be limited as to purpose, effect or duration. A resolution adopted under this subsection shall specify whether the directive or grant is general and continuing or whether it is limited as to purpose, effect or duration. A resolution that is continuing remains in effect until rescinded at a subsequent town meeting by a number of electors equal to or greater than the number of electors who voted for the original resolution. This subsection does not limit any authority otherwise conferred on the town board by law. By resolution, the town meeting may:

(a) *Raise money.* Authorize the town board to raise money, including levying taxes, to pay for expenses of the town.

(b) *Membership of town board in populous towns.* In a town with a population of 2,500 or more, direct the town board to increase the membership of the board under s. 60.21 (2).

(c) *Exercise of village powers.* Authorize the town board to exercise powers of a village board under s. 60.22 (3). A resolution adopted under this paragraph is general and continuing.

(d) *General obligation bonds.* Authorize the town board to issue general obligation bonds in the manner and for the purposes provided by law.

(e) *Purchase of land.* Authorize the town board to purchase any land within the town for present or anticipated town purposes.

(f) *Town buildings.* Authorize the town board to purchase, lease or construct buildings for the use of the town, to combine for this purpose the town's funds with those of a society or corporation doing business or located in the town and to accept contributions of money, labor or space for this purpose.

(g) *Disposal of property.* Authorize the town board to dispose of town real property, other than property donated to and required to be held by the town for a special purpose.

(h) *Exercise of certain zoning authority.* In a town located in a county which has enacted a zoning ordinance under s. 59.69, authorize, under s. 60.62 (2), the town board to enact town zoning ordinances under s. 61.35.

(i) *Watershed protection and soil and water conservation.* Authorize the town board to engage in watershed protection, soil conservation or water conservation activities beneficial to the town.

(j) *Appointed assessors.* Authorize the town board to select assessors by appointment under s. 60.307 (2).

(k) *Compensation of elective town offices.* Authorize the town board to fix the compensation of elective town offices under s. 60.32 (1) (b).

(L) *Hourly wage of certain employees.* Authorize the town board to establish the hourly wage to be paid under s. 60.37 (4) to a town employee who is also an elected town officer, other than a town board supervisor.

(m) *Membership of town sanitary district commission.* If the town board does not constitute itself as the town sanitary district commission, direct the town board to increase the membership of the town sanitary district commission under subch. IX from 3 members to 5 members, or direct the town board to decrease the membership of the town sanitary district commission from 5 members to 3 members, except that the town meeting may not act under this paragraph more frequently than every 2 years. If a town meeting directs the town board to decrease the membership of the town sanitary district commission, the reduction in members first applies upon the expiration of the terms of the first 2 commissioners whose terms expire at the same time after the town meeting directs the town board to reduce the number of commissioners.

(3) AUTHORIZATION TO TOWN BOARD TO APPROPRIATE MONEY. The town meeting may authorize the town board to appropriate money in the next annual budget for:

(a) *Conservation of natural resources.* The conservation of natural resources by the town or by a bona fide nonprofit organization under s. 60.23 (6).

(b) *Civic functions.* Civic and other functions under s. 60.23 (3).

(c) *Insects, weeds and animal diseases.* The control of insect pests, weeds or plant or animal diseases within the town.

(d) *Rural numbering systems.* Posting signs and otherwise cooperating with the county in the establishment of a rural numbering system under s. 59.54 (4) and (4m).

(e) *Cemetery improvements.* The improvement of the town cemetery under s. 157.50 (5).

History: 1983 a. 532; 1991 a. 39; 1995 a. 34, 201; 2001 a. 16; 2003 a. 214; 2015 a. 245.

60.10 TOWNS

Updated 15–16 Wis. Stats. 4

NOTE: 2003 Wis. Act 214, which affected this section, contains extensive explanatory notes.

The terms “authorize” and “direct” in sub. (2) are not used interchangeably. A town meeting that “authorize(s)” an act gives the town board permission to do the act within its discretion, but if it “direct(s)” that an act be done, the action is mandatory. *Graziano v. Town of Long Lake*, 191 Wis. 2d 813, 530 N.W.2d 55 (Ct. App. 1995).

Assessments made by an assessor appointed in the absence of authorization under sub. (2) (j) were valid under the de facto officer doctrine. *Joyce v. Town of Tainter*, 2000 WI App 15, 232 Wis. 2d 349, 606 N.W.2d 284, 99–0324.

Section 60.55 does not create an exception to the grant of power to the town meeting to authorize land purchases or construction by the town board. If a town board chooses to meet the requirements of s. 60.55 to provide fire protection by providing housing for fire protection services and also chooses to purchase land and construct that housing, then the town board must proceed with the authorization of the town meeting under sub. (2) (e) and (f) to purchase the land and construct the building. *Town of Clayton v. Cardinal Construction Company, Inc.* 2009 WI App 54, 317 Wis. 2d 424, 767 N.W.2d 605, 08–1793.

A town board exercising village powers under s. 60.22 (3) is not entitled to purchase land and contract for construction when doing so would conflict with statutes relating to towns and town boards. The village board power to acquire land and construct buildings under s. 61.34 (3) is in direct conflict with sub. (2) (e) and (f), which relates to towns and town boards and which confers that power of authorization on the town meeting. *Town of Clayton v. Cardinal Construction Company, Inc.* 2009 WI App 54, 317 Wis. 2d 424, 767 N.W.2d 605, 08–1793.

60.11 Annual town meeting. (1) REQUIREMENT. Each town shall hold an annual town meeting, as provided in this section.

(2) WHEN HELD. (a) Except as provided in par. (b), the annual town meeting shall be held on the 3rd Tuesday of April.

(b) The annual town meeting may set a date different than provided under par. (a) for the next annual town meeting if the date is within 10 days after the 3rd Tuesday of April.

(3) WHERE HELD. (a) The annual town meeting may be held in the town or in any other town, village, or city in the same county or in an adjoining county.

(b) The annual town meeting shall be held at the location of the last annual town meeting unless the location is changed by the town board. If the town board changes the location, it shall publish a class 2 notice under ch. 985 stating the location of the meeting, not more than 20 nor less than 15 days before the date of the meeting.

(4) ADJOURNMENT. The annual town meeting may be recessed to a time and date certain if the resumed meeting is held within 30 days after the date of the meeting originally scheduled under sub. (2).

(5) NOTICE. No public notice of an annual town meeting is required if held as provided under sub. (2) (a). If held as provided under sub. (2) (b), notice of the time and date of the meeting shall be given under s. 60.12 (3).

(6) JURISDICTION. An annual town meeting may transact any business over which a town meeting has jurisdiction.

(7) POLL LIST. An annual town meeting may require the clerk of the town meeting to keep a poll list with the name and address of every elector voting at the meeting. If an elector of the town obtains a confidential listing under s. 6.47 (2) and presents an identification card issued under s. 6.47 (3), the clerk shall record the identification serial number of the elector in lieu of the elector’s address.

History: 1983 a. 532; 1999 a. 49; 2005 a. 312; 2011 a. 115.

60.12 Special town meetings. (1) WHO MAY CONVENE. A special town meeting may be convened if:

(a) Called by a town meeting.

(b) A written request, signed by a number of electors equal to not less than 10 percent of the votes cast in the town for governor at the last general election, is filed with the town clerk.

(c) Called by the town board.

(2) TIME, DATE AND PURPOSE TO BE STATED. If a special town meeting is requested or called under sub. (1), the time, date and purpose of the meeting shall be stated in the request or as part of the call.

(3) NOTICE. The town clerk shall, not more than 20 nor less than 15 days before the date of a special town meeting, publish a class 2 notice of the meeting under ch. 985. The notice shall state

the purpose, date, time and location of the meeting. If notice is posted, the same time and content requirements apply.

(4) LOCATION. (a) A special town meeting may be held in the town or in any other town, village, or city in the same county or in an adjoining county.

(b) A special town meeting shall be held where the preceding annual town meeting was held, unless the location is changed by the town board.

(5) ADJOURNMENT. A special town meeting may be recessed to a time and date certain if the resumed meeting is held within 30 days after the date of the originally scheduled meeting.

(6) JURISDICTION. Any business which may be transacted at an annual town meeting may be transacted at a special town meeting.

History: 1983 a. 532; 2005 a. 312.

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.

History: 1983 a. 532.

60.14 Procedure. (1) QUALIFIED VOTERS. Any qualified elector of the town, as defined under ch. 6, may vote at a town meeting.

(2) METHOD OF ACTION; NECESSARY VOTES. All actions of a town meeting shall be by vote. All questions shall be decided by a majority of the electors voting.

(3) ORDER OF BUSINESS. At the beginning of the town meeting, the town meeting chairperson shall state the business to be transacted and the order in which the business will be considered. No proposal to levy a tax, except a tax for defraying necessary town expenses, may be acted on out of the order stated by the town meeting chairperson.

(4) RECONSIDERATION OF ACTIONS. (a) A vote of the town meeting may be reconsidered at the same meeting at which the vote was taken if the town meeting votes to reconsider within one hour after the initial vote was taken.

(b) No action of a town meeting may be reconsidered at a subsequent town meeting held prior to the next annual town meeting unless a special town meeting is convened under s. 60.12 (1) (b) or (c) and the written request or the call for the meeting states that a purpose of the meeting is reconsideration of the action.

History: 1983 a. 532.

60.15 Clerk. The town clerk shall serve as clerk of the town meeting. If the town clerk is absent, the deputy town clerk shall serve as town meeting clerk. If the deputy clerk is absent, the town meeting chairperson shall appoint a clerk for the meeting. The clerk of the town meeting shall keep minutes of the proceedings. The clerk of the town meeting shall keep a poll list if required by

the annual town meeting under s. 60.11 (7). The town meeting minutes shall be signed by the clerk of the town meeting and filed in the office of the town clerk within 5 days after the meeting.

History: 1983 a. 532.

60.16 First town meeting in new towns. (1) WHEN HELD. The first town meeting in a newly organized town shall be held at 8 p.m. on the 3rd Tuesday of the first April after the town is organized. If the 3rd Tuesday of the first April after a town is organized has passed and the first town meeting has not been held, 3 qualified electors of the town may call the first town meeting any time thereafter by posting notice of the town meeting in at least 3 public places at least 10 days prior to the date of the meeting.

(2) WHERE HELD. The first town meeting shall be held at the location designated in the documents which established the town. The location may be within the town or, if convenient, within any other town or within a city or village in the county in which the town is located.

(3) OFFICERS. The qualified electors present at the first town meeting shall choose one elector as chairperson of the town meeting, 2 electors as inspectors and one elector as clerk. The inspectors and clerk shall take and sign the oath required of inspectors at elections under s. 7.30 (5). The oath may be administered to the inspectors and clerk by the chairperson and either inspector may then administer the oath to the chairperson. After they have signed the oath, the chairperson, clerk and inspectors shall conduct the first town meeting.

(4) JURISDICTION. The first town meeting may conduct any business that a town meeting may conduct under ss. 60.11 and 60.12.

History: 1983 a. 532, 538; 2005 a. 312; 2011 a. 115.

SUBCHAPTER IV

TOWN BOARD

60.20 Town board. (1) MEMBERSHIP. The town board consists of the supervisors of the town. The board shall be designated "Town Board of".

(2) QUORUM. Two supervisors constitute a quorum of a 3-member town board, 3 supervisors constitute a quorum of a 4-member or 5-member town board, and 4 supervisors constitute a quorum of a 7-member town board under s. 60.21 (3).

(3) MEETINGS. Meetings of the town board may be held in the town or in any other town, city or village in the same county or in an adjoining county, subject to subch. V of ch. 19.

History: 1983 a. 532; 1991 a. 39; 2005 a. 312.

60.21 Town board, increased size authorized. (1) IN TOWNS WHERE BOARD HAS VILLAGE POWERS. Any town board authorized to exercise village powers may, by ordinance, increase the number of supervisors to no more than 5. If the number of supervisors is increased to 4, the town shall elect 2 supervisors each year. If the number is increased to 5, the town shall elect 3 supervisors in odd-numbered years and 2 supervisors in even-numbered years. An increase in the number of town board supervisors under this subsection does not create a vacancy on the town board.

(2) WHERE TOWN OF CERTAIN POPULATION. (a) If directed by the town meeting under s. 60.10 (2) (b), a town board of 5 members, elected at-large, shall be established in towns having a population of 2,500 or more.

(b) If a 5-member board is established and the seats of the board are numbered, the board may, by ordinance, stagger the terms of its supervisors so that the chairperson and 2 supervisors running for even-numbered seats on the town board serve 2-year terms and the other 2 supervisors serve one-year terms, with each

subsequent election to be for 2-year terms so that elections occur in both odd-numbered and even-numbered years.

(c) If a 5-member board is established and the seats of the board are not numbered, the board may, by ordinance, stagger the terms of its members so that the chairperson and 2 supervisors receiving the highest number of votes in the next election serve 2-year terms and the other 2 supervisors serve one-year terms, with each subsequent election to be for 2-year terms so that elections occur in both odd-numbered and even-numbered years.

(d) An ordinance to stagger the terms of supervisors may be adopted to apply to the initial election of 5 supervisors or to any subsequent election.

(e) An increase or reduction in the membership of a town board under this subsection takes effect on January 1 of the first odd-numbered year following the most recent federal decennial or special census, but does not create any vacancy on a town board prior to the spring election.

(3) IN A COUNTY CONTAINING ONE TOWN. (a) The town board of a town in any county containing only one town may consist of not more than 7 members. One or more members shall be elected from the town at-large and one member shall be elected from each town board ward, of which there shall be not less than 2 nor more than 5. The member elected from the town at-large who has the highest number of votes shall be the town board chairperson.

(b) The number and boundaries of the town board wards and the number of town board members to be elected from the town at-large shall be designated by the legislature when the town is first established. Thereafter, the number of wards shall be subject to reapportionment and increase or decrease and the number of town board members elected at-large shall be subject to increase or decrease by majority vote of the town board. In order to provide that all inhabitants are adequately represented, each ward shall have substantially the same number of inhabitants, shall, insofar as practicable, consist of contiguous territory and shall be in compact form. The total number of town board members may not be changed from the number initially fixed by the legislature.

History: 1983 a. 532; 1985 a. 135.

60.22 General powers and duties. The town board:

(1) CHARGE OF TOWN AFFAIRS. Has charge of all affairs of the town not committed by law to another body or officer or to a town employee.

(2) CHARGE OF ACTIONS. Has charge of any action or legal proceeding to which the town is a party.

(3) VILLAGE POWERS. If authorized under s. 60.10 (2) (c), may exercise powers relating to villages and conferred on village boards under ch. 61, except those powers which conflict with statutes relating to towns and town boards.

(4) JURISDICTION OF CONSTABLE. Shall determine the jurisdiction and duties of the town constable. A town constable who is given law enforcement duties by the town board, and who meets the definition of a law enforcement officer under s. 165.85 (2) (c), shall comply with the minimum employment standards for law enforcement officers established by the law enforcement standards board and shall complete training under s. 165.85 (4) (a) 1.

(5) PURSUE CERTAIN CLAIMS OF TOWN. Shall demand payment of penalties and forfeitures recoverable by the town and damages incurred by the town due to breach of official bond, injury to property or other injury. If, following demand, payment is not made, the board shall pursue appropriate legal action to recover the penalty, forfeiture or damages.

History: 1983 a. 532; 1987 a. 237; 2013 a. 214.

There is a 4-part test in evaluating whether a municipality may regulate a matter of state-wide concern: 1) whether the legislature has expressly withdrawn the power of municipalities to act; 2) whether the ordinance logically conflicts with the state legislation; 3) whether the ordinance defeats the purpose of the state legislation; or 4) whether the ordinance goes against the spirit of the state legislation. *Anchor Savings and Loan Association v. Madison EOC*, 120 Wis. 2d 391, 395–97, 355 N.W.2d 234 (1984).