

CODE OF ETHICS FOR PUBLIC OFFICIALS AND EMPLOYEES

19.41 Declaration of policy.

19.41(1)

(1) It is declared that high moral and ethical standards among state public officials and state employees are essential to the conduct of free government; that the legislature believes that a code of ethics for the guidance of state public officials and state employees will help them avoid conflicts between their personal interests and their public responsibilities, will improve standards of public service and will promote and strengthen the faith and confidence of the people of this state in their state public officials and state employees.

19.41(2)

(2) It is the intent of the legislature that in its operations the board shall protect to the fullest extent possible the rights of individuals affected.

19.41 - ANNOT.

History: 1973 c. 90; Stats. 1973 s. 11.01; 1973 c. 334 s. 33; Stats. 1973 s. 19.41; 1977 c. 277.

19.42

19.42 Definitions. In this subchapter:

19.42(1)

(1) "Anything of value" means any money or property, favor, service, payment, advance, forbearance, loan, or promise of future employment, but does not include compensation and expenses paid by the state, fees and expenses which are permitted and reported under [s. 19.56](#), political contributions which are reported under [ch. 11](#), or hospitality extended for a purpose unrelated to state business by a person other than an organization.

19.42(2)

(2) "Associated", when used with reference to an organization, includes any organization in which an individual or a member of his or her immediate family is a director, officer or trustee, or owns or controls, directly or indirectly, and severally or in the aggregate, at least 10% of the outstanding equity or of which an individual or a member of his or her immediate family is an authorized representative or agent.

19.42(3)

(3) "Board" means the ethics board.

19.42(4)

(4) "Candidate for state public office" means any individual who files nomination papers and a declaration of candidacy under [s. 8.21](#) or who is nominated at a caucus under [s. 8.05 \(1\)](#) for the purpose of appearing on the ballot for election as a state public official or any individual who is nominated for the purpose of appearing on the ballot for election as a state public official through the write-in process or by appointment to fill a vacancy in nomination and who files a declaration of candidacy under [s. 8.21](#).

19.42(5)

(5) "Department" means the legislature, the University of Wisconsin System, any authority or public corporation created and regulated by an act of the legislature and any office, department, independent agency or legislative service agency created under [ch. 13](#), [14](#) or [15](#), any technical college district or any constitutional office other than a judicial office. In the case of a district attorney, "department" means the department of administration unless the context otherwise requires.

19.42(5m)

(5m) "Elective office" means an office regularly filled by vote of the people.

19.42(6)

(6) "Gift" means the payment or receipt of anything of value without valuable consideration.

19.42(7)

(7) "Immediate family" means:

19.42(7)(a)

(a) An individual's spouse; and

19.42(7)(b)

(b) An individual's relative by marriage, lineal descent or adoption who receives, directly or indirectly, more than one-half of his or her support from the individual or from whom the individual receives, directly or indirectly, more than one-half of his or her support.

19.42(7m)

(7m) "Income" has the meaning given under section 61 of the internal revenue code.

19.42(7s)

(7s) "Internal revenue code" has the meanings given under [s. 71.01 \(6\)](#).

19.42(7u)

(7u) "Local governmental unit" means a political subdivision of this state, a special

purpose district in this state, an instrumentality or corporation of such a political subdivision or special purpose district, a combination or subunit of any of the foregoing or an instrumentality of the state and any of the foregoing.

19.42(7w)

(7w) "Local public office" means any of the following offices, except an office specified in [sub. \(13\)](#):

19.42(7w)(a)

(a) An elective office of a local governmental unit.

19.42(7w)(b)

(b) A county administrator or administrative coordinator or a city or village manager.

19.42(7w)(c)

(c) An appointive office or position of a local governmental unit in which an individual serves for a specified term, except a position limited to the exercise of ministerial action or a position filled by an independent contractor.

19.42(7w)(cm)

(cm) The position of member of the board of directors of a local exposition district under [subch. II](#) of [ch. 229](#) not serving for a specified term.

19.42(7w)(d)

(d) An appointive office or position of a local government which is filled by the governing body of the local government or the executive or administrative head of the local government and in which the incumbent serves at the pleasure of the appointing authority, except a clerical position, a position limited to the exercise of ministerial action or a position filled by an independent contractor.

19.42(7x)

(7x) "Local public official" means an individual holding a local public office.

19.42(8)

(8) "Ministerial action" means an action that an individual performs in a given state of facts in a prescribed manner in obedience to the mandate of legal authority, without regard to the exercise of the individual's own judgment as to the propriety of the action being taken.

19.42(9)

(9) "Nominee" means any individual who is nominated by the governor for appointment to a state public office and whose nomination requires the advice and consent of the senate.

19.42(10)

(10) "Official required to file" means:

19.42(10)(a)

(a) A member of the elections board.

19.42(10)(b)

(b) A member of a technical college district board or district director of a technical college, or any individual occupying the position of assistant, associate or deputy district director of a technical college. [19.42](#)

19.42(10)(c)

(c) A state public official identified under [s. 20.923](#) except an official holding a state public office identified under [s. 20.923 \(6\) \(h\)](#).

19.42(10)(d)

(d) A state public official whose appointment to state public office requires the advice and consent of the senate, except a member of the board of directors of the Bradley Center Sports and Entertainment Corporation created under [ch. 232](#).

19.42(10)(e)

(e) An individual appointed by the governor or the state superintendent of public instruction pursuant to [s. 17.20 \(2\)](#) other than a trustee of any private higher educational institution receiving state appropriations.

19.42(10)(f)

(f) An auditor for the legislative audit bureau. [19.43](#) [19.42\(10\)\(g\)](#)
(g) The chief clerk and sergeant at arms of each house of the legislature.

19.42(10)(h)

(h) The members and employees of the Wisconsin housing and economic development authority, except clerical employees.

19.42(10)(i)

(i) A municipal judge.

19.42(10)(j)

(j) A member or the executive director of the judicial commission.

c. 20, 269, 349, 391; 1983 a. 27; 1983 a. 81 s. 11; 1983 a. 83 s. 20; 1983 a. 166 ss. 1 to 4, 16; 1983 a. 484, 538; 1985 a. 26; 1985 a. 29 s. 3202 (46); 1985 a. 304; 1987 a. 72, 119; 1987 a. 312 s. 17; 1987 a. 340, 365, 399, 403; 1989 a. 31, 338; 1991 a. 39, 189, 221, 269; 1993 a. 16, 263, 399; 1995 a. 27, 56, 274; 1997 a. 27; 1997 a. 237 ss. 19m, 722q; 1997 a. 298; 1999 a. 42, 65.

19.42 - ANNOT.

Law Revision Committee Note, 1983: This bill establishes consistency in the usage of the terms "person", "individual" and "organization" in the code of ethics for state public officials. The term "person" is the broadest of these terms, and refers to any legal entity. The use of the term "person" in the bill is consistent with the definition of the word in s. 990.01 (26), stats., which provides that "person" includes all partnerships, associations and bodies politic or corporate". The term "organization" is narrower, and is defined in s. 19.42 (11), stats., as "any corporation, partnership, proprietorship, firm, enterprise, franchise, association, trust or other legal entity other than an individual or body politic". "Individual", although not specifically defined in the current statutes or in this bill, is used consistently in this bill to refer to natural persons.

19.42 - ANNOT.

The term "income" is used several times in the code of ethics for state public officials. This bill clarifies the current definition of income by providing a specific cross-reference to the internal revenue code and by providing that the definition refers to the most recent version of the internal revenue code which has been adopted by the legislature for state income tax purposes.

19.42 - ANNOT.

When person holds 2 government positions, one included in and the other exempted from the (8) definition of state public official, the applicability of subch. III depends upon the capacity in which the person acted. 64 Atty. Gen. 143.

19.43 Financial disclosure.

19.43(1)

(1) Each individual who in January of any year is an official required to file shall file with the board no later than April 30 of that year a statement of economic interests meeting each of the requirements of [s. 19.44 \(1\)](#). The information contained on the statement shall be current as of December 31 of the preceding year.

19.43(2)

(2) An official required to file shall file with the board a statement of economic interests meeting each of the requirements of [s. 19.44 \(1\)](#) no later than 21 days following the date he or she assumes office if the official has not previously filed a statement of economic interests with the board during that year. The information on the statement shall be current as per the date he or she assumes office.

19.43(3)

(3) A nominee shall file with the board a statement of economic interests meeting each of the requirements of [s. 19.44 \(1\)](#) within 21 days of being nominated unless the nominee has previously filed a statement of economic interests with the board during that year. The information on the statement shall be current as per the date he or she was nominated. Following the receipt of a nominee's statement of economic interests, the board shall forward copies of such statement to the members of the committee of the senate to which the nomination is referred.

19.43(4)

(4) A candidate for state public office shall file with the board a statement of economic interests meeting each of the requirements of [s. 19.44 \(1\)](#) no later than 4:30 p.m. on the 3rd day following the last day for filing nomination papers for the office which the candidate seeks, or no later than 4:30 p.m. on the next business day after the last day whenever that candidate is granted an extension of time for filing nomination papers or a declaration of candidacy under [s. 8.05 \(1\) \(j\)](#), [8.10 \(2\) \(a\)](#), [8.15 \(1\)](#) or [8.20 \(8\) \(a\)](#), no later than 4:30 p.m. on the 5th day after notification of nomination is mailed or personally delivered to the candidate by the municipal clerk in the case of a candidate who is nominated at a caucus, or no later than 4:30 p.m. on the 3rd day after notification of nomination is mailed or personally delivered to the candidate by the appropriate official or agency in the case of a write-in candidate or candidate who is appointed to fill a vacancy in nomination under [s. 8.35 \(2\) \(a\)](#). The information contained on the statement shall be current as of December 31 of the year preceding the filing deadline. Before certifying the name of any candidate for state public office under [s. 7.08 \(2\) \(a\)](#), the elections board, municipal clerk or board of election commissioners shall ascertain whether that candidate has complied with this subsection. If not, the elections board, municipal clerk or board of election commissioners may not certify the candidate's name for ballot placement.

19.43(5)

(5) Each member of the investment board and each employee of the investment board who is a state public official shall complete and file with the ethics board a quarterly report of economic transactions no later than the last day of the month following the end of each calendar quarter during any portion of which he or she was a member or employee of the investment board. Such reports of economic transactions shall be in the form prescribed by the ethics board and shall identify the date and nature of any purchase, sale, put, call, option, lease, or creation, dissolution or modification of any economic interest made during the quarter for which the report is filed and disclosure of which would be required by [s. 19.44](#) if a statement of economic interests were being filed.

19.43(7)

(7) If an official required to file fails to make a timely filing, the board shall promptly provide notice of the delinquency to the state treasurer, and to the chief executive of the department of which the official's office or position is a part, or, in the case of a district

19.42(10)(k)

(k) A division administrator of an office created under [ch. 14](#) or a department or independent agency created or continued under [ch. 15](#).

19.42(10)(L)

(L) The executive director, executive assistant to the executive director, internal auditor, chief investment officer, chief financial officer, chief legal counsel, chief risk officer and investment directors of the investment board.

19.42(10)(m)

(m) The executive director, members and employees of the World Dairy Center Authority, except clerical employees.

19.42(10)(n)

(n) The chief executive officer and members of the board of directors of the University of Wisconsin Hospitals and Clinics Authority.

19.42(11)

(11) "Organization" means any corporation, partnership, proprietorship, firm, enterprise, franchise, association, trust or other legal entity other than an individual or body politic.

19.42(12)

(12) "Security" has the meaning given under [s. 551.02 \(13\)](#), except that the term does not include a certificate of deposit or a deposit in a savings and loan association, savings bank, credit union or similar association organized under the laws of any state.

19.42(13)

(13) "State public office" means:

19.42(13)(a)

(a) All positions to which individuals are regularly appointed by the governor, except the position of trustee of any private higher educational institution receiving state appropriations and the position of member of the district board of a local professional baseball park district created under [subch. III](#) of [ch. 229](#) and the position of member of the district board of a local cultural arts district created under [subch. V](#) of [ch. 229](#).

19.42(13)(b)

(b) The positions of associate and assistant vice presidents of the University of Wisconsin System and vice chancellors identified in [s. 20.923 \(5\)](#).

19.42(13)(c)

(c) All positions identified under [s. 20.923 \(2\)](#), [\(4\)](#), [\(4g\)](#), [\(6\) \(f\)](#) to [\(h\)](#) and [\(8\)](#) to [\(10\)](#), except clerical positions.

19.42(13)(d)

(d) A member of the pharmacy internship board.

19.42(13)(e)

(e) The chief clerk and sergeant at arms of each house of the legislature or a full-time, permanent employee occupying the position of auditor for the legislative audit bureau.

19.42(13)(f)

(f) A member of a technical college district board or district director of a technical college, or any position designated as assistant, associate or deputy district director of a technical college.

19.42(13)(g)

(g) The members and employees of the Wisconsin housing and economic development authority, except clerical employees.

19.42(13)(h)

(h) A municipal judge.

19.42(13)(i)

(i) A member or the executive director of the judicial commission.

19.42(13)(j)

(j) A division administrator of an office created under [ch. 14](#) or a department or independent agency created or continued under [ch. 15](#).

19.42(13)(k)

(k) The executive director, executive assistant to the executive director, internal auditor, chief investment officer, chief financial officer, chief legal counsel, chief risk officer and investment directors of the investment board.

19.42(13)(L)

(L) The members and employees of the World Dairy Center Authority.

19.42(13)(m)

(m) The chief executive officer and members of the board of directors of the University of Wisconsin Hospitals and Clinics Authority.

19.42(14)

(14) "State public official" means any individual holding a state public office.

19.42 - ANNOT.

History: 1973 c. 90; Stats. 1973 s. 11.02; 1973 c. 333; 1973 c. 334 ss. 33, 57; Stats. 1973 s. 19.42; 1977 c. 29, 223, 277; 1977 c. 447 ss. 35, 209; 1979 c. 34, 177, 221; 1981

attorney, to the chief executive of that department and to the county clerk of each county served by the district attorney or in the case of a municipal judge to the clerk of the municipality of which the official's office is a part, or in the case of a justice, court of appeals judge or circuit judge, to the director of state courts. Upon such notification both the state treasurer and the department, municipality or director shall withhold all payments for compensation, reimbursement of expenses and other obligations to the official until the board notifies the officers to whom notice of the delinquency was provided that the official has complied with this section.

19.43(8)

(8) On its own motion or at the request of any individual who is required to file a statement of economic interests, the board may extend the time for filing or waive any filing requirement if the board determines that the literal application of the filing requirements of this subchapter would work an unreasonable hardship on that individual or that the extension of the time for filing or waiver is in the public interest. The board shall set forth in writing as a matter of public record its reason for the extension or waiver.

19.43 - ANNOT.

History: 1973 c. 90; Stats. 1973 s. 11.03; 1973 c. 333; 1973 c. 334 s. 33; Stats. 1973 s. 19.43; 1977 c. 223, 277; 1979 c. 221; 1983 a. 166 ss. 5, 16; 1983 a. 484, 538; 1985 a. 29, 304; 1987 a. 399; 1989 a. 31; 1993 a. 266.

19.43 - ANNOT.

The extent of confidentiality of investment board nominees' statements of economic interests rests in the sound discretion of the senate committee to which the nomination is referred under sub. (3). 68 Atty. Gen. 378.

19.43 - ANNOT.

The possible conflict between requirements of financial disclosure and confidentiality requirements for lawyers is discussed. 68 Atty. Gen. 411.

19.43 - ANNOT.

Sub. (8) does not authorize the ethics board to extend the date by which a candidate must file a statement of economic interest and cannot waive the filing requirement. 81 Atty. Gen. 85.

19.44

19.44 Form of statement.

19.44(1)

(1) Every statement of economic interests which is required to be filed under this subchapter shall be in the form prescribed by the board, and shall contain the following information:

19.44(1)(a)

(a) The identity of every organization with which the individual required to file is associated and the nature of his or her association with the organization, except that no identification need be made of:

19.44(1)(a)1.

1. Any organization which is described in section 170 (c) of the internal revenue code.

19.44(1)(a)2.

2. Any organization which is organized and operated primarily to influence voting at an election including support for or opposition to an individual's present or future candidacy or to a present or future referendum.

19.44(1)(a)3.

3. Any nonprofit organization which is formed exclusively for social purposes and any nonprofit community service organization.

19.44(1)(a)4.

4. A trust.

19.44(1)(b)

(b) The identity of every organization or body politic in which the individual who is required to file or that individual's immediate family, severally or in the aggregate, owns, directly or indirectly, securities having a value of \$5,000 or more, the identity of such securities and their approximate value, except that no identification need be made of a security or issuer of a security when it is issued by any organization not doing business in this state or by any government or instrumentality or agency thereof, or an authority or public corporation created and regulated by an act of such government, other than the state of Wisconsin, its instrumentalities, agencies and political subdivisions, or authorities or public corporations created and regulated by an act of the legislature.

19.44(1)(c)

(c) The name of any creditor to whom the individual who is required to file or such individual's immediate family, severally or in the aggregate, owes \$5,000 or more and the approximate amount owed.

19.44(1)(d)

(d) The real property located in this state in which the individual who is required to file or such individual's immediate family holds an interest, other than the principal residence of the individual or his or her immediate family, and the nature of the interest held. An individual's interest in real property does not include a proportional share of interests in real property if the individual's proportional share is less than 10% of the outstanding shares or is less than an equity value of \$5,000.

19.44(1)(e)

(e) The identity of each payer from which the individual who is required to file or a member of his or her immediate family received \$1,000 or more of his or her income for the preceding taxable year, except that if the individual who is required to file identifies the general nature of the business in which he or she or his or her immediate family is engaged, then no identification need be made of a decedent's estate or an individual, not acting as a representative of an organization, unless the individual is a lobbyist as defined in [s. 13.62](#). In addition, no identification need be made of payers from which only dividends or interest, anything of pecuniary value reported under [s. 19.56](#) or reportable under [s. 19.57](#), or political contributions reported under [ch. 11](#) were received.

19.44(1)(f)

(f) If the individual who is required to file or a member of his or her immediate family received \$1,000 or more of his or her income for the preceding taxable year from a partnership, limited liability company, corporation electing to be taxed as a partnership under subchapter S of the internal revenue code or service corporation under [ss. 180.1901 to 180.1921](#) in which the individual or a member of his or her immediate family, severally or in the aggregate, has a 10% or greater interest, the identity of each payer from which the organization received \$1,000 or more of its income for its preceding taxable year, except that if the individual who is required to file identifies the general nature of the business in which he or she or his or her immediate family is engaged then no identification need be made of a decedent's estate or an individual, not acting as a representative of an organization, unless the individual is a lobbyist as defined in [s. 13.62](#). In addition, no identification need be made of payers from which dividends or interest are received.

19.44(1)(g)

(g) The identity of each person from which the individual who is required to file received, directly or indirectly, any gift or gifts having an aggregate value of more than \$50 within the taxable year preceding the time of filing, except that the source of a gift need not be identified if the donation is permitted under [s. 19.56 \(3\) \(e\), \(em\)](#) or [\(f\)](#) or if the donor is the donee's parent, grandparent, child, grandchild, brother, sister, parent-in-law, grandparent-in-law, brother-in-law, sister-in-law, uncle, aunt, niece, nephew, spouse, fiancé or fiancée.

19.44(1)(h)

(h) Lodging, transportation, money or other things of pecuniary value reportable under [s. 19.56 \(2\)](#).

19.44(2)

(2) Whenever a dollar amount is required to be reported pursuant to this section, it is sufficient to report whether the amount is not more than \$50,000, or more than \$50,000.

19.44(3)

(3)

19.44(3)(a)

(a) An individual is the owner of a trust and the trust's assets and obligations if he or she is the creator of the trust and has the power to revoke the trust without obtaining the consent of all of the beneficiaries of the trust.

19.44(3)(b)

(b) An individual who is eligible to receive income or other beneficial use of the principal of a trust is the owner of a proportional share of the principal in the proportion that the individual's beneficial interest in the trust bears to the total beneficial interests vested in all beneficiaries of the trust. A vested beneficial interest in a trust includes a vested reverter interest [19.44](#)

19.44(4)

(4) Information which is required by this section shall be provided on the basis of the best knowledge, information and belief of the individual filing the statement.

19.44 - ANNOT.

History: 1973 c. 90; Stats. 1973 s. 11.04; 1973 c. 334 ss. 33, 57, 58; Stats. 1973 s. 19.44; 1977 c. 277; 1979 c. 110 s. 60 (4), (11); 1983 a. 61; 1983 a. 166 ss. 6, 16; 1983 a. 538; 1989 a. 303, 338; 1991 a. 39; 1993 a. 112, 490; 1995 a. 27.

19.44 - ANNOT.

Law Revision Committee Note, 1983: Under the ethics code, each state public official and candidate for state public office must file a statement of economic interests with the ethics board listing the businesses, organizations and other legal entities from which they and their families received substantial income during the preceding taxable year. However, the ethics code does not require identification of individual persons from whom the income is received. This bill provides that if the individual filing the statement of economic interests identifies the general nature of the business in which the individual or a member of his or her family is engaged, then no identification need be made of the estate of any deceased individual from which income was received. This bill makes it unnecessary to identify a decedent's estate which was indebted to a state public official or candidate for state public office, and makes it unnecessary to identify decedents' estates which are represented by lawyer-public officials.

19.44 - ANNOT.

A beneficiary of a future interest in a trust must identify the securities held by the trust if the individual's interest in the securities is valued at \$5,000 or more. 80 Atty. Gen. 183.

19.45

19.45 Standards of conduct; state public officials.

19.45(1)

(1) The legislature hereby reaffirms that a state public official holds his or her position as a public trust, and any effort to realize substantial personal gain through official conduct is a violation of that trust. This subchapter does not prevent any state public official from accepting other employment or following any pursuit which in no way interferes with the full and faithful discharge of his or her duties to this state. The legislature further recognizes that in a representative democracy, the representatives are drawn from society and, therefore, cannot and should not be without all personal and economic interest in the decisions and policies of government; that citizens who serve as state public officials retain their rights as citizens to interests of a personal or economic nature; that standards of ethical conduct for state public officials need to distinguish between those minor and inconsequential conflicts that are unavoidable in a free society, and those conflicts which are substantial and material; and that state public officials may need to engage in employment, professional or business activities, other than official duties, in order to support themselves or their families and to maintain a continuity of professional or business activity, or may need to maintain investments, which activities or investments do not conflict with the specific provisions of this subchapter.

19.45(2)

(2) No state public official may use his or her public position or office to obtain financial gain or anything of substantial value for the private benefit of himself or herself or his or her immediate family, or for an organization with which he or she is associated. This subsection does not prohibit a state public official from using the title or prestige of his or her office to obtain contributions permitted and reported as required by [ch. 11](#).

19.45(3)

(3) No person may offer or give to a state public official, directly or indirectly, and no state public official may solicit or accept from any person, directly or indirectly, anything of value if it could reasonably be expected to influence the state public official's vote, official actions or judgment, or could reasonably be considered as a reward for any official action or inaction on the part of the state public official. This subsection does not prohibit a state public official from engaging in outside employment.

19.45(3m)

(3m) No state public official may accept or retain any transportation, lodging, meals, food or beverage, or reimbursement therefor, except in accordance with [s. 19.56\(3\)](#).

19.45(4)

(4) No state public official may intentionally use or disclose information gained in the course of or by reason of his or her official position or activities in any way that could result in the receipt of anything of value for himself or herself, for his or her immediate family, or for any other person, if the information has not been communicated to the public or is not public information.

19.45(5)

(5) No state public official may use or attempt to use the public position held by the public official to influence or gain unlawful benefits, advantages or privileges personally or for others.

19.45(6)

(6) No state public official, member of a state public official's immediate family, nor any organization with which the state public official or a member of the official's immediate family owns or controls at least 10% of the outstanding equity, voting rights, or outstanding indebtedness may enter into any contract or lease involving a payment or payments of more than \$3,000 within a 12-month period, in whole or in part derived from state funds unless the state public official has first made written disclosure of the nature and extent of such relationship or interest to the board and to the department acting for the state in regard to such contract or lease. Any contract or lease entered into in violation of this subsection may be voided by the state in an action commenced within 3 years of the date on which the ethics board, or the department or officer acting for the state in regard to the allocation of state funds from which such payment is derived, knew or should have known that a violation of this subsection had occurred. This subsection does not affect the application of [s. 946.13](#). [19.46\(3\)](#)

19.45(7)

(7)

19.45(7)(a)

(a) No state public official who is identified in [s. 20.923](#) may represent a person for compensation before a department or any employee thereof, except:

19.45(7)(a)1.

1. In a contested case which involves a party other than the state with interests adverse to those represented by the state public official; or

19.45(7)(a)2.

2. At an open hearing at which a stenographic or other record is maintained; or

19.45(7)(a)3.

3. In a matter that involves only ministerial action by the department; or

19.45(7)(a)4.

4. In a matter before the department of revenue or tax appeals commission that involves the representation of a client in connection with a tax matter.

19.45(7)(b)

(b) This subsection does not apply to representation by a state public official acting in his or her official capacity.

19.45(8)

(8) Except in the case where the state public office formerly held was that of legislator, legislative employee under [s. 20.923\(6\)\(bp\)](#), [\(f\)](#), [\(g\)](#) or [\(h\)](#), chief clerk of a house of the

legislature, sergeant at arms of a house of the legislature or a permanent employee occupying the position of auditor for the legislative audit bureau:

19.45(8)(a)

(a) No former state public official, for 12 months following the date on which he or she ceases to be a state public official, may, for compensation, on behalf of any person other than a governmental entity, make any formal or informal appearance before, or negotiate with, any officer or employee of the department with which he or she was associated as a state public official within 12 months prior to the date on which he or she ceased to be a state public official.

19.45(8)(b)

(b) No former state public official, for 12 months following the date on which he or she ceases to be a state public official, may, for compensation, on behalf of any person other than a governmental entity, make any formal or informal appearance before, or negotiate with, any officer or employee of a department in connection with any judicial or quasi-judicial proceeding, application, contract, claim, or charge which might give rise to a judicial or quasi-judicial proceeding which was under the former official's responsibility as a state public official within 12 months prior to the date on which he or she ceased to be a state public official.

19.45(8)(c)

(c) No former state public official may, for compensation, act on behalf of any party other than the state in connection with any judicial or quasi-judicial proceeding, application, contract, claim, or charge which might give rise to a judicial or quasi-judicial proceeding in which the former official participated personally and substantially as a state public official.

19.45(9)

(9) The attorney general may not engage in the private practice of law during the period in which he or she holds that office. No justice of the supreme court and no judge of any court of record may engage in the private practice of law during the period in which he or she holds that office. No full-time district attorney may engage in the private practice of law during the period in which he or she holds that office, except as authorized in [s. 978.06\(5\)](#).

19.45(10)

(10) This section does not prohibit a legislator from making inquiries for information on behalf of a person or from representing a person before a department if he or she receives no compensation therefor beyond the salary and other compensation or reimbursement to which the legislator is entitled by law, except as authorized under [sub. \(7\)](#).

19.45(11)

(11) The legislature recognizes that all state public officials and employees and all employees of the University of Wisconsin Hospitals and Clinics Authority should be guided by a code of ethics and thus:

19.45(11)(a)

(a) The administrator of the division of merit recruitment and selection in the department of employment relations shall, with the board's advice, promulgate rules to implement a code of ethics for classified and unclassified state employees except state public officials subject to this subchapter, unclassified personnel in the University of Wisconsin System and officers and employees of the judicial branch.

19.45(11)(b)

(b) The board of regents of the University of Wisconsin System shall establish a code of ethics for unclassified personnel in that system who are not subject to this subchapter.

19.45(11)(c)

(c) The supreme court shall promulgate a code of judicial ethics for officers and employees of the judiciary and candidates for judicial office which shall include financial disclosure requirements. All justices and judges shall, in addition to complying with this subchapter, adhere to the code of judicial ethics.

19.45(11)(d)

(d) The board of directors of the University of Wisconsin Hospitals and Clinics Authority shall establish a code of ethics for employees of the authority who are not state public officials.

19.45(12)

(12) No agency, as defined in [s. 16.52\(7\)](#), or officer or employee thereof may present any request, or knowingly utilize any interests outside the agency to present any request, to either house of the legislature or any member or committee thereof, for appropriations which exceed the amount requested by the agency in the agency's most recent request submitted under [s. 16.42](#).

19.45 - ANNOT.

History: 1973 c. 90; Stats. 1973 s. 11.05; 1973 c. 334 ss. 33, 57; Stats. 1973 s. 19.45; 1977 c. 29; 1977 c. 196 s. 130(2); 1977 c. 223, 277; 1977 c. 418 s. 923(14); 1977 c. 419, 447; 1979 c. 120; 1983 a. 27 ss. 112, 2200(15); 1983 a. 166 ss. 7, 16; 1985 a. 332 s. 251(1); 1987 a. 365; 1989 a. 31, 338; 1991 a. 39, 316; 1995 a. 27; 1997 a. 27.

19.45 - ANNOT.

A county board may provide for a penalty in the nature of a forfeiture for violation of a code of ethics ordinance but may not bar violators from running for office. Violation is not a neglect of duties under s. 59.10, 1975 stats., [now 59.15] or an ipso facto cause for removal under s. 17.09(1). See also 67 Atty. Gen. 164. 66 Atty. Gen. 148.

19.45 - ANNOT.

The ethics law does not prohibit a state public official from purchasing items and services that are available to the official because he or she holds public office. If the opportunity to purchase the item or service itself has substantial value, the purchase of the item or service is prohibited. 80 Atty. Gen. 201.

19.45 - ANNOT.

Sub. (12) is an unconstitutional infringement on free speech. Barnett v. State Ethics Bd. 817 F. Supp. 67 (1993).

19.451

19.451 Discounts at certain stadiums. No person serving in a national, state or local office, as defined in [s. 5.02](#), may accept any discount on the price of admission or parking charged to members of the general public, including any discount on the use of a sky box or private luxury box, at a stadium that is exempt from general property taxes under [s. 70.11 \(36\)](#).

19.451 - ANNOT.

History: 1991 a. 37.

19.46

19.46 Conflict of interest prohibited; exception.

19.46(1)

(1) Except in accordance with the board's advice under [sub. \(2\)](#) and except as otherwise provided in [sub. \(3\)](#), no state public official may:

19.46(1)(a)

(a) Take any official action substantially affecting a matter in which the official, a member of his or her immediate family, or an organization with which the official is associated has a substantial financial interest.

19.46(1)(b)

(b) Use his or her office or position in a way that produces or assists in the production of a substantial benefit, direct or indirect, for the official, one or more members of the official's immediate family either separately or together, or an organization with which the official is associated.

19.46(2)

(2) Any individual, either personally or on behalf of an organization or governmental body, may request of the board an advisory opinion regarding the propriety of any matter to which the person is or may become a party; and any appointing officer, with the consent of a prospective appointee, may request of the board an advisory opinion regarding the propriety of any matter to which the prospective appointee is or may become a party. The board shall review a request for an advisory opinion and may advise the person making the request. Advisory opinions and requests therefor shall be in writing. The board's deliberations and actions upon such requests shall be in meetings not open to the public. It is prima facie evidence of intent to comply with this subchapter or [subch. III](#) of ch. 13 when a person refers a matter to the board and abides by the board's advisory opinion, if the material facts are as stated in the opinion request. The board may authorize the executive director to act in its stead in instances where delay is of substantial inconvenience or detriment to the requesting party. No member or employe of the board may make public the identity of the individual requesting an advisory opinion or of individuals or organizations mentioned in the opinion.

19.46(3)

(3) This section does not prohibit a state public official from taking any action concerning the lawful payment of salaries or employe benefits or reimbursement of actual and necessary expenses, or prohibit a state public official from taking official action with respect to any proposal to modify state law or the state administrative code.

19.46 - ANNOT.

History: 1973 c. 90; Stats. 1973 s. 11.06; 1973 c. 334 ss. 33, 57, 58; Stats. 1973 s. 19.46; 1975 c. 422; 1977 c. 223, 277, 449; 1983 a. 166; 1985 a. 29; 1989 a. 338.

19.47

19.47 Operation.

19.47(1)

(1) The office of the board shall be in Madison, but the board may, after proper public notice and in compliance with [subch. V](#), meet or exercise any or all of its powers at any other place in this state.

19.47(2)

(2) The board shall appoint an executive director outside the classified service to serve at the pleasure of the board. The executive director shall appoint such other personnel as he or she requires to carry out the duties of the board. The executive director shall perform such duties as the board assigns to him or her in the administration of this subchapter and [subch. III](#) of ch. 13.

19.47(3)

(3) All members and employes of the board shall file statements of economic interests with the board.

19.47(4)

(4) Any action by the board, except an action relating to procedure of the board, requires the affirmative vote of 4 of its members.

19.47(5)

(5) No later than September 1 of each year, the board shall submit a report concerning its actions in the preceding fiscal year to the governor and the chief clerk of each house of the legislature, for distribution to the legislature under [s. 13.172 \(2\)](#). Such report shall

contain the names and duties of all individuals employed by the board and a summary of its determinations and advisory opinions. The board shall make sufficient alterations in the summaries to prevent disclosing the identities of individuals or organizations involved in the decisions or opinions. The board shall make such further reports on the matters within its jurisdiction and such recommendations for further legislation as it deems desirable.

19.47(6)

(6) The joint committee on legislative organization shall be advisory to the board on all matters relating to operation of the board.

19.47 - ANNOT.

History: 1973 c. 90; Stats. 1973 s. 11.07; 1973 c. 334 ss. 33, 57; Stats. 1973 s. 19.47; 1975 c. 426 s. 3; 1977 c. 26, 277; 1983 a. 27, 166, 378; 1987 a. 186; 1989 a. 338; 1991 a. 39, 189.

19.48

19.48 Duties of the board. The board shall:

19.48(1)

(1) Promulgate rules necessary to carry out this subchapter and [subch. III](#) of ch. 13. The board shall give prompt notice of the contents of its rules to state public officials who will be affected thereby.

19.48(2)

(2) Prescribe and make available forms for use under this subchapter and [subch. III](#) of ch. 13, including the forms specified in [s. 13.685 \(1\)](#).

19.48(3)

(3) Accept and file any information related to the purposes of this subchapter or [subch. III](#) of ch. 13 which is voluntarily supplied by any person in addition to the information required by this subchapter.

19.48(4)

(4) Preserve the statements of economic interests filed with it for a period of 6 years from the date of receipt in such form, including microfilming, optical imaging or electronic formatting, as will facilitate document retention, except that:

19.48(4)(a)

(a) Upon the expiration of 3 years after an individual ceases to be a state public official the board shall, unless the former state public official otherwise requests, destroy any statement of economic interests filed by him or her and any copies thereof in its possession.

19.48(4)(b)

(b) Upon the expiration of 3 years after any election at which a candidate for state public office was not elected, the board shall destroy any statements of economic interests filed by him or her as a candidate for state public office and any copies thereof in the board's possession, unless the individual continues to hold another position for which he or she is required to file a statement, or unless the individual otherwise requests.

19.48(4)(c)

(c) Upon the expiration of 3 years from the action of the senate upon a nomination for state public office at which the senate refused to consent to the appointment of the nominee, the board shall destroy any statements of economic interests filed by him or her as a nominee and any copies thereof in the board's possession, unless the individual continues to hold another position for which he or she is required to file a statement, or unless the nominee otherwise requests. This paragraph does not apply to any individual who is appointed to state public office under [s. 17.20 \(2\)](#).

19.48(5)

(5) Except as provided in [s. 19.55 \(2\) \(c\)](#), make statements of economic interests filed with the board available for public inspection and copying during regular office hours and make copying facilities available at a charge not to exceed actual cost.

19.48(6)

(6) Compile and maintain an index to all the statements of economic interests currently on file with the board to facilitate public access to such statements of economic interests.

19.48(7)

(7) Prepare and publish special reports and technical studies to further the purposes of this subchapter and [subch. III](#) of ch. 13.

19.48(8)

(8) Report the full name and address of any individual and the full name and address of any person represented by an individual seeking to copy or obtain information from a statement of economic interests in writing to the individual who filed it, as soon as possible.

19.48(9)

(9) Administer programs to explain and interpret this subchapter and [subch. III](#) of ch. 13 for state public officials, and for elective state officials, candidates for state public office, legislative officials, agency officials, lobbyists, as defined in [s. 13.62](#), local public officials, corporation counsels and attorneys for local governmental units. The programs shall provide advice regarding appropriate ethical and lobbying practices, with special emphasis on public interest lobbying. The board may delegate creation and implementation of any such program to a group representing the public interest. The board may charge a fee to participants in any such program.

19.48(10)

(10) Compile and make available information filed with the board in ways designed to facilitate access to the information. The board may charge a fee to a person requesting information for compiling, disseminating or making available such information, except that the board shall not charge a fee for inspection at the board's office of any record otherwise open to public inspection under [s. 19.35 \(1\)](#).

19.48 - ANNOT.

History: 1973 c. 90; Stats. 1973 s. 11.08; 1973 c. 333; 1973 c. 334 ss. 33, 57; Stats. 1973 s. 19.48; 1975 c. 41; 1977 c. 223, 277; 1977 c. 447 ss. 37, 209; 1983 a. 166 ss. 10, 16; 1985 a. 164; 1989 a. 338, 359; 1991 a. 39, 269; 1995 a. 27; 1997 a. 186.

19.49

19.49 Complaints.

19.49(1)

(1) The board shall accept from any individual, either personally or on behalf of an organization or governmental body, a verified complaint in writing which states the name of any person alleged to have committed a violation of this subchapter or [subch. III](#) of ch. 13 and which sets forth the particulars thereof. The board shall forward to the accused within 10 days a copy of the complaint and a general statement of the applicable statutes with respect to such verified complaint. If the board determines that the verified complaint does not allege facts sufficient to constitute a violation of this subchapter or [subch. III](#) of ch. 13, it shall dismiss the complaint and notify the complainant and the accused. If the board determines that the verified complaint alleges facts sufficient to constitute a violation of this subchapter or [subch. III](#) of ch. 13, it may make an investigation with respect to any alleged violation. If the board determines that the verified complaint was brought for harassment purposes, the board shall so state.

19.49(2)

(2) Any person to whom this subchapter or [subch. III](#) of ch. 13 may have application may request the board to make an investigation of his or her own conduct or of allegations made by other persons as to his or her conduct. Such a request shall be made in writing and shall set forth in detail the reasons therefor.

19.49(3)

(3) Following the receipt of a verified complaint or upon the receipt of other information, whether or not under oath, that provides a reasonable basis for the belief that a violation of this subchapter or [subch. III](#) of ch. 13 has been committed or that an investigation of a possible violation is warranted, the board may investigate the circumstances concerning the possible violation. Prior to invoking any power under [s. 19.50](#), the board shall authorize an investigation by resolution, which shall state the nature and purpose of the investigation and the actions or activities to be investigated. Upon adoption of a resolution, the board shall notify each person who is the subject of the investigation pursuant to [sub. \(4\)](#). If the board, during the course of an investigation, finds probable cause to believe that a violation of this subchapter or [subch. III](#) of ch. 13 has occurred, it may:

19.49(3)(a)

(a) If no verified complaint has been filed, make upon its own motion a verified complaint, which shall be in writing, shall state the name of the person who is alleged to have committed a violation of this subchapter or [subch. III](#) of ch. 13 and shall set forth the particulars thereof. The board shall forward to the accused within 10 days a copy of the complaint, a general statement of the applicable statutes with respect to such verified complaint and a specific statement enumerating the source or sources of information upon which the complaint is based.

19.49(3)(b)

(b) If a verified complaint has been filed and the board finds probable cause to believe that a violation of this subchapter or [subch. III](#) of ch. 13, other than one contained in the complaint, has occurred, it may amend the complaint, upon its own motion, to include such violations. If the complaint is so amended by the board, the board shall send a copy of the amendment to the person complained against within 48 hours.

19.49(4)

(4) Upon adoption of a resolution authorizing an investigation under [sub. \(3\)](#), the board shall mail a copy of the resolution to each alleged violator who is identified in the resolution, together with a notice informing the alleged violator that the person is the subject of the investigation authorized by the resolution and a general statement of the applicable statutes with respect to such investigation. Service of the notice is complete upon mailing.

19.49(5)

(5) No action may be taken on any complaint which is filed later than 3 years after a violation of this subchapter or [subch. III](#) of ch. 13 is alleged to have occurred.

19.49 - ANNOT.

History: 1977 c. 277; 1983 a. 166; 1989 a. 338.

19.49 - ANNOT.

Law Revision Committee Note, 1983: Under current sub. (4), stats., when the ethics board authorizes the investigation of a violation of the code of the ethics for state public officials, the executive director of the ethics board is required to "forward" a copy of the resolution of the board to the alleged violator. This bill makes it clear that the executive director is required to mail a copy of the resolution to the alleged violator, and that mailing the resolution to the violator constitutes service of the notice. The bill thereby makes it clear that personal delivery of the notice is not required.

19.50

19.50 Investigations. Pursuant to any investigation authorized under [s. 19.49 \(3\)](#) or any hearing conducted under this subchapter or [subch. III](#) of ch. 13, the board has the power:

19.50(1)

(1) To require any person to submit in writing such reports and answers to questions relevant to the proceedings conducted under this subchapter or [subch. III](#) of ch. 13 as the board may prescribe, such submission to be made within such period and under oath or otherwise as the board may determine.

19.50(2)

(2) To administer oaths and to require by subpoena issued by it the attendance and testimony of witnesses and the production of any documentary evidence relating to the investigation or hearing being conducted. Notwithstanding [s. 885.01 \(4\)](#), the issuance of a subpoena requires action by the board in accordance with [s. 19.47 \(4\)](#).

19.50(3)

(3) To order testimony to be taken by deposition before any individual who is designated by the board and has the power to administer oaths, and, in such instances, to compel testimony and the production of evidence in the same manner as authorized by [sub. \(2\)](#).

19.50(4)

(4) To pay witnesses the same fees and mileage as are paid in like circumstances by the courts of this state.

19.50(5)

(5) To request and obtain from the department of revenue copies of state income or franchise tax returns and access to other appropriate information under [s. 71.78 \(4\)](#) regarding all persons who are the subject of such investigation.

19.50 - ANNOT.

History: 1977 c. 277; 1983 a. 166 ss. 12, 16; 1987 a. 312 s. 17; 1989 a. 338; 1991 a. 39.

19.51

19.51 Probable cause of violation.

19.51(1)

(1) At the conclusion of its investigation, the board shall, in preliminary written findings of fact and conclusions based thereon, make a determination of whether or not probable cause exists to believe that a violation of this subchapter or [subch. III](#) of ch. 13 has occurred. If the board determines that no probable cause exists, it shall immediately send written notice of such determination to the accused and to the party who made the complaint. If the board determines that there is probable cause for believing that a violation of this subchapter or [subch. III](#) of ch. 13 has been committed, its preliminary findings of fact and conclusions may contain:

19.51(1)(a)

(a) A recommendation for criminal prosecution which shall be referred to the district attorney in whose jurisdiction the alleged violation occurred or to the attorney general if the violation concerns the district attorney, and, if the district attorney fails to commence a prosecution within 30 days, to the attorney general, who may then commence a prosecution; or

19.51(1)(b)

(b) An order setting a date for hearing to determine whether a violation of this subchapter or [subch. III](#) of ch. 13 has occurred. The board shall serve the order upon the accused. A hearing ordered under this paragraph shall be commenced within 30 days after the date that it is ordered unless the accused petitions for and the board consents to a later date. Prior to any hearing ordered under this paragraph, the accused is entitled to full discovery rights, including adverse examination of witnesses who will testify at the hearing at a reasonable time before the date of the hearing.

19.51(2)

(2) The board shall inform the accused or his or her counsel of exculpatory evidence in its possession.

19.51(3)

(3) If the board makes a recommendation for criminal prosecution under [sub. \(1\)](#), the district attorney to whom the recommendation is made or the attorney general shall, within 30 days of receipt of such recommendation, make a decision whether to prosecute the party charged. The board shall give written notice of any referral under this subsection to the accused. The district attorney or attorney general shall give written notice of the decision to the accused, the complainant and the board.

19.51 - ANNOT.

History: 1977 c. 277; 1987 a. 365; 1989 a. 31, 338.

19.52

19.52 Hearing procedure.

19.52(1)

(1) Every hearing or rehearing under this subchapter shall be conducted in accordance with the requirements of [ch. 227](#), except as otherwise expressly provided. During any investigation and during any hearing which is conducted to determine whether a violation of this subchapter or [subch. III](#) of ch. 13 has occurred, the person under investigation or the accused may be represented by counsel of his or her own choosing and the accused or his or her representative, if any, shall have an opportunity to challenge the sufficiency of any complaint which has been filed against him or her, to examine all documents and records obtained or prepared by the board in connection with the matter heard, to bring witnesses, to establish all pertinent facts and circumstances, to question or refute testimony or evidence, including the opportunity to confront and cross-examine adverse

witnesses, and shall otherwise be able to exercise fully any pretrial discovery procedure usually available in civil actions. During any hearing conducted by the board to determine whether a violation of this subchapter or [subch. III](#) of ch. 13 has occurred, all evidence including certified copies of records which the board considers shall be fully offered and made a part of the record in the proceedings. The accused or any other person under investigation shall be afforded adequate opportunity to rebut or offer countervailing evidence. Upon request of the accused, the board shall issue subpoenas to compel the attendance of necessary witnesses.

19.52(2)

(2) The board shall appoint a reserve judge to serve as hearing examiner. Any person whose name is mentioned or who is otherwise identified during a hearing being conducted by the board and who, in the opinion of the board, may be adversely affected thereby, may, upon request of the person or a representative of the person, or upon the request of any member of the board, appear at the hearing to testify on his or her own behalf or have a representative appear to so testify, and the board may permit any other person to appear and to testify at a hearing.

19.52(3)

(3) [Chapters 901](#) to [911](#) apply to the admission of evidence at the hearing. The board shall not find a violation of this subchapter or [subch. III](#) of ch. 13 except upon clear and convincing evidence admitted at the hearing.

19.52(4)

(4) After the conclusion of the hearing the board shall as soon as practicable begin deliberations on the evidence presented at such hearing and shall then proceed to determine whether the accused has violated this subchapter or [subch. III](#) of ch. 13. The board shall not begin deliberations until after the proposed decision under [s. 227.46 \(2\)](#) is served and opportunity is given for arguments.

19.52 - ANNOT.

History: 1977 c. 277; 1983 a. 166 ss. 13, 16; 1985 a. 182 s. 57; 1987 a. 365; 1989 a. 338.

19.53

19.53 Findings of fact and conclusions; orders and recommendations. If the board determines that no violation of this subchapter or [subch. III](#) of ch. 13 has occurred, it shall immediately send written notice of such determination to the accused and to the party who made the complaint. If the board determines that a violation of this subchapter or [subch. III](#) of ch. 13 has occurred, its findings of fact and conclusions may contain one or more of the following orders or recommendations:

19.53(1)

(1) In the case of a state public official outside the classified service, a recommendation that the state public official be censured, suspended, or removed from office or employment. Such recommendation shall be made to the appropriate appointing authority who may censure, suspend, or take action to remove the official from office or employment.

19.53(1m)

(1m) In the case of a state public official in the classified service, a recommendation that the state public official be disciplined or discharged under [s. 230.34 \(1\)](#). Such recommendation shall be made to the appropriate appointing authority.

19.53(2)

(2) In the case of a legislator, a recommendation that the legislator be censured, suspended, or removed from office. Such recommendation shall be made to the appropriate house.

19.53(3)

(3) In the case of a justice or judge, a recommendation that the justice or judge be reprimanded, censured, suspended or removed from office. Such recommendation shall be sent to the supreme court and to the presiding officer of each house of the legislature.

19.53(4)

(4) In the case of a state public official liable to impeachment, a recommendation that the official be removed from office. Such recommendation shall be referred to the assembly.

19.53(5)

(5) An order requiring the accused to conform his or her conduct to this subchapter or [subch. III](#) of ch. 13.

19.53(6)

(6) An order requiring the accused to forfeit not more than \$500 for each violation of [s. 19.43](#), [19.44](#) or [19.56 \(2\)](#) or not more than \$5,000 for each violation of any other provision of this subchapter, or not more than the applicable amount specified in [s. 13.69](#) for each violation of [subch. III](#) of ch. 13; and, if the board determines that the accused has realized economic gain as a result of the violation, an order requiring the accused to forfeit the amount gained as a result of the violation. The attorney general, when so requested by the board, shall institute proceedings to recover any forfeiture incurred under this section or [s. 19.545](#) which is not paid by the person against whom it is assessed.

19.53(7)

(7) An order revoking the license of any lobbyist who violates [ss. 13.61](#) to [13.68](#) for a period not to exceed 3 years.

19.53(8)

(8) Such other recommendation or order as may be necessary and appropriate and is

consistent with the intent and purposes of this subchapter or [subch. III](#) of ch. 13.

19.53 - ANNOT.

History: 1977 c. 277; 1983 a. 166; 1987 a. 365; 1989 a. 338; 1995 a. 27.

19.54

19.54 Rehearings.

19.54(1)

(1) After the service upon the accused by the board of any decision under [s. 19.53](#) containing an order or recommendation, the accused may apply to the board for a rehearing with respect to any matter determined in such decision as provided in [s. 227.49](#).

19.54(2)

(2) An application for rehearing is governed by such general rules as the board may establish. Only one rehearing may be granted by the board. No order of the board becomes effective until 20 days after it is issued, or while an application for rehearing or a rehearing is pending, or until 10 days after such application for rehearing is either denied, expressly or by implication, or the board has announced its final determination on rehearing.

19.54 - ANNOT.

History: 1977 c. 277; 1985 a. 182 s. 57.

19.545

19.545 Settlements.

19.545(1)

(1) The board may compromise and settle any action or potential action for a violation of this subchapter or [subch. III](#) of ch. 13 which the board is authorized to take under [s. 19.53](#). Notwithstanding [s. 778.06](#), an action may be settled for such sum as may be agreed upon between the board and the alleged violator.

19.545(2)

(2) Whenever the board enters into a settlement agreement with an individual who is accused of a violation of this subchapter or [subch. III](#) of ch. 13 or who is investigated by the board for a possible violation of this subchapter or [subch. III](#) of ch. 13, the board shall reduce the agreement to writing, together with a statement of the board's findings and reasons for entering into the agreement and shall retain the agreement and statement in its office for inspection under [s. 19.55 \(1\)](#).

19.545 - ANNOT.

History: 1987 a. 365; 1989 a. 338.

19.55

19.55 Public inspection of records.

19.55(1)

(1) Except as provided in [sub. \(2\)](#), all records in the possession of the board are open to public inspection at all reasonable times. The board shall require an individual wishing to examine a statement of economic interests or the list of persons who inspect any statements which are in the board's possession to provide his or her full name and address, and if the individual is representing another person, the full name and address of the person which he or she represents. Such identification may be provided in writing or in person. The board shall record and retain for at least 3 years information obtained by it pursuant to this subsection. No individual may use a fictitious name or address or fail to identify a principal in making any request for inspection.

19.55(2)

(2) The following records in the board's possession are not open for public inspection:

19.55(2)(a)

(a) Records obtained in connection with a request for an advisory opinion other than summaries of advisory opinions that do not disclose the identity of individuals requesting such opinions or organizations on whose behalf they are requested. The board may, however, make such records public with the consent of the individual requesting the advisory opinion or the organization or governmental body on whose behalf it is requested. A person who makes or purports to make public the substance of or any portion of an advisory opinion requested by or on behalf of the person is deemed to have waived the confidentiality of the request for an advisory opinion and of any records obtained or prepared by the board in connection with the request for an advisory opinion.

19.55(2)(b)

(b) Records obtained or prepared by the board in connection with an investigation, except that the board shall permit inspection of records that are made public in the course of a hearing by the board to determine if a violation of this subchapter or [subch. III](#) of ch. 13 has occurred. Whenever the board refers such investigation and hearing records to a district attorney or to the attorney general, they may be made public in the course of a prosecution initiated under this subchapter. The board shall also provide information from investigation and hearing records that pertains to the location of individuals and assets of individuals as requested under [s. 49.22 \(2m\)](#) by the department of workforce development or by a county child support agency under [s. 59.53 \(5\)](#). [19.55\(2\)\(c\)](#)

(c) Statements of economic interests and reports of economic transactions which are filed with the ethics board by members or employees of the investment board, except that the ethics board shall refer statements and reports filed by such individuals to the legislative audit bureau for its review, and except that a statement of economic interests filed by a member or employee of the investment board who is also an official required to file shall be open to public inspection.

19.55(2)(d)

(d) Records of the social security number of any individual who files an application for licensure as a lobbyist under [s. 13.63](#) or who registers as a principal under [s. 13.64](#).

except to the department of workforce development for purposes of administration of [s. 49.22](#) or to the department of revenue for purposes of administration of [s. 73.0301](#).

19.55 - ANNOT.

History: 1977 c. 277; 1981 c. 335 s. 26; 1983 a. 166 ss. 15, 16; 1985 a. 164; 1989 a. 31, 338; 1997 a. [191](#), [237](#); 1999 a. [32](#).

19.55 - ANNOT.

The extent of confidentiality of investment board nominees' statements of economic interests rests in the sound discretion of the senate committee to which the nomination is referred under sub. (3). 68 Atty. Gen. 378.

19.56

19.56 Honorariums, fees and expenses.

19.56(1)

(1) Every state public official is encouraged to meet with clubs, conventions, special interest groups, political groups, school groups and other gatherings to discuss and to interpret legislative, administrative, executive or judicial processes and proposals and issues initiated by or affecting a department or the judicial branch.

19.56(2)

(2)

19.56(2)(a)

(a) Except as provided in [par. \(b\)](#), every official required to file who receives for a published work or for the presentation of a talk or participation in a meeting, any lodging, transportation, money or other thing with a combined pecuniary value exceeding \$50 excluding the value of food or beverage offered coincidentally with a talk or meeting shall, on his or her statement of economic interests, report the identity of every person from whom the official receives such lodging, transportation, money or other thing during his or her preceding taxable year, the circumstances under which it was received and the approximate value thereof.

19.56(2)(b)

(b) An official need not report on his or her statement of economic interests under [par. \(a\)](#) information pertaining to any lodging, transportation, money or other thing of pecuniary value which:

19.56(2)(b)1.

1. The official returns to the payor within 30 days of receipt;

19.56(2)(b)2.

2. Is paid to the official by a person identified on the official's statement of economic interests under [s. 19.44 \(1\) \(e\)](#) or [\(f\)](#) as a source of income;

19.56(2)(b)3.

3. The official can show by clear and convincing evidence was unrelated to and did not arise from the recipient's holding or having held a public office and was made for a purpose unrelated to the purposes specified in [sub. \(1\)](#);

19.56(2)(b)4.

4. The official has previously reported to the board as a matter of public record;

19.56(2)(b)5.

5. Is paid by the department or municipality of which the official's state public office is a part, or, in the case of a district attorney, is paid by that department or a county which the district attorney serves, or, in the case of a justice or judge of a court of record, is paid from the appropriations for operation of the state court system; or

19.56(2)(b)6.

6. Is made available to the official by the department of commerce or the department of tourism in accordance with [sub. \(3\) \(e\)](#), [\(em\)](#) or [\(f\)](#).

19.56(3)

(3) Notwithstanding [s. 19.45](#):

19.56(3)(a)

(a) A state public official may receive and retain reimbursement or payment of actual and reasonable expenses and an elected official may retain reasonable compensation, for a published work or for the presentation of a talk or participation in a meeting related to a topic specified in [sub. \(1\)](#) if the payment or reimbursement is paid or arranged by the organizer of the event or the publisher of the work.

19.56(3)(b)

(b) A state public official may receive and retain anything of value if the activity or occasion for which it is given is unrelated to the official's use of the state's time, facilities, services or supplies not generally available to all citizens of this state and the official can show by clear and convincing evidence that the payment or reimbursement was unrelated to and did not arise from the recipient's holding or having held a public office and was paid for a purpose unrelated to the purposes specified in [sub. \(1\)](#).

19.56(3)(c)

(c) A state public official may receive and retain from the state or on behalf of the state transportation, lodging, meals, food or beverage, or reimbursement therefor or payment or reimbursement of actual and reasonable costs that the official can show by clear and convincing evidence were incurred or received on behalf of the state of Wisconsin and primarily for the benefit of the state and not primarily for the private benefit of the official or any other person.

19.56(3)(d)

(d) A state public official may receive and retain from a political committee under [ch. 11](#) transportation, lodging, meals, food or beverage, or reimbursement therefor or payment or reimbursement of costs permitted and reported in accordance with [ch. 11](#).

19.56(3)(e)

(e) A state public official who is an officer or employe of the department of commerce may solicit, receive and retain on behalf of the state anything of value for the purpose of any of the following:

19.56(3)(e)1.

1. The sponsorship by the department of commerce of a trip to a foreign country primarily to promote trade between that country and this state that the department of commerce can demonstrate through clear and convincing evidence is primarily for the benefit of this state.

19.56(3)(e)2.

2. Hosting individuals in order to promote business, economic development, tourism or conferences sponsored by multistate, national or international associations of governments or governmental officials.

19.56(3)(em)

(em) A state public official who is an officer or employe of the department of tourism may solicit, receive and retain on behalf of the state anything of value for the purpose of hosting individuals in order to promote tourism.

19.56(3)(f)

(f) A state public official may receive and retain from the department of commerce anything of value which the department of commerce is authorized to provide under [par. \(e\)](#) and may receive and retain from the department of tourism anything of value which the department of tourism is authorized to provide under [par. \(em\)](#).

19.56(4)

(4) If a state public official receives a payment not authorized by this subchapter, in cash or otherwise, for a published work or a talk or meeting, the official may not retain it. If practicable, the official shall deposit it with the department or municipality with which he or she is associated or, in the case of a justice or judge of a court of record, with the director of state courts. If that is not practicable, the official shall return it or its equivalent to the payor or convey it to the state or to a charitable organization other than one with which he or she is associated.

19.56 - ANNOT.

History: 1977 c. 277; 1983 a. 61, 538; 1985 a. 203; 1989 a. 31, 338; 1991 a. 39; 1995 a. 27 ss. [455](#) to [457](#), [9116](#) (5).

19.56 - ANNOT.

The interaction of s. 19.56 with the prohibition against furnishing anything of pecuniary value to state officials under s. 13.625 is discussed. 80 Atty. Gen. 205.

19.57

19.57 Conferences, visits and economic development activities. The department of commerce shall file a report with the board no later than April 30 annually, specifying the source and amount of anything of value received by the department of commerce during the preceding calendar year for a purpose specified in [s. 19.56 \(3\) \(e\)](#), and the program or activity in connection with which the thing is received, together with the location and date of that program or activity.

19.57 - ANNOT.

History: 1991 a. 39; 1995 a. 27 s. [9116](#) (5).

19.575

19.575 Tourism activities. The department of tourism shall file a report with the board no later than April 30 annually, specifying the source and amount of anything of value received by the department of tourism during the preceding calendar year for a purpose specified in [s. 19.56 \(3\) \(em\)](#) and the program or activity in connection with which the thing is received, together with the location and date of that program or activity.

19.575 - ANNOT.

History: 1995 a. 27.

19.58

19.58 Criminal penalties.

19.58(1)

(1) Any person who intentionally violates this subchapter or a code of ethics adopted or established under [s. 19.45 \(1\) \(a\)](#) or [\(b\)](#) shall be fined not less than \$100 nor more than \$5,000 or imprisoned not more than one year in the county jail or both.

19.58(2)

(2) The penalty under [sub. \(1\)](#) does not limit the power of either house of the legislature to discipline its own members or to impeach a public official, or limit the power of a department to discipline its state public officials or employes.

19.58(3)

(3) In this section "intentionally" has the meaning given under [s. 939.23](#).

19.58 - ANNOT.

History: 1973 c. 90; Stats. 1973 s. 11.10; 1973 c. 334 ss. 33, 57, 58; Stats. 1973 s. 19.50; 1975 c. 200; 1977 c. 277 ss. 34, 37; Stats. 1977 s. 19.58.

19.59

19.59 Codes of ethics for local government officials, employes and candidates.

19.59(1)

(1)

19.59(1)(a)

(a) No local public official may use his or her public position or office to obtain financial gain or anything of substantial value for the private benefit of himself or herself or his or her immediate family, or for an organization with which he or she is associated. A violation of this paragraph includes the acceptance of free or discounted admissions to a professional baseball game by a member of the district board of a local professional baseball park district created under [subch. III](#) of ch. 229. This paragraph does not prohibit a local public official from using the title or prestige of his or her office to obtain campaign contributions that are permitted and reported as required by [ch. 11](#).

19.59(1)(b)

(b) No person may offer or give to a local public official, directly or indirectly, and no local public official may solicit or accept from any person, directly or indirectly, anything of value if it could reasonably be expected to influence the local public official's vote, official actions or judgment, or could reasonably be considered as a reward for any official action or inaction on the part of the local public official. This paragraph does not prohibit a local public official from engaging in outside employment.

19.59(1)(c)

(c) Except as otherwise provided in [par. \(d\)](#), no local public official may:

19.59(1)(c)1.

1. Take any official action substantially affecting a matter in which the official, a member of his or her immediate family, or an organization with which the official is associated has a substantial financial interest.

19.59(1)(c)2.

2. Use his or her office or position in a way that produces or assists in the production of a substantial benefit, direct or indirect, for the official, one or more members of the official's immediate family either separately or together, or an organization with which the official is associated.

19.59(1)(d)

(d) [Paragraph \(c\)](#) does not prohibit a local public official from taking any action concerning the lawful payment of salaries or employe benefits or reimbursement of actual and necessary expenses, or prohibit a local public official from taking official action with respect to any proposal to modify a county or municipal ordinance.

19.59(1)(f)

(f) [Paragraphs \(a\)](#) to [\(c\)](#) do not apply to the members of a local committee appointed under [s. 289.33 \(7\) \(a\)](#) to negotiate with the owner or operator of, or applicant for a license to operate, a solid waste disposal or hazardous waste facility under [s. 289.33](#), with respect to any matter contained or proposed to be contained in a written agreement between a municipality and the owner, operator or applicant or in an arbitration award or proposed award that is applicable to those parties.

19.59(1)(g)

(g)

19.59(1)(g)1.

1. In this paragraph:

19.59(1)(g)1.a.

a. "District" means a local professional baseball park district created under [subch. III](#) of ch. 229.

19.59(1)(g)1.b.

b. "District board member" means a member of the district board of a district.

19.59(1)(g)2.

2. No district board member may accept or retain any transportation, lodging, meals, food or beverage, or reimbursement therefor, except in accordance with this paragraph.

19.59(1)(g)3.

3. A district board member may receive and retain reimbursement or payment of actual and reasonable expenses for a published work or for the presentation of a talk or participation in a meeting related to processes, proposals and issues affecting a district if the payment or reimbursement is paid or arranged by the organizer of the event or the publisher of the work.

19.59(1)(g)4.

4. A district board member may receive and retain anything of value if the activity or occasion for which it is given is unrelated to the member's use of the time, facilities, services or supplies of the district not generally available to all residents of the district and the member can show by clear and convincing evidence that the payment or reimbursement was unrelated to and did not arise from the recipient's holding or having held a public office and was paid for a purpose unrelated to the purposes specified in [subd. 3](#).

19.59(1)(g)5.

5. A district board member may receive and retain from the district or on behalf of the district transportation, lodging, meals, food or beverage, or reimbursement therefor or payment or reimbursement of actual and reasonable costs that the member can show by clear and convincing evidence were incurred or received on behalf of the district and primarily for the benefit of the district and not primarily for the private benefit of the member or any other person.

19.59(1)(g)6.

6. No district board member may intentionally use or disclose information gained in the course of or by reason of his or her official position or activities in any way that could result in the receipt of anything of value for himself or herself, for his or her immediate family, or for any other person, if the information has not been communicated to the public or is not public information.

19.59(1)(g)7.

7. No district board member may use or attempt to use the position held by the member to influence or gain unlawful benefits, advantages or privileges personally or for others.

19.59(1)(g)8.

8. No district board member, member of a district board member's immediate family, nor any organization with which the district board member or a member of the district board member's immediate family owns or controls at least 10% of the outstanding equity, voting rights, or outstanding indebtedness may enter into any contract or lease involving a payment or payments of more than \$3,000 within a 12-month period, in whole or in part derived from district funds unless the district board member has first made written disclosure of the nature and extent of such relationship or interest to the ethics board and to the district. Any contract or lease entered into in violation of this subdivision may be voided by the district in an action commenced within 3 years of the date on which the ethics board, or the district, knew or should have known that a violation of this subdivision had occurred. This subdivision does not affect the application of [s. 946.13](#).

19.59(1)(g)9.

9. No former district board member, for 12 months following the date on which he or she ceases to be a district board member, may, for compensation, on behalf of any person other than a governmental entity, make any formal or informal appearance before, or negotiate with, any officer or employe of the district with which he or she was associated as a district board member within 12 months prior to the date on which he or she ceased to be a district board member.

19.59(1)(g)10.

10. No former district board member, for 12 months following the date on which he or she ceases to be a district board member, may, for compensation, on behalf of any person other than a governmental entity, make any formal or informal appearance before, or negotiate with, any officer or employe of a district with which he or she was associated as a district board member in connection with any judicial or quasi-judicial proceeding, application, contract, claim, or charge which might give rise to a judicial or quasi-judicial proceeding which was under the former member's responsibility as a district board member within 12 months prior to the date on which he or she ceased to be a member.

19.59(1)(g)11.

11. No former district board member may, for compensation, act on behalf of any party other than the district with which he or she was associated as a district board member in connection with any judicial or quasi-judicial proceeding, application, contract, claim, or charge which might give rise to a judicial or quasi-judicial proceeding in which the former member participated personally and substantially as a district board member.

19.59(1m)

(1m) In addition to the requirements of [sub. \(1\)](#), any county, city, village or town may enact an ordinance establishing a code of ethics for public officials and employes of the county or municipality and candidates for county or municipal elective offices.

19.59(2)

(2) An ordinance enacted under this section shall specify the positions to which it applies. The ordinance may apply to members of the immediate family of individuals who hold positions or who are candidates for positions to which the ordinance applies.

19.59(3)

(3) An ordinance enacted under this section may contain any of the following provisions:

19.59(3)(a)

(a) A requirement for local public officials, other employes of the county or municipality and candidates for local public office to identify any of the economic interests specified in [s. 19.44](#).

19.59(3)(b)

(b) A provision directing the county or municipal clerk or board of election commissioners to omit the name of any candidate from an election ballot who fails to disclose his or her economic interests in accordance with the requirements of the ordinance.

19.59(3)(c)

(c) A provision directing the county or municipal treasurer to withhold the payment of salaries or expenses from any local public official or other employe of the county or municipality who fails to disclose his or her economic interests in accordance with the requirements of the ordinance.

19.59(3)(d)

(d) A provision vesting administration and civil enforcement of the ordinance with an ethics board appointed in a manner specified in the ordinance. A board created under this paragraph may issue subpoenas, administer oaths and investigate any violation of the ordinance on its own motion or upon complaint by any person. The ordinance may empower the board to issue opinions upon request. Records of the board's opinions, opinion requests and investigations of violations of the ordinance may be closed in whole or in part to public inspection if the ordinance so provides.

19.59(3)(e)

(e) Provisions prescribing ethical standards of conduct and prohibiting conflicts of interest on the part of local public officials and other employees of the county or municipality or on the part of former local public officials or former employees of the county or municipality.

19.59(3)(f)

(f) A provision prescribing a forfeiture for violation of the ordinance in an amount not exceeding \$1,000 for each offense. A minimum forfeiture not exceeding \$100 for each offense may also be prescribed.

19.59(4)

(4) This section may not be construed to limit the authority of a county, city, village or town to regulate the conduct of its officials and employees to the extent that it has authority to regulate that conduct under the constitution or other laws.

19.59(5)

(5)

19.59(5)(a)

(a) Any individual, either personally or on behalf of an organization or governmental body, may request of a county or municipal ethics board, or, in the absence of a county or municipal ethics board, a county corporation counsel or attorney for a local governmental unit, an advisory opinion regarding the propriety of any matter to which the person is or may become a party. Any appointing officer, with the consent of a prospective appointee, may request of a county or municipal ethics board, or, in the absence of a county or municipal ethics board, a county corporation counsel or attorney for a local governmental unit an advisory opinion regarding the propriety of any matter to which the prospective appointee is or may become a party. The county or municipal ethics board or the county corporation counsel or attorney shall review a request for an advisory opinion and may advise the person making the request. Advisory opinions and requests therefor shall be in writing. It is prima facie evidence of intent to comply with this section or any ordinance enacted under this section when a person refers a matter to a county or municipal ethics board or a county corporation counsel or attorney for a local governmental unit and abides by the advisory opinion, if the material facts are as stated in the opinion request. A county or municipal ethics board may authorize a county corporation counsel or attorney to act in its stead in instances where delay is of substantial inconvenience or detriment to the requesting party. Except as provided in [par. \(b\)](#), neither a county corporation counsel or attorney for a local governmental unit nor a member or agent of a county or municipal ethics board may make public the identity of an individual requesting an advisory opinion or of individuals or organizations mentioned in the opinion.

19.59(5)(b)

(b) A county or municipal ethics board, county corporation counsel or attorney for a local governmental unit replying to a request for an advisory opinion may make the opinion public with the consent of the individual requesting the advisory opinion or the organization or governmental body on whose behalf it is requested and may make public a summary of an advisory opinion issued under this subsection after making sufficient alterations in the summary to prevent disclosing the identities of individuals involved in the opinion. A person who makes or purports to make public the substance of or any portion of an advisory opinion requested by or on behalf of the person waives the confidentiality of the request for an advisory opinion and of any records obtained or prepared by the county or municipal ethics board, the county corporation counsel or the attorney for the local governmental unit in connection with the request for an advisory opinion.

19.59(6)

(6) Any county corporation counsel, attorney for a local governmental unit or statewide association of local governmental units may request the board to issue an opinion concerning the interpretation of this section. The board shall review such a request and may advise the person making the request.

19.59(7)

(7) Any person who violates [sub. \(1\)](#) may be required to forfeit not more than \$1,000 for each violation.

19.59(8)

(8)

19.59(8)(a)

(a) [Subsection \(1\)](#) shall be enforced in the name and on behalf of the state by action of the district attorney of any county wherein a violation may occur, upon the verified complaint of any person.

19.59(8)(b)

(b) In addition and supplementary to the remedy provided in [sub. \(7\)](#), the district attorney may commence an action, separately or in conjunction with an action brought to obtain the remedy provided in [sub. \(7\)](#), to obtain such other legal or equitable relief, including but not limited to mandamus, injunction or declaratory judgment, as may be appropriate under the circumstances.

19.59(8)(c)

(c) If the district attorney fails to commence an action to enforce [sub. \(1\)](#) within 20 days after receiving a verified complaint or if the district attorney refuses to commence such an action, the person making the complaint may petition the attorney general to act upon the complaint. The attorney general may then bring an action under [par. \(a\)](#) or [\(b\)](#), or both.

19.59(8)(d)

(d) If the district attorney prevails in such an action, the court shall award any forfeiture recovered together with reasonable costs to the county wherein the violation occurs. If

the attorney general prevails in such an action, the court shall award any forfeiture recovered together with reasonable costs to the state.

19.59 - ANNOT.

History: 1979 c. 120; 1981 c. 149; 1981 c. 335 s. 26; 1983 a. 166 s. 16; 1991 a. 39, 269; 1995 a. [56](#), [227](#).

SUBCHAPTER IV

PERSONAL INFORMATION PRACTICES

19.62

19.62 Definitions. In this subchapter:

19.62(1)

(1) "Authority" has the meaning specified in [s. 19.32 \(1\)](#).

19.62(3)

(3) "Matching program" means the computerized comparison of information in one records series to information in another records series for use by an authority or a federal agency to establish or verify an individual's eligibility for any right, privilege or benefit or to recoup payments or delinquent debts under programs of an authority or federal agency.

19.62(5)

(5) "Personally identifiable information" means information that can be associated with a particular individual through one or more identifiers or other information or circumstances.

19.62(6)

(6) "Record" has the meaning specified in [s. 19.32 \(2\)](#).

19.62(7)

(7) "Records series" means records that are arranged under a manual or automated filing system, or are kept together as a unit, because they relate to a particular subject, result from the same activity or have a particular form.

19.62(8)

(8) "State authority" means an authority that is a state elected official, agency, board, commission, committee, council, department or public body corporate and politic created by constitution, statute, rule or order; a state governmental or quasi-governmental corporation; the supreme court or court of appeals; the assembly or senate; or a nonprofit corporation operating the Olympic Ice Training Center under [s. 42.11 \(3\)](#).

19.62 - ANNOT.

History: 1991 a. 39; 1993 a. 215; 1995 a. [27](#); 1997 a. [79](#).

19.65

19.65 Rules of conduct; employee training; and security. An authority shall do all of the following:

19.65(1)

(1) Develop rules of conduct for its employees who are involved in collecting, maintaining, using, providing access to, sharing or archiving personally identifiable information.

19.65(2)

(2) Ensure that the persons identified in [sub. \(1\)](#) know their duties and responsibilities relating to protecting personal privacy, including applicable state and federal laws.

19.65 - ANNOT.

History: 1991 a. 39.

19.67

19.67 Data collection.

19.67(1)

(1) **Collection from data subject or verification.** An authority that maintains personally identifiable information that may result in an adverse determination about any individual's rights, benefits or privileges shall, to the greatest extent practicable, do at least one of the following:

19.67(1)(a)

(a) Collect the information directly from the individual.

19.67(1)(b)

(b) Verify the information, if collected from another person.

19.67 - ANNOT.

History: 1991 a. 39.

19.69

19.69 Computer matching.

19.69(1)

(1) **Matching specification.** A state authority may not use or allow the use of personally identifiable information maintained by the state authority in a match under a matching program, or provide personally identifiable information for use in a match under a matching program, unless the state authority has specified in writing all of the following for the matching program:

19.69(1)(a)

(a) The purpose and legal authority for the matching program.

19.69(1)(b)

(b) The justification for the program and the anticipated results, including an estimate of any savings.

19.69(1)(c)

(c) A description of the information that will be matched.

19.69(2)

(2) **Copy to public records board.** A state authority that prepares a written specification of a matching program under [sub. \(1\)](#) shall provide to the public records board a copy of the specification and any subsequent revision of the specification within 30 days after the state authority prepares the specification or the revision.

19.69(3)

(3) **Notice of adverse action.**

19.69(3)(a)

(a) Except as provided under [par. \(b\)](#), a state authority may not take an adverse action against an individual as a result of information produced by a matching program until after the state authority has notified the individual, in writing, of the proposed action.

19.69(3)(b)

(b) A state authority may grant an exception to [par. \(a\)](#) if it finds that the information in the records series is sufficiently reliable.

19.69 - ANNOT.

History: 1991 a. 39, 269; 1995 a. 27.

19.71

19.71 **Sale of names or addresses.** An authority may not sell or rent a record containing an individual's name or address of residence, unless specifically authorized by state law. The collection of fees under [s. 19.35 \(3\)](#) is not a sale or rental under this section.

19.71 - ANNOT.

History: 1991 a. 39.

19.77

19.77 **Summary of case law and attorney general opinions.** Annually, the attorney general shall summarize case law and attorney general opinions relating to due process and other legal issues involving the collection, maintenance, use, provision of access to, sharing or archiving of personally identifiable information by authorities. The attorney general shall provide the summary, at no charge, to interested persons.

19.77 - ANNOT.

History: 1991 a. 39.

19.80

19.80 Penalties.

19.80(2)

(2) **Employe discipline.** Any person employed by an authority who violates this subchapter may be discharged or suspended without pay.

19.80(3)

(3) **Penalties.**

19.80(3)(a)

(a) Any person who wilfully collects, discloses or maintains personally identifiable information in violation of federal or state law may be required to forfeit not more than \$500 for each violation.

19.80(3)(b)

(b) Any person who wilfully requests or obtains personally identifiable information from an authority under false pretenses may be required to forfeit not more than \$500 for each violation.

19.80 - ANNOT.

History: 1991 a. 39, 269.

SUBCHAPTER V

OPEN MEETINGS OF GOVERNMENTAL BODIES

19.81

19.81 Declaration of policy.

19.81(1)

(1) In recognition of the fact that a representative government of the American type is dependent upon an informed electorate, it is declared to be the policy of this state that the public is entitled to the fullest and most complete information regarding the affairs of government as is compatible with the conduct of governmental business.

19.81(2)

(2) To implement and ensure the public policy herein expressed, all meetings of all state and local governmental bodies shall be publicly held in places reasonably accessible to members of the public and shall be open to all citizens at all times unless otherwise expressly provided by law.

19.81(3)

(3) In conformance with article IV, section 10, of the constitution, which states that the doors of each house shall remain open, except when the public welfare requires secrecy, it is declared to be the intent of the legislature to comply to the fullest extent with this subchapter.

19.81(4)

(4) This subchapter shall be liberally construed to achieve the purposes set forth in this section, and the rule that penal statutes must be strictly construed shall be limited to the enforcement of forfeitures and shall not otherwise apply to actions brought under this subchapter or to interpretations thereof.

19.81 - ANNOT.

History: 1975 c. 426; 1983 a. 192.

19.81 - ANNOT.

NOTE: The following annotations relate to s. 66.77, repealed by Chapter 426, laws of 1975.

19.81 - ANNOT.

Subsequent to the presentation of evidence by the taxpayer, a board of review's consideration of testimony by the village assessor at an executive session was contrary to the open meeting law, since, although it was permissible for the board to convene a closed session for the purpose of deliberating after a quasi-judicial hearing, the proceedings did not constitute mere deliberations but were a continuation of the quasi-judicial hearing without the presence of or notice to the objecting taxpayer. Dolphin v. Board of Review, 70 Wis. 2d 403, 234 N.W.2d 277.

19.81 - ANNOT.

A regular open meeting, held subsequent to a closed meeting on another subject, does not constitute a reconvened open meeting when there was no prior open meeting on that day. 58 Atty. Gen. 41.

19.81 - ANNOT.

Consideration of a resolution is a formal action of an administrative or minor governing body and when taken in proper closed session, the resolution and result of the vote must be made available for public inspection, pursuant to 19.21, absent a specific showing that the public interest would be adversely affected. 60 Atty. Gen. 9.

19.81 - ANNOT.

Joint apprenticeship committees, appointed pursuant to Wis. Adm. Code provisions are governmental bodies and subject to the requirements of the open meeting law. 63 Atty. Gen. 363.

19.81 - ANNOT.

Voting procedures employed by worker's compensation and unemployment advisory councils that utilized adjournment of public meeting for purposes of having members representing employers and members representing employes or workers to separately meet in closed caucuses and to vote as a block on reconvening was contrary to the open records law. 63 Atty. Gen. 414.

19.81 - ANNOT.

A governmental body can call closed sessions for proper purposes without giving notice to members of news media who have filed written request. 63 Atty. Gen. 470.

19.81 - ANNOT.

The meaning of communication discussed with reference to giving the public and news media members adequate notice. 63 Atty. Gen. 509.

19.81 - ANNOT.

Posting in the governor's office of agenda of future investment board meetings is not sufficient communication to the public or the news media who have filed a written request for notice. 63 Atty. Gen. 549.

19.81 - ANNOT.

A county board may not utilize an unidentified paper ballot in voting to appoint a county highway commissioner, but may vote by ayes and nays or show of hands at an open session if some member does not require the vote to be taken in such manner that the vote of each member may be ascertained and recorded. 63 Atty. Gen. 569.

19.81 - ANNOT.

NOTE: The following annotations refer to ss. 19.81 to 19.98.

19.81 - ANNOT.

When the City of Milwaukee and a private non-profit festival organization incorporated the open meetings law into a contract, the contract allowed public enforcement of the contractual provisions concerning open meetings. Journal/Sentinel, Inc. v. Pleva, 155 Wis. 2d 704, 456 N.W.2d 359 (1990).

19.81 - ANNOT.

Sub. (2) requires that a meeting be held in a facility that gives reasonable public access, not total access; no person may be systematically excluded or arbitrarily refused admittance. State ex rel. Badke v. Greendale Village Bd. 173 Wis. 2d 553, 494 N.W.2d 408 (1993).

19.81 - ANNOT.

The open meeting law is not applicable to the judicial commission. State ex rel. Lynch v. Dancey, 71 Wis. 2d 287, 238 N.W.2d 81.

19.81 - ANNOT.

This subchapter is discussed. 65 Atty. Gen. preface.

19.81 - ANNOT.

Public notice requirements for meetings of a city district school board under this subchapter and s. 120.48, 1983 stats., are discussed. 66 Atty. Gen. 93.

19.81 - ANNOT.

A volunteer fire department organized as a nonprofit corporation under s. 213.05 is not subject to the open meeting law. 66 Atty. Gen. 113.

19.81 - ANNOT.

Anyone has the right to tape-record an open meeting of a governmental body provided the meeting is not thereby physically disrupted. 66 Atty. Gen. 318.

19.81 - ANNOT.

The open meeting law does not apply to a coroner's inquest. 67 Atty. Gen. 250.

19.81 - ANNOT.

The open meeting law does not apply if the common council hears a grievance under a collective bargaining agreement. 67 Atty. Gen. 276.

19.81 - ANNOT.

The application of open meeting law to duties of WERC is discussed. 68 Atty. Gen. 171.

19.81 - ANNOT.

A meeting of a committee on reapportionment was probably held in violation of the open meetings law. 71 Atty. Gen. 63.

19.81 - ANNOT.

Foundations, building corporations and independent bodies politic and corporate are not "governmental bodies". 73 Atty. Gen. 53.

19.81 - ANNOT.

A "quasi-governmental corporation" in sub. (1) includes private corporations that closely resemble governmental corporations in function, effect or status. 80 Atty. Gen. 129.

19.81 - ANNOT.

Understanding Wisconsin's open meeting law. Harvey, WBB September 1980.

19.82

19.82 Definitions. As used in this subchapter:

19.82(1)

(1) "Governmental body" means a state or local agency, board, commission, committee, council, department or public body corporate and politic created by constitution, statute, ordinance, rule or order; a governmental or quasi-governmental corporation except for the Bradley center sports and entertainment corporation; a local exposition district under [subch. II](#) of ch. 229; a family care district under [s. 46.2895](#); a nonprofit corporation operating the Olympic ice training center under [s. 42.11 \(3\)](#); or a formally constituted subunit of any of the foregoing, but excludes any such body or committee or subunit of such body which is formed for or meeting for the purpose of collective bargaining under [subch. I, IV](#) or [V](#) of ch. 111.

19.82(2)

(2) "Meeting" means the convening of members of a governmental body for the purpose of exercising the responsibilities, authority, power or duties delegated to or vested in the body. If one-half or more of the members of a governmental body are present, the meeting is rebuttably presumed to be for the purpose of exercising the responsibilities, authority, power or duties delegated to or vested in the body. The term does not include any social or chance gathering or conference which is not intended to avoid this subchapter, any gathering of the members of a town board for the purpose specified in [s. 60.50 \(6\)](#), any gathering of the commissioners of a town sanitary district for the purpose specified in [s. 60.77 \(5\) \(k\)](#) or any gathering of the members of a drainage board created under [s. 88.16](#), 1991 stats., or under [s. 88.17](#), for a purpose specified in [s. 88.065 \(5\) \(a\)](#).

19.82(3)

(3) "Open session" means a meeting which is held in a place reasonably accessible to members of the public and open to all citizens at all times. In the case of a state

governmental body, it means a meeting which is held in a building and room thereof which enables access by persons with functional limitations, as defined in [s. 101.13 \(1\)](#).

19.82 - ANNOT.

History: 1975 c. 426; 1977 c. 364, 447; 1985 a. 26, 29, 332; 1987 a. 305; 1993 a. 215, 263, 456, 491; 1995 a. [27](#), [185](#); 1997 a. [79](#); 1999 a. [9](#).

19.82 - ANNOT.

A "meeting" under sub. (2) was found although the governmental body was not empowered to exercise the final powers of its parent body. State v. Swanson, 92 Wis. 2d 310, 284 N.W.2d 655 (1979).

19.82 - ANNOT.

A "meeting" under sub. (2) was found when members met with a purpose to engage in government business and the number of members present was sufficient to determine the parent body's course of action regarding the proposal discussed. State ex rel. Newspapers v. Showers, 135 Wis. 2d 77, 398 N.W.2d 154 (1987).

19.82 - ANNOT.

A municipal public utility commission managing a city owned public electric utility is a governmental body under sub. (1). 65 Atty. Gen. 243.

19.82 - ANNOT.

A "private conference" under s. 118.22 (3), on nonrenewal of a teacher's contract is a "meeting" within s. 19.82 (2). 66 Atty. Gen. 211.

19.82 - ANNOT.

A private home may qualify as a meeting place under sub. (3). 67 Atty. Gen. 125.

19.82 - ANNOT.

A telephone conference call involving members of governmental body is a "meeting" which must be reasonably accessible to public and public notice must be given. 69 Atty. Gen. 143.

19.83

19.83 Meetings of governmental bodies.

19.83(1)

(1) Every meeting of a governmental body shall be preceded by public notice as provided in [s. 19.84](#), and shall be held in open session. At any meeting of a governmental body, all discussion shall be held and all action of any kind, formal or informal, shall be initiated, deliberated upon and acted upon only in open session except as provided in [s. 19.85](#).

19.83(2)

(2) During a period of public comment under [s. 19.84 \(2\)](#), a governmental body may discuss any matter raised by the public.

19.83 - ANNOT.

History: 1975 c. 426; 1997 a. [123](#).

19.83 - ANNOT.

When a quorum of a governmental body attends the meeting of another governmental body when any one of the members is not also a member of the second governmental body, the gathering is a "meeting" unless the gathering is social or by chance. State ex rel. Badke v. Greendale Village Bd. 173 Wis. 2d 553, 494 N.W.2d 408 (1993).

19.84

19.84 Public notice.

19.84(1)

(1) Public notice of all meetings of a governmental body shall be given in the following manner:

19.84(1)(a)

(a) As required by any other statutes; and

19.84(1)(b)

(b) By communication from the chief presiding officer of a governmental body or such person's designee to the public, to those news media who have filed a written request for such notice, and to the official newspaper designated under [ss. 985.04](#), [985.05](#) and [985.06](#) or, if none exists, to a news medium likely to give notice in the area.

19.84(2)

(2) Every public notice of a meeting of a governmental body shall set forth the time, date, place and subject matter of the meeting, including that intended for consideration at any contemplated closed session, in such form as is reasonably likely to apprise members of the public and the news media thereof. The public notice of a meeting of a governmental body may provide for a period of public comment, during which the body may receive information from members of the public.

19.84(3)

(3) Public notice of every meeting of a governmental body shall be given at least 24 hours prior to the commencement of such meeting unless for good cause such notice is impossible or impractical, in which case shorter notice may be given, but in no case may the notice be provided less than 2 hours in advance of the meeting.

19.84(4)

(4) Separate public notice shall be given for each meeting of a governmental body at a time and date reasonably proximate to the time and date of the meeting.

19.84(5)

(5) Departments and their subunits in any University of Wisconsin System institution or campus and a nonprofit corporation operating the Olympic Ice Training Center under [s. 42.11 \(3\)](#) are exempt from the requirements of [subs. \(1\) to \(4\)](#) but shall provide meeting notice which is reasonably likely to apprise interested persons, and news media who have filed written requests for such notice.

19.84(6)

(6) Notwithstanding the requirements of [s. 19.83](#) and the requirements of this section, a governmental body which is a formally constituted subunit of a parent governmental body may conduct a meeting without public notice as required by this section during a lawful meeting of the parent governmental body, during a recess in such meeting or immediately after such meeting for the purpose of discussing or acting upon a matter which was the subject of that meeting of the parent governmental body. The presiding officer of the parent governmental body shall publicly announce the time, place and subject matter of the meeting of the subunit in advance at the meeting of the parent body.

19.84 - ANNOT.

History: 1975 c. 426; 1987 a. 305; 1993 a. 215; 1997 a. [123](#).

19.84 - ANNOT.

The word "licenses" on a city council's agenda was specific enough to apprise members of the public of the subject matter to be considered. State ex rel. H.D. Enterprises II, LLC v. City of Stoughton, 230 Wis. 2d 480, 602 N.W.2d 72 (Ct. App. 1999).

19.84 - ANNOT.

Under sub. (1) (b), a written request for notice of meetings of a governmental body should be filed with the chief presiding officer or designee and a separate written request should be filed with each specific governmental body. 65 Atty. Gen. 166.

19.84 - ANNOT.

The method of giving notice pursuant to sub. (1) is discussed. 65 Atty. Gen. 250.

19.84 - ANNOT.

The specificity of notice required by a governmental body is discussed. 66 Atty. Gen. 143, 195.

19.84 - ANNOT.

The requirements of notice given to newspapers under this section is discussed. 66 Atty. Gen. 230.

19.84 - ANNOT.

A town board, but not an annual town meeting, is a "governmental body" within the meaning of the open meetings law. 66 Atty. Gen. 237.

19.84 - ANNOT.

News media who have filed written requests for notices of public meetings cannot be charged fees by governmental bodies for communication of the notices. 77 Atty. Gen. 312.

19.84 - ANNOT.

A newspaper is not obligated to print a notice received under sub. (1) (b), nor is governmental body obligated to pay for publication. Martin v. Wray, 473 F. Supp. 1131 (1979).

19.85

19.85 Exemptions.

19.85(1)

(1) Any meeting of a governmental body, upon motion duly made and carried, may be convened in closed session under one or more of the exemptions provided in this section. The motion shall be carried by a majority vote in such manner that the vote of each member is ascertained and recorded in the minutes. No motion to convene in closed session may be adopted unless the chief presiding officer announces to those present at the meeting at which such motion is made, the nature of the business to be considered at such closed session, and the specific exemption or exemptions under this subsection by which such closed session is claimed to be authorized. Such announcement shall become part of the record of the meeting. No business may be taken up at any closed session except that which relates to matters contained in the chief presiding officer's announcement of the closed session. A closed session may be held for any of the following purposes:

19.85(1)(a)

(a) Deliberating concerning a case which was the subject of any judicial or quasi-judicial trial or hearing before that governmental body.

19.85(1)(b)

(b) Considering dismissal, demotion, licensing or discipline of any public employe or person licensed by a board or commission or the investigation of charges against such person, or considering the grant or denial of tenure for a university faculty member, and the taking of formal action on any such matter; provided that the faculty member or other public employe or person licensed is given actual notice of any evidentiary hearing which may be held prior to final action being taken and of any meeting at which final action may be taken. The notice shall contain a statement that the person has the right to demand that the evidentiary hearing or meeting be held in open session. This paragraph and [par. \(f\)](#) do not apply to any such evidentiary hearing or meeting where the employe or person licensed requests that an open session be held.

19.85(1)(c)

(c) Considering employment, promotion, compensation or performance evaluation data of any public employe over which the governmental body has jurisdiction or exercises responsibility.

19.85(1)(d)

(d) Except as provided in [s. 304.06 \(1\) \(eg\)](#) and by rule promulgated under [s. 304.06 \(1\) \(em\)](#), considering specific applications of probation, extended supervision or parole, or considering strategy for crime detection or prevention.

19.85(1)(e)

(e) Deliberating or negotiating the purchasing of public properties, the investing of public funds, or conducting other specified public business, whenever competitive or bargaining reasons require a closed session.

19.85(1)(ee)

(ee) Deliberating by the council on unemployment insurance in a meeting at which all employer members of the council or all employe members of the council are excluded.

19.85(1)(eg)

(eg) Deliberating by the council on worker's compensation in a meeting at which all employer members of the council or all employe members of the council are excluded.

19.85(1)(em)

(em) Deliberating under [s. 157.70](#) if the location of a burial site, as defined in [s. 157.70 \(1\) \(b\)](#), is a subject of the deliberation and if discussing the location in public would be likely to result in disturbance of the burial site.

19.85(1)(f)

(f) Considering financial, medical, social or personal histories or disciplinary data of specific persons, preliminary consideration of specific personnel problems or the investigation of charges against specific persons except where [par. \(b\)](#) applies which, if discussed in public, would be likely to have a substantial adverse effect upon the reputation of any person referred to in such histories or data, or involved in such problems or investigations.

19.85(1)(g)

(g) Conferring with legal counsel for the governmental body who is rendering oral or written advice concerning strategy to be adopted by the body with respect to litigation in which it is or is likely to become involved.

19.85(1)(h)

(h) Consideration of requests for confidential written advice from the ethics board under [s. 19.46 \(2\)](#), or from any county or municipal ethics board under [s. 19.59 \(5\)](#).

19.85(1)(i)

(i) Considering any and all matters related to acts by businesses under [s. 560.15](#) which, if discussed in public, could adversely affect the business, its employes or former employes.

19.85(1)(j)

(j) Considering financial information relating to the support by a person, other than an authority, of a nonprofit corporation operating the Olympic Ice Training Center under [s. 42.11 \(3\)](#), if the information is exempt from disclosure under [s. 42.115](#) or would be so exempt were the information to be contained in a record. In this paragraph, "authority" and "record" have the meanings given under [s. 19.32](#).

19.85(2)

(2) No governmental body may commence a meeting, subsequently convene in closed session and thereafter reconvene again in open session within 12 hours after completion of the closed session, unless public notice of such subsequent open session was given at the same time and in the same manner as the public notice of the meeting convened prior to the closed session.

19.85(3)

(3) Nothing in this subchapter shall be construed to authorize a governmental body to consider at a meeting in closed session the final ratification or approval of a collective bargaining agreement under [subch. I, IV or V](#) of ch. 111 which has been negotiated by such body or on its behalf.

19.85 - ANNOT.

History: 1975 c. 426; 1977 c. 260; 1983 a. 84; 1985 a. 316; 1987 a. 38, 305; 1989 a. 64; 1991 a. 39; 1993 a. 97, 215; 1995 a. [27](#); 1997 a. [39](#), [237](#), [283](#); 1999 a. [32](#).

19.85 - ANNOT.

Although a meeting was properly closed, in order to refuse inspection of records of the meeting, the custodian was required by s. 19.35 (1) (a) to state specific and sufficient public policy reasons why the public interest in nondisclosure outweighed the public's right of inspection. Oshkosh Northwestern Co. v. Oshkosh Library Bd. 125 Wis. 2d 480, 373 N.W.2d 459 (Ct. App. 1985).

19.85 - ANNOT.

The balance between protection of reputation under sub. (1) (f) and public interest in openness is discussed. Wis. State Journal v. UW-Platteville, 160 Wis. 2d 31, 465 N.W.2d 266 (Ct. App. 1990). See also Pangman v. Stigler, 161 Wis. 2d 828, 468 N.W.2d 784 (Ct. App. 1991).

19.85 - ANNOT.

A "case" under sub. (1) (a) contemplates an adversarial proceeding. It does not connote the mere application for and granting of a permit. Hodge v. Turtle Lake, 180 Wis. 2d 62, 508 N.W.2d 603 (1993).

19.85 - ANNOT.

A closed session to discuss an employee's dismissal was properly held under sub. (1) (b) and did not require notice to the employee under sub. (1) (c) when no evidentiary hearing or final action took place in the closed session. *State ex rel. Epping v. City of Neilsville*, 218 Wis. 2d 516, 581 N.W.2d 548 (Ct. App. 1998).

19.85 - ANNOT.

Boards of review cannot rely on the exemptions in sub. (1) to close any meeting in view of the explicit requirements in s. 70.47 (2m). 65 Atty. Gen. 162.

19.85 - ANNOT.

A university subunit may discuss promotions not relating to tenure, merit increases and property purchase recommendations in closed session. 66 Atty. Gen. 60.

19.85 - ANNOT.

Neither sub. (1) (c) nor (f) authorizes a school board to make actual appointments of new member in closed session. 74 Atty. Gen. 70.

19.85 - ANNOT.

A county board chairperson and committee are not authorized by sub. (1) (c) to meet in closed session to discuss appointments to county board committees; however, in appropriate circumstances, sub. (1) (f) would authorize closed sessions. 76 Atty. Gen. 276.

19.85 - ANNOT.

Sub. (1) (c) does not permit closed session to consider employment, compensation, promotion or performance evaluation policies to be applied to a position of employment in general. 80 Atty. Gen. 176.

19.85 - ANNOT.

A governmental body may convene in closed session to formulate collective bargaining strategy, but sub. (3) requires that deliberations leading to ratification of a tentative agreement with a bargaining unit, as well as the ratification vote, must be held in open session. 81 Atty. Gen. 139.

19.85 - ANNOT.

"(E)videntiary hearing" as used in s. 19.85 (1) (b), means a formal examination of accusations, by receiving testimony or other forms of evidence, that may be relevant to the dismissal, demotion, licensing, or discipline of any public employee or person covered by that section. A council that considered a mayor's accusations against an employee in closed session without giving the employee prior notice violated the requirement of actual notice to an employe. *Campana v. City of Greenfield*, 38 F. Supp.2d 1043 (1999).

19.86

19.86 Notice of collective bargaining negotiations. Notwithstanding s. 19.82 (1), where notice has been given by either party to a collective bargaining agreement under [subch. I, IV](#) or [V](#) of ch. 111 to reopen such agreement at its expiration date, the employer shall give notice of such contract reopening as provided in [s. 19.84 \(1\) \(b\)](#). If the employer is not a governmental body, notice shall be given by the employer's chief officer or such person's designee. This section does not apply to a nonprofit corporation operating the Olympic Ice Training Center under [s. 42.11 \(3\)](#).

19.86 - ANNOT.

History: 1975 c. 426; 1987 a. 305; 1993 a. 215; 1995 a. 27.

19.87

19.87 Legislative meetings. This subchapter shall apply to all meetings of the senate and assembly and the committees, subcommittees and other subunits thereof, except that:

19.87(1)

(1) [Section 19.84](#) shall not apply to any meeting of the legislature or a subunit thereof called solely for the purpose of scheduling business before the legislative body; or adopting resolutions of which the sole purpose is scheduling business before the senate or the assembly.

19.87(2)

(2) No provision of this subchapter which conflicts with a rule of the senate or assembly or joint rule of the legislature shall apply to a meeting conducted in compliance with such rule.

19.87(3)

(3) No provision of this subchapter shall apply to any partisan caucus of the senate or any partisan caucus of the assembly, except as provided by legislative rule.

19.87(4)

(4) Meetings of the senate or assembly committee on organization under [s. 71.78 \(4\) \(c\)](#) or [77.61 \(5\) \(b\) 3.](#) shall be closed to the public.

19.87 - ANNOT.

History: 1975 c. 426; 1977 c. 418; 1987 a. 312 s. 17.

19.87 - ANNOT.

Sub. (3) applied to closed meeting of Democrats on a legislative committee to discuss the budget bill. *State ex rel. Lynch v. Conta*, 71 Wis. 2d 662, 239 N.W.2d 313.

19.88

19.88 Ballots, votes and records.

19.88(1)

(1) Unless otherwise specifically provided by statute, no secret ballot may be utilized to determine any election or other decision of a governmental body except the election of the officers of such body in any meeting.

19.88(2)

(2) Except as provided in [sub. \(1\)](#) in the case of officers, any member of a governmental body may require that a vote be taken at any meeting in such manner that the vote of each member is ascertained and recorded.

19.88(3)

(3) The motions and roll call votes of each meeting of a governmental body shall be recorded, preserved and open to public inspection to the extent prescribed in [subch. II](#) of ch. 19.

19.88 - ANNOT.

History: 1975 c. 426; 1981 c. 335 s. 26.

19.88 - ANNOT.

Under sub. (1), common council may not vote to fill a vacancy on the common council by secret ballot. 65 Atty. Gen. 131.

19.89

19.89 Exclusion of members. No duly elected or appointed member of a governmental body may be excluded from any meeting of such body. Unless the rules of a governmental body provide to the contrary, no member of the body may be excluded from any meeting of a subunit of that governmental body.

19.89 - ANNOT.

History: 1975 c. 426.

19.90

19.90 Use of equipment in open session. Whenever a governmental body holds a meeting in open session, the body shall make a reasonable effort to accommodate any person desiring to record, film or photograph the meeting. This section does not permit recording, filming or photographing such a meeting in a manner that interferes with the conduct of the meeting or the rights of the participants.

19.90 - ANNOT.

History: 1977 c. 322.

19.96

19.96 Penalty. Any member of a governmental body who knowingly attends a meeting of such body held in violation of this subchapter, or who, in his or her official capacity, otherwise violates this subchapter by some act or omission shall forfeit without reimbursement not less than \$25 nor more than \$300 for each such violation. No member of a governmental body is liable under this subchapter on account of his or her attendance at a meeting held in violation of this subchapter if he or she makes or votes in favor of a motion to prevent the violation from occurring, or if, before the violation occurs, his or her votes on all relevant motions were inconsistent with all those circumstances which cause the violation.

19.96 - ANNOT.

History: 1975 c. 426.

19.96 - ANNOT.

The state need not prove specific intent to violate the Open Meeting Law. *State v. Swanson*, 92 Wis. 2d 310, 284 N.W.2d 655 (1979).

19.97

19.97 Enforcement.

19.97(1)

(1) This subchapter shall be enforced in the name and on behalf of the state by the attorney general or, upon the verified complaint of any person, by the district attorney of any county wherein a violation may occur. In actions brought by the attorney general, the court shall award any forfeiture recovered together with reasonable costs to the state; and in actions brought by the district attorney, the court shall award any forfeiture recovered together with reasonable costs to the county.

19.97(2)

(2) In addition and supplementary to the remedy provided in [s. 19.96](#), the attorney general or the district attorney may commence an action, separately or in conjunction with an action brought under [s. 19.96](#), to obtain such other legal or equitable relief, including but not limited to mandamus, injunction or declaratory judgment, as may be appropriate under the circumstances.

19.97(3)

(3) Any action taken at a meeting of a governmental body held in violation of this subchapter is voidable, upon action brought by the attorney general or the district attorney of the county wherein the violation occurred. However, any judgment declaring such action void shall not be entered unless the court finds, under the facts of the particular case, that the public interest in the enforcement of this subchapter outweighs any public interest which there may be in sustaining the validity of the action taken.

19.97(4)

(4) If the district attorney refuses or otherwise fails to commence an action to enforce this subchapter within 20 days after receiving a verified complaint, the person making such complaint may bring an action under [subs. \(1\) to \(3\)](#) on his or her relation in the name, and on behalf, of the state. In such actions, the court may award actual and necessary

costs of prosecution, including reasonable attorney fees to the relator if he or she prevails, but any forfeiture recovered shall be paid to the state.

19.97(5)

(5) Sections 893.80 and 893.82 do not apply to actions commenced under this section.

19.97 - ANNOT.

History: 1975 c. 426; 1981 c. 289; 1995 a. 158.

19.97 - ANNOT.

Judicial Council Note, 1981: Reference in sub. (2) to a "writ" of mandamus has been removed because that remedy is now available in an ordinary action. See s. 781.01, stats., and the note thereto. [Bill 613-A]

19.97 - ANNOT.

The standard for awarding attorney fees under sub. (4) is discussed. *Hodge v. Turtle Lake*, 180 Wis. 2d 62, 508 N.W.2d 603 (1993).

19.97 - ANNOT.

Awards of attorney fees are to be at a rate applicable to private attorneys. A court may review the reasonableness of the hours and hourly rate charged, including the rates for similar services in the area, and may in addition consider the peculiar facts of the case and the responsible party's ability to pay. Hodge v. Town of Turtle Lake, 190 Wis. 2d 181, 526 N.W.2d 784 (Ct. App. 1994).

19.97 - ANNOT.

Actions brought under the open meetings and open records laws are exempt from the notice provisions of s. 893.80 (1). Auchinleck v. Town of LaGrange, 200 Wis. 2d 585, 547 N.W.2d 587 (1996).

19.98

19.98 Interpretation by attorney general. Any person may request advice from the attorney general as to the applicability of this subchapter under any circumstances.

19.98 - ANNOT.

History: 1975 c. 426.