

CHAPTER 19

GENERAL DUTIES OF PUBLIC OFFICIALS

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SUBCHAPTER I

OFFICIAL OATHS AND BONDS

**19.01 Oaths and bonds.** (1) FORM OF OATH. Every official oath required by [article IV, section 28](#), of the constitution or by any statute shall be in writing, subscribed and sworn to and except as provided otherwise by [s. 757.02](#) and [SCR 40.15](#), shall be in substantially the following form:

STATE OF WISCONSIN,  
County of ....

I, the undersigned, who have been elected (or appointed) to the office of ....., but have not yet entered upon the duties thereof, swear (or affirm) that I will support the constitution of the United States and the constitution of the state of Wisconsin, and will faithfully discharge the duties of said office to the best of my ability. So help me God.

.... ..

Subscribed and sworn to before me this .... day of ....., .... (year)  
....(Signature)....,

(1m) FORM OF ORAL OATH. If it is desired to administer the official oath orally in addition to the written oath prescribed above, it shall be in substantially the following form:

I, ....., swear (or affirm) that I will support the constitution of the United States and the constitution of the state of Wisconsin, and

will faithfully and impartially discharge the duties of the office of .... to the best of my ability. So help me God.

(2) FORM OF BOND. (a) Every official bond required of any public officer shall be in substantially the following form:

We, the undersigned, jointly and severally, undertake and agree that ....., who has been elected (or appointed) to the office of ....., will faithfully discharge the duties of the office according to law, and will pay to the parties entitled to receive the same, such damages, not exceeding in the aggregate .... dollars, as may be suffered by them in consequence of the failure of .... to discharge the duties of the office.

Dated ....., .... (year)

....(Principal)....,  
....(Surety)....,

(b) Any further or additional official bond lawfully required of any public officer shall be in the same form and it shall not affect or impair any official bond previously given by the officer for the same or any other official term. Where such bond is in excess of the sum of \$25,000, the officer may give 2 or more bonds.

(2m) EFFECT OF GIVING BOND. Any bond purportedly given as an official bond by a public officer, of whom an official bond is required, shall be deemed to be an official bond and shall be deemed as to both principal and surety to contain all the conditions and provisions required in sub. (2), regardless of its form or word-

the request is denied by the authority having custody of the record or part of the record.

**(1n) NOTICE OF CLAIM.** Sections 893.80 and 893.82 do not apply to actions commenced under this section.

**(2) COSTS, FEES AND DAMAGES.** (a) Except as provided in this paragraph, the court shall award reasonable attorney fees, damages of not less than \$100, and other actual costs to the requester if the requester prevails in whole or in substantial part in any action filed under sub. (1) relating to access to a record or part of a record under s. 19.35 (1) (a). If the requester is a committed or incarcerated person, the requester is not entitled to any minimum amount of damages, but the court may award damages. Costs and fees shall be paid by the authority affected or the unit of government of which it is a part, or by the unit of government by which the legal custodian under s. 19.33 is employed and may not become a personal liability of any public official.

(b) In any action filed under sub. (1) relating to access to a record or part of a record under s. 19.35 (1) (am), if the court finds that the authority acted in a willful or intentional manner, the court shall award the individual actual damages sustained by the individual as a consequence of the failure.

**(3) PUNITIVE DAMAGES.** If a court finds that an authority or legal custodian under s. 19.33 has arbitrarily and capriciously denied or delayed response to a request or charged excessive fees, the court may award punitive damages to the requester.

**(4) PENALTY.** Any authority which or legal custodian under s. 19.33 who arbitrarily and capriciously denies or delays response to a request or charges excessive fees may be required to forfeit not more than \$1,000. Forfeitures under this section shall be enforced by action on behalf of the state by the attorney general or by the district attorney of any county where a violation occurs. 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.

**History:** 1981 c. 335, 391; 1991 a. 269 s. 43d; 1995 a. 158; 1997 a. 94.

A party seeking fees under sub. (2) must show that the prosecution of an action could reasonably be regarded as necessary to obtain the information and that a "causal nexus" exists between that action and the agency's surrender of the information. *State ex rel. Vaughan v. Faust*, 143 Wis. 2d 868, 422 N.W.2d 898 (Ct. App. 1988).

If an agency exercises due diligence but is unable to respond timely to a records request, the plaintiff must show that a mandamus action was necessary to secure the records release to qualify for award of fees and costs under sub. (2). *Racine Education Association v. Racine Board of Education*, 145 Wis. 2d 518, 427 N.W.2d 414 (Ct. App. 1988).

Assuming sub. (1) (a) applies before mandamus is issued, the trial court retains discretion to refuse counsel's participation in an *in camera* inspection. *Milwaukee Journal v. Call*, 153 Wis. 2d 313, 450 N.W.2d 515 (Ct. App. 1989).

If the trial court has an incomplete knowledge of the contents of the public records sought, it must conduct an *in camera* inspection to determine what may be disclosed following a custodian's refusal. *State ex rel. Morke v. Donnelly*, 155 Wis. 2d 521, 455 N.W.2d 893 (1990).

A *pro se* litigant is not entitled to attorney fees. *State ex rel. Young v. Shaw*, 165 Wis. 2d 276, 477 N.W.2d 340 (Ct. App. 1991).

A favorable judgment or order is not a necessary condition precedent for finding that a party prevailed against an agency under sub. (2). A causal nexus must be shown between the prosecution of the mandamus action and the release of the requested information. *Eau Claire Press Co. v. Gordon*, 176 Wis. 2d 154, 499 N.W.2d 918 (Ct. App. 1993).

Actions brought under the open meetings and open records laws are exempt from the notice provisions of s. 893.80 (1), 1993 stats. *Auchinleck v. Town of LaGrange*, 200 Wis. 2d 585, 547 N.W.2d 587 (1996), 94–2809.

An inmate's right to mandamus under this section is subject to s. 801.02 (7), which requires exhaustion of administrative remedies before an action may be commenced. *Moore v. Stahowiak*, 212 Wis. 2d 744, 569 N.W.2d 711 (Ct. App. 1997), 96–2547.

When requests are complex, municipalities should be afforded reasonable latitude in time for their responses. An authority should not be subjected to the burden and expense of a premature public records lawsuit while it is attempting in good faith to respond, or to determine how to respond, to a request. What constitutes a reasonable time for a response by an authority depends on the nature of the request, the staff and other resources available to the authority to process the request, the extent of the request, and other related considerations. *WIREData, Inc. v. Village of Sussex*, 2008 WI 69, 310 Wis. 2d 397, 751 N.W.2d 736, 05–1473.

The legislature did not intend to allow a record requester to control or appeal a mandamus action brought by the attorney general under sub. (1) (b). Sub. (1) outlines two distinct courses of action when a records request is denied, dictates distinct courses of action, and prescribes different remedies for each course. Nothing suggests that a requester is hiring the attorney general as a sort of private counsel to proceed with the case, or that the requester would be a named plaintiff in the case with the attorney

general appearing as counsel of record when proceeding under sub. (1) (b). *State v. Zien*, 2008 WI App 153, 314 Wis. 2d 340, 761 N.W.2d 15, 07–1930.

This section unambiguously limits punitive damages claims under sub. (3) to mandamus actions. The mandamus court decides whether there is a violation and, if so, whether it caused actual damages. Then, the mandamus court may consider whether punitive damages should be awarded under sub. (3). *The Capital Times Company v. Doyle*, 2011 WI App 137, 337 Wis. 2d 544, 807 N.W.2d 666, 10–1687.

Under the broad terms of s. 51.30 (7), the confidentiality requirements created under s. 51.30 generally apply to "treatment records" in criminal not guilty by reason of insanity cases. All conditional release plans in NGI cases are, by statutory definition, treatment records. They are "created in the course of providing services to individuals for mental illness," and thus should be deemed confidential. An order of placement in an NGI case is not a "treatment record." *La Crosse Tribune v. Circuit Court for La Crosse County*, 2012 WI App 42, 340 Wis. 2d 663, 814 N.W.2d 867, 10–3120.

The plaintiff newspaper argued that s. 19.88 (3), of the open meetings law, which requires "the motions and roll call votes of each meeting of a governmental body shall be recorded, preserved and open to public inspection," in turn, required the defendant commission to record and disclose the information the newspaper requested under the open records law. The newspaper could not seek relief under the public records law for the commission's alleged violation of the open meetings law and could not recover reasonable attorney fees, damages, and other actual costs under sub. (2) for an alleged violation of the open meetings law. *The Journal Times v. City of Racine Board of Police and Fire Commissioners*, 2015 WI 56, 362 Wis. 2d 577, 866 N.W.2d 563, 13–1715.

A record custodian should not automatically be subject to potential liability under sub. (2) (a) for actively providing information, which it is not required to do in response to a public records request, to a requester when no record exists. While it might be a better course to inform a requester that no record exists, the language of the public records law does not specifically require such a response. *The Journal Times v. City of Racine Board of Police and Fire Commissioners*, 2015 WI 56, 362 Wis. 2d 577, 866 N.W.2d 563, 13–1715.

Actual damages are the liability of the agency. Punitive damages and forfeitures can be the liability of either the agency or the legal custodian, or both. Section 895.46 (1) (a) probably provides indemnification for punitive damages assessed against a custodian, but not for forfeitures. 72 Atty. Gen. 99.

**19.39 Interpretation by attorney general.** Any person may request advice from the attorney general as to the applicability of this subchapter under any circumstances. The attorney general may respond to such a request.

**History:** 1981 c. 335.

### SUBCHAPTER III

#### CODE OF ETHICS FOR PUBLIC OFFICIALS AND EMPLOYEES

**19.41 Declaration of policy.** (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.

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

**History:** 1973 c. 90; Stats. 1973 s. 11.01; 1973 c. 334 s. 33; Stats. 1973 s. 19.41; 1977 c. 277; 2015 a. 118 s. 266 (10).

#### 19.42 Definitions. In this subchapter:

(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.

(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 percent of the outstanding equity or of which an individual or a member of his or her immediate family is an authorized representative or agent.

(3m) "Candidate," except as otherwise provided, has the meaning given in s. 11.0101 (1).

**(3s)** “Candidate for local 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 local public official or any individual who is nominated for the purpose of appearing on the ballot for election as a local 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.

**(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.

**(4g)** “Clearly identified,” when used in reference to a communication containing a reference to a person, means one of the following:

- (a) The person’s name appears.
- (b) A photograph or drawing of the person appears.
- (c) The identity of the person is apparent by unambiguous reference.

**(4p)** “Commission” means the ethics commission.

**(4r)** “Communication” means a message transmitted by means of a printed advertisement, billboard, handbill, sample ballot, radio or television advertisement, telephone call, or any medium that may be utilized for the purpose of disseminating or broadcasting a message, but not including a poll conducted solely for the purpose of identifying or collecting data concerning the attitudes or preferences of electors.

**(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.

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

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

**(7)** “Immediate family” means:

- (a) An individual’s spouse; and
- (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.

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

**(7s)** “Internal revenue code” has the meanings given under s. 71.01 (6).

**(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.

**(7w)** “Local public office” means any of the following offices, except an office specified in sub. (13):

- (a) An elective office of a local governmental unit.
- (b) A county administrator or administrative coordinator or a city or village manager.
- (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.

(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.

(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.

(e) The position of member of the Milwaukee County mental health board as created under s. 51.41 (1d).

**(7x)** “Local public official” means an individual holding a local public office.

**(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.

**(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.

**(10)** “Official required to file” means:

- (a) A member or employee of the elections commission.
- (ab) A member or employee of the ethics commission.
- (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.
- (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).

(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.

(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.

(f) An auditor for the legislative audit bureau.

(g) The chief clerk and sergeant at arms of each house of the legislature.

(h) The members and employees of the Wisconsin Housing and Economic Development Authority, except clerical employees.

(i) A municipal judge.

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

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

(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.

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

(o) The chief executive officer and members of the board of directors of the Fox River Navigational System Authority.

(q) The executive director and members of the board of directors of the Wisconsin Aerospace Authority.

(r) The employees and members of the board of directors of the Lower Fox River Remediation Authority.



(sm) The employees of the Wisconsin Economic Development Corporation and the members of the board of directors of the Wisconsin Economic Development Corporation employed in the private sector who are appointed by the speaker of the assembly and the senate majority leader.

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

(11m) “Political party” means a political organization under whose name individuals who seek elective public office appear on the ballot at any election or any national, state, or local unit or affiliate of that organization.

(12) “Security” has the meaning given under s. 551.102 (28), 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.

(13) “State public office” means:

(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.

(b) The positions of associate and assistant vice presidents of the University of Wisconsin System.

(c) All positions identified under s. 20.923 (2), (4), (6) (f) to (h), (7), and (8) to (10), except clerical positions.

(cm) The president and vice presidents of the University of Wisconsin System and the chancellors and vice chancellors of all University of Wisconsin institutions, the University of Wisconsin Colleges, and the University of Wisconsin–Extension.

(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.

(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.

(g) The members and employees of the Wisconsin Housing and Economic Development Authority, except clerical employees.

(h) A municipal judge.

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

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

(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.

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

(n) The chief executive officer and members of the board of directors of the Fox River Navigational System Authority.

(om) The employees of the Wisconsin Economic Development Corporation and the members of the board of directors of the Wisconsin Economic Development Corporation employed in the private sector who are appointed by the speaker of the assembly and the senate majority leader.

(p) All members of the elections commission and all members of the ethics commission.

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

**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 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; 2001 a. 16, 104, 109; 2003 a. 39; 2005 a. 335; 2007 a. 1, 20, 196; 2009 a. 28; 2011 a. 7, 10, 32, 229; 2013 a. 20 ss. 193o, 193q, 2365m, 9448; 2013 a. 203; 2015 a. 117, 118, 196, 261.

**Cross-reference:** See also s. ETH 16.02, Wis. adm. code.

**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.

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.

When person holds 2 government positions, one included in and the other exempted from the 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. (1)** Each individual who in January of any year is an official required to file shall file with the commission 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.

(2) An official required to file shall file with the commission 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 commission during that year. The information on the statement shall be current as per the date he or she assumes office.

(3) A nominee shall file with the commission 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 commission 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 commission shall forward copies of such statement to the members of the committee of the senate to which the nomination is referred.

(4) A candidate for state public office shall file with the commission 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 commission, municipal clerk, or board of election commissioners shall ascertain whether that candidate has complied with this subsection. If not, the elections commission, municipal clerk, or board of election commissioners may not certify the candidate’s name for ballot placement.

(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 commission a quarterly report of economic transactions no later than the last day of the month following the

(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.

(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.

(e) A state public official who is an officer or employee of the Wisconsin Economic Development Corporation may solicit, receive and retain on behalf of the state anything of value for the purpose of any of the following:

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

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

(em) A state public official who is an officer or employee 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.

(f) A state public official or a local public official may receive and retain from the Wisconsin Economic Development Corporation anything of value which the Wisconsin Economic Development Corporation 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).

(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.

**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); 2011 a. 32; 2015 a. 118 s. 266 (10); 2017 a. 112.

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 Conferences, visits and economic development activities.** The Wisconsin Economic Development Corporation shall file a report with the commission no later than April 30 annually, specifying the source and amount of anything of value received by the Wisconsin Economic Development Corporation 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.

**History:** 1991 a. 39; 1995 a. 27 s. 9116 (5); 2011 a. 32; 2015 a. 118 s. 266 (10).

**19.575 Tourism activities.** The department of tourism shall file a report with the commission 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.

**History:** 1995 a. 27; 2015 a. 118 s. 266 (10).

**19.579 Civil penalties.** (1) Except as provided in sub. (2), any person who violates this subchapter may be required 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. If the court determines that the accused has realized economic gain as a result of the violation, the court may, in addition, order the accused to forfeit the amount gained as a result of the violation. In addition, if the court determines that a state public official has violated s. 19.45 (13), the court may order the official to forfeit an amount equal to the amount or value of any political contribution, service, or other thing of value that was wrongfully obtained. If the court determines that a state public official has violated s. 19.45 (13) and no political contribution, service, or other thing of value was obtained, the court may order the official to forfeit an amount equal to the maximum contribution authorized under s. 11.1101 (1) for the office held or sought by the official, whichever amount is greater. The attorney general, when so requested by the commission, shall institute proceedings to recover any forfeiture incurred under this section which is not paid by the person against whom it is assessed.

(2) Any person who violates s. 19.45 (13) may be required to forfeit not more than \$5,000.

**History:** 2003 a. 39; 2007 a. 1 ss. 121, 130, 131; 2015 a. 117; 2015 a. 118 s. 266 (10).

**19.58 Criminal penalties.** (1) (a) Any person who intentionally violates any provision of this subchapter except s. 19.45 (13) or 19.59 (1) (br), or a code of ethics adopted or established under s. 19.45 (11) (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.

(b) Any person who intentionally violates s. 19.45 (13) or 19.59 (1) (br) is guilty of a Class I felony.

(2) The penalties under sub. (1) do 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 employees.

(3) In this section “intentionally” has the meaning given under s. 939.23.

(4) A person who violates s. 19.50 may be fined not more than \$10,000 or imprisoned for not more than 9 months or both.

**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; 2003 a. 39; 2015 a. 118.

**19.59 Codes of ethics for local government officials, employees and candidates.** (1) (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 or football game by a member of the district board of a local professional baseball park district created under subch. III of ch. 229 or a local professional football stadium district created under subch. IV 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. This paragraph does not prohibit a local public official from obtaining anything of value from the Wisconsin Economic Development Corporation or the department of tourism, as provided under s. 19.56 (3) (f).

(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.

(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.

(br) No local public official or candidate for local public office may, directly or by means of an agent, give, or offer or promise to give, or withhold, or offer or promise to withhold, his or her vote or influence, or promise to take or refrain from taking official action with respect to any proposed or pending matter in consideration of, or upon condition that, any other person make or refrain from making a political contribution, or provide or refrain from providing any service or other thing of value, to or for the benefit of a candidate, a political party, any committee registered under ch. 11, or any person making a communication that contains a reference to a clearly identified local public official holding an elective office or to a candidate for local public office.

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

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.

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.

(d) Paragraph (c) does not prohibit a local public official from taking any action concerning the lawful payment of salaries or employee 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.

(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.

(g) 1. In this paragraph:

a. "District" means a local professional baseball park district created under subch. III of ch. 229 or a local professional football stadium district created under subch. IV of ch. 229.

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

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.

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.

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.

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.

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.

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.

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 percent 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 commission 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 commission, 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.

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 employee 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.

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 employee 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.

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.

**(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 employees of the county or municipality and candidates for county or municipal elective offices.

**(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.

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

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

(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 eco-



conomic interests in accordance with the requirements of the ordinance.

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

(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.

(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.

(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.

(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.

(5) (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.

(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.

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

(7) (a) Any person who violates sub. (1) may be required to forfeit not more than \$1,000 for each violation, and, if the court determines that the accused has violated sub. (1) (br), the court may, in addition, order the accused to forfeit an amount equal to the amount or value of any political contribution, service, or other thing of value that was wrongfully obtained.

(b) Any person who violates sub. (1) may be required to forfeit not more than \$1,000 for each violation, and, if the court determines that a local public official has violated sub. (1) (br) and no political contribution, service or other thing of value was obtained, the court may, in addition, order the accused to forfeit an amount equal to the maximum contribution authorized under s. 11.1101 (1) for the office held or sought by the official, whichever amount is greater.

(8) (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.

(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.

(c) If the district attorney fails to commence an action to enforce sub. (1) (a), (b), or (c) to (g) 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.

(cm) No complaint alleging a violation of sub. (1) (br) may be filed during the period beginning 120 days before a general or spring election, or during the period commencing on the date of the order of a special election under s. 8.50, and ending on the date of that election, against a candidate who files a declaration of candidacy to have his or her name appear on the ballot at that election.

(cn) If the district attorney for the county in which a violation of sub. (1) (br) is alleged to occur receives a verified complaint alleging a violation of sub. (1) (br), the district attorney shall, within 30 days after receipt of the complaint, either commence an investigation of the allegations contained in the complaint or dismiss the complaint. If the district attorney dismisses the complaint, with or without investigation, the district attorney shall notify the complainant in writing. Upon receiving notification of the dismissal, the complainant may then file the complaint with the attorney general or the district attorney for a county that is adjacent to the county in which the violation is alleged to occur. The attorney general or district attorney may then investigate the allegations contained in the complaint and commence a prosecution.

(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.

**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; 1999 a. 167; 2001 a. 109; 2003 a. 39; 2007 a. 1; 2015 a. 117; 2015 a. 118 ss. 204, 266 (10); 2017 a. 112.