

59.40 COUNTIES

4. “Open–end credit agreement” means an agreement under which credit is extended on an account and under which all of the following are true:

a. The debtor may make purchases or obtain loans, from time to time, directly from the creditor or indirectly by use of a credit card, check, or other device, as the plan may provide.

b. The debtor has the privilege of paying the balance in full or in installments.

c. The creditor may from time to time assess a charge, computed on any outstanding unpaid balance.

(b) The clerk of circuit court may accept a credit card or debit card for any required payment to the clerk of circuit court and may charge and collect a reasonable service fee for the use of a credit card or debit card. The county board shall establish the amount of the service fee, which shall be retained in full by the county.

(c) The clerk of circuit court may charge and collect a fee for the establishment and monitoring of a payment plan for persons ordered to make payments to the clerk of circuit court. The amount of the fee may not exceed \$15 and shall be on a sliding scale based on the person’s ability to pay in view of the person’s income.

History: 1995 a. 27 ss. 3290, 3291; 1995 a. 201 ss. 311 to 318, 320 to 322, 325; 1995 a. 224 ss. 11 to 13; 1995 a. 227 s. 203; 1995 a. 279 s. 8; 1995 a. 404 s. 185; 1995 a. 438; 1995 a. 448 s. 61; Sup. Ct. Order No. 96–08, 207 Wis. 2d xv (1997); 1997 a. 3, 27; 1997 a. 35 ss. 185, 186; 1997 a. 39, 135, 148, 191, 237, 248, 252; 1999 a. 9, 32; 1999 a. 150 s. 672; 2001 a. 16, 56, 61, 105; 2003 a. 33, 139, 321, 326; 2005 a. 25, 59, 204; 2007 a. 20; 2013 a. 107, 164; 2015 a. 55, 196; 2017 a. 207 s. 5.

Cross-reference: See ss. 69.01 (5), 69.12 (1), 69.14 (1) (h), 69.15 (1) (b), 69.16 (2), 69.17, 69.19, and 69.21 (4) (b) as to furnishing information to the state registrar of vital statistics.

Cross-reference: See s. 758.13 as to furnishing information to the judicial council.

Cross-reference: See ss. 753.30, 801.61, 809.15, 889.08, and 889.09 as to authenticating, certifying, and transmitting documents.

Cross-reference: See chs. 818 and 969 as to receiving bail.

Cross-reference: See ch. 756 as to performing duties with respect to jurors.

Cross-reference: See s. 757.40 as to care for the county law library.

Cross-reference: See ch. 814 as to taxing costs and collecting fees.

Cross-reference: See ch. 815 as to issuing executions and writs of assistance.

Cross-reference: See s. 885.01 as to issuing and signing subpoenas.

Cross-reference: See s. 779.07 as to keeping a lien docket.

When a clerk of court customarily supplied an affidavit form to persons claiming witness fees, the statutes, as well as custom and common sense, required the clerk to furnish the form affidavit for signing, and entitled the petitioner to expect that the service, routinely furnished others, would be available to him. *State ex rel. Hurley v. Schmidley*, 48 Wis. 2d 659, 180 N.W.2d 605 (1970).

Under s. 59.42 (1) [now s. 59.40 (3) (a)], a clerk retains discretion to refuse to file documents unless the fee is tendered, even though the standard may result in inconsistent policies among the counties. *Giese v. LIRC*, 153 Wis. 2d 212, 450 N.W.2d 489 (Ct. App. 1989).

The payment to a county under s. 59.42 (2) [now s. 59.40 (3) (b)] of interest earned on a condemnation award deposited with the clerk is not an unconstitutional taking. *Brongman v. Douglas County*, 164 Wis. 2d 718, 476 N.W.2d 611 (Ct. App. 1991).

The express powers to appoint and discharge deputies under this section are separate from those of the county and are not subject to a collective bargaining agreement entered into by the county. *Crawford County v. WERC*, 177 Wis. 2d 66, 501 N.W.2d 836 (Ct. App. 1993).

Crawford County v. WERC is restricted to its facts. Deputized employees, apart from a chief deputy, are exempt from the terms of collective bargaining agreements only to the extent that they are managerial or supervisory employees. *Eau Claire County v. AFSCME Local 2223*, 190 Wis. 2d 298, 526 N.W.2d 802 (Ct. App. 1994).

Removal by the clerk of court of an employee with dual employment status as deputy court clerk and judicial assistant from the judicial assistant position was not authorized by sub. (1). The removal was subject to the terms of a collective bargaining agreement. *Winnebago County v. Courthouse Employees Association*, 196 Wis. 2d 733, 540 N.W.2d 240 (Ct. App. 1995), 94–2504.

For a paper to be filed, it must be properly deposited with the clerk under s. 59.40 (2). “Properly” connotes complying with formality or correctness, but is not susceptible to exact definition. Delivery of papers to the clerk at his home after business hours was too far removed from legislative guidelines to be considered “properly deposited.” *Granado v. Sentry Insurance*, 228 Wis. 2d 794, 599 N.W.2d 62 (Ct. App. 1999), 98–3675.

Except for their elected superior’s power to appoint and discharge, chief deputies are subject to the Municipal Employment Relations Act, ss. 111.70 to 111.77, and are not excluded from a collective bargaining unit as a matter of law. *Oneida County v. WERC*, 2000 WI App 191, 238 Wis. 2d 763, 618 N.W.2d 891, 00–0466.

When read in conjunction with s. 32.05 (7) (d), sub. (3) (c) empowers a circuit judge to veto the clerk’s authority to invest a condemnation award and to direct the clerk to transfer the award from the clerk’s control into a private account for the benefit of the persons named in the award or to otherwise invest the funds for the benefit of those persons. Sub. (3) (c) empowers a circuit judge not only to veto the clerk’s authority to invest and control the interest on condemnation awards but also to veto the clerk’s authority over “certain” other funds deposited with the clerk, so long as the funds relate to a case before the judge’s court. *HSBC Realty Credit Corporation v. City of Glendale*, 2007 WI 94, 303 Wis. 2d 1, 735 N.W.2d 77, 05–1042.

Updated 17–18 Wis. Stats. 26

Granado holds that the court clerk as a constitutional officer has the discretion to adopt a policy, as long as the policy complies with the statutory guidelines indicating when and where the clerk’s duties should be performed. In his or her discretion, the clerk may adopt a policy that is flexible or one that restricts filings to regular business hours. *Hartford Citizens for Responsible Government v. City of Hartford Board of Zoning Appeals*, 2008 WI App 107, 313 Wis. 2d 431, 756 N.W.2d 454, 07–1265.

A county civil service ordinance enacted under s. 59.07 (20) [now s. 59.52 (8)] or a collective bargaining agreement under s. 111.70, establishing a procedure to be followed prior to discharge of a classified employee, supersedes and modifies s. 59.38 (1) [now s. 59.40 (1) (a)]. 63 Atty. Gen. 147.

Clerks of court may not send original records of criminal cases to the public defender prior to appeal unless a judge authorizes the release. 69 Atty. Gen. 63.

59.41 Not to act as attorney. No person acting as clerk of any circuit court in this state may practice as an attorney or solicitor in the court in which the person is acting as clerk; and the person shall not be eligible for the office of municipal judge during the time that the person holds the office of the clerk.

History: 1977 c. 305, 449; 1995 a. 201 s. 323; Stats. 1995 s. 59.41.

59.42 Corporation counsel. (1) CORPORATION COUNSEL; CERTAIN COUNTIES. (a) Except as provided under par. (b), in counties not having a population of 750,000 or more, the board may employ a corporation counsel, and fix the salary of the corporation counsel. The corporation counsel appointed under this paragraph may be terminated at any time by a majority vote of all the members of the board.

(b) In any county with a county executive or county administrator, the county executive or county administrator shall have the authority to appoint and supervise the corporation counsel if the board authorizes the establishment of the office of corporation counsel. Such appointment shall be subject to confirmation by the board unless the board, by ordinance, elects to waive confirmation or unless the appointment is made under a civil service system competitive examination procedure established under s. 59.52 (8) or ch. 63. The corporation counsel may be removed by the county executive or county administrator with the concurrence of the board unless the corporation counsel is appointed under such an examination procedure.

(c) The corporation counsel may, when authorized by a majority of the board, appoint one or more assistant corporation counsels to aid the corporation counsel in the performance of the duties of corporation counsel. The assistants so appointed shall have authority to perform all the duties of the corporation counsel. The duties of the corporation counsel shall be limited to civil matters and may include giving legal opinions to the board and its committees and interpreting the powers and duties of the board and county officers. Whenever any of the powers and duties conferred upon the corporation counsel are concurrent with similar powers or duties conferred by law upon the district attorney, the district attorney’s powers or duties shall cease to the extent that they are so conferred upon the corporation counsel and the district attorney shall be relieved of the responsibility for performing such powers or duties. Opinions of the corporation counsel on all such matters shall have the same effect as opinions of the district attorney. The corporation counsel may request the attorney general to consult and advise with the corporation counsel in the same manner as district attorneys as provided by s. 165.25 (3).

(2) CORPORATION COUNSEL IN SPECIAL COUNTIES; APPOINTMENT, DISMISSAL AND DUTIES. (a) In a county with a population of 750,000 or more there is created the office of corporation counsel, and such deputy corporation counsels, assistants, stenographers and clerks at such salaries as are authorized by the board. The corporation counsel and deputy and assistant corporation counsels shall be attorneys at law licensed to practice in this state. All such offices and positions shall be in the classified civil service of the county except the corporation counsel, who is in the unclassified service. The corporation counsel shall be appointed by the county executive, with the concurrence of a majority of the board and shall not serve at the pleasure of the county executive. Any incumbent corporation counsel serving on August 1, 1990, shall retain that position and title until a new appointee is confirmed by the board. The corporation counsel may be dismissed at any time by

CHAPTER 83

COUNTY HIGHWAYS

83.001	Definition.	83.065	County road and bridge fund; tax levy.
83.01	County highway commissioner.	83.07	Acquisition of lands, quarries, gravel pits; relocation; eminent domain.
83.013	County traffic safety commissions.	83.08	Acquisition of lands and interest therein.
83.015	County highway committee.	83.09	Emergency repairs of county trunk highways.
83.016	Traffic patrol officers, appointment, duties, bond.	83.11	Marking section and quarter section corners in highways.
83.018	Road supplies; committee may sell to municipalities.	83.12	Cattle passes.
83.02	County aid highways.	83.13	Guideboards.
83.025	County trunk highways.	83.14	County aid on town and village initiative.
83.026	Federal aid secondary highways.	83.15	Aid by county for state line bridge or highway.
83.027	Controlled-access highways.	83.16	County may contract with foreign county.
83.03	County aid; local levy; donations.	83.17	County may assume compensation liability; agreements with localities.
83.035	Streets and highways, construction.	83.18	Entry on lands.
83.04	Highway construction by county; noncontract work; payments.	83.19	Temporary highways and detours.
83.05	Improving streets over 18 feet wide.	83.20	Highways, lighting.
83.06	Maintenance of county aid highways.	83.42	Rustic roads system.

83.001 Definition. In this chapter, “department” means the department of transportation.

History: 1985 a. 223.

83.01 County highway commissioner. (1) **ELECTION OR APPOINTMENT.** (a) Except as provided under pars. (b) and (c), the county board shall elect a county highway commissioner. If the county board fails to elect a county highway commissioner, the county shall not participate in state allotments for highways.

(b) In counties having a population of 750,000 or more, the county highway commissioner shall also be the director of public works. The person holding the position of county highway commissioner and director of public works, under the classified service, on June 16, 1974, shall continue in that capacity under civil service status until death, resignation or removal from such position. Thereafter the county executive shall appoint as successor a director of transportation who shall assume the duties of county highway commissioner and director of public works and is subject to confirmation by the county board, as provided in s. 59.17 (2) (bm).

(c) Except as provided under par. (b), in any county with a county executive or a county administrator, the county executive or county administrator shall appoint and supervise the county highway commissioner. The appointment is subject to confirmation by the county board unless the county board, by ordinance, elects to waive confirmation or unless the appointment is made under a civil service system competitive examination procedure established under s. 59.52 (8) or ch. 63. Notwithstanding s. 83.01 (7) (a) and (b), the highway commissioner is subject only to the supervision of the county executive or county administrator.

(2) **TERM.** (a) Unless the county board establishes a different term of service by ordinance, the county highway commissioner shall serve for a term of 2 years, except as provided in par. (b).

(b) Unless the county board establishes a different term of service under par. (a), upon his or her first election or appointment the county highway commissioner shall serve until the first Monday in January of the 2nd year succeeding the year of the election or appointment.

(3) **SALARY.** The salary of the county highway commissioner shall be as determined under s. 59.22.

(4) **OFFICE AND ASSISTANTS.** The county board shall provide the county highway commissioner with suitable offices and such

assistants as are necessary for the proper performance of the commissioner’s duties.

(5) **BOND.** The county highway commissioner shall give bond in such sum as the county board shall from time to time require.

(6) **PAYMENT OF SALARIES.** The salaries, expenses of maintaining an office and the necessary traveling expenses of the county highway commissioner, assistants and special highway patrolmen in counties having such patrolmen may be paid monthly out of the general fund after being audited and approved by the county highway committee. All such expenditures out of the general fund shall be reimbursed out of moneys received under s. 86.30.

(7) **DUTIES.** (a) Except as provided under s. 83.015 (2) (b), the county highway commissioner shall have charge, under the direction of the county highway committee, of the construction of highways built with county aid and of the maintenance of all highways maintained by the county.

(b) Except as provided under s. 83.015 (2) (b), the county highway commissioner shall perform all duties required by the county board and by the county highway committee and shall do or cause to be done all necessary engineering and make all necessary examinations for the establishment, construction, improvement and maintenance of highways. The county highway commissioner shall establish such grades and make such surveys and maps or cause the same to be made as the commissioner considers proper, and examine the highways and report as to the condition of roads, bridges and culverts, and make estimates of the cost of the improvement thereof, and of the cost of any relocation when required to do so or when the commissioner considers the same reasonably necessary.

(c) The county highway commissioner shall have charge of all county road machinery and tools, and shall be responsible to the county board for their proper maintenance, repair and storage, and shall in the annual report required under par. (d) make a complete inventory of the same, which inventory shall show the date of purchase, the location and condition of such machinery and tools, and the cost and present value thereof.

(d) The county highway commissioner shall make an annual report to the department and to the county board at its annual meeting containing an itemized statement of all expenditures made from the county road and bridge fund during the year ending November 1. The commissioner shall include in the report an itemized estimate of the amount needed to properly maintain the

Richland County Administrator duties

1. Meeting Attendance & County Board Relations.

- A. Attends all meetings of the County Board, except when excused by the County Board Chair or the County Board, and advises and recommends courses of action to the Board as it pertains to matters of County interest.
- B. Supports the County Board by assisting with the preparation of the agendas, minutes of the meeting, and all resolutions and ordinances to be presented to the Board.
- C. Provides the Board with data regarding County programs and activities, and makes regular reports to the Board.
- D. Sees that all orders, ordinances, resolutions, and regulations adopted by the County Board are faithfully executed.
- E. Attends and participates in committee meetings as deemed necessary or requested by committee chairs.
- F. Monitors, reviews and keeps the County Board fully informed of any federal and state administrative, legislative and judicial developments which may affect or impact the County. Solicits the Board's position, drafts responses, recommends amendments, and supports said legislation. May represent the County at state legislative meetings or hearings, or engage in lobbying efforts, on behalf of the county.

2. Administrative Duties.

- A. Appoints and supervises all Department Heads of the County, except those elected by the people. Supervises, coordinates, and directs all administrative and management functions of the County's departments and agencies under direct jurisdiction or fiscal control of the County Board, including requiring the periodic submission of organizational charts and departmental activity reports and conducting regular meetings with department heads. Oversees the day-to-day operations of all County government functions ensuring effectiveness and efficiency.
- B. Responsible for the overall direction, coordination, and evaluation of the County Administrator's Office. Carries out supervisory responsibilities in accordance with the County's policies and other applicable laws. Responsibilities include interviewing, hiring, and training Department Heads (who are not elected by the people)employees; planning, assigning, and directing work; appraising performance; rewarding and disciplining Department Heads (who are not elected by the people)employees; addressing complaints and resolving problems. Reviews all recommendations for disciplinary suspensions and discharge of all employees.
- C.
- ~~B.~~ Researches and recommends the establishment and modification of County policies, and interprets and advises Department Heads concerning board policies, directives and expectations. Ensures the policies and programs adopted by the County Board are effectively carried out.
- ~~C.D.~~ Appoints the members of all Boards and Commissions, subject to the confirmation of the County Board. Coordinates and actively participates in the selection and appointment process for the committees of the County Board.

~~E.D.~~ Acts as a resource for all union negotiations, and actively participates in the development of the County's negotiation strategy.

~~E.E.~~ In coordination with the over-sight committees and department heads reviews and determines whether vacant positions should be filled.

~~G.F.~~ Directs the preparation of all reports, studies, and research as the Board may require concerning operations of the County; prepares plans and programs for the Board's consideration in anticipation of future needs.

~~H.G.~~ Reviews and signs all contracts for goods and services after review by the Corporation Counsel and department head. Approves all intergovernmental contracts and rental or lease contracts on behalf of the County.

~~I.H.~~ Manages a wide variety of major projects and coordinates the roles of staff in the process.

3. Strategic Planning & Organizational Improvement.

A. Makes recommendations, assists the County Board in establishing, and advances the organizational mission, vision, values and identified County goals.

B. Develops, integrates, and directs the current and long-range strategic plans for all County activities. Uses resources within the County to accomplish organizational goals and objectives and assists in the formulation of those goals and objectives to assure they support the County's mission, vision and values.

C. Evaluates, on a continuing basis, the levels of service provided by County Departments and recommends the establishment and/or modification of policies, procedures, or operating standards. Recommends reorganization, improvement, or development of new functions, or abandonment of old functions, to the County Board.

D. Takes the initiative to propose to the County Board such actions as will contribute to the efficiency, productivity, and overall improvement of County operations.

4. Budget Preparation and Execution.

~~A.~~ Responsible for the preparation and submission of the annual budget and capital improvement program to the County Board.

B. Establishes, with the Finance and Personnel Committee procedures, format, and priorities desired in the preparation of the budget. Conducts and schedules budget hearings and meetings on budget requests with the Finance and Personnel Committee. Attends budget meetings and makes recommendations on said budgets.

C. Executes the adopted budget, ~~insuring~~ensuring that all expenditures of County funds are made in strict compliance; reviews all departmental and agency requests or adjustments transfers of budgeted funds with the Finance and Personnel -Committee, and the board as necessary

5. Financial Reports and Planning. *In cooperation with the Finance and Personnel Committee*

A. Makes regular reports to the Board, keeping the Board fully advised as to the financial condition of the County and its future financial needs. Recommends such matters to them for their consideration as deemed necessary or advisable for administration and coordination of County functions.

against anticipated county growth, and recommends methods of financing future needs.

B. Directs the examination of all accounts, records and operations of the County, which receive moneys from the County Board.

C. Maintains and provides affected departments with current information on availability of funds and procedures to apply for federal and state grant programs and assists in application for and procurement of such grants.

-D. Develops bonding projects for the County and makes subsequent recommendations for the County Board.

6. Human Resources

A. Administers the County's Handbook of Personnel Policies and Work Rules

B. Administers the County's employee fringe benefits programs

C. Reviews all recommendations for disciplinary suspensions or discharges

D. Develops hiring policies and monitors hiring practices and decisions to ensure that consistent and sound personnel policies are followed.

7. Property Management.

A. Monitors the care and custody of all buildings, grounds and property of the County, and ensures that an accurate inventory of said property is maintained.

B. Directs the preparation of plans for the management of County properties and for the construction and alteration of physical facilities needed to render County services properly, said plans to be submitted to the Board, recommending the priority of projects.

-C. Coordinates, with the appropriate committee, the preparation of architectural plans for County buildings and their construction, and allocates space to County departments and agencies.

8. Community & Intergovernmental Relations.

-A. Initiates contact with other state and local governmental agencies, to recognize policy shifts, resolve developing conflicts, identify opportunities for cooperation, explore and evaluate potential operational efficiencies and cost savings.

B. Invites other local units of government to cooperate with the County through the establishment of task forces, conference committees, and other similar arrangements.

C. Handles the public relations affairs of the County and the County Board. Serves as the chief administrative spokesperson for the County, which role is to be coordinated with the County Board Chair, who acts as the chief elected spokesperson.

D. Maintains good community relations, including ensuring timely investigation and response to citizen complaints and inquiries.

E. Maintains positive, professional, and business-like working relationships with the community and other units of government. *It is unlikely an employee will perform all the duties listed, nor is the list exhaustive in the sense it covers all the duties an employee may be required to perform. The examples are merely indicative, not restrictive. No provision of this position description is intended to vest any duty, or grant any authority which is vested by law in any other County Officer, Commission, Committee, or Board.*

Supervisory Responsibilities Appoints and supervises all Department Heads of the County, except those elected by the people or appointed by elected officers, after concurrence with the Chair of the Oversight Committee and the County Board Chair. Responsible for the overall direction, coordination, and evaluation of the County Administrator's Office. Carries out supervisory responsibilities in accordance with the County's policies and other applicable laws. Responsibilities include interviewing, hiring, and training employees; planning, assigning, and directing work; appraising performance; rewarding and disciplining employees; addressing complaints and resolving problems. Reviews all recommendations for disciplinary suspensions and discharge of all employees.