

## CHAPTER 562

### PUBLIC BODY, CIVIL ACTIONS, SURETY BONDS REQUIRED

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#### 562.01 PUBLIC BODY DEFINED.

For the purposes of this chapter, the words "public body" whenever used herein, shall mean the state or any county, city, town, school district, or other public body of this state, or any board, commission, agency or instrumentality of any of the foregoing.

**History:** 1957 c 857 s 1; 1973 c 123 art 5 s 7

#### 562.02 CIVIL ACTIONS AFFECTING A PUBLIC BODY; SURETY BOND REQUIRED OF PLAINTIFF.

Whenever any action at law or in equity is brought in any court in this state questioning directly or indirectly the existence of any condition or thing precedent to, or the validity of any action taken or proposed to be taken, by any public body or its officers or agents in the course of the authorization or sale, issuance or delivery of bonds, the making of a contract for public improvement or the validity of any proceeding to alter the organization of a school district in any manner, such public body may move the court for an order requiring the party, or parties, bringing such action to file a surety bond as hereinafter set forth. Three days' written notice of such motion shall be given. If the public body is not a party to the action, but if it deems that such action be injurious to the public interest and to the taxpayers, such public body may intervene or appear specially for the purpose of making such motion. If the court determines that loss or damage to the public or taxpayers may result from the pendency of the action or proceeding, the court may require such party, or parties, to file a surety bond, which shall be approved by the court, in such amount as the court may determine. The court must also consider whether the action presents substantial constitutional issues or substantial issues of statutory construction, and the likelihood of a party prevailing on these issues, when determining the amount of a bond and whether a bond should be required under this section or section 473.675. Such bond shall be conditioned for payment to the public body of any loss or damage which may be caused to the public body or taxpayers by such delay, to the extent of the penal sum of such bond, if such party, or parties, shall not prevail therein. If such surety bond is not filed within a reasonable time allowed therefor by the court, the action shall be dismissed with prejudice. If such party, or parties, file a bond as herein required and prevail in the action, any premium paid on the bond shall be repaid by or taxed against the public body.

**History:** 1957 c 857 s 2; 1993 c 170 s 1

#### 562.03 REQUISITES OF BOND.

Such bond shall be executed by the party of whom it is required or some person for the party as principal, or may be in the form of an undertaking, and shall be in a penal sum to be fixed by the court for the protection of the public body and the taxpayers against such loss or damage. During the pendency of the litigation, the court, on motion, may require additional security if found necessary, and upon failure to furnish the same shall dismiss the action or proceeding with prejudice. The court may likewise, on motion, reduce the amount of a bond theretofore required or release the bond upon finding that the amount is excessive or the bond no longer required. The public body shall have recovery for any loss or damage in an action on the bond. The

amount of damages may be ascertained by reference or otherwise, as the court may direct, and the surety shall have the right to intervene in the proceeding to determine the amount of damage.

**History:** *1957 c 857 s 3; 1986 c 444*

#### **562.04 EARLY TRIAL OF ACTION, APPEAL.**

Whenever a bond has been required in any action under section 562.02, the court shall advance the case on its calendar for trial at the earliest feasible date, or the court may advance for trial only the issues which affect the public body. If any appeal is taken from an order granting or denying the motion for filing of the bond, it shall not stay further proceedings in the litigation. An appeal from any judgment entered in any district court in any litigation in which a bond has been required hereunder shall be taken to the Court of Appeals within 30 days after notice of entry of judgment, notwithstanding the Rules of Civil Appellate Procedure. The party appealing, or the respondent, may apply to the Court of Appeals for an order fixing the time and manner of the hearing of the appeal, whereupon the court may provide for a speedy hearing in the manner provided by the Rules of Civil Appellate Procedure.

**History:** *1957 c 857 s 4; 1976 c 239 s 48; 1983 c 247 s 191*

#### **562.05 SUIT FOR CIVIL DAMAGES, RIGHT TO BRING.**

Nothing contained herein shall affect the rights of any aggrieved person to bring a suit for civil damages. No bond shall be required therein except as otherwise provided by law.

**History:** *1957 c 857 s 5*