

GENERAL STATUTES

OF

MINNESOTA

1913

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is hereby annually appropriated out of any money in the state treasury not otherwise appropriated, belonging to the general fund, and the money herein appropriated shall be drawn from and become payable out of the state treasury by requisitions upon the state treasury by the said board after the approval of such requisitions by the state auditor. ('11 c. 68 § 4)

As to repeal of standing appropriations, see §§ 48, 49.

CHAPTER 4

EXECUTIVE DEPARTMENT

THE GOVERNOR

54. Custodian of state property—In addition to the powers and duties prescribed by the constitution, the governor shall be the custodian of all property of the state not especially intrusted by law to other officers, and may take possession thereof without legal process, and adopt such measures for its safe-keeping as he deems proper. (26)

55. To appoint secretary, etc.—He shall appoint a private secretary, who shall keep a record of all important official letters to and from the governor, and of such others as the governor shall direct, which record shall be preserved in the executive office and produced before the legislature whenever requested. He shall appoint an executive clerk, a stenographer, and two executive messengers; also a superintendent of the capitol, and as many janitors, watchmen, and laborers under him as shall be necessary for the proper care and safety of the building and grounds and the public property there kept; also a chief engineer and two assistants, the latter to act as firemen. The superintendent shall have general oversight of the property, and the chief engineer shall control the lighting, heating, and ventilating apparatus and machinery and plumbing of the capitol. The governor shall prepare and enforce rules, fixing the details of service for all employees hereinbefore authorized. (27)

56. To have care of state capitol—Two years from the passage of this act, or at such earlier date as it may be completed, the new capitol building shall be turned over to the governor, and the latter shall assume and thereafter have full control thereof, with the surrounding grounds, and shall care for, operate and maintain the same in the manner and subject to the limitations prescribed in section 1 hereof. ('05 c. 102 § 2)

Section 1 of said act is as follows: "The board of state capitol commissioners heretofore created under and by virtue of chapter 2, of the General Laws of 1893, are hereby authorized, in addition to the powers heretofore given them, to properly care for, operate and maintain the new capitol building and to prepare, adorn and care for the grounds surrounding the same, until such time as said building may be fully completed, not exceeding two years from the passage of this act, and shall hire and employ such engineers, firemen, electricians, elevator operators, janitors and other help as may be needed and discharge the same and hire others in their discretion, and shall, through the board of control of state institutions, purchase necessary fuel and other supplies."

Section 3 makes an annual appropriation. See §§ 48, 49.

See 1911 c. 234, creating office of day watchman of old capitol building.

57. Proclamations—Extra sessions—Thanksgiving, etc.—When the governor convenes the legislature in extra session, he shall do so by proclamation, giving to the members such notice as he deems necessary of the time of meeting; and, when assembled, he shall inform them of the purposes for which they are convened. He shall set apart and proclaim one day in each year as a day of solemn and public thanksgiving to Almighty God for His blessings to the people, and no business shall be transacted on that day at any of the departments of state. All proclamations of the governor required or authorized by law shall be filed with the secretary of state. (28)

58. Powers of appointment, suspension, and removal—Seal—He shall appoint, and when necessary commission, all officers and employees of the state whose selection is not otherwise provided for by law, and, at his pleasure, may remove any such appointee whose term of service is not by law pre-

scribed. He shall exercise such powers of appointment, suspension, and removal in respect of other officials as are conferred on him by law. Whenever the great seal of the state is lost or worn out, the governor shall cause the same to be replaced. (29)

SECRETARY OF STATE

59. **Custodian of records and seal**—The secretary of state shall be the custodian of the state seal and of all records and documents of the state not expressly required by law to be kept by other state officials. (30)

60. **Assistant secretary and employees**—He shall appoint an assistant secretary of state, who shall perform all the duties of the office when the secretary is absent or disabled. He may also employ a chief clerk, a recording clerk, a document clerk, and a stenographer, who, besides the duties indicated by their titles, shall perform such services in connection with the office as the secretary or his assistant may require. (31)

61. **Clerk of government surveys**—That there is hereby created in the office of the secretary of state of Minnesota the position of clerk of government surveys, for the purpose of receiving and for the safe keeping of all the records and archives of the office of United States surveyor general for the state of Minnesota, and as soon as they shall be received from the commissioner of the general land office at Washington, D. C. ('07 c. 416 § 1)

62. **Appointment—Stenographer—Salaries—Appropriation**—That the secretary of state is hereby empowered to appoint some suitable person as such clerk of government surveys, the salary of whom shall be fifteen hundred dollars per year, which sum is hereby annually appropriated out of any funds in the state treasury not otherwise appropriated, and the secretary of state is also empowered to appoint some suitable person as stenographer in such department at a salary of nine hundred dollars per year, which sum is hereby annually appropriated out of any funds in the state treasury not otherwise appropriated. ('07 c. 416 § 2)

This section is superseded by § 294, so far as it relates to the salaries therein provided. See §§ 48, 49.

63. **Duties as to legislative sessions**—The secretary of state shall cause the legislative chambers and committee rooms to be prepared for the holding of the sessions of the legislature, and shall attend, at the beginning of each regular session, to call the members of the house of representatives to order and to preside until a speaker is elected. (32)

64. **Notice of ratification of amendment to Constitution of United States**—That whenever the legislature of the state of Minnesota shall ratify any amendment to the constitution of the United States which shall be proposed by congress, as provided by the constitution of the United States, it shall be the duty of the secretary of state of the state of Minnesota forthwith to transmit to the secretary of state of the United States government, official notice thereof. Such notice to include the official certificate of the secretary of state of the action of the legislature ratifying any such amendment, under the hand of the secretary of state and attested by the great seal of the state of Minnesota of which the secretary of state is custodian. ('12 c. 13 § 1)

STATE AUDITOR

65. **General duties—Seal—Bond**—The state auditor shall superintend and manage the fiscal concerns of the state as required by law, and have general supervision of all lands owned by the state, or in which the state is interested as trustee or otherwise, and of the leasing, sale, or other disposition thereof. He may execute in behalf of the state assignments and satisfactions of judgments rendered in its favor. He shall have a seal, bearing the words "Seal of the Auditor of Minnesota," and affix the same to all official certificates and conveyances executed by him. He shall give bond to the state in the sum of twenty thousand dollars, to be approved by the governor, conditioned for the faithful discharge of his official duties. (33)

66. **Deputy—Office employees**—He shall appoint a deputy, who may perform all the duties of the office whenever the auditor is absent or disabled.

He may also employ, and at pleasure dismiss, an accountant, a chief and an assistant land clerk, nine additional clerks, and a stenographer, which employees shall render such service as the auditor may prescribe. (34)

67. Claims audited—Warrants—Stubs—Records—Every demand directed by law to be paid out of the state treasury shall first be examined and adjusted by the auditor. If there be sufficient money in the treasury appropriated to its payment, and not otherwise, he shall issue his warrant on the treasurer for the amount found to be justly due. Warrants shall be drawn on printed blanks, prepared in book form, with a memorandum blank for date, amount, name of payee, and purpose of payment. The warrants and corresponding memoranda shall be progressively numbered, and for every warrant issued the corresponding stub shall be filled up and preserved. The number, amount, date, and name of payee shall also be entered in progressive order in books kept by him for that purpose. (35)

See §§ 68, 70.

68. Auditing claims on certain funds—Payment—Whenever claims against the state for any purposes are made upon the following named funds, to-wit: Soldiers' relief, soldiers' home support, game and fish commission, dairy and food commission, railroad and warehouse commission, state tax commission, state highway commission, forest preservation, bureau of labor, public employment bureau, grain inspection, hay inspection, live stock sanitary board, oil inspection, new state capitol maintenance, state board of health, state aid to schools; teachers' institutes, county training schools, traveling libraries, farmers' institutes, bureau of immigration, public examiner, insurance commissioner, adjutant general, Indian war pensions, superintendent of public instruction, and state library; the officer or board authorized by law to present or approve such claims shall monthly furnish verified abstracts prepared in triplicate, one of which shall be delivered to the state auditor, one to the state treasurer, and one to be retained by the department, board, officer or institution on account of which such requisition is made; such abstract shall contain the name, residence and amount due each claimant, and shall designate the department, institution and fund on account of which payment is to be made. The copy of the abstracts delivered to the state auditor shall be accompanied by the original voucher or vouchers, together with the proof of claim for each item included in such abstract. And if there be sufficient money in the proper fund, the state auditor shall issue his warrant upon the state treasurer for the gross amount shown by such abstract; and the state treasurer shall deliver checks to the several persons entitled thereto, as shown by such abstracts, and he shall preserve in his office a record of each check and remittance, showing the date of each issue, the name of the payee and any other facts tending to evidence its payment. ('05 c. 96 § 1, amended '09 c. 120 § 1)

By 1905 c. 96 § 3, and 1909 c. 120 § 4, all inconsistent acts, etc., are repealed.

69. Same—When audited—All claims against the state for salaries and expenses, payable from any of the funds enumerated in section one [68] hereof, and other like salaries and expenses not enumerated herein, may be audited and paid by the state auditor twice a month. ('05 c. 96, amended '09 c. 120 § 2; '09 c. 169 § 1)

70. Same—Moneys due to fire companies, etc.—The method provided in section one [68] hereof for presenting claims for payment from the state treasury shall be followed as far as practicable whenever requisition is made for the payment of money due on account of apportionment to fire companies and fire department relief associations. ('05 c. 96, amended '09 c. 120 § 3)

71. Lost warrant—Duplicate—Whenever it shall be shown to the auditor, by affidavit, that any unpaid state warrant has been lost or destroyed, he may issue to the owner a duplicate thereof, and thereupon the original shall be void. But if it shall appear to him that any person may be damaged thereby, he may require from the applicant a bond of indemnity to the state in double the amount of such warrant, conditioned for the benefit of any person so damaged. The auditor, in his discretion, may refuse such issue,

and if he shall act in good faith he shall not be liable, whether the application be granted or denied. (36)

72. Books of record and account—He shall enter and keep in his office, in suitable books, a record of all such accounts and documents as are required by law to be returned to or filed with him, and shall file and preserve all receipts and other vouchers relating to his official business. He shall keep an account with the treasurer, charging him therein with all moneys paid into the treasury, and crediting all warrants redeemed by him and returned. An account shall likewise be kept with each money appropriation made by the legislature, showing all disbursements made therefrom, and such other accounts as shall be necessary to exhibit the condition of the state finances from day to day. (37)

73. Books and records of state lands—He shall keep a record of all parcels of land leased or sold, and the quantity of each, all timber or other products sold therefrom, the moneys received therefor as principal and as interest, and the persons paying the same, and shall credit all such payments to the proper funds. He shall have the custody of all maps, books, and papers relating to the public lands, whether held in trust or otherwise, and keep books showing in what capacity the several tracts are held. All deeds, leases, and other contracts relating to such lands shall be recorded in books kept in his office, and upon all instruments so recorded he shall certify the book, page, and date of record. The books, maps, and records aforesaid shall be notice of the facts therein disclosed. All conveyances of land to the state, and all abstracts of title thereto, for whatsoever purpose such lands are required or held, shall be deposited with and kept by the auditor. (38)

74. Promoting sale of state lands—The state land commissioner of the state of Minnesota is hereby authorized and empowered to take such measures as he may deem advisable to advertise, both within and without the state, sales of all state lands, and to secure, compile and issue such valuable statistics of the resources of the state as may be useful in securing a desirable class of settlers to purchase and to locate on these lands. ('05 c. 201 § 1)

75. State to supply books, etc.—Inspection—All books, blanks, and stationery required to be used or furnished by the auditor shall be supplied at the cost of the state, and all the books, records, vouchers, and accounts of his office shall be open to inspection, and shall be exhibited and explained to the legislature, or to any committee thereof, whenever required. (39)

76. Biennial report—On or before the third day of each regular session of the legislature, the auditor shall report to each house thereof an account of the receipts and disbursements of the treasurer during the preceding two years, the unexpended balances of the several appropriations, the amount remaining in the treasury, and the warrants issued and unpaid, if any there be, which account shall be accompanied by such remarks on the state finances as he shall deem proper. Such report shall also show the lands sold or leased, the amounts received therefor, the amount paid in for interest and for other purposes, and to what funds credited, and all other matters proper to be communicated concerning state lands. (40)

77. Certificates of indebtedness for capitol—To provide for the payment of the certificates of indebtedness issued, according to law, by the board of state capitol commissioners it shall be the duty of the state auditor to set aside from the revenue fund each year a sum equal to a tax levy of two-tenths of a mill upon the assessed valuation of the taxable property in the state. Such transfer by the state auditor shall be made in 1908, and every year thereafter, until all of said certificates of indebtedness have been fully paid. ('07 c. 143 § 1)

Section 2 repeals inconsistent acts, etc.

STATE TREASURER

78. General duties—Seal—Bond—The state treasurer shall receive and receipt for all moneys paid into the state treasury, and safely keep the same until lawfully disbursed. He shall have and use a seal, and, before taking office, shall give bond to the state in the sum of at least four hundred thou-

sand dollars, with five or more sureties, or a sufficient corporate surety, conditioned for the faithful discharge of his official duties. If corporate surety be given, the annual charge therefor, not exceeding one-half per cent. of the amount thereof, shall be paid by the state. Such bond shall be approved by the governor and state auditor, who may require additional bonds whenever they deem it necessary. All such bonds shall be filed with the secretary of state. (41)

83-479, 481, 86+461.

79. Deputy—Clerks—He may appoint, and at pleasure remove, a deputy treasurer, who shall perform the duties of the office whenever the treasurer is absent or disabled. The appointment shall be in writing, filed with the secretary of state. The treasurer shall be liable on his official bond for the acts of such deputy. He may also employ during his pleasure four clerks, and a stenographer, which employees shall render such services as he may from time to time prescribe. (42)

80. Books of account—Moneys, how disbursed—He shall keep accounts in the best form and in books provided by him at the cost of the state, showing every transaction of the treasury, the date of each, the amount and the source or object of each sum received and disbursed, and the name of every person paying in or receiving money. His cashbook shall be balanced at the close of each business day, including therein all the transactions of such day. No money shall be paid out of the treasury except upon the warrant of the auditor; but money lawfully deposited in banks shall not be considered as paid out. (43)

81. Duplicate receipts—Redemption of warrants—For all moneys paid into the treasury by any county he shall give duplicate receipts, one of which shall be sent to the treasurer and one to the auditor of the county. He shall receive in payment of public dues warrants lawfully issued by the auditor; and on so receiving or otherwise redeeming any warrant he shall cause the same to be indorsed by the person presenting it, mark the same "Redeemed," and enter in a proper book, in separate columns, its number, date, amount, and when and to whom paid or credited. (44)

82. Statements and reports—At the close of each business day the treasurer shall deliver to the auditor a statement of all his receipts and disbursements during the day, accompanied by all warrants redeemed and duplicates of all receipts given. Such statement shall also show the amounts credited and charged to the several funds. He shall report to the legislature on or before the third day of each regular session, and to the governor whenever he shall require it, the condition of the treasury and of the several public funds, the amounts received and disbursed by him and the items thereof, and the balances on hand and where deposited. And once in every two months he shall publish, in a daily newspaper at the seat of government, a condensed statement of the condition of the several funds at the date of such publication. (45)

83. Additional report—That the state treasurer, at the time of making the annual report to the state legislature, as required by the constitution of this state, shall make an additional report in such form that the same may be conveniently published with the report required by the constitution of the several public funds and the total amounts received and disbursed by him each year for the period of fifteen (15) years preceding the time of making such report, and shall arrange such statement in such manner that an inspection thereof will enable a ready comparison to be made of the total receipts and expenditures relating to each fund, and to the total receipts and expenditures for the state of Minnesota upon any account whatsoever during each of the years covered by such report. ('13 c. 524 § 1)

84. Warrants not to be discounted—Accountable for losses—The treasurer shall in no case purchase, redeem, or receive any warrant at less than its face value; nor shall he receive any fee or reward for transacting any official duty, other than the salary provided by law. And if the public revenue shall suffer loss by reason of his failure to call delinquents to account when

required to do so by law, he shall be accountable for all sums due from such delinquents as if the same had been paid. (46)

85. Interest on warrants cashed by banks, etc.—Appropriation—Whenever it shall become necessary, in order to meet current demands upon the revenue fund for moneys appropriated therefrom, the governor, auditor, and treasurer may contract in the name of the state with banking or other corporations, or with natural persons, who will take up warrants drawn upon such fund at their face value, to pay interest thereon at the rate of not to exceed five per cent. per annum until the treasurer can redeem the same; but no more than two hundred and fifty thousand dollars in face value thereof shall draw interest at any one time. Six thousand dollars, or so much thereof as may be necessary to pay said interest, is hereby appropriated therefor annually out of the revenue fund. (47)

86. Revenue fund temporarily filled—For the purpose of supplying deficiencies in the revenue fund, the treasurer may temporarily borrow from other public funds sums not exceeding in the aggregate six hundred thousand dollars in any year: Provided, that no fund shall be so impaired thereby that all proper demands thereon cannot be met. All interest received on sums so borrowed shall be credited to the fund from which each was taken. (48)

87. Gifts to certain institutions—Acceptance—That the state treasurer shall be and he is hereby authorized to receive and accept, on behalf of the state of Minnesota, any gift, bequest, devise or endowment which may be made by any person, by will, deed of gift or otherwise, to or in aid, or for the benefit, support or maintenance of any educational, charitable or other institution maintained in whole or in part by the state of Minnesota, or for the benefit of students, employes or inmates thereof, and the money, property or funds constituting such gifts, bequest, or devise or endowment. Provided, however, that no such gift, bequest, devise or endowment shall be so accepted unless the governor, the state auditor and the state treasurer shall determine that it is for the interest of the state and such institution to accept the same, and shall approve of and direct such acceptance. ('07 c. 170 § 1)

88. Same—How administered—That in case any such gift, bequest, devise or endowment is so accepted, the same and the proceeds thereof shall be administered and applied according to the terms of the will, deed of gift, or other instrument defining, providing for, creating or establishing the same; but all such property and funds shall be held by the state treasurer in his official capacity and paid out and disbursed the same as other state funds. ('07 c. 170 § 2)

89. Same—Investments—How made—That in case it is provided by the terms of such will, deed of gift, or other instrument that the capital of the money, property or fund constituting such gift, bequest, devise or endowment, or any part of such capital, shall be kept invested, the same shall be invested and kept invested in the same manner and by the same officers or body as the school funds of the state are by law required to be invested. ('07 c. 170 § 3)

90. Same—Expenditures—How made—That the state treasurer shall, from time to time, pay out in the usual manner, upon the order of the board, commission or other body charged with the direct and immediate supervision, control or management of the institution for the account of which such gift, bequest, devise or endowment is made, or designated by the donor, all money which may become available for such purpose under the terms of such will, deed of gift or other instrument; and the same shall be expended and applied by such board, commission or other body as nearly as may be, in accordance with the terms and conditions of such gift, bequest, devise or endowment. ('07 c. 170 § 4)

BOARDS OF AUDIT AND DEPOSIT

91. Board of deposit—The state treasurer, secretary of state, state auditor, attorney general, and public examiner shall constitute a board of de-

posit, and shall serve as members of such board without additional pay. Any three of them shall constitute a quorum. The auditor shall be chairman of the board, and the public examiner its secretary. A record of its proceedings shall be kept and be open at all times to public inspection. The board shall meet at convenient times upon the call of its chairman, and shall perform the duties hereinafter prescribed. (49)

92. Board of audit—The governor, secretary of state, and attorney general shall constitute a board of audit. At least four times a year, and without previous notice to the state treasurer, said board shall examine and audit his accounts, books, and vouchers, ascertain the amounts of the several funds which should be in the treasury, count the sums actually on hand, and make a record of the facts found. On or before the third day of each session the board shall report to the Legislature the results of such examinations and of its doings in the premises. It shall also witness and attest the transfer of books, accounts, vouchers, and funds from the outgoing treasurer to his successor in office, verify the official record of all redeemed bonds in the sinking fund and capitol commissioners' certificates of indebtedness, and cause their destruction in its presence, and make report thereof to the Legislature at its session next ensuing. (50)

93. State depositories—Treasurer not liable—Said board of deposit shall designate such banks within the state as it may deem necessary to receive deposits of state funds, and prescribe the maximum amount to be deposited in each. After such banks have given the required bonds and in all other respects complied with the conditions of such designation, the treasurer may deposit therein, in the name of the state, all state funds that shall be or come into his hands; but the amount on deposit at any time in any of said depositories shall not exceed the sum fixed for deposit therein by the board of deposit. The treasurer shall not be liable for the safe-keeping of moneys of the state while so lawfully deposited. (51)

Superseded in part. See following section.

94. Limit of deposit—The amount on deposit at any time with any state depository shall not exceed the amount designated by the board of deposit. In case a personal surety bond be given by a depository the board may fix a limit of deposit which shall not exceed one-half the penalty named in such bond. If a corporate surety bond be given by such depository, the board may fix a limit of deposit equal to the penalty named in such surety bond. Provided, however, that the board shall in no case fix a limit of deposit which shall exceed one-half the paid-up capital stock or capital claimed by such depository. ('01 c. 140 § 4, amended '05 c. 198 § 1)

Historical—1901 c. 140, was repealed by § 9454; the provisions of section 4 thereof being incorporated in part in the preceding section. So far as the above section differs from the preceding section, it is to be construed, by virtue of § 9398, as amendatory or supplementary.

95. Same—Bonds—Before any such bank shall receive state funds on deposit, it shall give bond to the state in a penal sum at least double the amount designated by the board of deposit as the limit of deposits therein, conditioned for the payment, on demand, to the treasurer or his order, at any place in the state designated by him, free of exchange, of all moneys of the state deposited therein at any time while such bond shall be in force, with interest thereon at the rate agreed upon and approved by the board, which shall be not less than two per cent. per annum on daily balances. Unless the surety on such bond be a corporation, there shall be at least five individual sureties, each of whom shall be worth and shall justify in the sum of at least five thousand dollars above liabilities and exemptions, and the total shall be at least double the penalty of the bond. All such bonds shall be approved by the board and filed with the treasurer. (52)

96. Same—The board of deposit shall not approve the bond of any such bank until fully satisfied that the same is in proper form, the sureties sufficient, the bank prosperous and financially sound, and the capital stock claimed by it fully paid up and not impaired. And at any time the board or the treasurer may require of any such bank a new or an additional bond, or may revoke its designation of any bank as such depository. Immediate-

ly upon such revocation, the treasurer shall withdraw all state moneys therefrom and shall make no further deposits therein. (53)

97. **Statements by depositaries**—Whenever it shall deem it necessary, the board of deposit may require any bank having state funds on deposit, or any surety on a bond of such bank, to furnish a sworn statement of the financial condition of such depository or surety; and a failure to render such statement within a reasonable time shall be sufficient ground for revoking the designation. Every person who shall make any false statement to said board touching the financial condition of such depository, or touching his own financial ability as a surety, whether in an affidavit of justification or in response to any inquiry or request of the board, shall be guilty of a gross misdemeanor. (54)

98. **State, county and city depositories—Securities in lieu of bond**—Whenever any bank authorized to transact a banking business in this state shall be designated as a depository of state, county or city moneys, as provided by law, it may, in lieu of the corporate or personal surety bond provided by law to secure such deposit, furnish or deposit with the state, county or city treasurer, as the case may be, United States government bonds, state bonds of this or any other state, bonds of any county, school district, city, town or village of this state, and county drainage bonds of this state of the classes and kinds in which the permanent school fund of the state may be invested, in an amount equal to the maximum amount of money at any time to be deposited with such bank. Provided, that such securities must have a market value of at least par and shall be approved by the board of deposit if given to secure state moneys, by the county board if given to secure county moneys, and by the common council or city council if given to secure city moneys, and shall be accompanied by a proper assignment to the end that such depository so depositing and assigning such securities shall and will safely keep and pay over to the treasurer, or his order, on demand, free of exchange, all moneys deposited therein at any time while such bonds or securities shall be so deposited, with interest thereon at the rate agreed upon; and provided, that in case of default on the part of such depository, the board of deposit, county board, or common council, or city council, as the case may be, shall have full power and authority to sell such securities or so much thereof as may be necessary to realize the full amount of the funds so deposited in such depository, together with interest thereon, and to pay the balance or overplus, if any, to the depository entitled thereto. Authority is given to the treasurer to return said securities to the depository so depositing them when the trust so created is terminated, and to exchange upon application, any other securities for the securities so deposited, of equal value and of any of the classes herein permitted to be deposited. The interest on such bonds or securities so deposited and furnished shall, when paid, be turned over to the bank so depositing the same, so long as it is not in default. It is further provided, that if the surety on the bond of any depository of state, county or city moneys is a surety company authorized to do business in this state, said bond shall be in a penal sum to the amount designated by the board of deposit as the limit of deposits in said bank. ('09 c. 362 § 1)

Section 2 repeals all inconsistent acts, etc.

99. **Inducements to make deposits, etc.**—Every person who shall give or promise to the state treasurer, or to any other person having the custody or control of state funds, any credit, service, or benefit whatsoever, except as expressly authorized by law, as an inducement or consideration to or for the deposit, loan, or forbearance of state funds, shall be guilty of bribery or attempted bribery, as the case may be. (55)

ATTORNEY GENERAL

100. **To appear for state**—The attorney general shall appear for the state in all causes in the supreme and federal courts wherein the state is directly interested; also in all civil causes of like nature in the district courts whenever, in his opinion, the interests of the state require it. Upon request of the

county attorney he shall appear in the district court in such criminal cases as he shall deem proper. Whenever the governor shall so request in writing he shall prosecute any person charged with an indictable offense; and in all such cases he may attend upon the grand jury and exercise the powers of a county attorney. ('05 c. 227 § 1)

Historical—This section, which is substantially the same as R. L. § 56 and the seven sections next following, are §§ 1 to 8 of an act entitled "An act relating to the duties and powers of the attorney general and his assistants" (1905 c. 227), whereof §§ 2 and 6 were amended by Laws 1911 c. 11.

1905 c. 227 § 10, repeals inconsistent acts, etc. By virtue of § 9398, the act is to be construed as amendatory of and supplementary to the Revised Laws, and in effect it supersedes §§ 56-62 thereof.

1905 c. 227 § 9, amended by 1911 c. 56 § 3, providing for salaries, is superseded by § 294. 42-154, 43+845.

Common-law powers incident to office (101-277, 112+269, 20 L. R. A. [N. S.] 1127).

101. Assistants—Stenographers—Records—The attorney general may appoint, and at his pleasure remove, five assistants and two stenographers, who shall render such aid as he may require of them in the discharge of his official duty. He shall keep a record of his official correspondence and of all matters placed in his hands by the governor, auditor, secretary of state or treasurer, or any officer or board in charge of any of the business of the state upon which any official action is necessary; he shall also keep a record, of all legal proceedings instituted by him or in which he appears, and of the several steps taken therein, and he shall keep copies of all official opinions rendered by his office. Each of said assistants shall, when thereunto authorized in writing by the attorney general, have the same authority as the attorney general, to appear before grand juries or otherwise, in any court of this state. ('05 c. 227 § 2, amended '11 c. 56 § 1)

102. To prosecute delinquent officers and offending corporations—He shall cause to be prosecuted all assessors and other officials for such delinquencies in connection with revenue laws as may come to his knowledge; also all bonds of officers and others upon which any liability to the state has accrued. Whenever any corporation shall have offended against the laws of the state, or misused, surrendered, abandoned or forfeited its corporate authority, or any of its franchises or privileges, he shall cause proceedings to be instituted against it. ('05 c. 227 § 3)

67-14, 17, 69+621.

103. Duties as to public lands—He shall begin and prosecute actions against all persons claiming to own any portion of the school or other public lands adversely to the state, whenever, in his opinion, an action can be sustained, and shall cause an appearance to be entered for the state whenever an application to preempt any such land shall come to his notice. In case of any such application he may require the county attorney of the county in which the same is made to enter such appearance, and he may cause witnesses to be subpoenaed, and take such other measures in the premises as the public interests may require. ('05 c. 227 § 4)

104. To give advice and prepare forms—He shall prepare forms for bonds and other contracts and instruments for the use of state officials, boards and commissions and give legal advice in all matters relating to their official duties, whenever required by the governor, auditor, treasurer or secretary of state, or any board or commission created by law. And whenever required by either house of the legislature he shall give his written opinion upon any question of law. ('05 c. 227 § 5)

See note under § 100.

105. To act as attorney for state officers and boards, etc.—Special and additional counsel—The attorney general shall act as the attorney for all state officers and all boards or commissions created by law, in all matters pertaining to their official duties, and when requested by the attorney general, it shall be the duty of any county attorney of the state, to appear within his county and act as attorney for any such board, commission or officer, in any court of such county; and, when in his judgment, the public welfare will be promoted thereby the attorney general may, upon request in writ-

ing, employ a special attorney for any such board, commission or officer, and fix his compensation and when such special attorney is so employed, his fees shall be paid from the appropriation made for such board, commission or officer. Except as herein provided, no board, commission or officer shall hereafter employ any attorney at the expense of the state.

Whenever the attorney general, the governor and the chief justice of the supreme court shall certify in writing, filed in the office of the secretary of state, that it is necessary in the proper conduct of the legal business of the state for the state to employ additional counsel, the attorney general shall thereupon be authorized to employ such counsel, and with the governor and the chief justice, fix their compensation. Except as herein stated no additional counsel shall be employed, and the legal business of the state shall be performed exclusively by the attorney general and his assistants.

The compensation of any attorney employed by the attorney general to assist in criminal prosecutions shall not exceed \$20.00 per day. ('05 c. 227 § 6, amended '11 c. 56 § 2)

106. **To give opinion to county, city, village or town attorney, and to state superintendent of public instruction**—The attorney general on application shall give his opinion in writing to county, city, village or town attorneys, on questions of public importance; and on application of the state superintendent of public instruction he shall give his opinion in writing upon any question arising under the laws relating to public schools, and on all school matters such opinion shall be decisive until the question involved shall be decided otherwise by a court of competent jurisdiction. ('05 c. 227 § 7)

107. **Annual report**—The attorney general shall report to the governor annually the number, character and result of all actions and proceedings in which he has appeared for the state, the expense incurred by the state in each, and the amount of fines, penalties and other moneys collected; also the opinions of general interest given by him and his assistants since the preceding report, with such recommendations for amendment of the laws as he may deem necessary or proper, and tables shall be appended showing the offenses reported to him by county attorneys. ('05 c. 227 § 8)

GENERAL PROVISIONS

108. **Offices—Additional duties**—The governor, secretary of state, auditor, treasurer, and attorney general shall keep their offices in rooms provided for them, respectively, in the capitol, and, in addition to the duties prescribed by this chapter, shall severally render such other services and be subject to such further obligations as are required of or imposed upon them by law. (63)

109. **Office equipment, supplies, records, etc.**—The furnishing and equipment of their several offices, and all supplies, books, stationery, and postage necessary for the proper transaction of the public business in their charge, shall be paid for by the state; and all property, files, records, and documents of any kind appertaining to their respective offices shall be transferred to their successors, who shall give receipts and be accountable therefor. (64)

110. **Additional employees—Appointments—Pay**—In addition to the clerical and other assistance expressly authorized by this chapter, the several executive officers may employ from time to time such further help as shall be necessary to properly transact the business of their respective offices, and for whose appointment and compensation provision shall have been made by law. When not fixed by law, they may prescribe the pay and the duties of all employees, but the aggregate compensation shall not exceed the current appropriations therefor. All appointments of deputies, assistants, and employees shall be in writing, and filed with the secretary of state. (65)

See § 294.

111. **Fees and charges paid into treasury**—Except when otherwise expressly provided by law, all fees and charges collected by the several execu-

tive officers, and by their respective assistants and employees, shall be paid into the state treasury at the end of each month; and each officer shall render to the auditor a monthly account of all moneys so received and paid over, specifying the items and sources thereof in detail. (66)

112. **Compromise of state claims**—Whenever the strict enforcement by the state of a demand for money or other property against any person is deemed by the attorney general to be impracticable or inequitable, he may submit to the governor a written proposal for a compromise thereof, made by the party against whom the demand is asserted, with his opinion and advice thereon. The governor, in his discretion, may designate two justices of the supreme court who shall act with the attorney general as a commission to adjust such claim. The commission shall consider the equities of the case, the situation and financial ability of the debtors, and the interests of the state, and determine in writing upon what terms the demand in question should be settled as against all or any of the parties thereto. Its report shall be filed with the governor, and thereupon the attorney general may adjust the claim in accordance with such determination and may execute on behalf of the state all papers necessary and proper to carry the compromise into effect and to release from such claim any and all parties thereto who shall seasonably comply with the conditions of the settlement so authorized. (67)

113. **Salaries—Standing appropriation**—The yearly salaries and allowances of the various officers and employees mentioned in this chapter shall be as follows, all salaries payable in monthly instalments:

1. The governor, five thousand dollars; his private secretary, fifteen hundred dollars, who, in addition thereto, may retain all fees paid to him by notaries public for their commissions as such; executive clerk, eighteen hundred dollars; stenographer, nine hundred dollars; executive messengers, seven hundred and twenty dollars each; superintendent of capitol, twelve hundred dollars; chief engineer, fifteen hundred dollars; engineer, nine hundred dollars; janitors and laborers, such sums as the governor shall prescribe, not exceeding in all twenty-three hundred dollars; contingent fund, three thousand dollars.

2. Secretary of state, thirty-five hundred dollars; assistant secretary, two thousand dollars; one clerk, fifteen hundred dollars; recording clerk, twelve hundred dollars; extra clerk and stenographer, one thousand dollars; custodian of public documents, twelve hundred dollars; exchange of documents, three hundred dollars; contingent fund, one thousand dollars.

3. Auditor, thirty-six hundred dollars; deputy auditor, twenty-five hundred dollars; accountant, eighteen hundred dollars; chief land clerk, fifteen hundred dollars; assistant land clerk, twelve hundred dollars; stenographer, nine hundred dollars; additional clerks, such sums as the auditor shall prescribe, not exceeding in all three thousand dollars; contingent fund, six hundred dollars.

4. Treasurer, thirty-five hundred dollars; deputy treasurer, two thousand dollars; stenographer, nine hundred dollars; clerks, such sum as the treasurer shall prescribe, not exceeding thirty-three hundred dollars in all; contingent expenses, three hundred and fifty dollars; for surety bond premiums, twelve hundred dollars.

5. Attorney general, forty-eight hundred dollars; assistant attorney general, two thousand dollars; second assistant attorney general, two thousand dollars; stenographer, nine hundred dollars; contingent fund, fifteen hundred dollars.

There is hereby annually appropriated from the treasury the amount necessary to pay the foregoing salaries and allowances. (68)

Nearly all of this section is superseded by §§ 294-297.

As to the salary of the superintendent of the capitol, see § 56.

As to standing appropriations, see §§ 48, 49.

114. **State auditor to cancel all unexpended appropriations—Proviso**—It shall be the duty of the state auditor, at the close of each fiscal year, to cancel all unexpended appropriations, or balances of appropriations, which

shall have remained undrawn for the period of one year after the expiration of the year during which they became available under the law; provided, that the governor, state treasurer and attorney general may continue such appropriations or balances in force, temporarily, on recommendation of the state auditor. Provided further, that nothing in this act contained shall be construed to interfere with or modify any law requiring the surplus in any fund or funds to be covered in the state treasury, at the end of any fiscal year, or at any other specified time. ('07 c. 272 § 1)

115. Official not to exceed appropriation in incurring indebtedness—Penalty—Exception—Whenever there has been an appropriation for any purpose whatsoever, it shall be unlawful for any state board or official to incur indebtedness on behalf of said board, official, or the state of Minnesota, in excess of the appropriation made for such purpose. It is hereby made unlawful for any state board or official to incur any indebtedness on behalf of said board, official, or the state of Minnesota, of any nature whatsoever, until after an appropriation therefor has been made by the legislature. Any official violating the provisions of this act shall be deemed guilty of a misdemeanor, and the governor of the state is hereby authorized and empowered to remove any such official from office. Provided, that in case of calamity or actions of the elements (such as fire, water, storms, etc.) such board or official may obtain the consent of the governor, the state auditor and the state treasurer, in writing, stating the special amount of expense that may be incurred and such expenditure shall be considered a valid claim against the state of Minnesota. ('07 c. 272 § 2)

116. Additional compensation from contingent fund prohibited—In all cases where the compensation of an officer of the state is fixed by law at a specified sum, it shall be unlawful for any such officer or employé to receive additional compensation for the performance of his official services out of the contingent fund of said officer or said department, and it shall be unlawful for the head of any department of the state government to direct the payment of such additional compensation out of the contingent fund, and the state auditor is hereby prohibited from issuing his warrant upon such contingent fund in payment of such additional compensation. ('09 c. 395 § 1)

117. Same—Penalty—Every person offending against the provisions of this act shall be guilty of a misdemeanor and punished by a fine of not exceeding \$100.00 or imprisonment in the county jail for not exceeding ninety days. ('09 c. 395 § 2)

CHAPTER 5

JUDICIAL DEPARTMENT

SUPREME COURT

118. Number of justices—General terms—The supreme court shall consist of one chief justice and four associate justices, who shall hold two general terms of said court each year, at the seat of government, beginning on the first Tuesday in April and October, respectively. (69)

119. Special terms—Adjournments—Quorum—Special terms may be held whenever the court shall so direct, but three weeks' published notice of the order appointing the same shall be given at the seat of government. Any term may be continued from time to time by orders announced in court and entered in the minutes. Any three justices may hold the court and exercise its powers. Unless three shall attend at the time for opening court, those present, or, if all be absent, the clerk, shall adjourn the court until the following day; but, if three justices be absent for six consecutive days, the court shall stand adjourned without day. (70)

120. Pending cases continued—Whenever a term is adjourned, or there is a failure for any reason to hold a term at the appointed time, all causes then on the calendar, and all writs, recognizances, appeals, and proceedings taken