

Nineteen Hundred Thirty-One
Supplement

to

Mason's Minnesota Statutes

(1927 thru 1931)

Containing the text of the acts of the 1929 and 1931 Sessions of the
Legislature, both new and amendatory, and notes showing repeals,
together with annotations from the various courts, state
and federal, construing the constitution, statutes,
charters and court rules of Minnesota



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Laws 1929, c. 342, authorizes counties having assessed valuation of not more than \$4,000,000, and bonded debt of not more than \$30,000, to issue funding bonds to take up road and bridge warrants.

Act Feb. 10, 1931, c. 10, legalizes bonds issued by counties having assessed valuation, exclusive of moneys and credits, of not less than \$9,000,000 and bonded debt of not more than \$415,000, and which have resolved to issue funding bonds in amount not exceeding \$50,000.

Laws 1931, c. 80, validates proceedings of county board relating to funding bonds.

Counties with assessed valuation not exceeding \$6,500,000, net debt not exceeding \$525,000, and outstanding warrants of more than \$200,000, etc. Laws 1931, c. 102, authorizes issue of funding bonds and levy of tax.

Laws 1931, c. 239, validates funding bonds.

Laws 1921, c. 117.

Op. Atty. Gen., May 22, 1931; note under §1938-6.

§1973-½. Cities of second class may issue bonds for school buildings.—That in any city of the second class in the State of Minnesota and not operating under a Home Rule Charter, the Board of Education is hereby authorized and empowered to issue and sell bonds of said City to an amount not exceeding \$100,000.00 for the purpose of providing funds for the erection or replacement of school buildings and to provide equipment, heating and lighting apparatus and other necessary equipment for the same and to secure additional grounds if required for a site for such building, providing, such issue shall have been authorized or may be authorized by a vote of a majority of the electors of such city voting upon such proposition providing for the issuance of an aggregate amount of bonds for such purpose within a period of two years just preceding such issuance. (Act Apr. 1, 1931, c. 112, §1.)

§1973-½ a. Bonds—denomination—rate of interest.—Such bonds shall be of the denomination of \$1,000.00 each and shall bear interest to be represented by coupons attached thereto at the lowest attainable rate, not to exceed four and one-half percent, per annum,

payable semi-annually. The principal thereof shall be made to mature and fall due at such different times and in such amounts as said Board may prescribe, providing however that all of the said bonds shall be made to mature and fall due at or before five years from the date of issuance thereof. Said bonds and the coupons attached thereto shall be signed severally by the President and the Clerk of said Board and drawn payable to bearer, and shall have the seal of said Board affixed thereto. (Act Apr. 1, 1931, c. 112, §2.)

§1973-½ b. Shall not be sold for less than par.—Such bonds shall not be sold at less than their par value, and the proceeds arising from their sale shall be deposited with the city treasurer and held subject to the order of said board for application to the purposes for which the bonds were issued. The full faith and credit of each such city shall be pledged and all of the taxable property in each such city shall be liable for the payment of the principal and interest of said bonds when issued. Provided, however, that no bonds shall be issued under this act if such issue shall make the total indebtedness of said city aggregate more than ten per cent of the assessed valuation of such city according to the last preceding assessment. (Act Apr. 1, 1931, c. 112, §3.)

§1973-½ c. Tax levy to retire.—When any of the bonds herein authorized shall have been issued and sold as above provided, it shall thereafter be the duty of the board of education to provide for and secure the levy of an annual tax of such amount as may be necessary to pay the principal and interest of such bonds as the same become due, and such annual tax shall be certified, levied and collected in the same manner as other school taxes are certified, levied and collected, and when collected shall be paid over to the city treasurer to be applied to the payment of the principal and interest of said bonds and to no other purpose. (Act Apr. 1, 1931, c. 112, §4.)

CHAPTER 10A

Depositories of Public Funds

§1973-1. Securities in lieu of depository bonds.—Any bank or trust company authorized to do a banking business in this state, designated as a depository of county, city, village, borough, town or school district funds, as provided by law, may, in lieu of the corporate or personal surety bond required to be furnished to secure such funds, deposit with the treasurer of the municipality making such designations, such bonds, certificates of indebtedness or warrants, except bonds secured by real estate, as are legally authorized investments for savings banks under the laws of the state or the bonds of any of the insular possessions of the United States, or the bonds of any state, or its agency, the payment of the principal and interest of which, or either, is provided for otherwise than by direct taxation. The total in amount of such collateral computed at its market value shall be at least

ten per cent more than the limit of deposit which would be permitted if a corporate or personal surety bond was furnished. The depository may in its discretion furnish both a bond and collateral aggregating the required amount. Any collateral so deposited shall be accompanied by an assignment thereof to the municipality designating such depository, which assignment shall recite that such depository shall pay over to the treasurer, or his order, on demand, or if a time deposit when due, free of exchange or any other charges all moneys deposited therein at any time during the period such collateral shall be so deposited, and to pay the interest thereon when due at the agreed rate; and that in case of any default upon the part of the depository the governing body of the municipality making the designation shall have full power and authority to sell such collateral,

or as much thereof as may be necessary to realize the full amount due the municipality and to pay over any surplus to the depository, or its assigns. A depository may in its discretion deposit collateral of a value less than the total designation and may from time to time during the period of its designation deposit additional collateral and make withdrawals of excess collateral, or substitute other collateral for that on deposit, or any part thereof. Authority is vested in the treasurer to return the collateral to the depository when the trust so created is terminated and he shall in the case of a reduction of the deposit permit the depository to withdraw the excess portion thereof. All interest on the collateral so deposited when collected shall be paid to the depository so long as it is not in default. Before any collateral is deposited with the treasurer it shall first be approved by the same authority that designated the depository but no such authority shall be necessary for the withdrawal of collateral. The closing of a depository shall be deemed a default upon the part of the depository and no demand upon the part of the municipality, or its treasurer, shall be necessary to establish such default. If a depository shall close, any time deposit placed therein shall immediately become due and payable. If both bond and collateral is furnished by a depository, all or any part of the collateral may be withdrawn without in any way impairing the full force and effect of the bond unless it shall contain a provision that the collateral shall not be withdrawn without the consent of the surety thereon. If a corporate surety bond is furnished by a depository it shall be in a penal sum not to exceed the amount designated as the limit of deposit therein notwithstanding any other provisions of law to the contrary. At no time shall the treasurer maintain a deposit in any depository against collateral in excess of ninety per cent of the market value thereof. Any provision of law authorizing any county, city, village, borough, town or school district to designate banks as depositories shall be construed to include trust companies authorized to do a banking business. All bonds furnished under the provisions of this act shall be approved by the governing body of the municipality making such designation and shall be filed in the office of the county auditor as provided by Chapter 118, of the Laws of the State of Minnesota for the year 1927 [Mason's Minn. St., 1927, §2836], and all collateral deposited under the provisions of this act shall be approved by the governing body of the municipality making such designation and after such approval be deposited with the treasurer of such municipality, unless the governing body of such municipality shall by resolution fix and determine some other place for the safe keeping of such collateral. Provided such collateral shall not be re-deposited in the bank or trust company furnishing the same. (As Amended Apr. 25, 1929, c. 370, §1.)

City did not have a preferred claim against an insolvent depository bank in which city treasurer had made deposits in excess of securities deposited by the bank, the overdeposit not constituting an offense under §10303. 172M324, 215NW174.

A bank has no power to pledge any of its

assets to secure the repayment of the deposits, except as given by statute. 174M286, 219NW163.

Where an unauthorized pledge of assets is made by bank and it becomes insolvent, receiver may recover assets pledged, or damages, if they have been converted. 174M286, 219NW163.

A commercial bank has no power to pledge bills receivable to secure deposits, even though it be to induce an extension of a past-due deposit. 175M363, 221NW142.

Surety held not liable where bank continued to do business several years after the close of the year covered by the bond. 175M482, 221NW869.

This section must be construed as a part of a depository bond, and liability of sureties is limited to the penalty of the bond, and where the bank closes, the liability of the sureties becomes absolute, and when they pay the loss they are subrogated to the rights of the obligee, and such right of subrogation cannot be questioned by the sureties on the treasurer's bond. 181M271, 232NW320. See Dun. Dig. 2701, 9045.

Bondsmen of depository for school district, designated without any specifications as to time, were liable to school district where bank was taken over for liquidation three years and two days after designation. School Dist. No. 75 of Kittson County v. F., 234NW594. See Dun. Dig. 2701, 2702.

The evidence is not sufficient to sustain a finding that Liberty bonds deposited with the defendant bank, a designated depository of the plaintiff school district, were a substitute or in lieu of a bond executed with individual sureties, or that the taking of Liberty bonds discharged such bond, or that another bank was designated as a depository; and the trial court was right in so directing the jury. School Dist. No. 75 of Kittson County v. F., 234NW594. See Dun. Dig. 2701.

Officers and stockholders of a bank may sign a depository bond. Op. Atty. Gen., Mar. 5, 1929.

Banks are without authority to assign collaterals or securities to protect thrift funds collected from school children by school officers or teachers. Op. Atty. Gen., Apr. 8, 1929.

School district may not designate bank located outside state. Op. Atty. Gen., June 8, 1929.

Approval of collateral offered is now to be had by the county board rather than the board of audit. Op. Atty. Gen., Aug. 21, 1929.

Consolidated bank does not succeed to position as county depository. Op. Atty. Gen., Oct. 4, 1929.

Deposits cannot exceed capital and surplus even though secured by both bond and collateral. Op. Atty. Gen., Oct. 31, 1929.

County only has priority up to the amount of the capital and surplus, no matter how much collateral is pledged by the bank. Op. Atty. Gen., Dec. 12, 1929.

The word "municipality" in this section as amended by Laws 1929, c. 370, includes counties, and the collateral must be approved by the county board. Op. Atty. Gen., Feb. 10, 1930.

The City of Cleveland is not an "agency" of the state of Ohio, and bonds of that city are not receivable as collateral under this section as amended by Laws 1929, c. 370, but such bonds might qualify under §7714. Op. Atty. Gen., Feb. 10, 1930.

This section as amended by Laws 1929, c. 370, requires the deposit with the county auditor of all depository bonds taken by counties, towns, school districts and cities. Op. Atty. Gen., May 3, 1930.

A bank designated as a depository of county funds must furnish the bond, or in lieu thereof the collateral security required by statute, and no exceptions are made. Op. Atty. Gen., Mar. 2, 1931.

County attorney is under no obligation to check the facts relative to the issuance of any municipal bonds offered as collateral to see that the bonds were properly issued by the municipality purporting to issue the same. Op. Atty. Gen., Feb. 20, 1931.

While a state bank may give a bond to secure the government for deposit of postal savings, it may not pledge any portion of its assets. Op. Atty. Gen., May 22, 1931.

A bank cannot pledge a customer's notes to secure public deposits. Op. Atty. Gen., June 11, 1931.

There is no statute regarding depositories which is applicable to the City of Marshall. Op. Atty. Gen., June 18, 1931.

§1973-6. Depositories—Bank delinquent in payment of taxes on stock shares.

This statute is still in force. Op. Atty. Gen., May 29, 1930.

§1973-8. Certain banks may be depositories.—In every case where a bank which is eligible under the provisions of General Laws 1927, Chapter 381 [Mason's Minn. St., 1927, §1973-6], merges or consolidates with another bank under the charter of either, such consolidated bank shall, so long as all taxes levied and assessed against its shares under the laws of this state subsequent to such consolidation are paid as required by law, be

eligible to receive deposits of public moneys under said act. (Act Apr. 19, 1929, c. 262.)

§1973-9. Treasurer to be reimbursed for losses.—Where the treasurer of any town, village or city of the fourth class has or shall hereafter reimburse such town, village or city for loss of funds of the town, village or city on deposit in any bank which has or may become insolvent, such town, village or city shall reimburse said treasurer for the money so paid when a majority of the electors voting thereon at the annual town meeting or at any regular or special village or city election vote so to do; provided, that the notice of such annual meeting or election shall specify that such matter will be considered thereat. (Laws 1931, c. 35, as amended by act Apr. 20, 1931, c. 279.)

Supersedes Laws 1929, c. 133, limited to town treasurers.

CHAPTER 11

Taxes

Laws 1929, c. 38, creates a bank tax commission to study question of national bank taxation and to report at next session of legislature. Laws 1931, c. 275, continues the commission to the end of the 1933 session.

Laws 1931, c. 303, authorizes the tax commission to compromise taxes assessed against shareholders of national banks. See, also, Res. No. 8, Laws 1931, p. 627.

GENERAL PROVISIONS

§1974. Property subject to taxation.

1. General rules.

City of Mankato could not enact an ordinance requiring one starting a new mercantile business to post a bond conditioned that if the concern does not stay in business for more than one year, the amount thereof should be forfeited to the City in liquidation of personal property taxes, license, etc. Op. Atty. Gen., Mar. 27, 1931.

§1975. Property exempt.

Farm lands acquired by state through foreclosure of mortgages are not subject to taxation. State, Appeal of, 234M691. See Dun. Dig. 9151a.

The courts cannot acquire jurisdiction in proceedings to enforce taxes over state property. State, Appeal of, 234NW691. See Dun. Dig. 9151a.

In the absence of express law so declaring, property of the state is not subject to taxation. State, Appeal of, 234NW691. See Dun. Dig. 9151a.

Where city acquired land for airport pursuant to condemnation proceedings on Dec. 26, 1929, it was subject to 1929 levy of taxes which was spread on the books prior to that date. Op. Atty. Gen., Mar. 4, 1931.

A municipal golf course purchased by a city on Jan. 3, 1931, is exempt from taxation for 1931 and subsequent years, assuming that it is without unreasonable delay devoted to the purpose for which purchased. Op. Atty. Gen., Mar. 4, 1931.

Land owned and used by Boy Scouts is not exempt from taxation. Op. Atty. Gen., Aug. 11, 1930.

Property of Young Men's Christian Association used for boys' camp is not exempt from taxation. Op. Atty. Gen., Aug. 11, 1930.

Property purchased by an institution under a contract for a deed is not exempt from taxation. Op. Atty. Gen., July 20, 1931.

§1977. Real property.

Taxes on real estate are enforceable only against the land and cannot be enforced against the land owner personally. 172M567, 216NW 250.

§1978. Mineral, gas, coal, oil, etc.

Interests or estates in lands may be segregated and taxed separately. 172M263, 271, 273, 215NW71, 180, 181.

§1979. Personal property.

Pipe lines of companies transporting gasoline, running through the property of others under an easement, are personal property and should be taxed as such. Op. Atty. Gen., May 26, 1931.

§1980. Other definitions.

174M509, 219NW872.

§1983. Powers of tax commission.

There can be no refundment of a tax paid under this act except by application to the tax commission under §1983. Op. Atty. Gen., April 28, 1930.

Where state lands were sold and school or swamp land certificates issued, and lands were placed on tax list and then sold for delinquent taxes, and petitioners purchased at the tax judgment sale or took assignments from the estate, and original purchaser of lands failed to live up to the terms of his contract, petitioners were not entitled to a refund. Op. Atty. Gen., Feb. 2, 1931.

State tax commission has authority to order a refundment of any excess of interest paid on a ditch assessment if approved by the county board. Op. Atty. Gen., July 2, 1931.

LISTING AND ASSESSMENT

§1984. Time.

Hogs purchased and acquired by a packing plant on May 1st shall be included in the personal property tax return, and not only those held over from the evening of April 30th. Op. Atty. Gen., July 15, 1931.

§1985. Omitted property.

Statement of the taxes due on omitted property in a gross sum for a number of years in the published delinquent tax list was not a jurisdictional defect; but interest and penalties should not be added to the amount where the