

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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county, to the sheriff of the county, or all of them. No judge or other officer of such municipal court, excepting the special municipal judge, if any, shall prepare or draw any pleadings or other papers in any civil actions in said municipal court, nor shall they institute, for another, any civil action in such court. (As amended Feb. 21, 1931, c. 23, § 1.)

§ 228. Powers and duties—Practice—Rules—Fees.

Right of defendant to appeal after plea of guilty in municipal court. Op. Atty. Gen., Dec. 9, 1930.

§ 229. Costs and disbursements.

Where defendant prevailed on his counterclaim in amount equal to plaintiff's recovery, defendant was entitled to costs. 179M461, 229 NW579(2).

"Costs" refers to disbursements where no statutory costs are involved.—Id.

§ 233. Fees in criminal cases—Etc.

It is not the duty of a city attorney to prosecute violators of state laws within the city limits in justice court, and in assisting in such a prosecution he is not entitled to compensation from the city, but county attorney might allow compensation out of his contingent fund. Op. Atty. Gen., Feb. 18, 1931.

§ 236. Appeals to district court.

The district court is not required to make findings of fact in an appeal upon questions of law alone from judgments of the municipal courts in cities of the class of Worthington. Iowa Mortgage Corp. v. K., 233NW18. See Dun. Dig. 6905.

Defaulting defendant in municipal court was not entitled to notice of entry of judgment as respected time for appeal. Pandolfo v. S., 236 NW483. See Dun. Dig. 486(74).

§ 237. Courts in cities of fourth class, etc.

Judge of municipal court, organized under this section, may also hold the office of member of school board of an independent school district. Op. Atty. Gen., April 15, 1931.

COURT COMMISSIONER

§ 246. Election—Term of office.

Laws 1929, c. 341, § 2 (§997-4), fixes salary at \$3,500 and marriage fees in counties of 415,000 population.

§ 250. Vacancy.

Editorial note: This section seems to be superseded by § 822, a later enactment, conferring power of appointment to fill vacancy, on the county board.

Section 250, and not section 822, governs an appointment to fill a vacancy in the office of court commissioner. Op. Atty. Gen., Jan., 26, 1931.

CHAPTER 5A

Salaries of Certain State Officers and Employees

Act limiting amount which may be paid state officer or employee for use of automobile. Laws 1931, c. 331, §§ 254-47, 254-48.

§ 252. Amount—Payment.

2. Judicial Department.

Salary of chief justice, associate justices and commissioners.—The annual salary of the chief justice of the supreme court shall be \$9,000.00 and that of each associate justice and each commissioner of the supreme court \$8,500.00. (Act Apr. 24, 1929, c. 322, § 1.)

The above provision amends this paragraph with respect to the salaries of the chief justice, associate justices, and the commissioners.

6. Office of Attorney General.

Salary of attorney general and assistants.

—The annual salary of the attorney general is hereby fixed at \$7,000.00 and of the deputy attorney general at \$6,000.00, and of the several assistant attorneys general, other than

the assistant attorney general who is a member of the rural credit bureau, at \$5,000.00. (Act Apr. 25, 1929, c. 382, § 1.)

The above provision amends this subdivision "so as to read as" above. As to whether it amends the provisions of the former law which are not embraced in the amendatory act may be open to question.

8. Office of State Librarian.

The salary of the assistant state librarian is hereby fixed at twenty-one hundred dollars annually, payable in semi-monthly installments. (Ex. Sess. '19, c. 31, § 1.)

Explanatory note—Laws Ex. Sess. 1919, c. 31, § 1, impliedly amended Laws Ex. Sess. 1919, c. 30, by increasing the salary of the assistant librarian to the amount above stated.

22. District Court Judges.

Governor attempted to veto this bill but did not return it in time. See State v. Holm. 172M 162, 215NW200.

CHAPTER 5B

Public Officers and Employees in General

STATE EMPLOYEES RETIREMENT ASSOCIATION

§ 254-1. Words and phrases defined.—That the following words and phrases as used in this act, unless a different meaning is plainly required by the context, shall have the following meanings:

1. "State Employee" shall mean any person

holding a state office or regularly employed by the state in any capacity whatever and whose salary is paid either by warrant of the state auditor or from the fees or income of any department or agency of the state, excepting court commissioners, district judges, and the president, deans, professors, and instructors in the state university and in the

state teachers' colleges, but shall not include temporary employes or those employed for a definite period of less than six months.

2. "Head of Department" shall mean the head of any department, institution or branch of state service which directly pays salaries out of its income or which prepares, approves and submits salary abstracts of its employes to the state auditor and state treasurer.

3. "Accumulated Deductions" shall mean the total of the amounts deducted from the salary of a member and the total amount of assessments paid by a member in lieu of such deductions and credited to his or her individual account in the retirement fund, without interest.

4. "The Retirement Fund" shall mean and include the aggregate of all accumulated deductions from the salaries of members of the retirement association, all assessments paid by such members in lieu of such deductions, and all other moneys paid into the state treasury or received by the retirement board pursuant to the provisions of this act, together with all income and profits therefrom and interest thereon. (Act Apr. 15, 1929, c. 191, §1; Apr. 25, 1931, c. 351, §1.)

§254-2. State employes' retirement association created.—There is hereby established a state employes' retirement association the membership of which shall consist only of state employes. Membership in said association shall be optional on the part of the persons in the employ of the state on July 1, 1929, but all other new state employes except elective state officers shall become members of said association of acceptance of state employment. Persons in the employ of the state on July 1, 1929, who apply for membership in the retirement association prior to January 1, 1930, shall pay a membership fee of One Dollar (\$1.00) and persons in the employ of the state on July 1, 1929, who apply for membership therein after January 1, 1930, shall pay a membership fee of Ten Dollars (\$10.00), but no person in the employ of the state on July 1, 1929, shall be eligible to apply for membership in the retirement association after July 1, 1931. In addition to such membership fee, every person in the employ of the state on July 1, 1929, who becomes a member of the retirement association shall pay in a sum equal to all accrued deductions from his or her salary which have been made had such employe become a member of the retirement association July 1, 1929, with interest thereon at the rate of four per cent (4%) per annum compounded annually. (Act Apr. 15, 1929, c. 191, §2; Apr. 25, 1931, c. 351, §2.)

§254-3. Board of managers—officers.—The management of said state employes' retirement fund is hereby vested in a board of seven members, who shall be known as the State Employes' Retirement Board. Said board shall consist of the state auditor, the state treasurer, the insurance commissioner and four state employes who shall be elected by the members of the retirement association at a time and in a manner to be fixed by the retirement board. The members of said board so elected shall hold office for a term

of four years and until their successors are elected and qualified; provided that at the first election held after the passage of this act one of said members shall be elected for the term of one year, one member for the term of two years, one member for the term of three years, and one member for a term of four years. Any vacancy in said board caused by the death, resignation or removal of either of the members so elected shall be filled by the retirement board for the unexpired portion of the term in which such vacancy occurs. The members of the retirement board shall serve without compensation, but shall be reimbursed out of the retirement fund expenses actually and necessarily paid or incurred in the performance of their duties, and shall suffer no loss of salary or wages through service on such board. The board shall elect a chairman and shall appoint a secretary and such other employes as may be necessary and fix their compensation. The board shall from time to time, subject to the limitations of this act and of the law, establish rules and regulations for the administration of the retirement and other provisions of this act and for the transaction of its business. (Act Apr. 15, 1929, c. 191, §3; Apr. 25, 1931, c. 351, §3.)

§254-4. Payments into retirement fund.—Every member of the retirement association shall pay into the retirement fund three and one-half per cent (3½%) of his or her regular salary. Such payment shall be made by deduction thereof from such salary. The head of each department is hereby directed to cause such deduction to be made at least once each month on abstract from the salary of each member of the retirement association and to approve one voucher payable to the state treasurer for the aggregate amount so deducted from the salaries covered by said abstract, provided that deductions from salaries of employes paid direct by any department, institution or agency of the state shall be made by the officer or employe authorized by law to pay such salaries, and remitted by him to the state treasurer with a statement in duplicate showing the amount of each of such deductions and the names of the employes on whose account the same have been made. All such salary deductions shall be credited to a fund to be known as the retirement fund and all interest and other income of said association shall be credited to said fund. The retirement fund shall be disbursed only for the purposes herein provided. The expenses of said association and the annuities herein provided upon retirement shall be paid only from said fund. (Act Apr. 15, 1929, c. 191, §4; Apr. 25, 1931, c. 351, §4.)

§254-5. State Treasurer to be treasurer of association.—The state treasurer shall be ex-officio treasurer of the retirement funds of said association, and his general bond to the state shall cover all liability for his acts as treasurer of said funds. All monies of said association received by him shall be set aside in the state treasury to the credit of the proper fund. He shall transmit monthly to the secretary of the retirement board a detailed statement of all amounts so received and credited by him to said fund. He shall

pay out said funds only on warrants issued by the state auditor, upon vouchers signed by the secretary of the retirement board, provided that vouchers for investments may be signed by the secretary of the state board of investment. (Act Apr. 15, 1929, c. 191, §5.)

§254-6. Investment board to invest funds.

—The retirement board shall from time to time certify to the state board of investment for investment such portions of the retirement fund as in its judgment may not be required for immediate use. The state board of investment shall thereupon invest the sum so certified in such securities as are duly authorized legal investments for savings banks and trust companies, and shall sell any such securities upon request of the retirement board when necessary to provide money for the payment of refunds or annuities to members and/or other lawful obligations. (Act Apr. 15, 1929, c. 191, §6; Apr. 25, 1931, c. 351, §6.)

§254-7. Department of Administration and Finance to make list of employees.

—Within thirty days after this bill becomes a law, the department of administration and finance shall submit to the retirement board a statement showing the name, age, sex, title, compensation, and length of service as a state employe of every employe of the state as defined in Section 1 of this act, and shall upon request of the retirement board furnish to said board a like statement of all new officers or employes who have entered the service of the state. (Act Apr. 15, 1929, c. 191, §7; Apr. 25, 1931, c. 351, §7.)

§254-8. Attorney General to be legal adviser.—The attorney general shall be the legal adviser of the retirement board. (Act Apr. 15, 1929, c. 191, §8.)

§254-9. Amount paid in to be refunded in certain cases.—Whenever any member of said association shall cease to be a state employe for any reason other than death or retirement for disability or superannuation, he or she shall be paid, on demand, the full amount of the accumulated deductions standing to the credit of his or her individual account, provided that any such member who has been in the service of the state for not less than five years may, in lieu thereof, upon application in writing to the retirement board within sixty days from the termination of his or her employment, be permitted to retain membership in the retirement association and to enjoy all the rights and privileges thereof upon such terms and conditions as to his employment and the payment of assessments in lieu of salary deductions as the retirement board may by general rule prescribe. Any member of the retirement association who has maintained his or her membership after leaving the employ of the state by the payment of such assessments may terminate such membership by notice in writing to the retirement board, whereupon he or she shall be paid, on demand, the full amount of the accumulated deductions standing to the credit of his or her individual account. (Act Apr. 15, 1929, c. 191, §9; Apr. 25, 1931, c. 351, §9.)

§254-10. Members may be reinstated.—

Whenever a state employe, who has so withdrawn his accumulated deductions shall re-enter the employment of the state within five years after such withdrawal, the annuity rights forfeited by such employe at the time of such withdrawal shall be restored upon repayment by such employe to the retirement fund of the full amount so withdrawn, and thereupon such employe shall resume his or her obligation as a member of the retirement association. (Act Apr. 15, 1929, c. 191, §10; Apr. 25, 1931, c. 351, §10.)

§254-11. Retirement—annuity.—Whenever any member of the retirement association has been an employe of the state for a period of twenty (20) years and has attained the age of sixty-five (65) years or when any such employe has been in the service of the state for a period of thirty-five years, he shall be eligible for retirement for superannuation, but such retirement shall not be compulsory, provided that in computing such term of service the time during which any member of the association shall have maintained his membership by the payment of assessments after leaving the service of the state, in lieu of deductions, shall be included. Such retirement may be made upon application of the member or of someone acting in his or her behalf, or in case of an employe in active service upon the application of the head of the department in which such member is employed. Upon such retirement such member shall receive an annuity for the remainder of his or her life equal to fifty (50) per centum of his or her average salary during the last five years of state service, provided that no such retirement annuity shall exceed the sum of One Hundred and Fifty Dollars (\$150.00) per month.

If the total of annuities shall during any year become greater in amount than the annual contribution, the Board shall proportionally reduce the amount of annuities. (Act Apr. 15, 1929, c. 191, §11; Apr. 25, 1931, c. 351, §11.)

§254-12. Disability—annuity.—Whenever any member of the retirement association, who has been an employe of the state for a period of 10 years, or more, or whose term of service added to the period of time during which he has maintained membership in said association by the payment of assessments in lieu of salary deductions as herein provided amounts to 10 years or more, and is under the superannuated retirement age, shall suffer a total permanent disability, as defined in the workman's compensation act, regardless of the cause thereof, such member shall be entitled to a retirement annuity in an amount bearing the same ratio to the full retirement annuity for superannuation as his term of service augmented by the period during which he has maintained membership as herein provided bears to 20 years, and whenever such member shall suffer a permanent partial disability, regardless of the cause thereof, such member shall be entitled to annuity in such percentage of the amount computed as aforesaid in case of total permanent disability as in the judgment of the retirement board shall measure the decrease in his earning capacity caused by such permanent partial disability.

(Act Apr. 15, 1929, c. 191, §12; Apr. 25, 1931, c. 351, §12.)

§254-13. Medical examination to be required by all applicants for disability retirement.—The retirement board shall require the medical examination of all applicants for retirement for disability under such general rules and regulations as it may prescribe, and may provide therein for the discontinuance of any disability annuity and the forfeiture of all rights under this act in case of persistent refusal to submit to such examination. (Act Apr. 15, 1929, c. 191, §13.)

§254-14. Heirs or legal representatives to receive amount due member.—Whenever a member of said association shall die without having received an annuity, or without having received in annuities an amount equal to the total amount of the accumulated deductions from his or her salary, the full amount of said accumulated deductions, less such annuity payments, if any, as have been paid to such member, shall be paid in one lump sum to the beneficiary or beneficiaries designated by such member, or, if none, to the legal representatives of such member, upon the establishment of a valid claim therefor. (Act Apr. 15, 1929, c. 191, §14.)

§254-15. To be paid in monthly installments.—All annuities granted under the provisions of this act shall be paid in equal monthly installments, and shall not be increased, decreased or revoked except as provided in this act. All annuities for disability shall be in addition to any benefits accruing to a state employe under the workman's compensation act. (Act Apr. 15, 1929, c. 191, §15; Apr. 25, 1931, c. 351, §15.)

§254-16. Date of retirement.—No retirement on account of disability or superannuation shall be granted until July 1, 1931, nor shall any member of the retirement association be entitled to receive a retirement annuity for superannuation until he shall have paid into the retirement fund, either by deductions from salary or otherwise, before such retirement, an amount equal to five years accumulated deductions from his or her average salary during the last five years of state service, and such additional amount as may be provided by law prior to July 1, 1931, and provided that until July 1, 1931, nothing done hereunder shall create or give any contract rights to anyone, except the right to receive back upon withdrawing from the association, any salary deductions made or assessments paid hereunder. (Act Apr. 15, 1929, c. 191, §16; Apr. 25, 1931, c. 351, §16.)

§254-17. Funds not subject to process.—None of the moneys, annuities or other benefits mentioned in this act shall be assignable either in law or in equity or be subject to execution, levy, attachment, garnishment or other legal process nor shall they be subject to any state income tax. (Act Apr. 15, 1929, c. 191, §17; Apr. 25, 1931, c. 351, §17.)

§254-18. Insurance laws not to apply. None of the laws of this state regulating insurance or insurance companies shall apply

to the retirement association or any of its funds. (Act Apr. 15, 1929, c. 191, §18.)

§254-19. May receive gifts and bequests. The retirement board is hereby authorized and empowered to credit to the fund any moneys received in the form of donations, gifts, appropriations, bequests or otherwise, or derived therefrom, and every member of said retirement association who shall not demand the amount of his accumulated deductions within two years after his separation from the service of the state shall be deemed to have donated the same to the fund, unless he shall have retained his membership in the retirement association as herein provided. (Act Apr. 15, 1929, c. 191, §19.)

§254-20. Invalidity of one part not to affect balance of act.—If any provision of this act shall be held to be unconstitutional such unconstitutionality thereof shall not affect the validity of the remaining parts of this act. (Act Apr. 15, 1929, c. 191, §20.)

§254-21. Payments to begin July 1, 1929.—This act shall take effect upon its passage and approval but no deductions from salary for the retirement fund shall be made from any salary earned prior to July 1, 1929. (Act Apr. 15, 1929, c. 191, §21.)

§254-22. Board of Directors may make changes or additions.—Any changes or additions which may be found necessary or advisable for the management of this fund, may be made by a majority vote of the board of directors, provided no increase is made in the amount of deductions from salaries, or decrease in the amount of benefits paid. (Act Apr. 15, 1929, c. 191, §22.)

MUNICIPAL EMPLOYEES RETIREMENT ASSOCIATION

§254-23. Definitions. That the following words and phrases as used in this act, unless a different meaning is plainly required by the context, shall have the following meaning:

1. "Public Employee" shall mean any person holding a position, either elective or appointive, as a

(a) county employe or officer in any county and/or

(b) city employe or officer in any public department or public school in any city of the first, second or third class, whether now or hereafter operating under a home rule charter or otherwise, and/or

(c) village employe or officer in any village having a population of over seven thousand (7,000) inhabitants and/or

(d) public school employe or officer in any school district wholly within any such city or such village whose salary is paid in whole or in part by taxation, or by fees, assessments or revenues from public service and who is not otherwise covered by any other form of public annuity or public pension system, but not to include temporary employes or persons whose average period of employment in any one year is less than six (6) months.

2. "Head of Department" shall mean the head of any department, institution, or branch

of public service which directly pays salaries out of its income or which prepares and approves salary abstracts of its employes.

3. "Accumulated Deductions" shall mean the total of the amount deducted from the salary of a member and the total amount of assessments paid by a member in lieu of such deductions and credited to his or her individual account in the retirement fund, without interest.

4. "The Retirement Fund" shall mean and include the aggregate of all accumulated deductions from the salaries of members of the retirement association, all assessments paid by such members in lieu of such deductions, and all other monies paid into the state treasury or received by the retirement board pursuant to the provisions of this act, together with all income and profits therefrom and interest thereon. (Act Apr. 24, 1931, c. 307, §1.)

(1).

Legislature did not intend to bar a public employee from membership in the association because of membership in another association or by reason of possible benefits from some other form of annuity or pension system not connected with his present employment. Op. Atty. Gen., May 23, 1931.

(1) (d).

It was not the intention of the legislature to bar a public employee from membership because of membership in another association or by reason of possible benefits from some other form of pension system not connected with his present employment. Op. Atty. Gen., June 26, 1931.

The qualifying clauses in paragraph (d) apply with equal force to paragraphs (a), (b) and (c). Op. Atty. Gen., June 26, 1931.

(2).

If city clerk may issue orders or warrants only upon direction of the city council, the council is the only "head of department" within the meaning of the act. Op. Atty. Gen., June 10, 1931.

The "head of any department" means any officer of the city on whose certificate the city clerk is authorized to issue a warrant in payment of salary. Op. Atty. Gen., June 10, 1931.

§254-24. Public employees retirement association established.—There is hereby established a public employes' retirement association, the membership of which shall consist only of public employes. Membership in said association shall be optional on the part of the present public employes, but all new public employes except elective public officers shall become members of said association by acceptance of public employment. Present employes who apply for membership in the retirement association prior to January 1, 1932, shall pay a membership fee of One (\$1.00) Dollar and present employes who apply for membership therein after January 1, 1932, shall pay a membership fee of Ten (\$10.00) Dollars, but no present employe shall be eligible to apply for membership in the retirement association after July 1, 1933. In addition to such membership fee, every present employe who becomes a member of the retirement association shall pay in a sum to all accrued deductions from his or her salary which would have been made had such employe become a member of the retirement association July 1, 1931, with interest thereon at the rate of five per cent (5%) per

annum compounded annually. (Act Apr. 24, 1931, c. 307, §2.)

Elective officers have the option of joining or not joining the association. Op. Atty. Gen., June 10, 1931.

In determining who are new public employes, April 24, 1931, governs, and not the date of the approval of the act by the head of a department. Op. Atty. Gen., June 26, 1931.

§254-25. Board of directors—membership—terms.—The management of the said public employes retirement fund is hereby vested in a board of nine (9) members, who shall be known as the Public Employes Retirement Board. Said Board shall consist of the state auditor, the state insurance commissioner, the state treasurer, and six (6) public employes who shall be elected by the members of the retirement association at a time and in a manner to be fixed by the retirement board. The members of said board so elected shall hold office for a term of three (3) years and until their successors are elected and qualified; provided that at the first (1st) election held after the passage of this act, two (2) of said members shall be elected for a term of one (1) year, two (2) members for a term of two (2) years, and two (2) members for a term of three (3) years. Within thirty (30) days after the passage of this act, at the call of state auditor, said association shall meet and elect the six (6) members to the retirement board. The members of the retirement board shall serve without compensation, but shall be reimbursed out of the retirement fund for expenses actually and necessarily paid or incurred in the performance of their duties, and shall suffer no loss of salary or wages through service on such board. The board shall elect a chairman and shall appoint a secretary and such other employes as may be necessary and fix their compensation. The board shall, from time to time, subject to the limitations of this act and of the law, establish rules and regulations for the administration of the retirement and other provisions of this act and for the transaction of its business. (Act Apr. 24, 1931, c. 307, §3.)

§254-26. Retirement fund.—Every member of the retirement association shall pay into the retirement fund three and one-half per cent (3½%) of his or her regular salary. Such payment shall be made by deduction thereof from such salary. The head of each department is hereby directed to cause such deductions to be made at least once each month on abstract from the salary of each member of the retirement association and to approve one voucher payable to the state treasurer for the aggregate amount so deducted from the salaries covered by said abstract, provided that deductions from salaries of employes paid direct by any department, institution or agency shall be made by the officer or employe authorized by law to pay such salaries and remitted by him to the state treasurer with a statement in duplicate showing the amount of each of such deductions and the names of the employes on whose account the same have been made. Deductions from the salaries of district court reporters shall be made by the several county auditors of the state. Each county auditor

of the state shall make such deduction from the amount of each warrant issued by him in payment of the salary of a district court reporter and shall on or before the fifteenth (15th) day of each month issue a warrant to the order of the state treasurer for the aggregate amount of all such deductions made by him during the preceding month and shall transmit the same to the state treasurer with a statement in duplicate showing the amount of each of such deductions and the names of the district court reporters on whose account the same have been made, provided that the deductions from the salary of a district court reporter in a judicial district consisting of two or more counties shall be made by the auditor of the county in which the bond and official oath of such district court reporter are filed from the portion of his salary paid by such county. All salary deductions shall be credited to a fund to be known as the retirement fund and all interest and other income of said association shall be credited to said fund. The retirement fund shall be disbursed only for the purposes herein provided. The expenses of said association and the annuities herein provided upon retirement shall be paid only from said fund. (Act Apr. 24, 1931, c. 307, §4.)

§254-27. State treasurer to be custodian of funds.—The state treasurer shall be ex-officio treasurer of the retirement funds of said association and his general bond to the state shall be so conditioned as to cover all liability for his acts as treasurer of said funds. If the general bond of the state treasurer, at the time of the passage of this act, shall cover all liability for his acts as treasurer of said funds, no additional bond shall be required. If not, the said state treasurer shall execute to the State of Minnesota for the use and benefit of said State of Minnesota and all persons injured by failure to observe its conditions, a penal bond in such a sum as may be fixed by the retirement board and with such sureties as the governor and the state auditor may approve, conditioned that he will pay over to all persons on demand all monies to which they may be entitled which may have come into his hands in virtue or by reason of his office as such treasurer of said funds. All monies of said association received by him shall be set aside in the state treasury to the credit of the proper fund. He shall transmit monthly to the secretary of the retirement board a detailed statement of all amounts so received and credited by him to said fund. He shall pay out said fund only on warrants issued by the state auditor, upon vouchers signed by the secretary of the retirement board, provided that vouchers for investment may be signed by the secretary of the state board of investment. (Act Apr. 24, 1931, c. 307, §5.)

The public employees' retirement board, if doubtful as to whether or not the general bond of the state treasurer covers his official acts as treasurer of the retirement fund, should obtain the consent of the sureties to the inclusion of the new liability, and if such consent cannot be had the board would be justified in requiring an additional bond. Op. Atty. Gen., June 26, 1931.

§254-28. State board of investment to invest funds.—The retirement board shall from time to time certify to the state board of in-

vestment for investment such portions of the retirement fund as in its judgment may not be required for immediate use. The state board of investment shall thereupon invest the sum so certified in such securities as are duly authorized as legal investments for savings banks and trust companies, and shall sell any such securities upon request of the retirement board when necessary to provide money for the payment of refunds or annuities to members and for other lawful obligations. (Act Apr. 24, 1931, c. 307, §6.)

§254-29. Heads of departments to make monthly statements.—Within ninety (90) days after the passage of this act, the heads of departments shall submit to the retirement board a statement showing the name, age, sex, title, compensation, and the length of service of every public employe in his department as defined in Section 1 of this act, [§254-23] and on the first (1st) day of each calendar month thereafter shall furnish the retirement board a like statement of all new officers or employes who have entered the public service, and at the same time shall notify the board of all removals, withdrawals and changes in salaries of any members of the retirement association which have occurred during the preceding month, and shall furnish to said board a like statement of all new officers or employes who have entered the service as public employes. (Act Apr. 24, 1931, c. 307, §7.)

The department heads need not make the reports required by this section until the act is made applicable by compliance with section 24, and strict compliance with this section is not required. Op. Atty. Gen., June 26, 1931.

§254-30. Attorney General to be legal advisor.—The attorney general shall be the legal advisor of the retirement board. (Act Apr. 24, 1931, c. 307, §8.)

§254-31. Payments upon retirement.—Whenever any member of said association shall cease to be a public employe for any reason other than death or retirement for disability or superannuation, he shall be paid, on demand, the full amount of the accumulated deductions standing to the credit of his or her individual account, provided that any such member who has been in the public service for not less than five years may, in lieu thereof, upon application in writing to the retirement board within sixty (60) days from the termination of his or her employment, be permitted to retain membership in the retirement association and to enjoy all the rights and privileges thereof upon such terms and conditions as to his employment and the payment of assessments in lieu of salary deductions as the retirement board may by general rule prescribe. Any member of the retirement association who has maintained his or her membership after leaving the public service by the payment of such assessments may terminate such membership by notice in writing to the retirement board, whereupon he or she shall be paid on demand, the full amount of the accumulated deductions standing to the credit of his or her individual account. (Act Apr. 24, 1931, c. 307, §9.)

A public official who has spent twenty years in public service but who retires prior to reach-

ing the age of sixty-five years may continue to make payments into the retirement fund and be eligible to an annuity upon reaching the required age. Op. Atty. Gen., July 24, 1931.

§254-32. Forfeited rights shall be restored.—Whenever a public employe, who has so withdrawn his accumulated deductions shall re-enter the public service within five (5) years after such withdrawal, the annuity rights forfeited by such employe at the time of such withdrawal shall be restored upon repayment by such employe to the retirement fund of the full amount so withdrawn, and thereupon such employe shall resume his or her obligation as a member of the retirement association. (Act Apr. 24, 1931, c. 307, §10.)

§254-33. Retirement.—Whenever any member of the retirement association has been a public employe for a period of twenty (20) years and has attained the age of sixty-five (65) years, or when any such employe has been a public employe for a period of thirty-five (35) years, he shall be eligible for retirement for superannuation, but such retirement shall not be compulsory, provided that in computing such term of service, the time during which any member of the association shall have maintained his membership by the payment of assessments after leaving the service as a public employe, in lieu of deductions, shall be included. Such retirement shall be made upon application of the member or of someone acting in his or her behalf, or in the case of any employe in active service upon the application of the head of the department in which such member is employed. Except as in this act otherwise provided upon such retirement such member shall receive an annuity for the remainder of his or her life equal to fifty (50) per centum of his or her average salary during the last five (5) years of public service, provided that no such retirement annuity shall exceed the sum of one hundred and fifty (\$150.00) Dollars per month. If the total of annuities shall during any year become greater in amount than the annual contributions, the retirement board shall proportionately reduce the amount of annuities. (Act Apr. 24, 1931, c. 307, §11.)

§254-34. Partial and permanent disability.—Whenever any member of the retirement association, who has been a public employe for a period of ten (10) years or more, or whose term of service added to the period of time during which he has maintained membership in said association by the payment of assessments in lieu of salary deductions as herein provided amounts to ten (10) years or more, and is under the superannuated retirement age, shall suffer a total permanent disability as defined in the workmen's compensation act, regardless of the cause thereof, such member shall be entitled to a retirement annuity in an amount bearing the same ratio to the full retirement annuity for superannuation as his term of service augmented by the period during which he has maintained membership as herein provided bears to twenty (20) years, provided that when his term of service has been more than twenty (20) years he shall be entitled to no more than the full retirement annuity; and

whenever such member shall suffer a permanent partial disability, regardless of the cause thereof, such member shall be entitled to an annuity in such percentage of the amount computed as aforesaid in case of total permanent disability as in the judgment of the retirement board shall measure the decrease in his earning capacity caused by such permanent partial disability. (Act Apr. 24, 1931, c. 307, §12.)

§254-35. Medical examination.—The retirement board shall require a medical examination of all applicants for retirement for disability under such general rules and regulations as it may prescribe, and may provide therein for the discontinuance of any disability annuity and the forfeiture of all rights under the act in case of persistent refusal to submit to such examination. (Act Apr. 24, 1931, c. 307, §13.)

§254-36. Heirs or legal representatives to receive benefits of fund.—Whenever any member of said association shall die without having received an annuity, or without having received in annuities an amount equal to the total amount of the accumulated deductions from his or her salary, the full amount of said accumulated deductions, less such annuity payments, if any, as have been paid to such member, shall be paid in one lump sum to the beneficiary or beneficiaries designated by such member, or, if none, to the legal representatives of such member, upon establishment of a valid claim therefor. Provided, however, that if no valid claim is established therefor, the said accumulated deductions shall remain with and become the property of the said retirement association. (Act Apr. 24, 1931, c. 307, §14.)

§254-37. Annuities payable monthly.—All annuities granted under the provisions of this act shall be paid in equal monthly installments, and shall not be increased, decreased or revoked except as provided in this act. All annuities for disability shall be in addition to any benefits accruing to a public employe under the workmen's compensation act. (Act Apr. 24, 1931, c. 307, §15.)

§254-38. Retirement to begin July 1, 1935.—No retirement annuity on account of superannuation shall be granted under the provisions of this act until July 1, 1935, nor shall any member of the retirement association be entitled to receive a retirement annuity for superannuation until he shall have paid into the retirement fund, either by deductions from salary or otherwise before such retirement, an amount equal to five (5) years accumulated deductions from his or her average salary during the last five (5) years of public service, and such additional amount as may be provided by law prior to July 1, 1935. Provided, however, that if any member who is eligible for superannuation has contributed to the retirement fund for a period of less than twenty (20) years, he shall receive a retirement annuity in an amount bearing the same ratio to the full retirement annuity that the period of his salary deductions bears to twenty (20) years. Provided, further, that whenever any member who has contributed to the retirement fund for a period of five

(5) years shall have paid into the said fund an amount equal to twenty (20) years accumulated deductions, together with interest on the same computed at the rate of five per cent (5%) per annum, such member if otherwise entitled to retirement by reason of superannuation, shall be entitled to receive a full retirement annuity. Provided further that until July 1, 1935, nothing done under the terms of this act shall create or give any contract rights to any person, except the right to receive back upon withdrawal from the association through separation from the public service any salary deductions made or assessments paid hereunder. If total of annuities shall during any year become greater in amount than the annual contributions, the retirement board shall proportionately reduce the amount of annuities. (Act Apr. 24, 1931, c. 307, §16.)

§254-39. Disability retirement to begin July 1, 1941.—No retirement annuity on account of disability as provided for in section 12 of this act [§254-34] shall be granted until July 1, 1941. (Act Apr. 24, 1931, c. 307, §17.)

§254-40. Annuities not assignable.—None of the monies, annuities or other benefits provided for in this act shall be assignable, either in law or equity, or be subject to execution, levy, attachment, garnishment, or other legal process, nor shall the same be subject to any state income tax. (Act Apr. 24, 1931, c. 307, §18.)

§254-41. Insurance laws do not apply.—None of the laws of this state regulating insurance or insurance companies shall apply to the retirement association or any of its funds. (Act Apr. 24, 1931, c. 307, §19.)

§254-42. Board may accept contributions, etc.—The retirement board is hereby authorized and empowered to credit to the fund any monies received in the form of contributions, donations, gifts, appropriations, bequests or otherwise; and every member of said retirement association who shall fail to demand the amount of his accumulated deductions within two (2) years after his separation or withdrawal from the public service shall be deemed to have donated the same to the retirement fund, unless he shall have retained his membership in the retirement association, as hereinbefore provided. (Act Apr. 24, 1931, c. 307, §20.)

§254-43. Provisions separable.—If any provision of this act shall be held to be unconstitutional, such unconstitutionality thereof shall not affect the validity of the remaining parts of this act. (Act Apr. 24, 1931, c. 307, §21.)

§254-44. Board may make regulations.—Any changes or additions which may be found necessary or advisable for the management of this association, may be made by a majority vote of the retirement board, provided that no increase is made in the amount of deductions from salaries, nor decrease in the amounts of benefits authorized under and pursuant to this act. (Act Apr. 24, 1931, c. 307, §22.)

§254-45. Penalties for false information.—Any person who shall give any false information to the retirement board or any officer or agent of the said retirement association for the purpose of obtaining membership in such association, or any person, who shall wilfully fail or refuse to perform or discharge any duty prescribed by this act, shall, upon conviction thereof, be guilty of a misdemeanor. (Act Apr. 24, 1931, c. 307, §23.)

§254-46. Application.—The provisions of this act shall not apply to any county, city, village or school district, or the employes thereof, until and unless

(a) the county board or board of county commissioners in the case of county employes, or

(b) the governing body of any city of the first, second or third class, in the case of city employes employed in any city department or in public schools under the direct supervision and control of the governing body of any such city, or

(c) the governing body of any village having a population of over seven thousand (7,000) inhabitants in the case of employes of any such village, or

(d) the governing body of any school district wholly within any city of the first, second, or third class, or village having a population more than seven thousand (7,000) inhabitants, where the affairs of such school district are not under the direct supervision and control of any such city or any such village, in the case of public school employes, shall have duly approved, prior to July 1, 1933, by a resolution in writing of salary deductions for public employes as contemplated by Section 4 of this act [§254-26] and shall have filed a certified copy of such act of approval with the official of such county, city, village or school district whose duty it is to issue salary warrants and one (1) such certified copy with the treasurer of the retirement association. (Act Apr. 24, 1931, c. 307, §24.)

MISCELLANEOUS PROVISIONS

§254-47. Automobile expense limit.—The maximum amount which shall be paid by the state, any department or bureau thereof, or any county, city, village, town or school district to any officer or employe as compensation or reimbursement for the use by such officer or employe of his own automobile in the performance of his duties shall not exceed seven cents per mile. (Act Apr. 24, 1931, c. 331, §1.)

This law does not apply to trips made prior to its approval. Op. Atty. Gen., April 27, 1931.

It is lawful to allow additional compensation of one cent per mile to a state officer or employe for the use of his car where another state officer or employe travels with him. Op. Atty. Gen., April 27, 1931.

This act applies to mileage allowance to sheriff for use of his car in county work, but it has no application to his permissible fees for serving civil papers, and generally speaking county may make an additional allowance to sheriff for transporting prisoner in his car where such an allowance is otherwise authorized. Op. Atty. Gen., May 6, 1931.

County commissioners are only entitled to be reimbursed at the rate of seven cents per mile for the use of automobile in the performance

of their official duties. Op. Atty. Gen., May 18, 1931.

Law applies to a sheriff driving his own automobile in criminal cases, and to a deputy sheriff, where the deputy received no salary. Op. Atty. Gen., May 18, 1931.

Law does not affect rights of a sheriff under the old law where he employs a taxi or automobile livery of a third person. Op. Atty. Gen., May 18, 1931.

This act does not affect section 657. Op. Atty. Gen., May 23, 1931.

This act affects mileage allowance of sheriffs of some counties under section 6993. Op. Atty. Gen., May 23, 1931.

The limitation of seven cents per mile for use of automobile applies to section 5353-2 if the county nurse furnishes her own automobile and bills the county for use thereof, but not if the county furnishes the automobile and gasoline and repairs. Op. Atty. Gen., May 23, 1931.

This act modifies section 962 so as to limit allowance for use of automobile to seven cents per mile. Op. Atty. Gen., May 23, 1931.

This act is not applicable to the city of Minneapolis where employes are paid a specific sum per month as automobile allowance. Op. Atty. Gen., June 2, 1931.

In the absence of a special statute applicable to a particular county, this act is applicable and limits allowance for use of sheriff's own automobile. Op. Atty. Gen., June 4, 1931.

If a county attorney is entitled to receive reimbursement for the use of his own car on county business, it is limited to seven cents per mile by this act. Op. Atty. Gen., June 4, 1931.

Expense allowances of county commissioner governed by section 657 are affected by this act, but if the county is governed by section 656,

allowance for reimbursement for use of car is limited by this act. Op. Atty. Gen., June 4, 1931.

Allowance for traveling expenses of members of county child welfare board is limited specifically by Laws 1931, c. 242. Op. Atty. Gen., June 4, 1931.

This act does not prevent sheriff collecting taxes pursuant to section 2090 from charging mileage at the rate of ten cents and adding it to the tax. Op. Atty. Gen., June 8, 1931.

A sheriff transporting a feeble-minded person to a state institution is entitled to reimbursement for his actual expenses in transporting the person mentioned, and where he uses his own car the expense may exceed seven cents per mile while the feeble-minded person is in the car. Op. Atty. Gen., June 15, 1931.

This act only limits the amounts which may be paid by the state or any governmental subdivision thereof, and does not limit the mileage which a public officer may charge to an individual in connection with official services rendered. Op. Atty. Gen., July 2, 1931.

Where the statute allows a certain sum per mile as mileage without any statement that it is as reimbursement for automobile or other expenses of traveling, the allowance is not affected by this law. Op. Atty. Gen., July 7, 1931.

§254-48. Construction.—This act shall be construed as amending all existing laws authorizing such allowances or reimbursement by imposing the maximum limit above set forth and shall not be construed as permitting the payment of such allowance or the making of such reimbursement to any officer or employe where it is not now permitted or hereafter authorized by law. (Act Apr. 24, 1931, c. 331, §2.)

CHAPTER 6 Elections

§258. Election districts.

Laws 1929, c. 95, repealed and reenacted by Laws 1929, c. 344, provides for setting apart unincorporated platted territory within a township as a separate election district. The act is so restricted as to territorial operation as to require its exclusion from this compilation as a local or special act.

§§262 to 270. [Repealed].

Repealed by Laws 1929, c. 297, §13, post, §270-13.

See §401-1, as to hours of opening and closing of polls.

§270-1. Election to fill vacancies in congress or legislature.—Every vacancy in the office of representative in Congress or member of the State Legislature or in any other elective public office the filling of which is not otherwise provided for shall be filled for the unexpired term by election upon the writ of the governor as provided by this act; provided, that if there will be no session of the congress or the legislature or other occasion for the exercise of the functions of the office, as the case may be, before the expiration of the term in which the vacancy exists or will occur, it shall not be necessary to fill the vacancy. (Act Apr. 23, 1929, c. 297, §1.)

§270-2. Same—governor to direct election—special election.—In any case where a vacancy in such an office has occurred and the governor is informed thereof a sufficient time before the next general election to permit the giving of notice and the nomination of

candidates therefor as hereinafter provided, and where there will be no session of the congress or the legislature or other occasion for the exercise of the functions of the office, as the case may be, before the time fixed by law for the final canvass of the general election returns for offices of the same kind as that to be filled hereunder, the governor shall issue his writ directing that the vacancy be filled at such general election and that nominations be made therefor as hereinafter provided. In all other cases the governor, upon being informed of the existence of such a vacancy or of any contingency which will create a future vacancy in such an office, shall issue his writ directing that a special election be held to fill the vacancy and that nominations be made therefor as hereinafter provided. Two or more vacancies may be filled at the same election, and candidates therefore may be nominated at the same primary. Any special election or special primary under this act may be held on the same day as any other election or primary, using the same polling places and election officials, but with separate ballots and ballot boxes for the election or primary held hereunder except as otherwise hereinafter provided. (Act Apr. 23, 1929, c. 297, §2.)

§270-3. Same—governor to call special election within ten days in certain cases.—In any case where the congress or the legislature will be in session or there will be other occasion for the exercise of the func-