

CHAPTER 10

GENERAL PROVISIONS RELATING TO EXECUTIVE DEPARTMENTS

10.01 OFFICERS; ADDITIONAL DUTIES.

HISTORY. R.L. 1905 s. 63; G.S. 1913 s. 108; G.S. 1923 s. 117; M.S. 1927 s. 117.

DUTIES UNPERFORMED BY PREDECESSORS. Duties imposed upon public officers are functions and attributes of that office, not of the officer. Therefore an officer must perform those his predecessor left undone and he can be compelled to do so by mandamus. State ex rel v Johnson, 111 M 10, 126 NW 479; State v Brooks-Scahlon Lbr. Co., 122 M 400, 142 NW 717.

10.02 FISCAL YEAR.

HISTORY: 1919 c. 165 s. 1; M.S. 1927 s. 117-1.

FUNDS AVAILABLE. An appropriation of funds available for a fiscal year is an appropriation for payment of obligations incurred or accruing during that year, and does not create a fund which may be expended during that year for the specified general object irrespective of when the obligation was incurred. Mushel v Schulz, 139 M 234, 166 NW 179.

The appropriations growing out of Laws 1937, Chapter 446, and Laws 1939, Chapter 431, in no way caused the balance on hand in the disabled American veterans' fund to revert to the general revenue fund. But see, Laws 1941, Chapter 548. 1940 OAG 280, July 19, 1939. (640a).

10.03 APPROPRIATIONS AVAILABLE.

HISTORY. 1919 c. 165 s. 2; M.S. 1927 s. 117-2.

10.04 ANNUAL OR BIENNIAL REPORTS.

HISTORY. 1919 c. 165 s. 3; M.S. 1927 s. 117-3.

Laws 1931, Chapter 306, Section 7, appropriating moneys to defray the expense for issuing motor vehicle licenses and collecting moneys therefor from the moneys collected in the motor vehicle division by the secretary of state's office, does not contravene Minnesota Constitution, Article 16. State ex rel v King, 184 M 250, 238 NW 334.

10.05 OFFICE EQUIPMENT.

HISTORY. R.L. 1905 s. 64; G.S. 1913 s. 109; G.S. 1923 s. 119; M.S. 1927 s. 119.

10.06 ADDITIONAL EMPLOYEES.

HISTORY. R.L. 1905 s. 65; G.S. 1913 s. 110; G.S. 1923 s. 120; M.S. 1927 s. 120.

10.07 FEES OF DEPARTMENT PAID INTO TREASURY.

HISTORY. 1917 c. 462 s. 1; G.S. 1923 s. 121; 1927 c. 307 s. 1; M.S. 1927 s. 121.

LIABILITY FOR FEES. An officer is liable not only for moneys actually collected but also for those which should have been collected by him in the proper performance of his duties. County of St. Louis v Magie, 198 M 127, 269 NW 105.

When a fee office has by statute been put upon a salary basis, its fees are made public property. County of St. Louis v Magie, 198 M 127, 269 NW 105.

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The sheriff of St. Louis county is by virtue of his office a trustee in respect to fees earned by him, whether collected or not. In consequence, he is held to a strict accountability and the highest degree of care as to the collection of such fees, the burden being upon him to prove the exercise of such care as to fees earned but not collected. *County of St. Louis v Magie*, 198 M 127, 269 NW 105.

Formula for the disposition of fees paid to the department of health, as to refundment, and as to deposit with state treasurer. OAG Jan. 15, 1944 (454e).

10.08 EXAMINING BOARDS, REGISTRATION RECORDS, MONEYS COLLECTED; CERTAIN BOARDS STATE AGENCIES.

HISTORY. 1925 c. 426 art. 19 s. 1; M.S. 1927 s. 53-47.

Sheriff in driving his own automobile to a locality to suppress a riot may only collect the five cents per mile allowed by Laws 1933, Chapter 13. OAG Dec. 11, 1933 (390a-4).

The Minnesota Historical Society is not a state department and neither the civil service act, nor the reorganization act of 1939 apply to the Society. It is a private corporation. OAG May 26, 1944 (230).

10.09 OFFICERS APPOINTED BY GOVERNOR, STATE EMPLOYEES; TERMS.

HISTORY. 1925 c. 426 art. 20 s. 1; M.S. 1927 s. 53-48.

VETERANS PREFERENCE ACT has no application. *State ex rel v Rines*, 185 M 49, 239 NW 670.

Relator was lawfully removed from office as of the effective date of the new civil-service act, and such removal was in effect when the alternative writ came on for hearing, and a peremptory writ was properly denied as was also the motion to make the commissioner of taxation a party to the mandamus proceedings. *Reed v Trovatten*, 209 M 348, 296 NW 535.

Removal from public office in Minnesota. 20 MLR 722, 737.

Governor's constitutional powers. 22 MLR 457.

See Dawley, *The Governor's Constitutional Powers of Appointment and Removal*, 22 MLR 451.

10.10 RIGHTS, POWERS, AND DUTIES TRANSFERRED.

HISTORY. 1925 c. 426 art. 20 s. 3; M.S. 1927 s. 53-50.

10.11 COMPROMISE OF STATE CLAIMS.

HISTORY. R.L. 1905 s. 67; G.S. 1913 s. 112; G.S. 1923 s. 122; M.S. 1927 s. 122; 1929 c. 14.

The commissioner of administration and finance has no power to cancel lease to Douglas Lodge. The executive council may do so. 1936 OAG 81, May 13, 1935 (980b-31).

10.12 UNCOLLECTIBLE DRAFTS CANCELED.

HISTORY. 1929 c. 406 s. 1; M. Supp. s. 122-1.

10.13 CERTIFICATION BY PUBLIC EXAMINER.

HISTORY. 1929 c. 406 s. 2; M. Supp. s. 122-2.

10.14 CERTIFICATION BY EXECUTIVE SECRETARY.

HISTORY. 1929 c. 406 s. 3; M. Supp. s. 122-3.

10.15 TIME OF CANCELATION.

HISTORY. 1929 c. 406 s. 4; M. Supp. s. 122-4.

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10.16 ALL UNEXPENDED APPROPRIATIONS CANCELED.

HISTORY. 1907 c. 272 s. 1; G.S. 1913 s. 114; G.S. 1923 s. 124; M.S. 1927 s. 124.

10.17 OFFICIALS NOT TO EXCEED APPROPRIATION.

HISTORY. 1907 c. 272 s. 1; G.S. 1913 s. 115; Ex. 1919 c. 35 s. 11; G.S. 1923 s. 125; M.S. 1927 s. 125.

The industrial commission has no authority to pay bills incurred by the tri-city employment stabilization committee, who incurred expense bills in excess of their budget. 1934 OAG 523, May 28, 1934 (9a-21).

10.18 STATE BONDS CHANGED INTO BONDS OF LARGER DENOMINATION.

HISTORY. 1925 c. 151 s. 1; M.S. 1927 s. 125-1.

10.19 SURRENDER OF CONVERTED BONDS TO STATE TREASURER.

HISTORY. 1925 c. 151 s. 2; M.S. 1927 s. 125-2.

10.20 BLANK BONDS PRINTED; RECITALS THEREIN.

HISTORY. 1925 c. 151 s. 3; M.S. 1927 s. 125-3.

10.21 CANCELLATION OF SURRENDERED BONDS; RECITALS IN NEW BONDS.

HISTORY. 1925 c. 151 s. 4; M.S. 1927 s. 125-4.

10.22 TERMS OF RECONVERTED BONDS.

HISTORY. 1925 c. 151 s. 5; M.S. 1927 s. 125-5.

10.23 DUPLICATES FOR LOST OR STOLEN REGISTERED STATE BONDS.

HISTORY. 1925 c. 151 s. 6; M.S. 1927 s. 125-6.

10.24 DUPLICATE BONDS ISSUED.

HISTORY. 1925 c. 151 s. 7; M.S. 1927 s. 125-7.

10.25 EXECUTION OF DUPLICATES.

HISTORY. 1929 c. 192 s. 2; M. Supp. s. 125-8.

10.26 DELIVERY OF DUPLICATES; BOND.

HISTORY. 1929 c. 192 s. 3; M. Supp. s. 125-9.

10.27 BOND, WHEN CANCELED.

HISTORY. 1929 c. 192 s. 4; M. Supp. s. 125-10.

10.28 CERTIFICATES OF INDEBTEDNESS TO PAY WARRANTS ON REVENUE FUND.

HISTORY. Ex. 1934 c. 52; 1935 c. 255; M. Supp. s. 125-11.

10.29 MAY NOT HIRE PUBLICITY REPRESENTATIVE.

HISTORY. 1935 c. 391 s. 38; 1937 c. 457 s. 40; M. Supp. s. 125-12.

10.30 EMPLOYEES' COMPENSATION REVOLVING FUND REIMBURSED.

HISTORY. 1935 c. 391 s. 39; 1937 c. 457 s. 38; M. Supp. s. 125-13.

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10.31 ILLEGAL ACTS.

HISTORY. 1937 c. 457 s. 36; M. Supp. s. 125-14.

GOOD FAITH is no defense to acts deliberately done which exceed those authorized. *Burns v Essling*, 163 M 57, 203 NW 605.

10.32 ADDITIONAL COMPENSATION FROM CONTINGENT FUND PROHIBITED.

HISTORY. 1909 c. 345 ss. 1, 2; G.S. 1923 ss. 127, 128; M.S. 1927 ss. 127, 128.

10.33 DEDICATED RECEIPTS.

HISTORY. 1939 c. 435 s. 1; M. Supp. s. 121-1.

10.34 FUNDS PAID INTO STATE TREASURY.

HISTORY. 1939 c. 435 s. 2; M. Supp. s. 121-2.

10.35 PAID OUT ON LEGISLATIVE APPROPRIATIONS ONLY.

HISTORY. 1939 c. 435 s. 3; M. Supp. s. 121-3.

10.36 CONSTRUCTION.

HISTORY. 1939 c. 435 s. 4; M. Supp. s. 121-4.

10.37 HOLDING TWO APPOINTIVE OFFICES.

HISTORY. 1925 c. 353; M.S. 1927 s. 128-1.

INCOMPATIBLE OFFICES. If the functions of two offices are inconsistent the offices are incompatible and the acceptance of one vacates the other. *Kenney v Georgen*, 36 M 190, 31 NW 210; *State ex rel v Hays*, 105 M 399, 117 NW 615; *State ex rel v Sword*, 157 M 263, 196 NW 467; *Hoffman v Downs*, 145 M 465, 177 NW 669.

Public policy favors the consolidation of offices, where not essentially incompatible, in the interest of efficiency and economy, but it does not sanction the combination of two offices for the purpose of securing increased compensation for the incumbent. This applied to superintendent of bureau of criminal apprehension, and superintendent of highway patrol. 1940 OAG 287, Jan. 14, 1939 (213f).

10.38 OATH OF OFFICE AND BONDS.

HISTORY. 1925 c. 426 art. 18 s. 3; M.S. 1927 s. 53-46.

OATHS. An oath in the language of the Constitution, Art. 5, Sec. 8, is valid and sufficient even though the particular office is not specifically designated therein. *State ex rel v Ladeen*, 104 M 252, 116 NW 486, 16 LRA (N.S.) 1058.

Even though a statute declares that an office shall become vacant upon neglect to take an oath within a prescribed time, the officer may qualify thereafter by taking the oath if he does so before any steps are taken to declare a vacancy. *State ex rel v Stratte*, 83 M 194, 86 NW 20.

BONDS. A bond does not go into effect until accepted by the state. *Board of County Comm'rs v Am. Loan & T. Co.*, 67 M 112, 69 NW 704; *County Comm'rs v Brisbin*, 17 M 451 (429).

10.39 LOANS DEDUCTED FROM SALARIES BY DEPARTMENT HEADS.

HISTORY. 1941 c. 464.