CHAPTER 127

SCHOOL TAXES; SCHOOL FUNDS

127.01 STATE SCHOOL TAX.

HISTORY. 1877 c. 74 subc. 5 s. 10; G.S. 1878 c. 36 s. 84; 1887 c. 41 s. 3; 1893 c. 110 s. 1; 1897 c. 75; G.S. 1894 s. 3768; R.L. 1905 s. 1412; G.S. 1913 s. 2915; G.S. 1923 s. 3011; M.S. 1927 s. 3011; 1941 c. 169 art. 8 s. 1; 1943 c. 665 s. 3.

The legislature may make counties taxing units for the support of the public schools therein, and may divide them into classes based upon the differences in the situation, condition, and needs of such schools. State v Delaware Iron Co. 160 M 382, 200 NW 475; State v Brown, 189 M 257, 261, 248 NW 822, 249 NW 569.

Determination of proper homestead values to be used in levying school tax. 1940 OAG 317, Dec. 12, 1940 (519).

127.02 COUNTY SCHOOL TAX.

HISTORY. 1877 c. 74 subc. 5 s. 10; G.S. 1878 c. 36 s. 84; 1887 c. 41 s. 3; 1893 c. 110 s. 1; 1897 c. 75; G.S. 1894 s. 3768; R.L. 1905 s. 1413; G.S. 1913 s. 2916; G.S. 1923 s. 3012; M.S. 1927 s. 3012; 1941 c. 169 art. 8 s. 2.

Laws 1919, Chapter 271, imposing a county school tax upon certain counties, sustained as within the power of the legislature to make the classification there made. State v Cloudy & Traverse, 159 M 200, 198 NW 457; State v Delaware Iron Co. 160 M 382, 200 NW 475; State v Brown, 189 M 257, 261, 248 NW 822, 249 NW 569.

Chapter XV of the home rule charter of the city of Minneapolis, conferring certain powers upon the board of estimate and taxation, does not deprive the board of education of the city of its power to levy taxes to carry out its duty. State ex rel v Erickson, 190 M 216, 251 NW 519.

The power of the defendant to contract for the yearly salary of teachers is limited to the funds it is authorized to provide for conducting the school. Defendant is limited by law as to the maximum tax levy it may impose each year. The expenditures and contracts of the school board must be governed by its income. Sutton v Board, 197 M 129, 266 NW 447.

Testing the admitted facts shown in the record, Laws 1943, Chapter 15, is a general law in form but of such special application as to be unconstitutional as violating Minnesota Constitution, Article 4, Sections 33, 34. The law could apply to no other county but Pine. Hamlin v Ladd, 217 M 249, 14 NW(2d) 396.

Whether an emergency condition is sufficient to warrant ignoring charter or statutory limitations in the levying of a tax, is a question of fact as to the urgency of the emergency. 1938 OAG 427, Oct. 9, 1937 (519m).

127.03 DISTRICT SCHOOL TAX.

HISTORY. 1878 c. 1 s. 48; G.S. 1878 c. 11 s. 48; 1885 c. 114; 1894 ss. 1557, 3768; 1897 c. 75; R.L. 1905 ss. 869, 1413; G.S. 1913 ss. 2051, 2916; G.S. 1923 ss. 2058, 3012; M.S. 1927 ss. 2058, 3012; 1941 c. 169 art. 8 s. 3.

While school taxes for independent school districts are to be extended on the tax lists and collected by the same county officers as county taxes are extended and collected, the county commissioners have nothing to do with "levying" them, in the sense of determining the amount to be raised, or approving the action of the district in that regard. State v Lakeside Land Co. 71 M 283, 73 NW 970.

Laws 1899, Chapter 77, providing for an extra levy of one and one-half mills on the dollar in school districts having 50,000 inhabitants, is constitutional. The levy, certification, and collection of the tax do not depend upon the provisions of

special legislation, the general statutory provisions being ample for that purpose. State ex rel v Minor, 79 M 201, 81 NW 912.

As authorized in Sp. L. 1891, Chapter 312, the board of education passed a resolution in which a total amount was levied as a tax for school purposes for the current year; but the total amount was apportioned to three distinct funds, general, building, and sinking. It sufficiently appeared that the levy designated as "general fund" was for the maintenance of school; that the levy designated as "building fund" was for the erection of school houses; and that the levy specified as a "sinking fund" was made to meet the principal and interest of the indebtedness of the district as it matured. State v West Duluth Land Co. 75 M 456, 78 NW 115; State v Keyes, 188 M 79, 84, 246 NW 547.

The state, county, town, city, and school district are each a "taxing district" for its particular purposes. State v Lakeside Land Co. 71 M 283, 287, 73 NW 970.

Municipal corporations do not have an inherent power to tax limited only by the restrictions imposed by the Constitution, and can tax only in the manner and to the extent authorized by law. State ex rel v City of Ely, 129 M 40, 151 NW 545.

County boards, school boards, town boards, and village councils have power to amend or change their first tax levy, as certified to the county auditor, if the amendment is received by the auditor before October 10th, but an amendment after such date may not be effective if the county auditor refuses to recognize the same. OAG Nov. 10, 1931.

It is permissible to spread a tax equally over all lands and property (agricultural and non-agricultural) in the district to offset these expenditures. The school board may levy for the same without a vote of the electors. OAG Nov. 29, 1937 (519m).

Where a town has duly levied its tax for local purposes and listed and assessed the personal property therein taxable on May 1, a city thereafter organized so as to include part of the town may not levy a tax for city purposes on any of the personal property assessed by the town. State v Republic Steel, 199 M 107, 271 NW 119.

Property should be taxed in the taxing district of which it was a part on May 1, when the lien attached. 1940 OAG 293, Sept. 27, 1939 (59a-1).

See notes under section 127.02.

127.04 LEVIES FOR SCHOOL HOUSES AND SITES.

HISTORY. 1865 c. 13 s. 16; G.S. 1866 c. 36 s. 69; 1873 c. 1 s. 1; 1877 c. 74 subc. 2 s. 1; 1877 c. 74 subc. 7 s. 17; 1878 c. 1 s. 49; G.S. 1878 c. 11 s. 49; G.S. 1878 c. 36 ss. 19, 110; 1889 c. 166 s. 1; G.S. 1894 ss. 1558, 3677, 3807; 1899 c. 117; R.L. 1905 s. 1414; 1909 c. 458; 1913 c. 36 s. 1; G.S. 1913 s. 2917; 1919 c. 526; 1921 c. 227; G.S. 1923 s. 3013; M.S. 1927 s. 3013; 1939 c. 229; M. Supp. s. 3013; 1941 c. 169 art. 8 s. 4.

The provision "In independent school districts no tax in excess of eight mills on the dollar shall be levied for the purposes of school sites and the erection of school houses," in this section, is a limitation on the school board, so that the board may not in any one year levy a greater tax for the purposes stated, but is not a limitation upon the power of the electors of such district to issue bonds for the same and other purposes; and, when such bonds are issued, the school board must levy a tax sufficient to meet the interest and the bonds as they mature, unaffected by the provisions of this section. Oliver Iron Mining Co. v Ind. School District, 155 M 400, 193 NW 949.

This section is not a limitation upon a district school tax of independent school districts to which section 127.05 is applicable. OAG April 13, 1934 (426b-7).

A common school district with more than ten townships is not limited to 30 mills levy for school maintenance, but is limited to an eight mills rate for building and equipment. OAG Oct. 10, 1935 (519m).

There is no limitation on the levy for maintenance in a common school district, the legislature intending, by Laws 1939, Chapter 229, to place common schools on equal terms with independent districts in this respect. OAG July 14, 1939 (519m).

The levy made by a school district within the county was duly made, even though the record thereof made by the school board lacked formality. State v Keyes, 188 M 79, 246 NW 547; OAG Aug. 15, 1933 (469c-1); 1934 OAG 50, June 6, 1934 (59b-3); 1934 OAG 51; OAG July 29, 1937 (519h); 1938 OAG 26. See, 1938 OAG 426, April 4, 1938 (425b-2).

Cases relating to limitation as to mill tax. 1936 OAG 196, Oct. 10, 1935 (519m).

Under the amendment there is no limitation on the levy for maintenance in common school districts. 1940 OAG 318, July 14, 1939 (519m).

See, An Outline of Municipal Bond Procedure in Minnesota. 20 MLR 583.

127.05 LIMITATION OF TAX RATE ON AGRICULTURAL LANDS.

HISTORY. 1933 c. 356 s. 1; Ex. 1933 c. 37; Ex. 1934 c. 66; 1935 c. 289; M. Supp. s. 3014-6; 1941 c. 169 art. 8 s. 5; 1945 c. 408 s. 1.

This section is not applicable to special school districts. OAG July 17, 1933.

The Mankato school district is a special school district and not an independent district within this section. OAG Oct. 31, 1933.

This section applies to special school districts, including the Albert Lea school district created by Sp.L. 1881, Chapter 145. OAG June 6, 1935 (426b-7).

School districts granted the rights and privileges of consolidated school districts are exempted from the operation of this section. OAG July 5, 1933.

The Wells school district, if meeting the requirements of Laws 1915, Chapter 238, Section 2, at the time it went into effect, is a consolidated school district within the meaning of this section. OAG Nov. 28, 1933.

This section was never intended to apply to the Minneapolis school district and that district may not make a special tax levy above limitations in an amount equal to the deficiency in state aid. OAG June 16, 1939 (519m).

The limitation of the tax rate is not applicable to personal property on agricultural lands. OAG Sept. 20, 1935 (519m).

A levy for "capital outlay" should not be included under the heading "levies for debt service," if the levy is not made to raise money to pay bonded indebtedness. OAG Dec. 29, 1935 (519m).

This section does not apply to capital outlay and does not prevent the board from levying an additional tax on agricultural land and district for the purpose of obtaining funds to pay for capital outlay, and it may do so without first securing the consent of the voters in the district, in view of section 125.08. OAG Nov. 29, 1939 (519m).

The amount levied by independent school districts to pay debts for building a school house are not affected by this section. OAG July 26, 1934 (426b-7).

"School maintenance" does not include the interest on bonds. OAG Nov. 21, 1933.

Only the amounts for maintenance or general running expenses should be included and the county one-mill tax and the levies for debt service for any other special purpose should not be included. OAG Nov. 28, 1933.

A consolidated district valuations or rates are not included with common schools. OAG Nov. 28, 1933.

Section 127.04 is not a limitation upon the district school tax of independent school districts to which this section is applicable. OAG April 13, 1934 (426b-7).

The school board may not reduce the amount of the levy after the taxes have been levied and extended nor can the county board and the commissioner of taxation grant a blanket reduction on the assessed valuation of land located in a village. OAG Feb. 28, 1934.

The average rate for school maintenance on similar lands in common school districts of the same county is the rate on such lands for the same year for which agricultural lands of an independent district are taxed. OAG July 17, 1933.

To determine the average mill levy for maintenance in common school districts the total levy in dollars should be divided by the total assessed valuation, the com-

mon districts to be reduced to a single unit as if these districts together constitute a single district. OAG Nov. 28, 1933.

The school rates for towns or villages in independent districts containing agricultural lands should be determined by determining the amount of tax moneys to be paid by agricultural lands under average for county on such lands, subtract this amount from the total to be raised in the district and the remainder will be the amount to be raised from the village property, and this remainder divided by the taxable property of the village would give the mill rate for the village for school purposes. OAG Nov. 28, 1933.

In order to determine the levy for school maintenance, within the meaning of section 128.11, of any independent school district to which this section is applicable, the commissioner of education should divide the total amount levied for school maintenance purposes in the school district by the total assessed valuation of the district and, if the levy thus arrived at exceeds 20 mills, then such additional state aid should be allowed to the school district. OAG Feb. 2, 1934.

Where half of tract in school district is within the limits of a city, that which lies within the city is taxable for school maintenance at a rate not to exceed the average rate for school maintenance on similar lands in common school districts in the same county. OAG Oct. 4, 1933.

The county auditor, before levying the tax, must first determine the tax rate which would be required to raise the sum needed for school maintenance upon all of the property in the school district and, if the rate so determined is not in excess of the average rate for school maintenance on agricultural lands in the common school districts in the county, all the property should be so levied; but, if the rate would be more than ten per cent in excess of the average rate for common school maintenance on agricultural lands, the maximum rate should be assessed against the agricultural lands separately, and the remainder would be assessed against the other property. OAG Nov. 9, 1935 (519m).

Where a school district has agricultural lands in two counties, the average rate of taxation on agricultural lands in the common school districts of each county should be determined separately, and the rate of taxation for school maintenance cannot exceed by more than ten per cent the average rate in common school district. OAG Nov. 9, 1935 (519m).

The levy on non-agricultural lands established by the school board and reported to the county auditor to be reported by him to the state department of education should be used as a basis for determining whether additional state aid should be paid to an independent district. OAG May 22, 1934.

The county board of education in unorganized counties may levy taxes, but it is solely the duty of the county auditor to properly spread the tax which may not be uniform as to all property. OAG April 25, 1944 (519m).

Section 127.05 is a limitation on the tax for maintenance only. It in no way limits a tax on agricultural lands relating to any capital outlay. OAG Oct. 4, 1944 (519m).

127.06 DISTRIBUTION OF UNEXPENDED SCHOOL FUNDS IN CERTAIN DISTRICTS.

HISTORY. 1937 c. 265 ss. 1, 2; M. Supp. ss. 2823-4, 2823-5; 1941 c. 169 art. 8 s. 6.

127.07 DEPOSITORIES OF SCHOOL FUNDS.

HISTORY. 1907 c. 133 s. 1; 1909 c. 332 s. 1; G.S. 1913 s. 2763; G.S. 1923 s. 2836; 1927 c. 118; M.S. 1927 s. 2836; 1929 c. 76; Supp. s. 2836; 1941 c. 169 art. 8 s. 7.

Where a bank is a depository de facto as to the surety on the school treasurer's bond, such surety is relieved, under sections 127.07 and 127.09, from liability for funds of the school district deposited in the bank and lost as the result of the bank's failure. School District v Aiton, 175 M 346, 221 NW 424. See School District v Nissen, 177 M 479, 225 NW 444.

The "suitable laws" passed by the legislature for the safeguarding of state and school funds in accordance with the provisions of the Constitution, Article

9 Section 12, do not restrict the deposit of school funds in banks until a depository has been selected therefor as required by statute. Farmers & Merchants State Bank v Con. School District, 174 M 286, 219 NW 163. See 13 MLR 145; 15 MLR 107.

Bank acting on designation by giving bond and accepting deposits cannot assert that it is not the legal depository or that conditions imposed by the school officers were not authorized by law. Richfield National Bank v American Surety Co. (CCA8) 39 F(2d) 387.

Parol evidence is inadmissible to vary the terms of a bank's depository bond. School District v Security State Bank, 181 M 537, 233 NW 296.

No written designation of the bank as a depository was ever made or filed, as required by this section, and the bank never executed a bond to the district. Consequently the bank never became a legal depository of the district, and the treasurer remained liable for any funds which he deposited therein. School District v General Casualty & Surety Co. 178 M 317, 318, 227 NW 50.

A school treasurer is absolutely liable for funds coming into his hands. An exception to this rule exists when funds are deposited in a legally designated depository under this section and section 127.09. School District v Aiton, 173 M 428, 217 NW 496. See Village of Hallock v Pederson, 189 M 469, 250 NW 4.

When the funds are deposited in a bank of which the treasurer, being a member of the school board, is also an officer and stockholder, the exception to the general rule is inoperative. School District v Aiton, 173 M 428, 217 NW 496. See School District v Nissen, 177 M 479, 225 NW 444.

Where a de facto statutory depository was created, the dual capacity of the treasurer of the school district being an officer and stockholder of the bank did not prevent the bank from becoming such depository. School District v Aiton, 173 M 428, 217 NW 496.

The bondsmen of a depository for a school district, designated without any specifications as to time, the statute limiting the period of designation to three years, were liable to a school district where the bank was taken over for liquidation three years and two days after the designation. School District v Farmers State Bank, 182 M 381, 234 NW 594.

The sureties on a depository bond are not entitled to consider the school treasurer as the agent of the school district in making assurances as to the liability of the sureties. School District v Security State Bank, 181 M 537, 233 NW 296.

The school district without authority made time deposits and took certificates of deposit; and there could be a recovery upon the bond upon the theory that the certificates of deposit were demand deposits or that the liability could be sustained as upon a common law bond. School District v Farmers State Bank, 182 M 381, 234 NW 594.

The treasurer of a common school district deposited in the bank funds of the district held by him as treasurer. The bank knew they were school funds. When the deposit was made it was agreed that moneys should be withdrawn on checks signed by the treasurer in his name with the designation "Treas." attached. He withdrew funds by checks signed in his name individually and used them for other than school purposes. The corporate surety of the treasurer, which paid the school district the amount of the misappropriation and received an assignment of its cause of action, can recover of the bank. Watson v Midland Nat'l Bk. & Trust Co. 190 M 374, 251 NW 906. See 18 MLR 471.

The closing of the bank was a default and no demand was necessary. School District v Farmers State Bank, 182 M 381, 234 NW 594.

Collateral is to be approved by the school board. OAG Aug. 23, 1933.

Collateral placed to secure deposits of school district in a national bank is not security for an account entitled "Bemidji High School" wherein the income from athletics and other activities is deposited. OAG April 13, 1933. See, 1934 OAG 768 (618b), June 12, 1933.

A school district may invest its funds in liberty loan bonds. OAG May 3, 1933.

A school district may not designate a bank located outside the state as a depository. OAG June 8, 1929.

A loan and savings association may not be designated as a depository. OAG Feb. 6, 1939 (159a-9).

A special high school fund containing moneys belonging to high school activities under the jurisdiction of the board of education are not secured by collateral securities given by the depository to the school district treasurer as security for "school district money." OAG April 13, 1933.

An independent school district may deposit up to $5,000 in a depository, protected by federal insurance, without collateral. OAG March 18, 1935 (159a-9).

The amount allowed by statute to be deposited by a school treasurer without a bond is not to be added to the amount of deposit protected by federal deposit insurance. OAG March 19, 1934.

In the absence of a designation of a depository, the school board cannot control the keeping of school funds. OAG Aug. 23, 1933.

Liability of bank for fiduciary's misappropriation of public funds. 18 MLR 471.

127.08 INTEREST ON DEPOSITS.

HISTORY. 1909 c. 332 s. 3; G.S. 1913 s. 2765; G.S. 1923 s. 2838; M.S. 1927 s. 2838; 1941 c. 169 art. 8 s. 8.

Whether interest is payable on checking accounts depends on the depository agreement. OAG March 26, 1934.

Where a school district has certificates of deposit and bonds have been placed with the district as collateral, interest is regulated by the certificates of deposit and not on the bonds placed as collateral. OAG March 26, 1934.

127.09 EXEMPTION OF TREASURER.

HISTORY. 1909 c. 332 s. 2; G.S. 1913 s. 2764; G.S. 1923 s. 2837; M.S. 1927 s. 2837; 1941 c. 169 art. 8 s. 9.

Both the school treasurer and the surety on his personal bond are liable for funds lost in the closing of a bank not properly designated as a depository. OAG Feb. 8, 1934.

The treasurer of a school district, who was also the cashier and a stockholder of the bank, was not protected from liability by the designation of the bank for deposits made in the bank, where the bank had not paid the taxes on its stock. OAG April 3, 1934 (159a-21).

The designation of a depository by a school district in accordance with an opinion of the attorney general was lawful as respecting the liability of the treasurer, notwithstanding a later opinion of the attorney general that such a designation would not be legal. OAG April 3, 1934 (159a-21).

127.10 TREASURER MAY DESIGNATE DEPOSITORY IN CERTAIN CASES.

History. 1931 c. 90; M. Supp. s. 2839-2; 1941 c. 169 art. 8 s. 10.

The amount allowed by statute to be deposited by a school treasurer without a bond is not to be added to the amount of the deposit protected by federal deposit insurance. OAG March 19, 1934.

An independent school district may deposit up to $5,000 in a depository, protected by federal insurance, without collateral. OAG March 18, 1935 (159a-9). (159a-9).

127.11 SCHOOL TREASURERS MAY BE REIMBURSED IN CERTAIN CASES.

HISTORY. 1929 c. 67; Supp. c. 2839-1; 1941 c. 169 art. 8 s. 11.

The statute of limitation of actions affects the remedy, not the right. If it had run, it could be waived as a defense. State ex rel v Kaml, 181 M 523, 233 NW 802.

The voters may discharge the obligation of the school treasurer to pay funds lost in a closed bank. OAG Feb. 26, 1934.

127.12 ISSUANCE OF WARRANTS; FUNDS IN CLOSED BANKS.

HISTORY. 1925 c. 74; M.S. 1927 s. 2997-1; 1941 c. 169 art. 8 s. 12.

The treasurer is required to endorse warrants "not paid for want of funds" when money is in a bank closed under an order for a national banking holiday. OAG May 23, 1933.

127.13 ACCEPTANCE OF PROPERTY IN SETTLEMENT OF CLAIMS.

HISTORY. 1931 c. 227 ss. 1, 2; M. Supp. ss. 2836-1, 2836-2; 1941 c. 169 art. 8 s. 13.

127.14 COMPENSATION.

HISTORY. 1907 c. 133 s. 4; 1909 c. 332 s. 1; G.S. 1913 s. 2766; G.S. 1923 s. 2839; M.S. 1927 s. 2839; 1941 c. 169 art. 8 s. 14.