

CHAPTER 9

EXECUTIVE COUNCIL

9.01 MEMBERS.

HISTORY. 1925 c. 426 art. 2 s. 1; M.S. 1927 s. 53-2.

9.02 CONTINUANCE OF POWERS AND DUTIES.

HISTORY. 1939 c. 431 art. 5 s. 1; M. Supp. s. 53-2a.

9.03 POWERS AND DUTIES; MEETINGS.

HISTORY. 1925 c. 426 art. 2 s. 2; M.S. 1927 s. 53-3.

History since 1872 of the powers relating to internal improvement and the control of swamp lands up to the transfer of the powers of the timber commission now transferred to the executive council. State v Finnegan, 188 M 65, 246 NW 521.

County auditor under Laws 1941, Chapter 355, may not lease with right to prospect for or mine minerals. The powers conferred on the state auditor were transferred to the executive council by reorganization act of 1925. 1942 OAG 317, March 20, 1942 (311D-8).

9.035 MAY EXTEND TIMBER PERMITS.

HISTORY. 1943 c. 224 ss. 1, 2.

9.04 DEPOSITORIES OF STATE FUNDS.

HISTORY. 1919 c. 419 s. 2; G.S. 1923 s. 98; 1925 c. 265 s. 1; M.S. 1927 s. 98.

Funds such as general receipts of the University of Minnesota such as receipts of the athletic department, student fees, and similar, are either public funds or state funds and as such are entitled to draw interest when deposited notwithstanding the provisions of the federal banking act of 1933. 1934 OAG 28, Oct. 9, 1933 (533b).

9.05 SURETY BOND; INTEREST ON DAILY BALANCES; MAXIMUM DEPOSITS.

HISTORY. 1919 c. 419 s. 3; G.S. 1923 s. 99; 1925 c. 265 s. 2; M.S. 1927 s. 99; 1937 c. 351 s. 1.

STATE FUNDS. Funds of an insolvent bank deposited by the superintendent of banks in another state bank are not state funds and therefore no bond is required. 1918 OAG 9.

9.06 ADDITIONAL BONDS.

HISTORY. 1919 c. 419 s. 4; G.S. 1923 s. 100; M.S. 1927 s. 100; 1937 c. 351 s. 1.

9.07 CLASSES OF DEPOSITORS; WITHDRAWAL OF DEPOSITS.

HISTORY. 1919 c. 419 s. 5; G.S. 1923 s. 101; 1925 c. 265 s. 3; M.S. 1927 s. 101; 1937 c. 351 s. 1.

9.08 COLLATERAL SECURITY IN LIEU OF BOND.

HISTORY. 1919 c. 419 s. 6; 1921 c. 313; G.S. 1923 s. 102; 1925 c. 265 s. 4; M.S. 1927 s. 102.

LIMITATION. A bank can give a depository bond to the United States to secure postal savings deposits but it cannot pledge any of its assets as collateral in lieu thereof. 1932 OAG 6.

MARSHALING. Upon failure of the bank where both collateral and a bond were given, the surety on the bond could not compel the state to exhaust first the collateral pledged. *State v Am. Surety Co.* 179 M 143, 228 NW 613.

9.09 FALSE STATEMENT OF FINANCIAL CONDITION, GROSS MISDEMEANOR.

HISTORY. 1919 c. 419 s. 7; G.S. 1923 s. 103; M.S. 1927 s. 103.

9.10 SECURITY NOT SUBROGATED TO STATE'S CLAIM IN INSOLVENCY OF BANKS.

HISTORY. 1921 c. 518 s. 1; G.S. 1923 s. 106; M.S. 1927 s. 106.

CONSTITUTIONALITY. This section is constitutional. In re Liquidation of Farmers State Bank of North Branch, 174 M 583, 219 NW 916, cert. denied in *Brown v. Veigel*, Comm. of Banks, 278 U. S. 647, 73 L. Ed. 559, 49 Sup. Ct. 82.

COUNTY CLAIMS. This section by specifically giving the state a preference and saying nothing as to the claims of counties and cities indicates an intent that they shall come in as general creditors. *City of Cloquet v Northwestern State Bank*, 172 M 324, 215 NW 174.

INSOLVENCY. When assets are insufficient to pay all preferred claims the state's is a priority preferred claim. 1934 OAG 34.

The general rule that after property of an insolvent passes into the hands of a receiver interest is not allowed on the claim against the funds does not apply against a preferred and superior claim such as the state's in favor of an inferior general claim. *Am. Surety Co. v Peyton*, 186 M 588, 244 NW 74.

See *State v Am. Surety Co.* 179 M 143, 228 NW 613, under section 9.08.

Priority upon insolvency is discussed in 8 MLR 354; 21 MLR 91.

EXCEPTION. Where a bond given for state deposits before 1921 was a continuing obligation, the surety was entitled to subrogation to the state's position as preferred creditor even though the bank did not fail until after section 9.10 was passed in 1921. *U.S. Fid. & Guar. Co. v Rathbun*, 160 M 176, 199 NW 561.

9.11 DEPOSITORIES; SECURITIES IN LIEU OF BOND.

HISTORY. 1909 c. 362 s. 1; G.S. 1913 s. 98; 1919 c. 423; G.S. 1923 s. 107; M.S. 1927 s. 107.

INSURANCE. The premium on an insurance policy against loss of securities given in lieu of bond is not a proper charge against the county since the county treasurer's bond covers this. 1924 OAG 55.

MARSHALING. Where both collateral and a bond were given, upon failure of the bank the surety on the bond could not compel the state to exhaust the collateral pledged first. *State v Am. Surety Co.* 179 M 143, 228 NW 613.

EXCHANGE. This section does not authorize the county treasurer to exchange security pledged as collateral for a surety bond without the approval of the county board. 1920 OAG 242.

9.12 SETTLEMENT OF CLAIMS.

HISTORY. 1917 c. 324 s. 2; G.S. 1923 s. 6533; M.S. 1927 s. 6533.

9.13 FINDINGS REFERRED TO LEGISLATURE.

HISTORY. 1917 c. 324 s. 3; G.S. 1923 s. 6534; M.S. 1927 s. 6534.

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9.14 AUDITOR TO REPORT STATUS OF CLAIMS AGAINST THE UNITED STATES.

HISTORY. 1917 c. 324 s. 4; G.S. 1923 s. 6535; M.S. 1927 s. 6535.

9.15 AUDITOR, EXPENSES.

HISTORY. 1917 c. 324 s. 5; G.S. 1923 s. 6536; M.S. 1927 s. 6536.

9.17 ACQUISITION AND DISPOSAL OF LANDS.

HISTORY. 1937 c. 459 ss. 1, 2; M. Supp. ss. 6240-1, 6240-2; 1941 c. 142 ss. 1, 2.

9.18 SCHOOL DISTRICT RELIEF FUND.

HISTORY. 1941 c. 297 s. 1.

9.19 DISTRESSED SCHOOL DISTRICTS.

HISTORY. 1941 c. 297 s. 2; 1943 c. 436 s. 1.

9.20 DISTRESSED SCHOOL DISTRICTS MAY APPLY FOR RELIEF.

HISTORY. 1941 c. 297 s. 3.

9.21 PAYMENTS TO DISTRESSED SCHOOL DISTRICTS.

HISTORY. 1941 c. 297 s. 4.

9.22 REDEMPTION OF BONDS HELD BY STATE.

HISTORY. 1941 c. 297 s. 5.

9.23 SCHOOL DISTRICT RELIEF CERTIFICATES.

HISTORY. 1941 c. 297 s. 6.

9.24 TAX LEVY TO RETIRE CERTIFICATES.

HISTORY. 1941 c. 297 s. 7.

9.25 PURCHASE OF CERTIFICATES.

HISTORY. 1941 c. 297 s. 8.

9.26 BUDGET OF SCHOOL BOARD FILED.

HISTORY. 1941 c. 297 s. 9.

9.27 FORFEITURE OF OFFICE FOR UNAUTHORIZED EXPENDITURES.

HISTORY. 1941 c. 297 s. 10.

9.28 BOARD OF RELIEF.

HISTORY. Ex. 1919 c. 35; 1921 c. 418 s. 1; G.S. 1923 s. 126; M.S. 1927 s. 126; 1933 c. 355; 1941 c. 497 s. 3; 1943 c. 457 s. 1.