

CHAPTER 126

ACTIONS AND PENALTIES

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126.01 ACTIONS BY DISTRICTS. Any school board may prosecute actions in the name of the district in the following cases:

- (1) On a contract made with the district, or with the board in its official capacity;
 - (2) To enforce a liability, or a duty enjoined by law, in its favor or in favor of the district;
 - (3) To recover a penalty or forfeiture given by law to it or to the district; or
 - (4) To recover damages for an injury to the rights or property of the district.
- [R. L. s. 1457; 1941 c. 169 art. 7 s. 1] (3097)

126.02 ACTIONS AGAINST DISTRICTS. An action may be brought against any school district, either upon a contract made with the district or its board, in its official capacity and within the scope of its authority, or for an injury to the rights of the plaintiff arising from some act or omission of such board, whether the members of the board making the contract, or guilty of the act or omission complained of, be still in office or not.

[R. L. s. 1458; 1941 c. 169 art. 7 s. 2] (3098)

126.03 JUDGMENT PAID BY TREASURER. Except as hereinafter provided, no execution shall issue upon any judgment against a school district for the recovery of money. Unless the same be stayed by appeal, the treasurer shall pay such judgment, upon presentation of a certified copy thereof, if he has sufficient money of the district not otherwise appropriated. If he fails to do so, he shall be personally liable for the amount, unless the collection be afterwards stayed.

[R. L. s. 1459; 1941 c. 169 art. 7 s. 3] (3099)

126.04 TAX LEVY FOR UNPAID JUDGMENT. If such judgment is not satisfied, or stayed by appeal or otherwise, before the next annual meeting of the district, a certified copy thereof may be presented at its annual meeting, whereupon the district shall cause the amount of the judgment, with interest, to be added to the tax of the district. If such tax is not levied and certified to the county auditor on or before October first next after presentation, a certified copy thereof may be filed with such auditor at any time before he has extended the tax of such district, with an affidavit showing the amount remaining unpaid thereon and the fact of such presentation to the district. Thereupon the auditor shall at once levy and extend such amount as a tax upon the property taxable within the district. By mutual agreement between the district and the judgment creditor the levy may be spread equally over a period of more than one year.

[R. L. s. 1460; 1941 c. 169 art. 7 s. 4] (3100)

126.05 ISSUANCE OF EXECUTION. If the judgment is not paid within 30 days after the time when the proceeds of such levy becomes payable by the county treasurer of the district, execution may be issued thereon, to which any property belonging to the district shall be liable.

[R. L. s. 1461; 1941 c. 169 art. 7 s. 5] (3101)

126.06 ACTION WHEN TRUSTEES RESIGN. Subdivision 1. **Action to recover indebtedness.** In case the trustees of any school district which has contracted an indebtedness shall remove or resign and none are elected or appointed in their stead, an action to recover such indebtedness may be begun by service of the sum-

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mons upon the county auditor, and any taxpayer of the district may defend such action in its behalf, or the auditor may be required by the voters of the district to defend the same upon being indemnified against the costs and expenses of such defense.

Subd. 2. **Judgment, how satisfied.** If judgment is recovered in any such action, the auditor, upon a certified copy thereof being filed with him, shall levy and extend upon and against the property taxable within the district an amount sufficient to pay the same with interest. When such tax, or any part thereof, is collected the county treasurer shall pay the same to the holder of the judgment until it is satisfied in full. For this purpose the treasurer may use any money coming into his hands from taxes levied prior to the judgment for the payment of the same indebtedness.

[R. L. ss. 1462, 1463; 1941 c. 169 art. 7 s. 6] (3102, 3103)

126.07 EXCLUSION OR EXPULSION OF PUPILS. Any member of any public school board or board of education of any district who, without sufficient cause or on account of race, color, nationality, or social position, shall vote for, or, being present, shall fail to vote against, the exclusion, expulsion, or suspension from school privileges of any person entitled to admission to the schools of such district, shall forfeit to the party aggrieved \$50.00 for each such offense, to be recovered in a civil action.

[R. L. s. 1402; 1941 c. 169 art. 7 s. 7] (2998)

126.08 IMPROPER CLASSIFICATION OF PUPILS. No district shall classify its pupils with reference to race, color, social position, or nationality, nor separate its pupils into different schools or departments upon any of such grounds. Any district so classifying or separating any of its pupils, or denying school privileges to any of its pupils upon any such ground shall forfeit its share in all apportioned school funds for any apportionment period in which such classification, separation, or exclusion shall occur or continue. The state commissioner of education, upon notice to the offending district and upon proof of the violation of the provisions of this section, shall withhold in the semiannual apportionment the share of such district and the county auditor shall thereupon exclude such district from his apportionment for such period.

[R. L. s. 1403; 1941 c. 169 art. 7 s. 8] (2999)

126.09 REFUSING TO SERVE ON SCHOOL BOARD. Any person accepting an election or appointment upon any school board and refusing or neglecting to qualify or to serve or to perform any of the duties of such office, shall forfeit for each offense the sum of \$10.00 to be collected in an action before a justice of the peace, to be prosecuted in the name of the district by any school board member of the district or by any freeholder thereof.

[R. L. s. 1404; 1941 c. 169 art. 7 s. 9] (3000)

126.10 FAILURE OF CLERK TO REPORT. Any clerk of a school district who fails to make any report required of him by law shall forfeit not less than \$5.00, nor more than \$50.00, for the use of the district.

[R. L. s. 1405; 1941 c. 169 art. 7 s. 10] (3001)

126.11 DRAWING ILLEGAL ORDER. Any school district clerk who shall illegally draw an order upon the treasurer, any chairman or other officer who shall attest such order, and any school district treasurer who shall knowingly pay the same, shall each forfeit to the district twice the amount of such order, to be collected in an action brought in the name of the district by any freeholder thereof.

[R. L. s. 1406; 1941 c. 169 art. 7 s. 11] (3002)

126.12 NEGLECTING TO KEEP OR DELIVER RECORDS. Any school district clerk who shall neglect to keep the books and records of his office in the manner prescribed by law or shall wilfully refuse to deliver such books and records to his successor in office, shall forfeit to the use of the district the sum of \$10.00 for each offense.

[R. L. s. 1407; 1941 c. 169 art. 7 s. 12] (3003)

126.13 FAILURE OF AUDITOR TO REPORT. Any county auditor who shall fail to make to the state commissioner of education any report of apportionment required by law shall forfeit, for the benefit of the school fund of the county, the sum of \$50.00.

[R. L. s. 1408; 1941 c. 169 art. 7 s. 13] (3004)

126.14 FAILURE OF COUNTY SUPERINTENDENT TO REPORT. Any county superintendent who shall fail to report to the county auditor the abstract of district clerks' and teachers' reports required by law, or to make his statistical report to the state commissioner of education, shall forfeit to the school fund of the county, for each such omission, \$50.00, to be deducted from his salary by the board of county commissioners.

[R. L. s. 1409; 1941 c. 169 art. 7 s. 14] (3005)

126.15 DEALING IN SCHOOL SUPPLIES. No teacher, nor any state, county, town, city, or district school officer, shall be interested directly or indirectly in the sale, proceeds, or profits of any book, apparatus, or furniture used, or to be used, in any school with which he is connected. Any person violating any of the provisions of this section shall forfeit not less than \$50.00, nor more than \$200, for each such offense. This section shall not apply to a person who may have an interest in the sale of any book of which he himself is the author.

[R. L. s. 1410; 1941 c. 169 art. 7 s. 15] (3006)

126.16 DUTY OF OFFICERS TO REPORT VIOLATIONS OF LAW. Every officer to whom reports are required by law to be made and for the failure to make which a penalty or fine or forfeiture is provided, shall give immediate written notice of such failure to the delinquent and to the proper county attorney. Such county attorney shall thereupon institute proper proceedings to collect such penalty, fine, or forfeiture. Upon complaint of the county superintendent, or when it comes to his knowledge that any school officer has violated any provision of law for which violation a penalty, fine, or forfeiture is provided, such attorney shall institute like proceedings.

[R. L. s. 1411; 1941 c. 169 art. 7 s. 16] (3007)