

CHAPTER 127

ACTIONS AND PENALTIES

(SEE PREFACE PRECEDING CHAPTER 120)

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127.01 M.S. 1957 [Repealed, Ex1959 c 71 art 8 s 26]

127.01 **DEFINITIONS.** For purposes of this chapter, the words defined in section 120.02 have the same meaning.

[Ex1959 c 71 art 8 s 1]

127.02 M.S. 1957 [Repealed, Ex1959 c 71 art 8 s 26]

127.02 **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.

[Ex1959 c 71 art 8 s 2]

127.03 M.S. 1957 [Repealed, Ex1959 c 71 art 8 s 26]

127.03 **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.

[Ex1959 c 71 art 8 s 3]

127.04 M.S. 1957 [Repealed, Ex1959 c 71 art 8 s 26]

127.04 **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.

[Ex1959 c 71 art 8 s 4]

127.05 M.S. 1957 [Repealed, Ex1959 c 71 art 8 s 26]

127.05 **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 1 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.

[Ex1959 c 71 art 8 s 5]

127.051, 127.052 M.S. 1957 [Repealed, Ex1959 c 71 art 8 s 26]

127.053 M.S. 1949 [Renumbered 128.234]

127.054 M.S. 1949 [Renumbered 128.235]

127.056, 127.057, 127.058 M.S. 1957 [Repealed, Ex1959 c 71 art 8 s 26]

127.06 M.S. 1957 [Repealed, Ex1959 c 71 art 8 s 26]

127.06 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.

[Ex1959 c 71 art 8 s 6]

127.07 M.S. 1957 [Repealed, Ex1959 c 71 art 8 s 26]

127.07 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 for each such offense, to be recovered in a civil action.

[Ex1959 c 71 art 8 s 7]

127.08 M.S. 1957 [Repealed, Ex1959 c 71 art 8 s 26]

127.08 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 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.

[Ex1959 c 71 art 8 s 8]

127.09 M.S. 1957 [Repealed, Ex1959 c 71 art 8 s 26]

127.09 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 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.

[Ex1959 c 71 art 8 s 9]

127.10 M.S. 1957 [Repealed, Ex1959 c 71 art 8 s 26]

127.10 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, nor more than \$50, for the use of the district.

[Ex1959 c 71 art 8 s 10]

127.11 M.S. 1957 [Repealed, Ex1959 c 71 art 8 s 26]

127.11 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.

[Ex1959 c 71 art 8 s 11]

127.12 M.S. 1957 [Repealed, Ex1959 c 71 art 8 s 26]

127.12 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 for each offense.

[Ex1959 c 71 art 8 s 12]

127.13 M.S. 1957 [Repealed, Ex1959 c 71 art 8 s 26]

127.13 FAILURE OF AUDITOR TO REPORT. Any county auditor who shall fail to make to the commissioner any report of apportionment required by law

shall forfeit, for the benefit of the school fund of the county, the sum of \$50.

[*Ex1959 c 71 art 8 s 13*]

127.14 M.S. 1957 [Repealed, *Ex1959 c 71 art 8 s 26*]

127.14 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 commissioner, shall forfeit to the school fund of the county, for each such omission, \$50, to be deducted from his salary by the board of county commissioners.

[*Ex1959 c 71 art 8 s 14*]

127.15 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, 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.

[*Ex1959 c 71 art 8 s 15*]

127.16 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.

[*Ex1959 c 71 art 8 s 16*]

127.17 SECRET FRATERNITIES AND SOCIETIES. Subdivision 1. Membership regulated. It shall be unlawful for any pupil, registered as such and attending any public elementary, high school, junior college, or vocational school, which is partially or wholly maintained by public funds, to join, become a member of, or to solicit any other pupil of any such school to join, or become a member of, any secret fraternity or society wholly or partially formed from the membership of pupils attending any such schools or to take part in the organization or formation of any such fraternity or society, except such societies or associations as are sanctioned by the board of the district concerned.

Subd. 2. Rules and regulations. The boards shall enforce the provisions of this section and have full power and authority to make, adopt, and modify all rules and regulations which, in their judgment and discretion, may be necessary for the proper governing of such schools and enforcing all the provisions of this section.

Subd. 3. Penalties. The boards shall have full power and authority, pursuant to the adoption of such rules and regulations made and adopted by them, to suspend or dismiss any pupil of such schools therefrom, or to prevent them, or any of them, from graduating or participating in school honors when, after investigation, in the judgment of such boards or a majority of their membership, such pupil is guilty of violating any of the provisions of this section or is guilty of violating any rule or regulation adopted by such boards for the purpose of governing such schools—or enforcing this section.

Subd. 4. "Rushing" or soliciting forbidden. It is hereby made a misdemeanor for any person, not a pupil of such schools, to be upon the school grounds, or to enter any school building, for the purpose of "rushing" or soliciting, while there, any pupil of such schools to join any fraternity, society, or association organized outside of the schools. All municipal courts and justice courts in this state shall have jurisdiction of all offenses committed under this subdivision and all persons found guilty of such offenses shall be fined not less than \$2, nor more than \$10, to be paid to the city or village treasurer, when such schools are situated inside of the corporate limits of any city or village, and to the county treasurer, when situated outside of the corporate limits of any city or village, or, upon failure to pay such fine, to be imprisoned for not more than ten days.

[*Ex1959 c 71 art 8 s 17*]

127.18 FAILURE TO REPORT. No warrant shall be drawn for the payment of the salary of a county superintendent for the months of October and Decem-

ber of any year until the reports required by law relating to apportionment and others as required by the commissioner shall have been filed and proof made of the filing of such superintendent's reports to the commissioner of education.

[*Ex1959 c 71 art 8 s 18*]

127.19 OFFICERS, TEACHERS; NEGLECT OF DUTY; PENALTY. Any school officer, truant officer, teacher of a public or private school, graded elementary school principal, district superintendent or county superintendent of schools refusing, wilfully failing, or neglecting to perform any duty imposed upon him by the provisions of law relating to the compulsory attendance in school of children of school age shall be guilty of a misdemeanor; and, upon conviction thereof, punished for each offense by a fine of not to exceed \$10 or by imprisonment in the county jail for not to exceed ten days. All such fines, when collected, shall be paid into the county treasury for the benefit of the school district in which the offense is committed.

[*Ex1959 c 71 art 8 s 19*]

127.20 VIOLATIONS; PENALTIES. Any person who shall fail or refuse to send to or keep in school any child of whom he has legal charge or control, and who is required by law to attend school, when notified so to do by a truant officer or other official as hereinbefore provided, or any person who induces or attempts to induce any such child unlawfully to absent himself from school, or who knowingly harbors or employs, while school is in session, any child unlawfully absent from school, shall be guilty of a misdemeanor; and, upon conviction thereof, punished by a fine of not to exceed \$50, or by imprisonment in the county jail for not more than 30 days. All such fines, when collected, shall be paid into the county treasury for the benefit of the school district in which the offense is committed.

[*Ex1959 c 71 art 8 s 20*]

127.21 COMBINATION TO CONTROL PRICES; DUTY OF ATTORNEY GENERAL. If at any time any publisher shall enter into any understanding, agreement, or combination to control the prices or to restrict competition in the adoption or sale of school books, then the attorney general shall institute and prosecute legal proceedings for the forfeiture of the bond of the publisher and for the revocation of his license to sell school books in this state, and each and every contract made by the publisher under this chapter shall thereupon become null and void at the option of the other parties thereto.

[*Ex1959 c 71 art 8 s 21*]

127.22 FAILURE TO PLACE SAMPLES ON FILE; PENALTY. Any publisher who shall sell or offer for sale or adoption in the state, school textbooks of any kind without first placing samples of the same on file with prices and obtaining a license therefor from the commissioner of education, shall be guilty of a gross misdemeanor; and, upon conviction thereof, fined not less than \$500, and not more than \$2,000.

[*Ex1959 c 71 art 8 s 22*]

127.23 STATE OFFICIALS TO BE DISINTERESTED; PENALTY. If the commissioner (of education), his assistant or any employee connected with his office, or any member of any school board shall accept or receive any money, gift or any property, or favor from any person, firm, or corporation offering for sale any textbooks, or any agent thereof, or from any person in any way interested in the sale of textbooks, he shall, upon conviction, be punished by a fine not exceeding \$500, or by imprisonment in the county jail for not more than six months, or both by such fine and imprisonment.

[*Ex1959 c 71 art 8 s 23*]

127.24 TEACHERS AND OFFICIALS TO BE DISINTERESTED. Any teacher in the public schools of Minnesota, or any county or district superintendent of schools, or any member of any school board or board of education, or any person connected with the public school system of Minnesota in any capacity, who shall in any way be interested in the profits, proceeds, or sale of any school textbooks used in the schools of Minnesota under his charge, or with which he is connected in any official capacity, shall be liable to a fine of not less than \$50, nor more than \$200; provided, that this shall not apply nor have reference to royalties or profits received by a person from the sale of school books of which he is himself the author.

[*Ex1959 c 71 art 8 s 24*]

127.25 APPEALS. Subdivision 1. Any district or any person aggrieved by

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final order of the county board or final order of the commissioner, or final order of the county superintendent, made pursuant to the provisions of this code, may appeal from such final order to the district court upon the following grounds:

(1) That the county board, the commissioner, or the county superintendent had no jurisdiction to act;

(2) That the county board, the commissioner, or the county superintendent exceeded its jurisdiction;

(3) That the action appealed from is arbitrary, fraudulent, capricious or oppressive or in unreasonable disregard of the best interest of the territory affected;

(4) That the order of action appealed from is based upon an erroneous theory of law.

An appeal from a final order of a county board shall be taken by serving a notice of appeal upon the county auditor. An appeal from a final order of the commissioner shall be taken by serving a notice of appeal upon the commissioner. An appeal from a final order of the county superintendent shall be taken by serving a notice of appeal on the county superintendent. An appeal from a final order of a county board or a county superintendent shall be taken to the district court in the county of the board or superintendent. An appeal from a final order of the commissioner shall be taken to the district court for Ramsey county. Notice of appeal must be served within 30 days of the issuance of the order appealed from and shall be accompanied by a corporate surety bond in the amount of \$250, conditioned for the payment of all costs taxed against appellant on such appeal. The notice of appeal shall be filed with the clerk of the district court and noticed for hearing in the manner provided for the trial of civil actions by Minnesota rules of civil procedure.

Any order of the commissioner rejecting a consolidation plat shall be deemed a final order for the purposes of this section. In an appeal from an order of a county superintendent effecting a consolidation the action of the commissioner approving the plat is reviewable and the commissioner may be called by either party as a witness in such appeal proceedings and may be examined under the rules of civil procedure relating to the cross-examination of adverse parties.

Subd. 2. Any school district or any person affected by final order of the county board or final order of the commissioner or final order of the county superintendent shall be permitted to intervene in appeals under this section as a party respondent.

Subd. 3. An appeal lies from the district court to the supreme court in accordance with the provisions of Minnesota Statutes, Chapter 605.

[*Ex*1959 c 71 art 8 s 25]