

## CHAPTER 8

### ATTORNEY GENERAL

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#### 8.01 APPEARANCE.

The attorney general shall appear for the state in all causes in the supreme and federal courts wherein the state is directly interested; also in all civil causes of like nature in all other courts of the state whenever, in his opinion, the interests of the state require it. Upon request of the county attorney he shall appear in court in such criminal cases as he shall deem proper. Whenever the governor shall so request, in writing, he shall prosecute any person charged with an indictable offense; and in all such cases he may attend upon the grand jury and exercise the powers of a county attorney.

**History:** 1905 c 227 s 1; 1973 c 90 s 1 (109)

#### 8.02 DEPUTIES, ASSISTANTS.

The attorney general may appoint, and at his pleasure remove, six deputy attorneys general and 16 assistant attorneys general, who shall render such aid as he may require of them in the discharge of his official duty. He shall keep a record of his official correspondence and of all matters placed in his hands by the governor, auditor, commissioner of finance, secretary of state, or treasurer, or any officer or board in charge of any of the business of the state upon which any official action is necessary; he shall also keep a record of all legal proceedings instituted by him or in which he appears, and of the several steps taken therein. All official opinions shall be in writing and copies thereof made and filed in his office. The deputy attorneys general and each of such assistants shall, to the extent authorized in writing by the attorney general, have authority to appear before grand juries or in any court of this state, as the attorney general himself might do.

The attorney general shall have power to employ such assistance, whether lay, legal, or expert, as he may deem necessary for the protection of the interests of the state through the proper conduct of its legal business.

**History:** 1905 c 227 s 2; 1911 c 56 s 1; 1917 c 61 s 1; 1919 c 272 s 1; 1931 c 211 s 1; 1973 c 492 s 14; 1973 c 720 s 68; 1975 c 156 s 1; 1977 c 172 s 1 (110)

**8.023** [ Repealed, 1977 c 172 s 3 ]

**8.024** [ Repealed, 1977 c 172 s 3 ]

#### 8.025 PART TIME SPECIAL ATTORNEYS, PAYMENT ON HOURLY BASIS.

No part time special attorney assigned to any professional or occupational licensing board of state government, after having received \$10,000 for his official duties in any fiscal year, regardless of the fund from which he is paid, shall be paid an hourly amount exceeding the equivalent amount paid full time special assistant attorneys general, plus reasonable office expenses, as approved by the attorney general.

**History:** 1973 c 720 s 72

**8.026** [ Repealed, 1977 c 172 s 3 ]

### **8.03 PROSECUTIONS.**

The attorney general shall cause to be prosecuted all assessors and other officials for such delinquencies in connection with revenue laws as may come to his knowledge; also all bonds of officers and others upon which any liability to the state has accrued. When any corporation shall have offended against the laws of the state, or misused, surrendered, abandoned, or forfeited its corporate authority, or any of its franchises or privileges, he shall cause proceedings to be instituted against it.

**History:** 1905 c 227 s 3 (111)

### **8.04 PUBLIC LANDS.**

The attorney general shall begin and prosecute actions against all persons claiming to own any portion of the school or other public lands adversely to the state, whenever, in his opinion, an action can be sustained, and shall cause an appearance to be entered for the state whenever an application to preempt any such land shall come to his notice. In case of any such application he may require the county attorney of the county in which the same is made to enter such appearance, and he may cause witnesses to be subpoenaed, and take such other measures in the premises as the public interests may require.

**History:** 1905 c 227 s 4 (112)

### **8.05 FORMS PREPARED; OPINIONS.**

The attorney general shall prepare forms for bonds and other contracts and instruments for the use of state officials, boards, and commissions and give legal advice in all matters relating to their official duties, whenever required by the governor, auditor, treasurer, or secretary of state, or any board or commission created by law. When required by either house of the legislature he shall give his written opinion upon any question of law. The attorney general similarly shall give his written opinion upon any question of law submitted to him by a permanent or interim committee or commission of the legislature or of either house of the legislature, including but not limited to an interim committee of the legislature created by law for a county containing a city of the first class.

**History:** 1905 c 227 s 5; 1967 c 43 s 1 (113)

### **8.06 ATTORNEY FOR STATE OFFICERS, BOARDS, OR COMMISSIONS; EMPLOY COUNSEL.**

The attorney general shall act as the attorney for all state officers and all boards or commissions created by law in all matters pertaining to their official duties and, when requested by the attorney general, it shall be the duty of any county attorney of the state to appear within his county and act as attorney for any such board, commission, or officer in any court of such county; and when, in his judgment, the public welfare will be promoted thereby the attorney general may, upon request in writing, employ a special attorney for any such board, commission, or officer and fix his compensation, and when such special attorney is so employed his fees or salary shall be paid from the appropriation made for such board, commission, or officer. Except as herein provided, no board, commission, or officer shall hereafter employ any attorney at the expense of the state.

Whenever the attorney general, the governor, and the chief justice of the supreme court shall certify, in writing, filed in the office of the secretary of state, that it is necessary, in the proper conduct of the legal business of the

state, either civil or criminal, that the state employ additional counsel, the attorney general shall thereupon be authorized to employ such counsel and, with the governor and the chief justice, fix his compensation. Except as herein stated, no additional counsel shall be employed and the legal business of the state shall be performed exclusively by the attorney general and his assistants.

**History:** 1905 c 227 s 6; 1911 c 56 s 2; 1955 c 861 s 1 (114)

### **8.07 OPINIONS; COUNTY, CITY, TOWN, SCHOOL ATTORNEYS, COMMISSIONER OF EDUCATION.**

The attorney general on application shall give his opinion, in writing, to county, city, town attorneys, or the attorneys for the board of a school district or unorganized territory on questions of public importance; and on application of the commissioner of education he shall give his opinion, in writing, upon any question arising under the laws relating to public schools. On all school matters such opinion shall be decisive until the question involved shall be decided otherwise by a court of competent jurisdiction.

**History:** 1905 c 227 s 7; 1971 c 67 s 1; 1973 c 123 art 5 s 7 (115)

### **8.08 REPORT.**

The attorney general shall report to the governor biennially on or before October 1 of each even numbered year the number, character, and result of all actions and proceedings in which he has appeared for the state, the expense incurred by the state in each, and the amount of fines, penalties, and other moneys collected; also the opinions of general interest given by him and his assistants since the preceding report, with such recommendations for amendment of the laws as he may deem necessary or proper, and tables shall be appended showing the offenses reported to him by county attorneys.

**History:** 1905 c 227 s 8; 1955 c 847 s 2 (116)

### **8.09 PROSECUTION, CLAIMS OF STATE AGAINST UNITED STATES; AGREEMENTS WITH ATTORNEYS.**

The attorney general is hereby empowered, authorized, and directed to retain attorneys to take exclusive charge of prosecuting, collecting, and recovering from the United States any such claim which may be developed, and to prosecute, at their own expense, any claim before such tribunal of the government as may be deemed best for the interests of the state, detailed reports to be made, from time to time and whenever requested by the attorney general, of the progress of prosecution of any claim; provided, that no composition of any claim shall be concluded without the written approval of the attorney general.

**History:** 1927 c 315 s 1 (116-1)

### **8.10 COMPENSATION OF ATTORNEYS.**

The compensation of these attorneys for this service shall be 25 percent of the sums and amounts collected and received by the state, such compensation to be contingent upon collection and payment thereof to the state, with no further liability on the part of the state, and the amount of such compensation is hereby appropriated, payable upon the certificate of the attorney general filed with the commissioner of finance.

**History:** 1927 c 315 s 2; 1973 c 492 s 14 (116-2)

### **8.11 BRINGING ACTION TO RECOVER ON BONDS.**

The attorney general is hereby authorized, with the approval of the governor, to commence any action or proceeding, in the name of the state, to recover upon any bonds or obligations of any other state of the United States which may

now or hereafter be held or owned by the state, or any of its boards or departments, and upon any bonds held in any sinking fund or guaranty funds deposited or pledged with the state by trust companies, banks, fidelity or insurance companies, or held by the commissioner of banks as liquidator.

**History:** 1933 c 399 s 1 (116-3)

### 8.12 SOLICITOR GENERAL; DUTIES.

There shall be in the office of the attorney general a solicitor general who shall be appointed by the attorney general from within the limitations of his authorized staff, and who shall perform such duties in the place and stead of the attorney general as may lawfully be assigned to him.

**History:** 1955 c 320 s 1; 1961 c 561 s 3

### 8.13 CONTEST OF BARRIERS ON DAIRY PRODUCTS.

The attorney general is authorized to take such action as he deems necessary in order to contest or oppose existing statutes, ordinances, regulations, orders or other trade barriers which may restrict the sale in other states of milk or other dairy products produced in Minnesota; to study and investigate problems concerning the free movement of milk and other dairy products in interstate commerce and to present the results thereof to such legislative and executive agencies of the federal government and the several states, such studies, investigations and presentations to executive and legislative agencies to be made either individually or jointly with others.

**History:** 1955 c 840 s 1

### 8.14 ACTIONS CHALLENGING STATE EXPENDITURES; INTERVENTION.

In any action in which the state of Minnesota or any of its officers is a party and the amount of state expenditures for a particular purpose is challenged on the ground that the expenditure is insufficient to enable the state or any of its agencies to comply with the alleged requirements of the constitution of the United States or of federal law, the attorney general shall petition on behalf of and provide representation for (1) an individual taxpayer, who as an authorized representative of a particular class of recipients or beneficiaries of significant state appropriations, has requested the representation or (2) any other state agency that wishes to intervene in the action. The attorney general shall oppose any attempt to require the state to expend money for any purpose in excess of the amounts appropriated for that purpose by law.

**History:** 1975 c 434 s 28

### 8.31 ADDITIONAL DUTIES OF THE ATTORNEY GENERAL.

Subdivision 1. Investigate offenses against the provisions of certain designated sections; assist in enforcement. The attorney general shall investigate violations of the law of this state respecting unfair, discriminatory and other unlawful practices in business, commerce, or trade, and specifically, but not exclusively, the act against unfair discrimination and competition (sections 325D.01 to 325D.08), the unlawful trade practices act (sections 325D.09 to 325D.16), the automobile dealer's anticoercion act (sections 325D.17 to 325D.29), the antitrust act (sections 325D.49 to 325D.66), section 325F.67 and other laws against false or fraudulent advertising, the antidiscrimination acts contained in section 325D.67, the act against monopolization of food products (section 325D.68), and the prevention of consumer fraud act (sections 325F.68 to 325F.70) and assist in the enforcement of those laws as in this section provided.

**Subd. 2. Attorney general to assist in discovery and punishment of illegal practices.** When the attorney general, from information in his possession, has reasonable ground to believe that any person has violated, or is about to violate, any of the laws of this state referred to in subdivision 1, he shall have power to investigate those violations, or suspected violations, and to take such steps as are necessary to cause the arrest and prosecution of all persons violating any of the statutes specifically mentioned in subdivision 1 or any other laws respecting unfair, discriminatory, or other unlawful practices in business, commerce, or trade. In connection with investigation under this section the attorney general upon specifying the nature of the violation or suspected violation may obtain discovery from any person regarding any matter, fact or circumstance, not privileged, which is relevant to the subject matter involved in the pending investigation, in accordance with the provisions of this subdivision. The discovery may be obtained without commencement of a civil action and without leave of court, except as expressly required by the provisions of subdivision 2a. The applicable protective provisions of rules 26.02, 30.02, 30.04 and 31.04 of the rules of civil procedure for the district courts shall apply to any discovery procedures instituted pursuant to this section. The attorney general or any person to whom discovery is directed may apply to and obtain leave of the district court in order to reduce or extend the time requirements of this subdivision, and upon a showing of good cause the district court shall order such a reduction or extension. In order to obtain discovery, the attorney general may:

(a) Serve written interrogatories on any person. Within 20 days after service of interrogatories, separate written answers and objections to each interrogatory shall be mailed to the attorney general.

(b) Upon reasonable written notice of no less than 15 days, require any person to produce for inspection and copying any documents, papers, books, accounts, letters, photographs, objects, or tangible things which are in his possession, custody, or control.

(c) Upon reasonable written notice of no less than 15 days, take the testimony of any person by deposition as to any fact or opinion relevant to the subject matter involved in the pending investigation.

For the purposes of this subdivision the term "person" has the meaning specified in section 325F.68.

**Subd. 2a. Failure to comply.** If any person fails or refuses to answer interrogatories, to produce materials, or to be examined under oath, as required by the provisions of subdivision 2, the attorney general may give notice that he will apply to a district court, and the court, on a showing by the attorney general of cause therefor, may issue such order as may be required to compel compliance with the discovery procedures authorized by this section.

**Subd. 2b. Assurance of discontinuance.** The attorney general may accept an assurance of discontinuance of any act or practice he deems to be in violation of the laws referred to in subdivision 1 from any person he alleges is engaging in, or has engaged in, the act or practice. The assurance may include a stipulation for the performance, provision or payment by the alleged violator of any remedies allowable under subdivision 3a. Any assurance shall be in writing and shall be filed with and subject to the approval of the district court of the county in which the alleged violator resides or has his principal place of business or in Ramsey county. An assurance shall not be considered an admission of a violation for any purpose. Failure to comply with the assurance of discontinuance shall be punishable as contempt.

For the purposes of this subdivision the term "person" has the meaning specified in section 325F.68.

Subd. 3. **Injunctive relief.** In addition to the penalties provided by law for violation of the laws referred to in subdivision 1, specifically and generally, whether or not injunctive relief is otherwise provided by law, the courts of this state are vested with jurisdiction to prevent and restrain violations of those laws and to require the payment of civil penalties. Whenever it shall appear to the satisfaction of the attorney general that any of those laws has been or is being violated, or is about to be violated, he shall be entitled, on behalf of the state; (a) to sue for and have injunctive relief in any court of competent jurisdiction against any such violation or threatened violation without abridging the penalties provided by law; and (b) to sue for and recover for the state, from any person who is found to have violated any of the laws referred to in subdivision 1, a civil penalty, in an amount to be determined by the court, not in excess of \$25,000. All sums recovered by the attorney general under this section shall be deposited in the general fund of the state treasury.

Subd. 3a. **Consumer remedies.** In addition to the remedies otherwise provided by law, any person injured by a violation of any of the laws referred to in subdivision 1 may bring a civil action and recover damages, together with costs and disbursements, including costs of investigation and reasonable attorney's fees, and receive other equitable relief as determined by the court. The court may, as appropriate, enter a consent judgment or decree without the finding of illegality. In any action brought by the attorney general pursuant to this section, the court may award any of the remedies allowable under this subdivision.

Subd. 3b. **Orders and judgments prima facie evidence.** Any permanent injunction, judgment or order of the court made pursuant to subdivision 3 shall be prima facie evidence in an action brought under subdivision 3a that the defendant used or employed an act or practice in violation of the laws referred to in subdivision 1, provided that this subdivision shall not apply to consent judgments or decrees where the court makes no finding of illegality, including assurances of discontinuance pursuant to subdivision 2b.

Subd. 4. **Exception.** The provisions of this section shall not apply to any person, firm or corporation engaged in the insurance business and as such subject to sections 72A.17 to 72A.30.

**History:** 1947 c 587 s 8; 1957 c 821 s 10; 1965 c 51 s 70; 1967 c 302 s 1; 1969 c 6 s 41; 1973 c 35 s 50; 1973 c 155 s 1-5; 1974 c 524 s 2-8; 1980 c 509 s 125