

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 the attorney general's opinion, the interests of the state require it. Upon request of the county attorney, the attorney general shall appear in court in such criminal cases as the attorney general deems proper. Upon request of a county attorney, the attorney general may assume the duties of the county attorney in psychopathic personality commitment proceedings under section 526.10. Whenever the governor shall so request, in writing, the attorney general shall prosecute any person charged with an indictable offense, and in all such cases may attend upon the grand jury and exercise the powers of a county attorney.

History: (109) 1905 c 227 s 1; 1973 c 90 s 1; 1986 c 444; 1992 c 571 art 3 s 1

8.02 DEPUTIES, ASSISTANTS.

Subdivision 1. Appointment of deputies and assistants. The attorney general may appoint, and at pleasure remove, six deputy attorneys general and 35 assistant attorneys general. The appointees shall render such aid as is required of them in the discharge of the official duties of the attorney general. To the extent authorized in writing by the attorney general, they shall have authority to appear before grand juries or in any court of this state, as the attorney general personally might do.

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

Subd. 2. Record keeping. The attorney general shall:

(1) keep a record of official correspondence and of all matters presented by the governor, auditor, commissioner of finance, secretary of state, or treasurer, or any officer or board in charge of the business of the state upon which any official action is necessary;

(2) keep a record of all legal proceedings that the attorney general's office institutes or appears in and the several steps taken therein; and

(3) make official opinions in writing and file the opinions in the attorney general's office.

History: (110) 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; 1986 c 444; 1987 c 335 s 1

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 performing official duties in any fiscal year, regardless of the fund from which the payment is made, 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; 1986 c 444

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 become known; 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, the attorney general shall cause proceedings to be instituted against it.

History: (111) 1905 c 227 s 3; 1986 c 444

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 the attorney general's opinion, an action can be sustained, and shall cause an appearance to be entered for the state on learning of any application to preempt any such land. In case of any such application the attorney general may require the county attorney of the county in which the same is made to enter such appearance, and may cause witnesses to be subpoenaed, and take such other measures in the premises as the public interests may require.

History: (112) 1905 c 227 s 4; 1986 c 444

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 the attorney general shall give a written opinion upon any question of law. The attorney general similarly shall give a written opinion upon any question of law submitted 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: (113) 1905 c 227 s 5; 1967 c 43 s 1; 1986 c 444

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. When requested by the attorney general, it shall be the duty of any county attorney of the state to appear within the county and act as attorney for any such board, commission, or officer in any court of such county. The attorney general may, upon request in writing, employ, and fix the compensation of, a special attorney for any such board, commis-

sion, or officer when, in the attorney general's judgment, the public welfare will be promoted thereby. Such special attorney's fees or salary shall be paid from the appropriation made for such board, commission, or officer. A state agency that is current with its billings from the attorney general for legal services may contract with the attorney general for additional legal and investigative services. 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 the additional counsel's 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 the attorney general's assistants.

History: (114) 1905 c 227 s 6; 1911 c 56 s 2; 1955 c 861 s 1; 1986 c 444; 1991 c 345 art 1 s 42

8.07 OPINIONS; COUNTY, CITY, TOWN, PUBLIC PENSION FUND, SCHOOL ATTORNEYS, COMMISSIONER OF EDUCATION.

The attorney general on application shall give an opinion, in writing, to county, city, town, public pension fund 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 shall give an 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: (115) 1905 c 227 s 7; 1971 c 67 s 1; 1973 c 123 art 5 s 7; 1986 c 444; 1987 c 372 art 10 s 1

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 the attorney general has appeared for the state, the expense incurred by the state in each, and the amount of fines, penalties, and other money collected; also the opinions of general interest given by the attorney general's office since the preceding report, with such recommendations for amendment of the laws as the attorney general may deem necessary or proper, and tables shall be appended showing the offenses reported to the attorney general by county attorneys.

History: (116) 1905 c 227 s 8; 1955 c 847 s 2; 1986 c 444

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: (116-1) 1927 c 315 s 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: (116-2) 1927 c 315 s 2; 1973 c 492 s 14

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 commerce as liquidator.

History: (116-3) 1933 c 399 s 1; 1983 c 289 s 114 subd 1; 1984 c 655 art 1 s 92

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 the authorized staff, and who shall perform such duties in the place and stead of the attorney general as may lawfully be assigned.

History: 1955 c 320 s 1; 1961 c 561 s 3; 1986 c 444

8.13 CONTEST OF BARRIERS ON DAIRY PRODUCTS.

The attorney general is authorized to take such action as the attorney general deems necessary in order to contest or oppose existing statutes, ordinances, rules, 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; 1985 c 248 s 70; 1986 c 444

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

8.15 ATTORNEY GENERAL COSTS.

The attorney general in consultation with the commissioner of finance shall assess executive branch agencies a fee for legal services rendered to them. The assessment against appropriations from other than the general fund must be the full cost of providing the services. The assessment against appropriations supported by fees must be included in the fee calculation. The assessment against appropriations from the general fund not supported by fees must be one-half of the cost of providing the services. An

amount equal to the general fund receipts in the even-numbered year of the biennium is appropriated to the attorney general for each year of the succeeding biennium. All other receipts from assessments must be deposited in the state treasury and credited to the general fund.

The attorney general in consultation with the commissioner of finance shall assess political subdivisions fees to cover half the cost of legal services rendered to them; except that the attorney general may not assess a county any fee for legal services rendered in connection with a psychopathic personality commitment proceeding under section 526.10 for which the attorney general assumes responsibility under section 8.01.

History: *1Sp1985 c 13 s 75; 1987 c 404 s 69; 1988 c 686 art 1 s 39; 1989 c 335 art 1 s 56; 1991 c 345 art 1 s 43; 1992 c 571 art 3 s 2*

8.16 ATTORNEY GENERAL; ADMINISTRATIVE SUBPOENAS.

Subdivision 1. Authority. The attorney general, or any deputy, assistant, or special assistant attorney general whom the attorney general authorizes in writing, has the authority in any county of the state to subpoena and require the production of any records of telephone companies, electric companies, gas companies, water utilities, chemical suppliers, hotels and motels, airlines, buses, taxis, and other entities engaged in the business of transporting people, and freight companies, warehousing companies, package delivery companies, and other entities engaged in the businesses of transport, storage, or delivery. Subpoenas may only be issued for records that are relevant to an ongoing legitimate law enforcement investigation.

Subd. 2. Enforcement. The subpoena shall be enforceable through the district court.

Subd. 3. Expenses. The person directed to produce the records must be paid reasonable expenses incurred in producing the records.

Subd. 4. Disclosure prohibited. The subpoena must state that the person to whom the subpoena is directed may not disclose the fact that the subpoena was issued or the fact that the requested records have been produced except:

- (1) insofar as the disclosure is necessary to find and disclose the records; or
- (2) pursuant to court order.

Subd. 5. Penalty. The willful failure to produce the documents required by the subpoena is a misdemeanor.

Subd. 6. Ex parte order. Upon the ex parte request of the attorney issuing the subpoena, the district court may issue an order directing the production of the records. It is not necessary for either the request or the order to be filed with the court administrator. Failure to comply with the court order subjects the person who fails to comply to civil or criminal contempt of court, or both.

History: *1989 c 336 art 2 s 1*

8.20 DELEGATION OF CONTRACT REVIEW.

The attorney general may delegate the power to approve contracts as to form and execution to any state official if it is determined that the delegation will produce a significant, demonstrable improvement in the efficiency or operation of state government. The attorney general may condition the delegation as the attorney general determines to be necessary to protect the interests of the state.

History: *1987 c 335 s 2*

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 nonprofit corporation act

(sections 317A.001 to 317A.909), 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 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), the act regulating telephone advertising services (section 325E.39), the prevention of consumer fraud act (sections 325F.68 to 325F.70), and chapter 53A regulating currency exchanges 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 has information providing a 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, the attorney general 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, 26.03, and 30.04 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 the possession, custody, or control of that person.

(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 apply to a district court, upon notice, 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 the attorney general deems to be in violation of the laws referred to in subdivision 1 from any person the attorney general 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 this section. 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 a 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. 2c. Undistributed money to general fund. If a court of competent jurisdiction finds that a sum recovered under this section for the benefit of injured persons cannot reasonably be distributed to the victims, because the victims cannot readily be located or identified, or because the cost of distributing the money would outweigh the benefit to the victims, then the court may order that the money be paid into the general fund. All sums recovered must be deposited into the state treasury and credited to the general fund.

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, to require the payment of civil penalties, to require payment into the general fund, and to appoint administrators as provided in subdivision 3c. On becoming satisfied that any of those laws has been or is being violated, or is about to be violated, the attorney general 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.

Subd. 3a. Private 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. 3c. Administrators. The courts of this state are vested with jurisdiction to appoint an administrator in actions brought by the attorney general under this section, for purposes of (1) monitoring, maintaining, or winding up the affairs of a business, or (2) collecting, administering, and distributing judgments obtained by the attorney general for the benefit of persons. Upon the order of a court having jurisdiction over the matter, reasonable fees and expenses may be paid to the administrator out of any sums recovered under this section or administered by the administrator.

Subd. 4. [Repealed, 1983 c 290 s 173; 1983 c 301 s 235]

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; 1985 c 248 s 2; 1986 c 444; 1987 c 366 s 1-4; 1987 c 384 art 2 s 2; 1989 c 304 s 129; 1989 c 335 art 4 s 5,6; 1992 c 377 s 1; 1992 c 504 s 1

8.32 CONSUMER AFFAIRS.

Subdivision 1. Generally. The attorney general has the responsibilities and duties prescribed by this section.

Subd. 2. Duties. The attorney general shall:

- (a) enforce the provisions of law relating to consumer fraud and unlawful practices in connection therewith as set forth in sections 325F.68 and 325F.69;
- (b) enforce the provisions of law set forth in sections 80D.19 and 80D.20 and Laws 1984, chapter 641, section 9;
- (c) make recommendations to the governor and the legislature for statutory needs that exist in adequately protecting the consumer.

History: 1969 c 1129 art 4 s 4; 1973 c 513 s 1; 1978 c 746 s 1; 1983 c 216 art 1 s 13; 1983 c 289 s 23,24,114 subd 2; 1984 c 641 s 1; 1Sp1986 c 3 art 1 s 1

8.33 REPRESENTATION OF CONSUMER AND SMALL BUSINESS INTEREST IN PUBLIC UTILITY MATTERS.

Subdivision 1. **Definitions.** For the purposes of this section, the following terms have the meanings given them:

(1) "Public utility" means a publicly or privately owned entity engaged in supplying utility services to residential utility consumers in this state or to another public utility for ultimate distribution to residential utility consumers in this state and whose rates or charges are subject to approval by the public utilities commission or an agency of the federal government. No municipal or cooperative utility shall be considered a "public utility" for the purposes of this clause.

(2) "Residential and small business utility consumer" or "consumer" means a person or small business that uses utility services at the person's residence or business location in this state and who is billed by or pays a public utility for these services. Small business has the meaning given it in section 645.445.

(3) "Utility services" means electricity, natural gas, or telephone services distributed to residential utility consumers by a public utility.

Subd. 2. **Duties.** The attorney general is responsible for representing and furthering the interests of residential and small business utility consumers through participation in matters before the public utilities commission involving utility rates and adequacy of utility services to residential or small business utility consumers. The attorney general shall expend a reasonable portion of effort among all three kinds of utility services and shall identify and promote the needs of each class of residential and small business consumers with respect to each of the utility services.

Subd. 3. **Right of intervention.** Subject to the limitations of subdivision 2, the attorney general may intervene as of right or participate as an interested party in matters pending before the public utilities commission which affect the distribution by a public utility of utility services to residential or small business utility consumers. The right of the attorney general to participate or intervene does not affect the obligation of the public utilities commission to protect the public interest.

Subd. 4. **Notice; procedures.** The public utilities commission shall give reasonable notice to the attorney general of any matter scheduled to come before the commission affecting a public utility's rates or adequacy of services to residential or small business utility consumers. Rules of the commission governing procedures before the commission apply to the attorney general and the attorney general's employees or representatives. The attorney general has the same rights and privileges accorded other intervenors or participants in matters pending before the commission.

Subd. 5. **Appeals.** The attorney general has an interest sufficient to maintain, intervene as of right in, or otherwise participate in any civil action in the courts of this state for the review or enforcement of any public utilities commission action which affects a public utility's rates or adequacy of service to residential or small business utility consumers.

Subd. 6. **Intervention in federal proceedings.** The attorney general shall represent and further the interests of residential and small business utility consumers through participation as an intervenor or interested party in federal proceedings relating to the regulation of: (a) wholesale rates for energy delivered through interstate facilities; or (b) fuel used in generation of electricity or the manufacture of gas. The attorney general

may maintain, intervene in, or otherwise participate in civil actions relating to the federal proceedings.

Subd. 7. Additional powers. The power granted by this section is in addition to powers otherwise provided by law to the attorney general.

History: 1978 c 746 s 2; 1980 c 579 s 2; 1980 c 614 s 123; 1983 c 247 s 24; 1983 c 289 s 25-31, 114 subd 2; 1986 c 444; 1987 c 241 s 1

8.34 BIAS-MOTIVATED CRIME PROSECUTION TRAINING.

Subdivision 1. Definition. For the purposes of this section, "prosecuting attorney" means a political subdivision's elected or appointed county and city attorney and any of that attorney's assistants who have criminal prosecution responsibility for bias-motivated crimes.

Subd. 2. Bias-motivated crimes course. By December 31, 1990, the attorney general's office in cooperation with the peace officers standards and training board, the Minnesota county attorneys association, and the department of human rights shall create a course of no less than six hours dealing with the prosecution of bias-motivated crimes. The course shall include training on the devastating impact of these crimes on society and on victims. The attorney general shall present this course at least once a year until December 31, 1993.

Subd. 3. Records of attendance. The head of every agency that employs prosecuting attorneys shall maintain records of the number of prosecuting attorneys who have attended the bias-motivated crimes prosecution course and the number of those who have not. The agency head shall report annually to the attorney general on these attendance and nonattendance figures.

History: 1990 c 459 s 1