

Nineteen Hundred Thirty-One
Supplement

to

Mason's Minnesota Statutes

(1927 thru 1931)

Containing the text of the acts of the 1929 and 1931 Sessions of the
Legislature, both new and amendatory, and notes showing repeals,
together with annotations from the various courts, state
and federal, construing the constitution, statutes,
charters and court rules of Minnesota



Edited by
WILLIAM H. MASON, Editor-in-Chief
W. H. MASON, JR., Assistant Editor

CITER-DIGEST CO.
ST. PAUL, MINNESOTA
1931

CHAPTER 18

Public Examiner

§3278. Fees for examination of counties.—

All the powers and duties conferred and imposed upon the public examiner in the foregoing sections shall be exercised and performed by him in respect to the offices, institutions, public property and improvements of the several counties of the state of Minnesota. At least once in each year, the public examiner shall visit, without previous notice, each of such counties and make a thorough examination of all accounts and records relating to the receipt and disbursement of the public funds and the custody of the public funds and other property. He shall prescribe and install systems of accounts and financial reports, that shall be uniform so far as practicable for the same class of offices. A copy of the report of such examination shall be filed and subject to public inspection in the office of the public examiner, and another copy in the office of the county auditor of the county thus examined; provided, that if any such examination shall disclose malfeasance, misfeasance, or nonfeasance in any office of such county, such report shall be filed with the county attorney of said county, and it shall be the duty of such county attorney to institute such civil and criminal proceedings, as the law and the protection of the public interests shall require.

The county receiving such examination shall pay to the state the total cost and expenses of such examination, including the salaries paid to the examiners while actually engaged in making such examination, provided, that such salary charge shall not exceed \$10.00 per day. The appropriation accounts of the comptroller shall be credited with all collections made for any such examinations, and said moneys so collected are hereby appropriated for the use and purposes of said accounts. (As amended Apr. 9, 1931, c. 125, and Apr. 20, 1931, c. 246.)

§3280. Other cities.

County attorney is not charged with the duty of instituting civil proceedings where examiner has found irregularities in the expenditure of moneys of a city of the fourth class, but need only prosecute criminal actions. Op. Atty. Gen., April 1, 1931.

The first reference to "Section 7" is intended to be "Section 6" and it is probable that the second reference to "Section 7" was intended to read "Section 5." Op. Atty. Gen., April 1, 1931.

§3286-1. Examination of municipal records.—A petition for an examination under the provisions of Chapter 18, General Statutes 1923, of the books, records and accounts and affairs of any city, village, town or school district shall in the case of a city, village, or town be signed by at least one freeholder for each 100 inhabitants thereof, the number of which shall not be less than ten and in the case of a school district by not less than ten freeholders. Before such petition is delivered to the comptroller it shall be presented to the County Auditor of the County in which such city, town, village, or school district is situated, who shall determine whether such petition is signed by the required number of

free holders and shall certify such fact thereon and such certificate shall be conclusive evidence thereof in any action or proceeding for the recovery of the costs, charges and expenses of any examination made pursuant to such petition. (Act Apr. 19, 1929, c. 259, §1.)

§3286-2. To be made upon written requests.—Upon a written request signed by a majority of the members of the governing body of any city, village, town or school district, the comptroller shall examine the books, records, accounts and affairs of the same, but such written request shall be presented to the clerk or recording officer of such city, village, town or school district, before being presented to the comptroller, who shall determine whether the same is signed by a majority of the members of such governing body and, if found to be so signed, shall certify such fact, which certificate shall be conclusive evidence thereof in any action or proceeding for the recovery of the costs, charges and expense of any examination made pursuant to such request. (Act Apr. 19, 1929, c. 259, §2.)

§3286-3. Municipality to pay cost of examination.—Upon the examination of the books, records, accounts and affairs of any city, including cities of the first class, village, town or school district, as provided by law, such city, village, town or school district shall be liable to the state for the total cost and expenses of such examination, including the salaries paid to the examiners while actually engaged in making such examination, provided, that such salary charge shall not exceed \$10.00 per day. The appropriation accounts of the comptroller shall be credited with all collections made for any such examinations, and said moneys so collected are hereby appropriated for the uses and purposes of said accounts. (Act Apr. 19, 1929, c. 259, §3.)

§3286-4. Collection for examination.—On July first of each year the state treasurer shall certify to the state auditor all uncollected drafts for the examination of any city, village, town or school district which have remained unpaid for a period of three months from the date of such draft. Upon receipt of such list the auditor shall forthwith notify the clerk or recording officer of each city, village, town or school district, against which the state has a claim, that if the same is not paid, with interest from the date of the draft, within 90 days, the full amount thereof will be certified to the auditor for the county or counties in which such city, village, town or school district is situated, for collection by special tax levy as herein provided. Such notice shall be served by registered mail and the deposit thereof in the United States mail shall constitute due and legal service thereof upon said city, village, town or school district. (Act Apr. 19, 1929, c. 259, §4.)

§3286-5. Municipalities may contest claim upon notice.—On or before September first

following service of said notice, any such city, village, town or school district may serve notice in writing, upon the attorney general that it desires to contest the legality of the state's claim, whereupon such claim shall be withdrawn from the state auditor, and the attorney general shall forthwith file with the clerk of the district court of the county in which such city, village, town or school district, or major part thereof, is situated, a verified statement of the state's claim, duly itemized, and serve upon the clerk of such city, village, town or school district, by registered mail, a copy of such statement. Such city, village, town or school district may file with the clerk of such district court, within ten days after the service of such statement upon it, verified objections to the state's claim, and such district court shall thereupon summarily, in or out of term hear and determine the amount due the state, if any, for such examination, at a time and place fixed by the court therefor. The clerk of such court shall certify to the county auditor of the county or counties in which such city, village, town or school district is situated, the amount so determined by the court to be due to the state, if any. (Act Apr. 19, 1929, c. 259, §5.)

§3286-6. State Auditor to certify amount due.—On October first of each year, the state

auditor shall certify the respective amounts due the state from the various cities, villages, towns and school districts, as shown by the list so filed by the treasurer, and not withdrawn therefrom, including interest computed to July first following, to the county auditor of the county in which any such city, village, town or school district is in whole or in part situated. The county auditor, upon receiving a certificate from the state auditor or a certificate from the clerk of court, as hereinbefore provided, shall include the amount of the state's claim, with 25 per cent added, in the tax levy for general revenue purposes of the municipality liable therefor, and such additional levy shall not be within any limitation imposed by law upon the amount of taxes which may be levied for revenue purposes. Upon completion of the June tax settlement following such levy the county treasurer shall deduct from the amount apportioned to the municipality for general revenue purposes, the amount due the state under this act, including interest, and remit the same to the state treasurer. (Act Apr. 19, 1929, c. 259, §6.)

§3286-7. Inconsistent acts repealed.—All acts or parts of acts inconsistent with the provisions of this act are hereby repealed. (Act Apr. 19, 1929, c. 259, §7.)

CHAPTER 19

Insurance

§3302. Computation of net value.

Reserve maintained by life insurance company, held to constitute unearned premiums for purpose of computing federal income tax. 22 U. S. Board of Tax Appeals 784. See Dun. Dig. 4720.

§3304. Reserves.

4.
22 U. S. Board of Tax Appeals 784.

GENERAL PROVISIONS

§3312. Definitions.

22 U. S. Board of Tax Appeals 784.

§3313. Acceptance of laws.

Insurance contract solicited by foreign corporation without compliance with state insurance laws, held not interstate commerce. 275US 274, 48SCR124, aff'g 169M516, 211NW478.

§3314. Insurance defined.—Unlawful contracts—Contracts deemed made in this state.

275US274, 48SCR124, aff'g 169M516, 211NW478; note under §3313.

Loss arising from cracking of opal because alone of its inherent tendency to disintegrate cannot be recovered under an "all risk" transportation policy. 172M13, 214NW473.

The insurance business is affected with public interest and is subject to governmental regulations. 175M73, 220NW425.

In action by assured in indemnity policy to recover amounts paid in settlement of negligence suits which defendant refused to defend, evidence held to sustain finding that plaintiff complied with terms of policy requiring "immediate notice." Farrell et al. v. N., 235NW612. See Dun. Dig. 4875e(45).

Indemnity bond to bank against loss from

taking counterfeit collateral, held not to extend to unsigned bills of lading, the goods described in which were never delivered to the carrier. 48F(2d)611. See Dun. Dig. 4336.

Certificate of Membership in the "Steele County North Dakota Benevolent Society" held to constitute "Insurance" subject to supervision of the commissioner. Op. Atty. Gen., June 12, 1931.

§3318. Retaliatory provision.

275US274, 48SCR124, aff'g 169M516, 211NW478; note under §3313.

§3319. Deposits with commissioner.

275US274, 48SCR124, aff'g 169M516, 211NW478; note under §3313.

§3322. Capital stock to be paid in full—Investment of funds.—* * *

2. Notes or bonds, approved by the commissioner, secured by first mortgage on improved real estate in this or any other state, or in the Dominion of Canada, worth at least twice the amount loaned thereon, not including buildings unless insured by policies in an amount approved by the commissioner payable to and held by the security holder, or by a trustee for the security holder. (As amended Apr. 10, 1929, c. 149.)

3. Stock or bonds at market value, approved by the Commissioner, upon which stock interest or dividends of not less than three per cent have been regularly paid for three years immediately preceding the investment, of any public service corporation incorporated by or under the Laws of the United States, or any State, or the Dominion of Canada, or any Province thereof; or in the