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GENERAL STATUTES OF MINNESOTA

SUPPLEMENT 1917

CONTAINING THE AMENDMENTS TO THE GENERAL STATUTES
AND OTHER LAWS OF A GENERAL AND PERMANENT
NATURE, ENACTED BY THE LEGISLATURE
IN 1915, 1916, AND 1917

WITH NOTES OF ALL APPLICABLE DECISIONS

COMPILED BY

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1918

CHAPTER 4

EXECUTIVE DEPARTMENT

THE GOVERNOR

57. Proclamations—Extra sessions—Thanksgiving, etc.—

Thanksgiving Day is not made a legal holiday by this section, so that time for appeal expiring on that day cannot be perfected the succeeding day (129-522, 151+273). Time, \approx 10(1, 2).

STATE AUDITOR

67. Claims audited—Warrants—Records—Every demand directed by law to be paid out of the state treasury shall first be examined and adjusted by the auditor. If there be sufficient money in the treasury appropriated to its payment and not otherwise, he shall issue his warrant on the treasurer for the amount found to be justly due. Warrants shall be drawn on printed blanks progressively numbered, and for every warrant issued, the number, amount, date and name of payee shall be entered in progressive order in books kept by him for that purpose. (Amended '17 c. 480 § 1)

Section 5 repeals inconsistent acts, etc.

By § 6 the act takes effect August 1, 1917.

[67—]1. **Same—Approval of claims—Vouchers—**Whenever claims against the state for any purposes are made for which there is an appropriation available, the official having authority over that appropriation from which the same is to be paid, shall cause the claim to be approved by some individual having knowledge that the service was performed, or the goods or material furnished, and shall have voucher made giving the name and address of person, firm or corporation to whom the money is due, the date and nature of the claim, reference to the appropriation from which the same is to be paid. Departments and institutions shall forward such claims to the state auditor accompanied by transmittal form prescribed by him. ('05 c. 96, amended '09 c. 120; '17 c. 480 § 2)

[67—]2. **Same—Voucher—Warrants—**The form of the claim shall be such as is prescribed by the state auditor and shall be a voucher-warrant. The warrant to be filled in and signed by the auditor pursuant to the provisions of this act, and the treasurer upon approval of the claim by the auditor, shall accept such warrant with his signature, making such voucher-warrant negotiable. The treasurer may confer authority upon one or more of his assistants to accept such warrant in his behalf. The voucher side of the voucher-warrant shall bear the date of the invoice it represents. The warrant side shall bear the date of the issuance of the warrant, and be entered on the warrant record the same as a cash payment. ('05 c. 96, amended '09 c. 120; '17 c. 480 § 3)

[67—]3. **Same—Endorsement—**The endorsement by the payee of the voucher-warrant shall constitute a receipt in full for the claim therein. ('05 c. 96, amended '09 c. 120; '17 c. 480 § 4)

[67—]4. **State officers and employes to be paid on only one voucher—Exceptions—**No officer or employe of the state of Minnesota, or of the University, or of any state institution or state school, shall be paid, upon more than one voucher, payroll or warrant for any stated pay period, nor for any part thereof; and there shall be included in each claim for salary or compensation and upon each voucher or payroll therefor a declaration by the claimant officer or employe to the effect that such claimant has not made and will not make any claim upon the state nor upon any department thereof for services rendered by him in any capacity for the period covered by the voucher, claim or payroll signed by such claimant officer or employe, nor for any of the time covered by such voucher, claim or payroll; provided, that the provi-

sions of this act shall not apply to members of the national guard serving as members of the legislature. Providing that the provisions of this act shall not apply to instructors in any educational institution in the state during vacation period. Provided further, that the provisions of this bill shall not apply to employees or officers of state institutions under the jurisdiction and control of the state board of control. ('17 c. 467 § 1)

By § 4 the act takes effect August 1, 1917.

[67—]5. **Same—Voucher not to be approved unless in proper form**—No voucher, claim or payroll which does not comply with the provisions of section 1 [67—4] hereof shall be approved, audited or allowed by any officer charged with the duty of approving, auditing or allowing such voucher, claim or payroll. ('17 c. 467 § 2)

[67—]6. **Same—Penalty for violation**—Any violation of this act shall be a misdemeanor and shall be ground for impeachment or for removal from office. ('17 c. 467 § 3)

[67—]7. **Accounts to be itemized**—That before any charge, bill or expense account against the state of Minnesota shall be audited, it shall be itemized and verified as to the correctness thereof. ('17 c. 498 § 1)

[67—]8. **Auditor to issue subpoena to verify bill for expenses**—The state auditor is hereby authorized to issue subpoena to any person who has or shall hereafter render an account to the state, be the same in the nature of a bill for expenses for articles sold or purchased, or involving any other transaction between the state of Minnesota and any person, corporation or co-partnership; and he shall have the power to place any such individual under oath and to examine the said person or individual as to the correctness of any account rendered and the state auditor is further empowered to subpoena such witnesses, to administer oath and to examine them under oath in any transaction entered into between the state of Minnesota and any person, co-partnership or corporation. ('17 c. 498 § 2)

STATE TREASURER

[90—]1. **Treasurer to collect drafts—Duty of attorney general**—The state treasurer shall make collection upon all drafts of the state auditor placed in his hands. Uncollected drafts now in the office of the attorney general shall be delivered to the treasurer and a receipt taken therefor. The treasurer may whenever in his discretion he shall deem it advisable, require the assistance of the attorney general to facilitate the collection of such drafts, who may institute suit in the name of the state to enforce the collection of the same. ('17 c. 398 § 1)

[90—]2. **Drafts to be registered**—All drafts shall be registered by the treasurer upon their receipt in a book to be a permanent record, and proper notations made as to subsequent proceedings in connection with the collection thereof. ('17 c. 398 § 2)

[90—]3. **Partial payments**—Partial payments upon drafts may be accepted by the treasurer and a receipt for such partial payment shall be issued therefor, but no such partial payment shall operate as a compromise of the claim covered by such draft, and the unpaid portion thereof shall remain a claim of the state as fully as if no partial payment had been made. ('17 c. 398 § 3)

BOARDS OF AUDIT AND DEPOSIT

94. **Limit of deposit**—The amount on deposit at any time with any state depository shall not exceed the amount designated by the board of deposit. In case a personal surety bond be given by a depository the board may fix a limit of deposit which shall not exceed one-half the penalty named in such bond. If a corporate surety bond be given by such depository, the board may fix a limit of deposit equal to the penalty named in such surety bond. Provided, however, that the board shall in no case fix a limit of deposit which shall exceed one-half the paid-up capital stock or capital claimed by such de-

pository, except that in active or checking account banks the limit of deposit may be fifty per cent. of the paid-up capital stock and permanent surplus. Any financial institution doing a general banking business, and which receives deposits subject to withdrawals on demand, may be designated as a state depository. (Amended '17 c. 396 § 1)

ATTORNEY GENERAL

101. Deputy and assistants—Stenographers—Records—Opinions—The attorney general may appoint, and at his pleasure remove, one deputy attorney general and six 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, 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 attorney general and each of said 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. (Amended '17 c. 61 § 1)

1917 c. 61 § 2 makes an appropriation for the remainder of the fiscal year.

[101—]1. Salaries of deputy and assistant—The salary of the assistant attorney general shall be four thousand two hundred dollars (\$4,200) and of the deputy attorney general four thousand five hundred dollars (\$4,500) a year. ('17 c. 61 § 3)

GENERAL PROVISIONS

111. [Repealed.]

See note under § [111—]1.

License fees collected by the state board of medical examiners belong to the members of the board, and need not be accounted for under this section (124-151, 144-755). Physicians and Surgeons, ~~5~~(1).

[111—]1. Fees and receipts to be paid into treasury—All fees and other receipts of the several officers, boards and departments of the state and which is the property of the state shall be paid into the state treasury daily, unless such receipts are under \$50.00, in which event payment may be deferred until they aggregate such sum. The several state institutions shall make payments under this act on the first business day of each week; provided, that the provisions of this act shall not apply to the state agricultural society. Not later than the fifth of each month such officer, board, department or institution shall render to the state auditor an account for the preceding month of all moneys so received and paid over, specifying the items and sources thereof in detail. ('17 c. 462 § 1)

By § 2, section 111, General Statutes 1913, and all other inconsistent acts are repealed.

[ESTIMATES AND BUDGET]

[117—]1. "Estimate" and "budget" defined—The word "estimate" as used in this title shall mean a statement showing:

1. The expenditure for the purposes specified during each year of the current biennial period.
2. The funds available or appropriations authorized for the same purpose, during each year of the current biennial period.
3. The amounts needed during each year of the ensuing biennial period for the work, and for the other disbursements of any department bureau,

board, institution, office or branch of the state government, including purchases of land and permanent improvements.

4. The anticipated funds or revenues available for such purposes and the anticipated receipts in connection with such work.

5. Such other information as may be required by law or by executive order.

The word "budget" shall mean the complete estimates for the entire state government, including a summary thereof and a schedule of appropriations required and of estimated tax levies to correspond therewith. ('15 c. 356 § 1)

[117—]2. **Estimates, by whom prepared**—Every officer, board, commission or institution of this state, under whose direction any public money is to be expended shall prepare an estimate at such time and in such form as may be required by law or executive order. ('15 c. 356 § 2)

[117—]3. **Estimates, to whom submitted**—Every estimate so prepared shall be submitted to the governor; provided that the estimates of subordinate officers or boards shall be submitted to the superior officer or board under whose direction the official making such estimate is directly acting. ('15 c. 356 § 3).

[117—]4. **Estimates to be revised—Submission to governor**—It shall be the duty of every officer and of the members of every board to whom any such estimates are submitted, to assemble the same, and in consultation with the subordinate officers or boards submitting them, to revise such estimates before they are finally submitted to the governor, which shall be done not later than the first day of December in each year immediately preceding the regular session of the legislature. ('15 c. 356 § 4)

[117—]5. **Duties of governor—Budget**—It shall be the duty of the governor, not later than December 31st immediately preceding each regular session of the legislature, to assemble all estimates so prepared and in consultation with the chief executive officers to make final revision of such estimates, having in view the total expenditures, total revenues and the tax levy, and to that end he shall include the estimated expenditures for the judiciary, the legislature, the state university and the state militia. He shall thereupon prepare the "budget" and shall cause to be printed in a form convenient for the legislature, a sufficient number of copies thereof to supply at least one copy to each member of the legislature and to the chief executive officers of the state, and shall lay it before each branch of the legislature not later than the first day of February. ('15 c. 356 § 5)

[117—]6. **Form of estimates**—Every estimate shall be in such form as required by law or as the governor may by executive order direct. All estimates shall be as nearly as practicable of a similar form. ('15 c. 356 § 6)

[117—]7. **Contents of estimates**—Every estimate shall present the following information and such other information as may be required by law or as the governor may direct:

1. It shall show in parallel columns:

Name of item.

Citation to statutes authorizing the service or fixing particular items.

Appropriations for each year of the current biennial period.

The actual expenditures and anticipated expenditures during each year of the biennium.

Amounts needed for each year of the coming biennium.

Explanations of increases or decreases.

Estimated revenue or receipts in connection with each service.

2. It shall distinguish each line of work or activity and shall distinguish at least the following classes of expenditures: (1) Salaries; (2) Permanent improvements and equipment; (3) All other expenses. ('15 c. 356 § 7)

[117—]8. **Allotment of appropriations**—It shall be the duty of each disbursing officer or board within thirty days after the passage of any appropriation by the state legislature to allot within each appropriation to be

expended under his or its direction, the amounts if any, for the several purposes set forth in the "budget" submitted to the legislature, not inconsistent with the terms of the appropriation act. Subject to the restrictions of the appropriation act allotments may, in case of necessity, be altered by the officer or board charged with the disbursement thereof. All such allotments and any changes thereof shall, as soon as made, be filed with the state auditor. ('15 c. 356 § 8)

[117—]9. **Accounting**—A debit and credit account of every allotment shall be kept by the auditor and by the officer or board concerned and no expenditure shall be made in excess of the balance available therein. ('15 c. 356 § 9)

[MINNESOTA COMMISSION OF PUBLIC SAFETY]

[117—]10. **Commission, how constituted**—There is hereby created a commission consisting of seven (7) members, to be known as the Minnesota commission of public safety. The governor and attorney general shall be ex-officio members of such commission and the governor shall be chairman thereof, and the other members shall be citizens of the state and shall be appointed by the governor with the advice and consent of the senate, if in session, and if not in session, the confirmation thereof to be as soon thereafter as the senate shall be convened, and such appointees shall hold office during the pleasure of the governor. ('17 c. 261 § 1)

[117—]11. **Vice-chairman—By-laws—Agents—Official acts**—Such commission shall elect one of its members vice-chairman and he shall perform the duties of the chairman as such during the absence or inability of the chairman to act. Such commission shall have power to adopt by-laws for its government and the convenient transaction of its business, to change such by-laws from time to time and to provide for the discharge of the duties of such commission by subordinate officers, agents, sub-committees and otherwise, and to prescribe the duties of all such subordinate officers, agents, subcommittees and employés. All official acts of the commission shall require a majority vote of the entire commission. ('17 c. 261 § 2)

[117—]12. **Powers of commission—May acquire property—Co-operation with United States government—Examination of persons—Removal of officials other than constitutional officers**—In the event of war existing between the United States and any foreign nation, such commission shall have power to do all acts and things non-inconsistent with the constitution or laws of the state of Minnesota or of the United States, which are necessary or proper for the public safety and for the protection of life and public property or private property of a character as in the judgment of the commission requires protection, and shall do and perform all acts and things necessary or proper so that the military, civil and industrial resources of the state may be most efficiently applied toward maintenance of the defense of the state and nation and toward the successful prosecution of such war, and to that end it shall have all necessary power not herein specifically enumerated and in addition thereto the following specific powers:

1. Said commission may purchase, lease, hire or otherwise acquire any and all property of every kind and nature in its judgment necessary or desirable for use for any of the purposes aforesaid.

2. It may seize, condemn and appropriate all such property for any of the uses aforesaid, and provide for determining the value of such property and of making proper payment therefor.

3. Said commission shall have power and it shall be the duty of said commission to co-operate with the military and other officers and agents of the United States government in all matters pertaining to the duties and functions of such commission and shall aid the government of the United States in the prosecution of any such war and in relation to public safety so far as possible.

4. Said commission may require any person to appear before it or before any agent or officer of such commission for examination and may examine any such person under oath as to any information within the knowledge of such person and to require such person to produce for inspection any writings or documents under his control, and to that end the district court of any county in the state shall issue a subpoena upon the request of any of its agents or officers, and all said agents and officers shall have power to administer oaths and take testimony and to procure the punishment for contempt of any person refusing to answer or produce writings or documents requested by such commission, by any such district court.

5. Said commission may inquire into the method of performance of his duty by any public official other than the constitutional officials of this state, and may advise the governor to remove any such official from office, if in the judgment of the commission the public interests demand such removal. Upon being advised to remove any such official by said commission, the governor is hereby authorized summarily to remove such public official. ('17 c. 261 § 3)

Authority of Commission upheld—In *Cook v. Burnquist* (D. C.) 242 Fed. 321, it was held that this section was constitutional and valid, and that the statute could not be attacked as delegating legislative power to the Commission. It was also held that the statute gave the Commission authority to require city councils, etc., to enact necessary ordinances to close saloons at ten p. m.; that the authority given the Commission to do all things not inconsistent with the laws of the state meant not inconsistent with the broad purposes or underlying principles and fundamental requirements of such laws.

[117—]13. **To provide for comfort of persons in military and naval service and of dependents**—Said commission shall have power, in addition to the powers hereinbefore granted, to provide for the comfort of any persons in the military service of the United States or of the state of Minnesota who shall enlist in any such war or who, at the time of the commencement thereof, shall be residents of the state of Minnesota, and in addition thereto shall also have power to provide and pay for the support and maintenance of any person or persons dependent for support upon any soldier in the military service of the state of Minnesota, or of the United States, while such soldier is in such service, and shall have power to expend such sums as it may deem necessary for the relief of any such soldier or any person dependent upon him, and shall make proper rules and regulations concerning the same. Said commission shall also have power to provide for any comforts, clothing or other aid for any person in service of the United States government on the battleship Minnesota during the continuance of any such war. ('17 c. 261 § 4)

[117—]14. **Payment to Minnesota national guard for service on Mexican border**—Said commission shall pay to each enlisted member of the national guard of the state of Minnesota who honorably served in the Minnesota military organizations on the Mexican border service pursuant to the call of the president of the United States made June 18, 1916, in addition to the pay received by him from the federal government, the sum of fifty (50) cents per day for each day of such service of such enlisted man after being mustered into federal service, such payment to be made upon duly signed and receipted pay rolls to be prepared by the commander of the company, battery or detachment of which such men were members, blanks therefor to be furnished by the adjutant general; said pay rolls to be checked and approved by such adjutant general. Such payment to be made upon the state auditor's warrant drawn upon the state treasurer as soon as practicable after the muster out from the United States service of any member entitled to such pay. ('17 c. 261 § 5)

[117—]15. **Payment from mobilization until mustered into service of United States**—Said commission is also authorized to pay all members of the national guard of Minnesota for service from the time said guard was mobilized pursuant to the order of the United States government for service on the Mexican border until the time the members of such guard were actually mustered into the service of the United States upon pay rolls showing such

service, properly certified to by the adjutant general of the state of Minnesota, and all sums so paid, which shall hereafter be refunded to the state of Minnesota by the United States government, shall, when received by the state treasurer, be credited to the appropriation herein provided for said commission and shall be used for any of the purposes provided for in this act. ('17 c. 261 § 6)

[117—]16. **Enlistment, organization and maintenance of home guard**—Said commission is hereby authorized to do all acts and things necessary to provide for the enlistment, organization and maintenance of a home guard for service in the state of Minnesota, to consist of such numbers and units of organization and officers as may be prescribed by said commission, and said commission may secure proper arms and equipment for said guard from the United States government or otherwise, and shall have full power in all things to provide for the organization, equipment, subsistence and maintenance thereof, and said home guard may receive pay and allowances not in excess of that prescribed for the national guard or volunteers in federal service. All of the officers of said guard shall be appointed by the governor, who shall have the same powers in relation to said guard as now conferred upon him by the constitution and laws of the state in relation to the other military and naval forces thereof. ('17 c. 261 § 7)

[117—]17. **Duration and termination of powers**—When peace shall be concluded between the United States and any and all foreign nations with which the United States is now or hereafter may be at war, the commission shall proceed, as soon as practicable, to close up all of its affairs and upon termination thereof shall make report to the governor of its acts and expenditures, and the powers and duties of such commission shall terminate and cease within three (3) months after the conclusion of peace and shall sooner terminate if the governor shall determine and proclaim that the exercise of the powers and duties of such commission are no longer necessary for public safety. The governor is also authorized to determine and to proclaim that it is necessary to continue such commission in existence for a longer term than three (3) months after peace and shall, in such case, fix the period of the termination of such commission by proclamation. ('17 c. 261 § 8)

[117—]18. **Appropriation**—There is hereby appropriated from any money not otherwise appropriated, the sum of one million dollars, to be immediately available, for the purpose of carrying out the provisions of this act, the same to be paid out on the order of said commission as provided in its by-laws. ('17 c. 261 § 9)

[117—]19. **Partial invalidity**—The provisions of this act are separable and not dependent, and if any provision, section, or part of either, is held unconstitutional, the same shall not affect any other part of this act. ('17 c. 261 § 10)

CHAPTER 5

JUDICIAL DEPARTMENT

SUPREME COURT

121. **Power concerning writs and processes**—The court shall have power to issue to all courts of inferior jurisdiction and to all corporations and individuals, writs of error, certiorari, mandamus, prohibition, quo warranto and all other writs and processes whether especially provided for by statute or not, that are necessary to the execution of the laws and the furtherance of justice. It shall be always open for the issuance and return of such writs and processes and for the hearing and determination of all matters involved therein and for the entry in its minutes of such orders as may from time to