

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



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CHAPTER 3

The Legislature

§40. Members of Legislature excused from court duties.—No member or officer of the Legislature shall be compelled to attend as a witness in any court of this state during the session of the legislature; unless the court in which the action is pending upon sufficient showing shall otherwise order with the consent of the presiding officer of the body of which such witness is an employe or the consent of the body of which such witness is a member. No cause or proceeding, civil or criminal, in court or before any commission or officer or referee thereof or motion or hearing therein, in which a member or officer of the legislature is a party, attorney or witness shall be tried or heard during such session of the legislature, but shall be continued until the legislature shall have ad-

joined. Such member or officer of the legislature may, with the consent of the body of the legislature of which he is a member or officer, waive such privilege and in such case such cause or proceeding, motion, or hearing may be tried or heard at such time as will not conflict with legislative duties. (As amended Feb. 14, 1929, c. 19.)

Extradition is governed by the Constitution and laws of the United States, and chapter 19, Laws 1929, cannot interfere or delay its operation. State ex rel. v. Moeller, 234NW649. See Dun. Dig. 1721, 8835.

§48. "Standing appropriation" defined.

Act providing for state's participation in Century of Progress Exposition at Chicago in 1933, and appropriation therefor. Laws 1931, c. 415.

CHAPTER 3A

Organization of State Government

ARTICLE I

§53-1. Departments and agencies of state government created, established, and enumerated.

The title of this act satisfies the requirements of the constitution. 171M191, 213NW904.

Where contract is let to lowest bidder, who later discovers that he has omitted certain items in his calculations, officers may not modify the contract by adding the amount of such items, even though the total sum would be less than the next lowest bid, but must either let the contract to the next lowest bidder or call for new bids. Op. Atty. Gen., July 21, 1931.

ARTICLE II

§53-3. Same—Powers and duties—Meetings.

Act authorizing executive council to accept title to certain lands on behalf of state. Laws 1931, c. 235.

Act authorizing Executive Council to permit diversion or drainage of public waters. Laws 1931, c. 286, post. §§6430-1 to 6430-3.

§53-3 1/2 a. Capitol grounds commission abolished.—The Capitol Grounds Commissioners, created by Chapter 281, General Laws 1907, are hereby abolished. All duties conferred upon said Commissioners by said Chapter 281 and by Chapter 348, General Laws 1913, are hereby transferred to the Executive Council. (Act Apr. 1, 1929, c. 124, §1.)

§53-3 1/2 b. Disposition of funds.—All funds to the credit of said commissioners and any additional funds which may accrue subsequent to the passage of this act shall be used in improving and beautifying the New Capitol grounds, expenditures to be made by the custodian of the New Capitol when authorized by the Executive Council. This act shall be subject to the provisions of Chapter 426, General Laws 1925. (Act Apr. 1, 1929, c. 124, §2.)

§53-3 1/2 c. Capitol grounds commissioners to be appointed by the governor—rules govern-

ing same.—That within 30 days after the passage of this act, the governor shall appoint three resident freeholders of the State of Minnesota, for the term of three years, or such time as may be necessary for them to complete their duties as herein prescribed, who, together with the governor as an ex-officio member, shall constitute a board to be known as the "Capitol Grounds Commissioners." The persons so appointed shall, within 10 days after their appointment, file with the secretary of state their written acceptances of such appointment, together with an oath to faithfully and honestly discharge the duties imposed upon them by this act. Said appointees shall forthwith, after their qualification, upon call of the governor, meet and organize. The governor shall be ex-officio president of said board and they shall elect from their number a vice president and secretary, and shall keep a record of their proceedings, which shall, after the completion of their duties, be returned to and filed with the secretary of state.

A majority of said commissioners shall constitute a quorum for the transaction of business, and they shall hold such stated and special meetings as they may by rule prescribe.

The members of said commission shall serve without compensation but shall be entitled to be paid from the state treasury the actual and necessary expenses incurred by them in the transaction of their business, upon the due audit and allowance of such expenditures by said commissioners and upon due certification thereof to the state auditor.

It shall be the duty of the governor to fill all vacancies occurring in the membership of said board, prior to the making of its final report, with persons of like qualifications. (Act Apr. 22, 1907, c. 281, §1.)

§53-3 1/2 d. Capitol commission given right to sell or remove buildings upon lands ac-

quired for beautifying capitol grounds.—It shall be the duty of said board of capitol grounds commissioners to proceed as soon as may be to take the necessary steps as herein authorized to acquire and secure by purchase or by condemnation under the right of eminent domain, or both, such lands adjoining or adjacent to the present new state capitol grounds as will, in their judgment, be requisite and necessary for the proper extension and enlargement of the grounds for the new state capitol building of Minnesota, and in such manner as to render the same more symmetrical in form, provided, however, that said commissioners shall incur no obligation in that behalf beyond the limit of the appropriation or appropriations which shall be made therefor. Said commissioners shall have the right, if in their judgment it is necessary, in and about the acquisition and improvement of such lands, to sell, remove or dispose of any building or buildings situated upon the lands so purchased and to grade, improve and beautify such grounds, and to call to their assistance the services of a landscape artist or architect, and any moneys heretofore or hereafter received by said commissioners on account of rents received from said buildings, or from the sale thereof, may be expended in the improvement of said grounds by said commissioners.

Said commissioners are authorized to enter into contracts with the owners of the land sought to be acquired for the sale and conveyance thereof, to the state of Minnesota for the purpose aforesaid, when in their judgment the same can be secured at a fair and reasonable price, they are authorized to proceed to acquire the same for the state by condemnation under the right of eminent domain, in the manner and under and pursuant to the terms and provisions of Chapter 41 of the Revised Laws 1905, and it shall be the duty of the attorney general to render all legal assistance necessary to carry out such condemnation proceedings as said commissioners may desire to institute in that behalf. (Laws 1907, c. 281, §2, as amended by Act Apr. 18, 1913, c. 348, §1.)

§53-3 ½ e. Auditor to draw warrants.—When lands are acquired under the provisions of this act, either by purchase or by condemnation, said board of capitol grounds commissioners shall certify to the state auditor the purchase price thereof, or the amount of damages awarded, and thereupon the state auditor shall draw his warrant therefor, payable to the owner or persons interested in the land so acquired, out of any moneys which may have been appropriated for that purpose, the same to be delivered upon receipt of a proper deed of conveyance to the state, of the lands so purchased, or upon delivery of a proper receipt for the damages awarded in cases of condemnation. (Act Apr. 22, 1907, c. 281, §3.)

§53-3 ½ f. If insufficient appropriation is made.—In case the appropriation or appropriations made shall not be sufficient to pay for all lands purchased and the award for all lands condemned, or in case the awards or any of them are of such amount that said

commissioners shall desire not to take the responsibility for the payment thereof, said commissioners shall report the same to the legislature at its next session after final confirmation of all the awards made, including any which may be made upon re-trial after appeal, and upon such report, if the legislature shall fail to approve the same, or to make the necessary appropriation to pay such award at the same or the next session to which such report is made, then all the proceedings which may have been taken for the acquiring of the lands so reported, the award for which has not been previously paid, shall be void and of no effect, but in such case the parties whose lands have been condemned in pursuance of this act, shall be paid the reasonable disbursements expended by them in such proceedings, the amount of such disbursements to be fixed and allowed by the court in which such condemnation proceedings are had and the same shall be paid out of any moneys in the treasury not otherwise appropriated. (Act Apr. 22, 1907, c. 281, §4.)

§53-3 ½ g. Vacation of streets.—In case any lands are acquired hereunder, which are separated from the present capitol grounds by any street or streets in the city of St. Paul, such streets shall be re-located upon the outer portion of the land so acquired, and that portion of such street or streets as at present located which separate the lands so acquired from the present capitol grounds shall be vacated and discontinued as public streets, and the same shall become a part of the capitol grounds, provided the City of St. Paul shall have the right to maintain and use all sewers and water pipes now constructed and laid therein. (Act Apr. 22, 1907, c. 281, §5.)

ARTICLE III

§53-4. Department of Administration and Finance.

175M583, 222NW285, note under section 53-6.

§53-6. Same—Powers enumerated.

The board of regents, in the management of the University, is constitutionally independent of all other executive authority, and Laws 1925, c. 426, is unconstitutional insofar as it attempts to subject the control of University finances to the commission of administration and finance, in view of Laws 1851, c. 3. 175M259, 220NW951.

Laws 1925, c. 426 (§§53-1 to 53-2) modifies and amends the prior Highway Act to the extent of placing the making of contracts for constructing state highways under the control of the Commission of Administration and Finance. 175 M583, 222NW285.

§53-7. Same—Classes, grades, titles, etc.

175M583, 222NW285, note under section 53-6.
The commission of administration and finance may increase or diminish the compensation of the secretary-treasurer and his stenographer or assistant, whose offices are created by §§5706, 5712, but the compensation of "such officers, agents, assistants, clerks and other employees" of the board of medical examiners provided for by Laws 1929, c. 347, §§10, 13, are to be fixed by the board of medical examiners, within the limitations of Laws 1929, c. 347, §13. Op. Atty. Gen., Oct. 16, 1929.

§53-8. Same—Approval of appropriations, etc.

175M583, 222NW285, note under §53-6.

§53-10. Same—Powers as to purchase, etc., of supplies, etc.

Bids for construction of public works. Op. Atty. Gen., July 21, 1931; note under §53-1.

§53-14. State Auditor—duties as to accounts, etc.

Act appropriating money for payment of claims against state. Laws 1931, c. 416.
Duties of state auditor and comptroller under this section. Op. Atty. Gen., Mar. 18, 1931.

§53-17. Original bills, claims, demands, etc.

Duties of state auditor and comptroller under this section. Op. Atty. Gen., Mar. 18, 1931.

ARTICLE IV

§§53-19 to 53-21.

Superseded by Laws 1931, c. 186, post, §§53-23 ½ to 53-23 ½ k.

§53-22. Department of conservation—powers, etc.

Superseded in part by Laws 1931, c. 186, post §§53-23 ½ to 53-23 ½ k.

§53-23. Same—co-operation of employees—rules, etc.

See Laws 1931, c. 186, post, §§53-23 ½ to 53-23 ½ k.

§53-23 ½. Department of conservation created.—(a) There is hereby created a department of conservation under the supervision and control of a conservation commission.

(b) Said commission shall consist of five (5) members, who shall be appointed by the governor, with the advice and consent of the senate. The first appointments shall be made as soon as may be after this act shall have taken effect. The terms of office of the members first appointed shall begin when they are appointed and qualify and shall continue thereafter for the following period: two members until April 1, 1933; two members until April 1, 1935; and the remaining member until April 1, 1937. Upon the expiration of such terms and of all terms thereafter the governor shall appoint a successor to each member whose term expires, for a term of six (6) years. Vacancies in said commission shall be filled by appointment by the governor, within thirty (30) days after such vacancy occurs, for the balance of the unexpired term. Each member shall serve until his successor qualifies. Members shall serve without compensation, but shall receive actual and necessary travelling and other expenses incurred in the performance of their duties as such members. Members of the commission shall be persons having knowledge of and interest in conservation.

The commission shall formulate and direct the policies of the department.

(c) The commission shall employ a conservation commissioner for a term of six (6) years, removable at any time by the commission for cause, and whose salary shall be fixed by the commission, but not to exceed \$5,000.00 per year. Said conservation commissioner shall be a person having executive ability and experience and special training and skill in conservation work. He shall be the administrative head of the department of

conservation and shall be responsible to the commission for the execution of its policies. (Act Apr. 17, 1931, c. 186, §1.)

§53-23 ½ a. Commissioner—powers and duties.—The commissioner of conservation shall have and exercise all of the powers and shall perform all of the duties now by law vested in or imposed upon the commissioner of forestry and fire prevention, the commissioner of game and fish, the commissioner of drainage and waters, the department of drainage and waters, and the department of conservation, as provided by Chapter 426, Laws 1925 [§§53-1 to 53-52], and acts amendatory thereof, or by any other existing law. Said existing offices and departments, the powers and duties of which are vested in or imposed upon the commissioner by this section, are hereby abolished. (Act Apr. 17, 1931, c. 186, §2.)

§53-23 ½ b. Commissioner to be Commissioner of State Lands, etc.—Except as herein otherwise provided, the commissioner of conservation shall also have all of the powers and perform all of the duties now vested in or imposed upon the state auditor, acting as auditor, as commissioner of the state land office, or in any other capacity, ex-officio or otherwise, with respect to the public lands, timber, waters, and minerals of the state. (Act Apr. 17, 1931, c. 186, §3.)

§53-23 ½ c. Organization of department.—

(a) The department of conservation shall be organized with a division of forestry, a division of drainage and waters, a division of game and fish, and a division of lands and minerals. Each division shall be under the immediate charge of a director, subject to the general supervision and control of the commissioner. The directors shall be appointed by the commissioner, to serve at his pleasure and shall be chosen with respect to their knowledge, experience and ability.

(b) Each division shall have charge of administering the activities indicated by its title and such other activities as may be assigned by the commissioner, subject to the right of the commissioner to revise and change assignments of any and all activities among the several divisions at any time as he may see fit; provided, that the administration of all state forests and other state lands acquired or set apart for forestry purposes, and the sale of all state timber, whether upon such lands or other state lands, shall be in charge of the division of forestry, and all necessary authority therefor is hereby vested in the director of said division and shall be exercised by him, and in that behalf the director of said division shall have all of the powers and perform all of the duties now vested in or imposed upon the state auditor, acting as auditor, as commissioner of the state land office, or otherwise, under the existing laws relating the sale of state timber; provided further, that except as otherwise provided by the state constitution or by law, the director shall classify all the state lands and determine which thereof shall be administered for forestry purposes and which for agricultural or other purposes, subject to change from time to time as the director in

his discretion may determine. The director of forestry shall have control of all state parks.

(c) Before entering upon the duties of his office each director shall take and file an oath of office in the same manner and form as other state officers, and shall give a bond to the state in the sum of \$5,000, conditioned as provided by law for other official bonds.

(d) Each director shall receive an annual salary of \$4,000.

(e) Each director, with the advice and approval of the commissioner, may appoint a deputy to serve at the pleasure of the director, and such deputy may exercise all the powers of the director, whether delegated from the commissioner or otherwise, subject to the direction and control of the director. Each director, subject to the approval of the commissioner, may employ such other assistance as may be necessary to carry on the work of his division, as far as funds may be available therefor.

(f) The compensation of deputy directors and of division employees shall be fixed by the respective directors, within the limitations of available funds, subject to the approval of the commissioner.

(g) In case of a vacancy in the office of commissioner or of any director, his deputy shall become acting incumbent of the office and shall have and exercise all the powers and perform all the duties thereof until a successor is regularly appointed and qualified, except that such acting incumbent shall have no power to appoint another deputy, nor shall any such acting incumbent of the office of commissioner have power to appoint directors or to revise or change the assignments of activities among the divisions of the department. Before taking office every such acting incumbent shall take and file an oath of office as such and give bond to the state in the same amount and upon the same conditions as required for the regular incumbent of the office. While acting as such incumbent, such deputy shall receive the same salary as a regularly appointed incumbent of the office. All other subordinate officers and employees appointed by any commissioner or director whose office has become vacant shall continue to hold their respective positions and to exercise the powers and discharge the duties thereof, notwithstanding such vacancy, until their respective successors are appointed and qualified or until their services are regularly terminated according to law. (Act Apr. 17, 1931, c. 186, §4.)

§53-23 1/2 d. Commissioner may delegate powers.—(a) The commissioner of conservation may by written order filed in his office delegate to the director of any division of the department any of the powers or duties vested in or imposed upon the commissioner by this act, upon such conditions as he may prescribe, and subject to modification or revocation at his pleasure. Such delegated powers and duties may be exercised or performed by the respective directors in their own names or in the name of the commissioner, as the commissioner may direct. (Act Apr. 17, 1931, c. 186, §5.)

§53-23 1/2 e. Department to have seals.—The department of conservation and the several divisions thereof shall have seals. The seal of the department shall have thereon the words, "State of Minnesota, Department of Conservation," with such suitable symbol or device as the first commissioner serving under this act shall prescribe, and may be used to authenticate the official acts of the commissioner when performed by him or his deputy. The seal of each division shall be in like form, with the addition of the title of the division, and may be used to authenticate the official acts of the director of the division, whether acting in his own name or in the name of the commissioner, and whether performed by the director or his deputy. Provided, that the omission or absence of a seal shall not affect the validity or force of any act done or instrument executed by the commissioner or by any director. (Act Apr. 17, 1931, c. 186, §6.)

§53-23 1/2 f. To be under provisions of existing law.—So far as not inconsistent herewith, all matters governed by this act shall be subject to the provisions of Chapter 426, Laws 1925 [§§53-1 to 53-52], and acts amendatory thereof, so far as applicable; and provided further, that the compensation of all officers and employees under this act shall be payable in the same manner as the compensation of other state officers and employees. (Act Apr. 17, 1931, c. 186, §7.)

§53-23 1/2 g. Orders and documents to be filed.—Except as otherwise prescribed or required by law, the originals of all official orders and other official documents issued or executed by the commissioner of conservation or by the directors of the several divisions of said department shall be filed in the offices of the respective officers issuing or executing the same. The commissioner and the several directors may also keep such records of their official acts and other activities of their respective offices as they deem necessary. Such original orders, documents, and records shall have like force and effect as prima facie evidence in all cases as original records and documents made by other public officers in the performance of their official duties, and certified copies thereof made in the manner provided by law shall have like force and effect as certified copies of records or documents required or permitted to be kept by other public officers. (Act Apr. 17, 1931, c. 186, §8.)

§53-23 1/2 h. Appropriations.—All existing appropriations for any activities or purposes which by this act are placed in charge of the department of conservation or any division thereof are hereby transferred to said department or to the respective divisions having charge of such purposes—or activities, as the case may be, to be used for the same purposes as provided by the laws whereby such appropriations were made and in accordance with the provisions of said laws so far as not inconsistent herewith; provided, that the game and fish fund and all other funds now by law appropriated for any activity or purpose under the commissioner of game and fish are hereby transferred to the

director of game and fish under this act, and said respective funds shall be continued and all moneys hereafter received for the purposes thereof shall continue to be placed therein as now provided by the laws relating thereto, and all of said funds are hereby appropriated and shall continue to be appropriated to said director of game and fish for the same purposes and under the same conditions as now provided by the laws relating thereto under the commissioner of game and fish. (Act Apr. 17, 1931, c. 186, §9.)

§53-23 ½ i. Provisions separable.—The provisions of this act shall be separable, and if any provision hereof, whether transferring any power, right, or duty, or relating to any other matter, shall be declared invalid, it shall not invalidate the transfer of any other power, right, or duty hereby made or any other provision hereof. (Act Apr. 17, 1931, c. 186, §10.)

§53-23 ½ j. Inconsistent acts repealed.—All acts or parts of acts inconsistent herewith are hereby superceded, modified, or amended so far as necessary to give full force and effect to the provisions of this act; provided, that nothing in this act shall operate to exclude the application of Mason's Minnesota Statutes of 1927, Sections 4368, and 4369, and acts amendatory thereof, known as the veterans' preference law, to any matter governed by this act. (Act Apr. 17, 1931, c. 186, §11.)

Budget Commissioners may make available to the Conservation Commission from the salary and administrative appropriations of the various departments, an amount which would be the fair pro rata share of supervisory expense of the conservation commission. Op. Atty. Gen., July 24, 1931.

§53-23 ½ k. Effective July 1, 1931. This act shall take effect and be in force from and after its passage with respect to the making of all appointments herein provided for, but with respect to the taking of office by the appointees and all other matters it shall take effect and be in force from and after July 1, 1931. (Act Apr. 17, 1931, c. 186, §12.)

Laws 1931, c. 263, post, §§6513-1 to 6513-8, places the state forests under the control of the commissioner of forestry and fire prevention.

ARTICLE V

§53-24. Department of drainage and waters—commissioner, etc.

Superseded by Laws 1931, c. 186, ante, §§53-23 ½ to 53-23 ½ k.

ARTICLE VI

§53-25. Department of Dairy and Food, etc.

See §53-27 ½ combining the departments of agriculture and of dairy and food.

ARTICLE VII

§53-26. Department of Agriculture, etc.

Department of Dairy and Food and Department of Agriculture are consolidated. See Laws 1929, c. 387, ante, §53-27 ½.

Office of chief Oil Inspector is transferred from Director of Standards to Commissioner of Agriculture, who may also appoint a Deputy Chief Oil Inspector. See Laws 1929, c. 403,

post, §53-27 ½ a. See also Laws 1929, c. 425, post, §§3787-1 to 3787-21.

§53-27. Commissioner of Agriculture, etc.

Department of Dairy and Food and Department of Agriculture are consolidated. See Laws 1929, c. 387, post, §§53-27 ½ to 53-27 ½ b.

§53-27 ½. Department of agriculture and department of dairy and food consolidated.—The departments of agriculture and dairy and food are hereby consolidated into a single department to be known as the department of agriculture and dairy and food. The department shall be under the supervision and control of a single commissioner appointed in the manner, for the term, and with the compensation now provided by law for the commissioner of agriculture, and all rights, powers and duties now vested in and imposed by law upon the commissioner of agriculture and all duties imposed by law upon the commissioner of dairy and food are hereby transferred to and vested in such single commissioner under the title of Commissioner of Agriculture and Dairy and Food, subject however, to the provisions of chapter 426, Laws 1925 [§§53-1 to 53-52]. (Act Apr. 26, 1929, c. 387.)

§53-27 ½ a. Oil inspection department transferred to department of agriculture.—The office of the Chief Oil Inspector, as created by Article 12, Section 2, Chapter 426, General Laws 1925, [§53-38] is hereby transferred to the Department of Agriculture, and all the powers in relation to the Chief Oil Inspector conferred upon the Director of Standards are hereby transferred to and conferred upon the Commissioner of Agriculture. (Act Apr. 26, 1929, c. 403, §1.)

§53-27 ½ b. Commissioner of agriculture to appoint deputy chief oil inspector.—The Commissioner of Agriculture may appoint a Deputy Chief Oil Inspector and prescribe his powers and duties. (Act Apr. 26, 1929, c. 403, §2.)

ARTICLE VIII

§53-29. Commissioners—Appointment, etc.

Act creating securities commission. Laws 1931, c. 382, post, §§3996-29 to 3996-35.

ARTICLE XI

§53-36. Department of Highways.

Laws 1925, c. 426 (§§53-1, et seq.) modifies and amends the prior Highway Act to the extent of placing the making of contracts for constructing state highways under the control of the Commission of Administration and Finance. 175M583, 222NW285.

ARTICLE XII

§53-38. State industrial commission—Division of standards—Etc.

See §§53-27 ½ a, 53-27 ½ b, transferring the office of Chief Oil Inspector to the Department of Agriculture.

ARTICLE XV

§53-41. Department or rural credits—Etc.

Act authorizing Department of Rural Credits to insure farm property acquired through foreclosures in certain mutual and township insurance companies. Laws 1931, c. 245, post, §6057-2.