1940 Supplement

To

Mason's Minnesota Statutes

1927

(1927 to 1940)

(Superseding Mason's 1931, 1934, 1936 and 1938 Supplements)

Containing the text of the acts of the 1929, 1931, 1933, 1935, 1937 and 1939 General Sessions, and the 1933-34, 1935-36, 1936 and 1937 Special Sessions of the Legislature, both new and amendatory, and notes showing repeals, together with annotations from the various courts, state and federal, and the opinions of the Attorney General, construing the constitution, statutes, charters and court rules of Minnesota together with digest of all common law decisions.

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§2394-96. Same—consideration and determination of report by tax commission.—Upon the receipt by the tax commission of the report provided for in Section 5 of this act, it shall determine from such information as it may possess or obtain, whether the same is correct or otherwise, and if found correct, said tax commission shall determine therefrom the amount of tax due from such income or annuity recipient, and shall enter the amount thereof in its records and shall make its certificate of taxes due thereon from such person, and on or before the first day of May of each year file the same with the state auditor and a duplicate thereof with the state treasurer; and the tax commission shall have power, in case it shall deem said report incorrect, to make its findings as to the amount of such taxes due after hearing upon notice to the person concerned, and its findings shall have the same effect as the determination of the amount of such taxes upon a report made as hereinbefore provided. (July 24, 1937, Sp. Ses., c. 91, §6.)

§2394-97. Same—penalty for failure to make report—assessment by tax commission.—If any person subject to the tax provided by this act shall fail to make the report required by Section 5 of the act at the time and in the manner therein provided, there shall accrue upon the tax herein imposed a penalty in an amount equal to one percent of the tax so imposed to be added to and collected with such tax. The tax commission shall in such case determine the amount of the annuity or income paid or payable to such person, and shall fix the tax due thereon from such person together with such penalty, upon such information as it may possess or obtain and shall proceed as provided by law when such taxes are determined upon the sworn report of the person receiving such payment. (July 24, 1937, Sp. Ses., c. 91, §7.)

§2394-98. Same—date of payment—penalty for nonpayment.—Such tax shall be due and payable to the state treasurer on the first day of June, 1938, and annually thereafter on the first day of June, and if not paid on or before that date, a penalty of ten percent shall immediately accrue thereon. (July 24, 1937, Sp. Ses., c. 91, §8.)

§2394-99. Same—withholding of tax by educational institution—liability on failure to withhold.—Every educational institution making such income or annuity payments which are subject to tax hereunder and upon which the tax has not been paid, shall at the time the payments are made, withhold and deduct therefrom the amount of the tax due thereon, and shall pay the same to the state treasurer. Failure to withhold the tax and to make payment at the time and in the manner hereinbefore required shall render the educational institution liable for the amount of the tax with interest at the rate of 12% per annum from the time the tax should have been paid to the time recovered in an action by the attorney general for the state in behalf of the state. (July 24, 1937, Sp. Ses., c. 91, §9.)

§2394-100. Same—draft on delinquent—evidence.—On or before the tenth day of June in each year the state auditor shall make his draft upon the person delinquent in the payment of such tax for the amount of taxes and penalty, or penalties, due thereon, and place the same in the hands of the state treasurer for collection. The draft of the state auditor for the tax and penalties imposed by the foregoing provisions of this act shall be prima facie evidence in any court where proceedings may be brought for its enforcement that the amount therein stated is due from the person against whom the same is drawn. (July 24, 1937, Sp. Ses., c. 91, §10.)

§2394-101. Same—Notice to taxpayer—action by attorney general—interest—lien of judgment—sale of property.—The state treasurer within ten days after the receipt of the draft mentioned in Section 10 of this act shall notify the person delinquent that the draft is in the hands of the state treasurer, and if not paid within thirty days after presentation shall deliver the same to the attorney general, whose duty it shall be to bring an action thereon in the district court of the county wherein is the taxable status of the annuity or income, for the amount of said draft, together with interest and costs of the proceeding. Such tax shall draw interest at the rate of 12% per annum, commencing 30 days after the same falls due; and the judgment of the court when so obtained and properly docketed shall be a lien upon all right, title, and interest of the taxpayer to the land upon which such tax is a lien from the time the same is docketed; and said lien shall continue without limitation with interest at the rate of one percent per month and shall be a lien upon any property purchased with the proceeds of the sale of the said property may be sold in satisfaction of such judgment in the manner provided by law. (July 24, 1937, Sp. Ses., c. 91, §11.)

§2394-102. Same—false report—perjury.—Any person who for the purpose of evading the payment of the tax herein provided or any part thereof, makes any false return or report, shall in addition to the tax provided by this act, pay a penalty of 50 percent of the amount of said tax; and any person who shall knowingly make under oath any false report or return required by this act or any report required by the state treasurer and upon conviction thereof shall be punished therefor as provided by law. (July 24, 1937, Sp. Ses., c. 91, §12.)

§2394-103. Same—examination of books and papers—refusal as misdemeanor.—All books, contracts, deeds, instruments, correspondence and memoranda relating to or used in connection with the conveyance of any real property as set forth in section 1 of this act, shall upon request of the Minnesota Tax Commission be open to its inspection or examination. If any person shall neglect or refuse to make such examination, it shall be a misdemeanor and upon conviction thereof shall be punished therefor as provided by law. (July 24, 1937, Sp. Ses., c. 91, §13.)

§2394-104. Same—refund of tax erroneously collected—disposition of proceeds.—Out of the proceeds of the taxes imposed hereby, including penalties and interest, the Commission shall refund any tax erroneously paid or collected, and shall reimburse the revenue fund or any other fund of the state of its proper proportion of the expense of administering this act. The balance of the proceeds of any such taxes shall be paid to the county treasurer of the county wherein the annuity or income taxed has a taxable status, and shall by him be placed to the credit of the proper funds and distributed as in the case of general taxes collected. (July 24, 1937, Sp. Ses., c. 91, §14.)

Sec. 16 of Act July 24, 1937, cited, provides that the act shall take effect from its passage.

CHAPTER 12
Military Code

2399. Militia—Constitution—Officers and personnel—Exemptions. The militia shall consist of all able-bodied male citizens of the state and all other able-bodied males, resident therein, who have or shall have declared their intention to become citizens of the United States, when so authorized by federal law, who shall be 18 or more years of age, and, except
as hereinafter provided, not more than 45 years of age, and said militia shall be divided into three classes, the national guard, the naval militia, and the unorganized militia.

The officers, judicial and executive, of the government of the United States and of the states; persons in the military or naval service of the United States; persons employed by the United States in the transmission of the mail; artisans and workmen employed in the armories, arsenals, and navy yards of the United States; pilots and mariners and other persons of any grade of any craft or trade within the United States, shall all be exempt from militia duty without regard to age, and all persons who because of religious beliefs shall claim exemption from military service if the conscientious holding of such belief by such person shall be established under such regulations as the President of the United States shall prescribe, shall be exempt from militia service in any capacity that the President of the United States shall declare to be noncombatant. (As amended Apr. 8, 1939, c. 175, §1.)

2404. Governor may call out militia. Where mob was threatening irreparable injury to man- 
ufacturing plant and civil authorities were inadequate, mayor of Minneapolis was justified in requesting governor to send troops, and it was his duty to do so. Strutwear Knitting Co. v. O., (USDC-Minn). 13FSupp855. Governor and adjutant general were justified in sending troops to aid in preservation of law and order in Minneapolis when it was their duty to take those steps where mobs were threatening violence and damage to property and civil authorities were inadequate. Id.

Governor, adjutant general, and mayor of city had right to place troops at and about manufacturing plant to prevent loss of output or destruction of property, and it was their duty to do so where civil authorities were inadequate. Id.

Governor, adjutant general, and mayor of Minneapolis, as a means of suppressing mob violence, had no right to use national guard to deprive manufacturer of its right to own property or to prevent it from using its property in the conduct of its lawful business. Id.

2405. Service—Duration—Organization—A g e. e. The men whose names are so forwarded shall be mustered at once into the service of the state for such period as the governor shall direct, not exceeding three years. They shall be organized as prescribed for the organizations of the national guard. Such new organizations shall be officered, equipped, trained, and commanded according to the laws governing the national guard, provided however that the additional appointment as an officer shall not apply. (As amended Apr. 8, 1939, c. 175, §3.)


To justify a court in finding, where lawlessness and violence have made presence of troops necessary, that commander in chief of troops is violating his oath and prostituting his office to a purpose which has no relation to restoration of law and order, there must be due and convincing proof. Powers M. Co. v. O., (USDC-Minn), 7FSupp855. See Dug. Dig. 6118.

2408. Adjutant General—Appointment—Qualifications. —There shall be an adjutant general of the state who shall be appointed by the Governor, who shall be a staff officer, who at time of appointment shall be a commissioned officer of the National Guard of this state, with not less than ten years' military service in the armed forces of this state or of the United States, and at least three of which shall have been commissioned and who shall have reached the grade of a field officer. He shall hold office as provided in Section 110, Act of Congress approved June 4, 1948, as amended, and shall not be removed from office except as provided by the military laws of this state. (As amended Apr. 8, 1939, c. 175, §3.)

Adjutant general is a soldier and bound to follow the discretion of the commander-in-chief, on the recommendation of the adjutant general, be commissioned by brevet, in the next higher grade than that held by them at the time of the resignation or retirement, but not above the grade of major general. Said brevet rank shall be considered strictly honorary and shall confer no privilege of precedence or command, nor pay and emoluments. Brevet officers may however wear the uniform of their brevet grade on occasions of ceremony.

The commander-in-chief may assign officers on the retired list, with their consent, to active duty in recruiting, upon courts martial, courts of inquiry and boards to staff duty not involving service with troops or in charge of a military reservation left temporarily without officers. Such officers while so assigned shall receive the full pay and allowances of their grades at time of retirement.

2409. Minnesota National Guard. One who signed the enlistment contract and there- 
after attended drill and received pay therefor, acquired the status of a soldier, although he may not have taken the enlistment oath. 174M82, 21§NW642.

2412. Inactive guard. The Inactive National Guard shall be organized and maintained under such rules and regulations as may be prescribed in accordance with federal law. (As amended Apr. 8, 1939, c. 175, §4.)

2413. Number and grades of officers and enlisted men. The number of officers and enlisted men in the staff corps and departments shall be as prescribed by federal law, but in case of war, invasion, insurrection, riot or imminent danger of either, the governor may temporarily increase such forces to meet such emergency and retired officers, who are physically qualified, may be assigned to such duty. All officers of staff corps and departments appointed shall have had previous military experience and shall hold their positions until they shall have reached the age of 64 years, unless retired prior to that time by reason of resignation, disability, or for cause to be determined by a court martial legally convened for that purpose, and vacant among said officers shall be filled by appointment from the officers of the national guard. (As amended Apr. 8, 1939, c. 175, §6.)

2417. Selection of line and field officers. Line officers and field officers below the grade of colonel in the regiments and lesser separate organizations shall be selected and recommended by the commanders thereof, respectively. Officers below the grade of lieutenant colonel shall be selected and appointed by the Governor upon the recommendation of the adjutant general. (As amended Apr. 8, 1939, c. 175, §6.)

2418. Examination of officers. Brevet of retired or resigned officers—Assignment of retired officers to active duty— Assignment to active duty in the army.— Subdivision A. Any person hereinafter appointed, promoted and commissioned an officer of the national guard shall successfully pass such tests as to his physical, moral and professional fitness as shall be prescribed by federal law. The examination to determine such qualifications for commissions shall be as prescribed by federal law. Officers shall be commissioned by the governor and upon the recommendation of the adjutant general. They will be assigned to duty within the regiment or lesser organization by the adjutant general. They shall be assigned to duty within the regiment or lesser organization by the immediate commander thereof.

General and field officers of the national guard, who have, after ten years active service, resigned or retired for physical disability or otherwise, may, in the discretion of the commander-in-chief, on the recommendation of the adjutant general, be commissioned by brevet, in the next higher grade than that held by them at the time of the resignation or retirement, but not above the grade of major general. Said brevet rank shall be considered strictly honorary and shall confer no privilege of precedence or command, nor pay and emoluments. Brevet officers may however wear the uniform of their brevet grade on occasions of ceremony.

The commander-in-chief may assign officers on the retired list, with their consent, to active duty in recruiting, upon courts martial, courts of inquiry and boards to staff duty not involving service with troops or in charge of a military reservation left temporarily without officers. Such officers while so assigned shall receive the full pay and allowances of their grades at time of retirement.

2419. Adjutant General. When congress shall have declared a national emergency or shall have authorized the use of armed land forces of the United States for any
§ 2425

CH. 12—MILITARY CODE

The adjutant general shall have charge of the camp

of the state, all forces so ordered into the active military service of the United States, from any unex-

period the adjutant general of the United States will be members of the national
guards standing on the register of the United States, and upon employment in the United States, when so provided by federal law. Upon being

by the adjutant general under the arrest of the State Auditor, from any unex-

of the national guard of this state so long as they shall

altered to organize for camp ground, rifle range and other military

services in the United States Army.

The adjutant general has authority to enter into contract

the payment of such expenses, such expenses in no

by state law; provided in the case of officers of the

remain in the active military service of the United

they are engaged in military training. Id.


Statute does not apply to members of officers' reserve

City under civil service ordinance cannot require em-

ployees of the state or subdivision or munic-

company, the adjutant general has authority to enter into contracts with


Subject to §53-16 adjutant general has power to pay

part of costs of moving of high tension line crossing


Gen. (2c). Dec. 12, 1936.

Adjutant general has authority to enter into contract

for electric power to be supplied to camp for ten years.

Adjutant general may make arrangements with federal

2454. Pay of officers.—Every commissioned officer

of the national guard not salaried as such, shall re-

ceive from the state, while engaged in any service

ordered by the governor, pay and allowance at the

rate or allowed by law to officers of similar rank and

length of service in the United States Army.

The necessary military expenses of divisions, bri-

gades, regiments, separate battalions, companies, be-

sides or attached to the Officers Reserve Corps of the United

States, all such individuals and units shall

remained in the active military service of the United

become from the state, while engaged in any service

of the national guard not salaried as such, shall re-

vers to their National Guard status. (As amended

Apr. 8, 1939, c. 175, §7.)


18, 1925.

Statute does not apply to members of officers' reserve

City under civil service ordinance cannot require em-

ployees of the state or subdivision or munic-

company, the adjutant general has authority to enter into contracts with


2437. Supplies.—How issued.

Bathing suits were properly issued to national guard

stations at State Fair Grounds were there were no

bathing facilities and local authorities would not permit


Gen. (2a), Nov. 16, 1934.

Under Laws 1931, c. 222, §3, adjutant general may pay

part of costs of moving high tension lines crossing

Camp Ripley and maintained by a private utility under


2126. Officers to distribute.


2135.

2440. Adjutant general—Chief of staff—Office—

Reports—Seal—Powers and duties.

Correction. The seventh sentence of this section, as

it appears in the 1927 edition, erroneously omits the

words "and distributed to the commissioned officers." In

the enactment the sentence reads: "He shall, whenever

necessary, cause the military code, orders and regula-

tions of the state to be printed and distributed to the

commissioned officers and the several organisations of

the national guard."

2447. Military camps.

An authorizing governor and state auditor to convey

on behalf of state real estate known as Camp Lakeview.

Laws 1931, c. 54, $222, makes an appropriation for acquisi-

tion of land for a field training center at Camp Ripley.

2430. Camp grounds and military reservations.—

The adjutant general shall have charge of the camp

grounds and military reservations of the state,

respective duties without loss of pay, status, vacation, or efficiency rating, on all days dur-

ing which they be engaged in drills or parades

during business hours ordered by proper authority or

for field or coast-defense training or active service

ordered or authorized under the provisions of state

or federal law, or active duty ordered or authorized

by state law, to be paid by the adjutant general of the

Officers Reserve Corps of the United States the

leaves of absence shall not exceed 14 days in any

calendar year. (As amended Apr. 8, 1939, c. 175,

§3.)


18, 1925.

2446. Pay and allowance of Adjutant General—

Assistant Adjutant General—Employees.—The adju-

tant general shall receive the pay and allowances of

his grade as provided by the Act of Congress approved

June 10, 1922. He may appoint an assistant adju-

tant general, a state quartermaster, and such ad-

ministrative and clerical assistants as may be au-

thorized by law, all at salaries which shall be cur-

rently fixed by law. In case of war, riot, insurrection

or other emergency or when authorized by the Gov-

ernor, such additional help as is necessary and may

be temporarily employed same to be paid from the

amount appropriated for the maintenance of the Na-

tional Guard. (As amended Apr. 8, 1939, c. 175, §11.)

2467. Courts-martial.

Where one was convicted by summary court-martial

and habeas corpus issued and he was subsequently ar-

rested under §480 and sought to be relieved under a

second writ of habeas corpus served the same day,

military authorities did not lose jurisdiction by refrain-

ing from taking further action during the pendency of

the habeas corpus proceeding. 174N52, 218NWS42.

The only de novo appeals by habeas corpus are those

whether the military court has jurisdiction and power to

impose the penalty inflicted. 174N52, 218NWS42.

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2406. Military offenses, how punished.

The fact that one was a member of the naval reserve at the time of enlistment in the National Guard did not render such enlistment void, but created personal liability for violations of military law. 174M82, 218NW542.

2409. Desertion.


2450. Officers and men may be arrested, when.

Where one is convicted by summary court-martial and habeas corpus issued and he was subsequently arrested and removed by the court and a second writ of habeas corpus served the same day, military authorities did not lose jurisdiction by refraining from further action during the pendancy of the habeas corpus proceeding. 174M82, 218NW542.

2494. City or village armory commission.


2505. Adjutant general to take possession of unused armories.


2508. May receive state aid.

The fact that one was a member of the naval reserve and at the time of enlistment in the National Guard did not render such enlistment void but created personal liability for violations of military law. 174M82, 218NW542.
their reasonable and necessary expenses incurred in connection with the performance of their duties.

(g) To borrow money and issue bonds for the purposes and in the manner and within the limitations herein specified, and to pledge any and all property and income of such corporation acquired or mortgaged by such corporation as herein provided to secure the payment of such bonds, subject to the conditions and limitations herein prescribed, and to redeem any such bonds so provided therein or in the mortgage or trust deed accompanying the same.

For the following purposes any available moneys received by such corporation from any source as herein provided in excess of those required for the payment of the cost of such armory and for the payment of any bonds issued by the corporation and interest thereon according to the terms of such bonds or of any mortgage or trust deed accompanying the same, to-wit:
(1) to pay the necessary incidental expenses of carrying on the business and activities of the corporation as herein authorized;
(2) to pay the cost of operating, maintaining, repairing, and improving such new armory;
(3) if any further such excess moneys remain, to purchase upon the open market at or above or below the face or par value thereof any bonds issued by the corporation and interest thereon according to the terms of such bonds so purchased shall thereupon be cancelled.

(i) To adopt and use a corporate seal.
(j) To adopt all needful by-laws, rules and regulations for the conduct of the business and affairs of such corporation and for the management and use of such armory while under the ownership and control of such corporation as herein provided, not inconsistent with the use of such armory by the state for any military purposes.

(b) If any such city shall desire to have such new armory constructed hereunder may provide a site therefor as hereinafter provided.

If any such city shall desire to have such new armory constructed on the site of the existing armory, and if such site is approved by the adjutant general as suitable for such new armory, such city may convey by way of gift, or sale to such corporation for any and all purposes, including the conveyance of such existing armory and the lands whereon the same is situated and all adjoining lands required for constructing such new armory. Thereupon, in case any such lands or interests therein are owned or controlled by such city or by any other governmental agency therein except the state or such city, such board of park commissioners or park corporation may convey the same by way of gift or sale to such corporation. Such corporation may wreck and remove such existing armory and may sell all or any part thereof and may use any proceeds received therefrom for any authorized purpose or activity of the corporation hereunder.

If any such city shall not desire to have such new armory constructed on the site of the existing armory, or if such site shall not be approved by the adjutant general as herein provided, such city desiring to have such new armory constructed may secure by purchase, gift, or condemnation, and may convey to such corporation another site for such new armory approved as suitable therefor by the adjutant general. In case such site or any part thereof or interest therein is owned or controlled by the board of park commissioners of such city or by any other governmental agency therein except the state or such city, such board of other agency may convey the same by way of gift or sale to such corporation.

In case any person or corporation except such city or board of park commissioners or other governmental agency hereinbefore referred to shall own any lands required for such site, whether provided under subdivision (b) or subdivision (c) of this section, or any interest in any such lands which would interfere with the use thereof by the state for armory or military purposes, such city or such board of park commissioners or other governmental agency may acquire such lands or interest by purchase, gift, or condemnation and may convey the same by way of gift or sale to such corporation; provided, that notwithstanding any such outstanding ownership or interest, such corporation may, in its discretion, with the approval of the adjutant general accept a conveyance of such lands and interests in lands for any such use by any such city or board of park commissioners, or other governmental agency, and may acquire by purchase, gift, or condemnation any further lands or interests in lands that may be required for such site.

(e) The governing body of such city and such board of park commissioners and any other governmental agency concerned shall have power to exercise the right of eminent domain in the manner provided by Mason’s Minnesota Statutes of 1927, Chapter 41, for the purposes of acquiring any lands or interests in lands authorized to be acquired as aforesaid.

(f) In the event that the state of Minnesota shall own any lands or interest in lands included in the site of any such existing armory and the lands required for the construction of such new armory, such lands or interest therein shall be leased by the state to such corporation for a period of not exceeding 40 years for the purposes contemplated by this act, in addition to any consideration other than the use of such property by the state for armory or military purposes as herein provided and the provisions hereof for the conveyance to the state of the new armory building and the site thereof. The adjutant general shall have power to execute such lease to such corporation in the name of the state. Provided, that such corporation shall have no power to mortgage or encumber any lands or interest so leased to it by the state except to the extent of such leasehold interest and subject to the conditions and limitations hereinafore prescribed.

(g) In case any land acquired for armory site purposes hereunder has been donated to such corporation by such city or by any other governmental agency except the state, in case any such land or any part thereof shall thereafter be used or shall cease to be used for armory purposes for a continuous period of more than five years, not including the period of any war or other emergency in which the armed forces of the state may be engaged, the title to such unused land or part thereof shall thereupon pass, revert and be vested as follows: An undivided one-half thereof in the state and an undivided one-half thereof in such city or other governmental agency which donated the same, subject to any encumbrances that may have been lawfully placed thereon by such corporation or otherwise.

(h) The funds for construction of armory—tax levy.—(a) The funds to be used by such corporation for the purposes of this act may be obtained as hereinafter provided.

(b) Such city desiring to have such new armory constructed hereunder by resort to its governing body irrevocably provide for levying and collecting annually for a specified period, not exceeding 40 years, a tax upon all taxable property therein of such amount as such governing body may determine, not exceeding the rate of one dollar of every $100 of the assessed valuation of all taxable property, so that the proceeds of such levy as collected shall be paid to such corporation for the purposes herein prescribed. Such city shall have power to make such tax levies and payments and to bind itself thereto by such resolution of its governing body. The provisions of such resolution may be made conditional upon the giving of an agreement by the adjutant general as authorized in subdivision (d) of this section. The obliga-
tions of such city to levy, collect, and pay over such taxes shall not be deemed or construed to constitute an indebtedness of such city within the meaning of any law or of any charter limiting its total or net indebtedness, and such taxes may be levied and collected without regard to any statutory or charter provision limiting the amount or rate of taxes which such city is otherwise authorized to levy. The payment of the proceeds of such taxes up to an amount equal to the sum of $250 per year, or such other amount as may hereafter be prescribed by law, for each company or other unit of the national guard or naval militia stationed in such city shall be deemed to constitute such payment and from year to year shall approximately equal the decrease from year to year in the interest on the bonds remaining unpaid.

(c) Such bonds shall be signed by the adjutant general, attested by the state auditor, and countersigned by the state treasurer, in their respective capacities as chairman, secretary, and treasurer ex officio of such corporation, and the interest coupons to be thereupon attached shall be executed and authenticated by the seal, engraved, facsimile signatures of such chairman and secretary.

(d) Such bonds shall be sold by such corporation upon such notice and upon such terms and at such times as the corporation shall deem best. Such bonds shall not be deemed or construed to constitute a debt of the State of Minnesota or of the municipality in which such armory is situated, nor to impose any personal liability upon any member of such corporation, but shall be payable solely out of the income to be received by such corporation as specified in this act. Bonds legally issued pursuant to this act may be purchased by the State board of Investment for the Permanent School Fund, Permanent University Fund, Swampland Fund, Internal Improvement Land Fund, or any other trust fund of the State of Minnesota, or for any other fund administered by such board, and shall be deemed authorized securities within the provisions of Mason's Minnesota Statutes of 1927, section 7714, and laws amendatory thereof and supplemental thereto, and shall be proper for the investment of capital, surplus or deposits of any savings bank or trust company, and for the investment of funds of any insurance company, and for the investment of any sinking fund established by any city or municipal corporation, and may be pledged by any bank or trust company as security for the deposit of public moneys therein in lieu of surety bonds. Such bonds shall be deemed and treated as instrumentalities of a public character and as such bodies corporate and as such shall be exempt from taxation. (Act Apr. 26, 1931, c. 398, §6; Apr. 20, 1933, c. 332, §6.)

2517-8. May give mortgage on armory and site.- To secure the prompt and full payment of such bonds and interest thereon such corporation may mortgage such armory building and/or the site thereof, and may pledge the income or any part thereof receivable by such corporation under this act to any trustee under such provisions that upon default in the payment of the principal or of interest upon any such bonds all of such bonds may be declared due and payable, and that such mortgage foreclosed in like manner as other mortgages are foreclosed in this state, subject to the provisions of this act. The purchaser at any sale upon such mortgage shall secure the right and the right to operate such building under such terms and conditions as may be specified in said mortgage and not inconsistent with the use of the property by the state for armory and military purposes, such possession and right of operation to continue until the full principal and interest on such bonds or the amount bid upon such foreclosure sale shall have been paid out of the net rents and profits received from such operation, or the amount bid upon such sale shall not exceed the present and future value of such new armory building and site, and for the investment of capital, surplus or deposits of any savings bank or trust company, and for the investment of funds of any insurance company, and for the investment of any sinking fund established by any city or municipal corporation, and may be pledged by any bank or trust company as security for the deposit of public moneys therein in lieu of surety bonds. Such bonds shall be deemed and treated as instrumentalities of a public character and as such bodies corporate and as such shall be exempt from taxation. (Act Apr. 26, 1931, c. 398, §6; Apr. 20, 1933, c. 332, §6.)

2517-7. Corporation may issue bonds.—(a) In anticipation of the receipt of such corporation from the tax proceeds, appropriations, rents, and profits specified in Section 5 hereof, and of income from any other source, and for the purpose of securing funds as needed from the cash on hand and from such other purposes herein authorized, such corporation is hereby authorized to issue its bonds in an aggregate principal amount not exceeding $1,500,000.00, bearing interest at a rate not to exceed five per cent per annum, payable semi-annually.

(b) Such bonds shall be of such date, denominations, place of payment, form, and details as may be determined by such corporation not inconsistent with the provisions of this act. Such bonds shall mature serially, the first installment to fall due in not more than five years and the last in not more than forty years from their date, and no annual maturing installment shall exceed by two and one-half times the amount of the smallest annual maturing installment; provided, that the amount of such installments of principal may be such that the increase thereof from year to year shall approximate the decrease from year to year in the interest on the bonds remaining unpaid.

(c) Such bonds shall be signed by the adjutant general, attested by the state auditor, and countersigned by the state treasurer, in their respective capacities as chairman, secretary, and treasurer ex officio of such corporation, and the interest coupons to be thereupon attached shall be executed and authenticated by the seal, engraved, facsimile signatures of such chairman and secretary.

(d) Such bonds shall be sold by such corporation upon such notice and upon such terms and at such times as the corporation shall deem best. Such bonds shall not be deemed or construed to constitute a debt of the State of Minnesota or of the municipality in which such armory is situated, nor to impose any personal liability upon any member of such corporation, but shall be payable solely out of the income to be received by such corporation as specified in this act. Bonds legally issued pursuant to this act may be purchased by the State board of Investment for the Permanent School Fund, Permanent University Fund, Swampland Fund, Internal Improvement Land Fund, or any other trust fund of the State of Minnesota, or for any other fund administered by such board, and shall be deemed authorized securities within the provisions of Mason's Minnesota Statutes of 1927, section 7714, and laws amendatory thereof and supplemental thereto, and shall be proper for the investment of capital, surplus or deposits of any savings bank or trust company, and for the investment of funds of any insurance company, and for the investment of any sinking fund established by any city or municipal corporation, and may be pledged by any bank or trust company as security for the deposit of public moneys therein in lieu of surety bonds. Such bonds shall be deemed and treated as instrumentalities of a public character and as such bodies corporate and as such shall be exempt from taxation. (Act Apr. 26, 1931, c. 398, §6; Apr. 20, 1933, c. 332, §6.)

2517-8. May give mortgage on armory and site.- To secure the prompt and full payment of such bonds and interest thereon such corporation may mortgage such armory building and/or the site thereof, and may pledge the income or any part thereof receivable by such corporation under this act to any trustee under such provisions that upon default in the payment of the principal or of interest upon any such bonds all of such bonds may be declared due and payable, and that such mortgage foreclosed in like manner as other mortgages are foreclosed in this state, subject to the provisions of this act. The purchaser at any sale upon such mortgage shall secure the right and the right to operate such building under such terms and conditions as may be specified in said mortgage and not inconsistent with the use of the property by the state for armory and military purposes, such possession and right of operation to continue until the full principal and interest on such bonds or the amount bid upon such foreclosure sale shall have been paid out of the net rents and profits received from such operation, or the amount bid upon such sale shall not exceed the present and future value of such new armory building and site, and for the investment of capital, surplus or deposits of any savings bank or trust company, and for the investment of funds of any insurance company, and for the investment of any sinking fund established by any city or municipal corporation, and may be pledged by any bank or trust company as security for the deposit of public moneys therein in lieu of surety bonds. Such bonds shall be deemed and treated as instrumentalities of a public character and as such bodies corporate and as such shall be exempt from taxation. (Act Apr. 26, 1931, c. 398, §6; Apr. 20, 1933, c. 332, §6.)
this act or with the use of such building by the state for armory or military purposes as are customarily included for the benefit and protection of the public, taken to such instruments, including provisions for the insurance thereof, appointment of a receiver in the event of a default by the mortgagee, exemption of the members of such corporation from any personal liability and other such provisions. Nothing contained in such mortgage shall be deemed or construed to constitute a liability of the State of Minnesota or of such city or any department, board or commission thereof, nor to impose any personal liability upon any member of such corporation. Such mortgage and deed of trust may be recorded in the office of the appropriate register of deeds without the payment of any mortgage registry tax. (Act Apr. 25, 1931, c. 398, §7.)

2517-9. Property to be conveyed to state.—Upon payment of all indebtedness incurred by such corporation hereunder, including the fall principal and interest of all bonds issued by such corporation as hereinafter in provided, such corporation shall transfer and convey such armory building and the site thereof to the State of Minnesota for military purposes, and shall pay over to the state any unexpended moneys then held in connection, with such moneys shall be appropriated to the adjutant general for the maintenance, repair, and improvement of such armory. (Act Apr. 25, 1931, c. 398, §8.)

2517-10. Limit of indebtedness.—Such corporation shall never be subject to an indebtedness in excess of $1,500,000.00, nor shall it incur any indebtedness exceeding such sum as hereinafter provided. (Act Apr. 25, 1931, c. 398, §9; Apr. 20, 1933, c. 332, §7.)

2517-11. Books to be examined by state comptroller.—The books and affairs of such corporation shall be subject to examination by the state comptroller. (Act Apr. 25, 1932, c. 398, §10.)

2517-12. Provisions separable.—This act shall be held unconstitutional only in the event that some major provisions thereof are found unconstitutional and invalid which would make the act unworkable. Should any minor provisions of this act be held unconstitutional it shall in no way affect or invalidate any other provision or part thereof. (Act Apr. 25, 1931, c. 398, §11.)

2517-13. Construction in municipalities, having national guard companies—definitions—Application of law.—(a) In any municipality of this state in which there shall at the time be stationed one or more units of the national guard or naval militia, and in which the adjutant general does or may deem it necessary or expedient to construct an armory, as armory may be constructed and the cost thereof may be paid as hereinafter provided, the term "municipality" as used herein shall include cities of every class, villages, and boroughs.

The provisions of this section and the following sections of this act shall be construed as supplemental to the preceding sections, and not as repealing or superseding the same or any part thereof.

(b) Whenever the adjutant general shall deem it necessary or expedient that an armory be constructed upon a state military camping ground to be used principally by any unit or units of the national guard stationed at a municipality in the vicinity thereof such armory may be constructed and the cost thereof may be paid in the manner hereinafter provided for the construction of armories in municipalities, and the annual payments hereinafter to be made by the state for the maintenance and operation of such armory may be made through the Minnesota armory building commission without the necessity of establishing such municipality or any other party so long as any bonds issued for the construction of such armory shall be outstanding.

2517-14. Corporation created—Commission.—(a) For the purpose of constructing armories as provided by Section 12 of this act, there shall be created a corporation to be known as the "Minnesota State Armory Building Commission." The persons holding the following offices and their respective successors in office shall be, ex officio, the members and governing body of such corporation: The adjutant general and the general officers of the line of the national guard of the state. The adjutant general shall be chairman of such commission. Such commission shall elect a secretary and treasurer from the members thereof other than the adjutant general. The officers of such commission shall have like powers and duties as are vested in or imposed upon the corresponding officers of the commission referred to in Section 2 of this act.

(b) Upon the filing with the secretary of state of a certificate by the adjutant general reciting the existence in any such municipality of the conditions specified in Section 12 of this act, naming the persons authorized to compose such commission and corporation as provided in this section, and declaring them to be constituted a commission and corporation hereunder, such persons shall forthwith become a commission and corporation without further proceeding. In case of a vacancy in the membership of such commission and corporation, the remaining members, provided there be not less than two, shall have power to act and to elect such temporary acting officers as may be necessary during the existence of the vacancy. In case at any time there shall not be at least two qualified officers of the national guard in addition to the adjutant general eligible to serve ex officio as members of such commission as provided by Subdivision (a) of this section, the adjutant general may appoint a member or members of such commission from the colonels of the line of the national guard of the state so as to provide not more than two members of such commission in addition to himself. The membership of the member last so appointed shall automatically terminate upon the appointment and qualification of an officer of the national guard eligible to serve ex officio as a member of such commission as provided by Subdivision (a) of this section, providing the total membership of such commission be not thereby reduced to less than three. All officers of such commission as hereinafter constituted a commission and corporation without further proceeding. In case of a vacancy in the office of adjutant general, or in case of the incapacity of the adjutant general to act as a member and chairman of such commission, the officer who is appointed or authorized according to law to exercise the powers of the adjutant general for the time being shall, during the existence of such vacancy or incapacity, act as a member and chairman of such commission and have all the powers and duties herein vested in or imposed upon the adjutant general in like manner and to the same extent as though such officer were the adjutant general. Such officer shall certify to the secretary of state all changes in the membership of such commission and corporation; and the annual payments to be made by the state in accordance with the provisions of Section 2 of this act.

2517-15. Same—powers of corporation and municipalities—laws applicable—definitions—limitation on indebtedness.—For the purpose of constructing armories as provided in Section 12 of this act, the corporation referred to in Section 13 of this act shall have like powers and privileges and be subject to like
duties and obligations as are by this act vested in or imposed upon the corporation referred to in Section 12 of this act, and every governing body of and every other governmental agency in every such municipality, shall have like powers and privileges and be subject to like duties and obligations as are by this act vested in or imposed upon the respective cities, governing bodies, and other governmental agencies referred to in Sections 1 to 11 of this act, inclusive. All the provisions of this act relating to the construction of armories in the cities referred to in Section 1 of this act and to other matters connected therewith, shall, so far as applicable, and not otherwise provided herein, apply to the construction of armories in the municipalities referred to in Section 12 of this act to all other matters connected therewith, and for such purposes the term "city" as used in Sections 1 to 11, inclusive, of this act shall be construed to refer to the municipalities referred to in Section 12 of this act, and the terms "commission" and "corporation" as used in Sections 1 to 11, inclusive, of this act, shall be construed to refer to the commission and corporation referred to in Section 13 of this act; provided, however, as follows:

(a) The total cost to the corporation of each armory constructed as provided in Section 12 of this act, including the site, building, and equipment, shall not exceed $75,000.00 for each unit of the national guard or naval militia to be quartered therein, and the total amount of bonds issued on account of each such armory shall not exceed the amount of such cost.

(b) The adjutant general may pay under the provisions of subdivision (d) of Section 5 of this act on account of each armory constructed as provided in Section 12 of this act an amount not exceeding $2,000.00 per year for each unit of the national guard or naval militia quartered in such armory.

(c) The corporation created under Section 13 of this act shall never be subject to an indebtedness in excess of the aggregate cost of all armories so constructed.

CH. 12—MILITARY CODE

§2543

ROADS

3. "County roads."—Order that portion of road within county should be set aside by the county for "opening and maintenance," simply had the effect of imposing upon the county the duty of opening the road, and upon the towns through which the road passes the duty of maintaining same. Op. Atty. Gen., Mar. 27, 1931.


2543. "Road" and "Highway" defined.

3. "County roads."—Order that portion of road within county should be set aside by the county for "opening and maintenance," simply had the effect of imposing upon the county the duty of opening the road, and upon the towns through which the road passes the duty of maintaining same. Op. Atty. Gen., Mar. 27, 1931.


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