

CHAPTER 9

EXECUTIVE COUNCIL

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9.01 MEMBERS. The executive council, in this chapter called the council, shall consist of the governor, the attorney general, the state auditor, the state treasurer, and the secretary of state, of which council the governor shall be chairman. The council shall appoint, fix the salary of, and remove at pleasure an executive secretary, who shall also be the secretary of the state board of pardons and of the state board of investment and perform such other duties as may be assigned to him by the council.

[1925 c. 426 art. 2 s. 1] (53-2)

9.02 CONTINUANCE OF POWERS AND DUTIES. The executive council as now constituted shall continue with all its present rights, powers, and duties, but subject to the limitations and provisions of Laws 1939, Chapter 431; provided, that if prior to the passage of Laws 1939, Chapter 431, the executive council shall have been abolished, the provisions of this section shall apply to any agency which has succeeded to its rights, powers, and duties in existence at the time of the passage of Laws 1939, Chapter 431.

[1939 c. 431 art. 5 s. 1] (53-2a)

9.03 POWERS AND DUTIES; MEETINGS. The council shall have and exercise the rights and powers and perform the duties now by law vested or imposed upon the board of timber commissioners, the state board of deposit, the Minnesota state land commissioner, and the state board of relief. It shall also exercise the authority and perform the duties vested in or imposed upon the state auditor, the state treasurer, and the attorney general under the provisions of sections 93.14 to 93.28, and the duties imposed upon and vested in the governor, the attorney general, and the state auditor under the provisions of section 93.35. The council shall meet, from time to time, upon the call of the governor or upon the call of the executive secretary at the request of three or more of its members.

[1925 c. 426 art. 2 s. 2] (53-3)

9.04 DEPOSITORIES OF STATE FUNDS. The executive council shall designate such banks or trust companies within the state which have been organized for at least one year as it may deem necessary to receive deposits of state funds and prescribe the maximum amount which may be deposited in each. After such banks or trust companies have given the required bonds or furnished proper collateral and in all other respects complied with the conditions of such designation, the treasurer may deposit therein, in the name of the state, all state funds that shall be or come into his hands; but the amount on deposit at any time in any depository shall not exceed the sum authorized by the executive council. The treasurer shall not be liable for the safe-keeping of moneys of the state while so lawfully deposited. A new bank or trust company which has not been organized for at least one year, which takes over or absorbs a bank or trust company eligible to qualify as a depository, may be designated as a depository, notwithstanding the limitations contained in this section.

The executive council may authorize any designated depository to receive from any official, department, institution, or other agency of the state special deposits of moneys belonging to the state and which have not been paid otherwise into the state treasury; and all moneys so deposited shall be deemed to have been deposited pursuant to such designation.

Departmental receipts received by the treasurer, in accordance with section 10.07, may be carried by the depository upon the direction of the treasurer as a special deposit until the report thereby required has been filed with the auditor and the proper entries made in the treasurer's records transferring these receipts to the proper funds.

The depository, upon the direction of the treasurer, may receive and carry as a special deposit such amount of money as may be immediately required for the payment of principal or interest, or both, of maturing obligations of the state and withdrawn from the treasury for that purpose, out of which special deposits the depository, upon the direction of the treasurer, may pay such maturing obligations and surrender them to the treasurer for cancellation.

All moneys belonging to the state, however received by the depository, whether carried as a general or special deposit, shall be covered and protected by the bond given or collateral pledged by such depository, or both, where both forms of security have been furnished.

The limitations upon the executive council in fixing the maximum which may be deposited in a designated depository in accordance with the provisions of section 9.05, shall not apply to the funds of the state carried in these special deposits, but the amount of state funds deposited in any depository, whether general or special, shall not in any case exceed the amount of its capital stock.

The rate of interest to be paid upon the special accounts authorized hereby shall be fixed by the executive council, or the council may waive the payment of interest thereon if in its judgment the average amount so deposited is not sufficient to justify the charging of interest.

[1919 c. 419 s. 2; 1925 c. 265 s. 1] (98)

9.05 SURETY BOND; INTEREST ON DAILY BALANCES; MAXIMUM DEPOSITS. Before any bank or trust company shall receive state funds it shall give to the state a corporate surety bond. If corporate surety bond is furnished the executive council may fix a limit of deposit equal to the penalty named in such bond. More than one corporate surety bond may be furnished, the aggregate thereof to equal the amount required. Depository bonds shall include the condition that there shall be paid to the state treasurer, or his order upon demand, or if a time deposit when due, at any place in this state designated by him, free of exchange, all of the state funds deposited in the depository furnishing such bond at any time while the same shall be in force, with interest upon time deposits at the rate agreed upon and approved by the executive council. The executive council shall fix the limit of deposit to be made in any depository. Depository bonds shall be approved by the executive council and filed with the treasurer.

[1919 c. 419 s. 3; 1925 c. 265 s. 2; 1937 c. 351 s. 1] (99)

9.06 ADDITIONAL BONDS. The executive council shall not approve the bond of any bank or trust company until fully satisfied that the same is in proper form, the sureties sufficient, the bank or trust company prosperous and financially sound, and the capital stock claimed by it fully paid up and not impaired. At any time the executive council or the treasurer may require of any such bank or trust company a new or an additional bond, or may revoke its designation of any bank as such depository. Immediately upon such revocation of an active depository the treasurer shall withdraw all state moneys therefrom and shall make no further deposits therein and upon such revocation of an inactive depository the treasurer shall withdraw all state moneys therefrom when due.

[1919 c. 419 s. 4; 1937 c. 351 s. 1] (100)

9.07 CLASSES OF DEPOSITORS; WITHDRAWAL OF DEPOSITS. State depositories shall be divided into two classes to be known as active and inactive. A bank or trust company may be designated as a depository of both classes. All state funds deposited under designations as active depositories shall be subject to withdrawal by the treasurer upon demand, and no interest shall be charged thereon. Surplus funds not required to meet the state's current disbursements shall be deposited for a definite period in banks or trust companies designated as inactive

depositories, and interest shall be paid upon such deposits at a rate of not less than one per cent, nor more than three per cent, per annum to be fixed from time to time by the executive council in accordance with the current rate upon deposits of a similar character.

[1919 c. 419 s. 5; 1925 c. 265 s. 3; 1937 c. 351 s. 1] (101)

9.08 COLLATERAL SECURITY IN LIEU OF BOND. Any depository may, in lieu of the corporate or personal surety bond required to be furnished to secure state funds, deposit with the state treasurer such bonds and certificates of indebtedness, except bonds secured by real estate, as are legally authorized investments for savings banks under the laws of the state, and in addition thereto the bonds of any of the insular possessions of the United States, or the bonds of any state, or its agency, the payment of the principal and interest of which, or either, is provided for otherwise than by direct taxation. The depository may furnish both a bond and collateral aggregating the required amount. In determining such aggregate the collateral shall be taken at not more than 90 per cent of the market value thereof. Any collateral so deposited shall be accompanied by an assignment thereof to the state, which assignment shall recite that such depository shall pay over to the treasurer, or his order, on demand, or if a time deposit when due, free of exchange or any other charges, all moneys deposited therein at any time during the period such collateral shall be so deposited and to pay the interest thereon when due at the agreed rate; and that in case of any default upon the part of the depository the state shall have full power and authority to sell such collateral, or as much thereof as may be necessary to realize the full amount due from such depository and to pay over any surplus to the depository or its assigns. A depository may deposit collateral of a value less than the total designation and may, from time to time during the period of its designation, deposit additional collateral and make withdrawals of excess collateral, or substitute other collateral for that on deposit, or any part thereof. Authority is vested in the treasurer to return the collateral to the depository when the trust so created is terminated, and shall, in the case of a reduction of the deposit, permit the depository to withdraw the excess portion thereof. The interest on the collateral so deposited when collected shall be paid to the depository so long as it is not in default. Before any collateral is deposited with the treasurer it shall be approved by the executive council, but no such authority shall be necessary for the withdrawal of collateral as herein provided. The closing of a depository shall be deemed a default upon the part of the depository and no demand upon the part of the state or its treasurer shall be necessary to establish such default. If a depository shall close, any time deposit placed therein shall immediately become due and payable. If both bond and collateral are furnished by a depository, all or any part of the collateral may be withdrawn without in any way impairing the full force and effect of the bond unless it shall contain a provision that the collateral shall not be withdrawn without the consent of the surety thereon. The treasurer, in behalf of the state, upon the direction of the executive council, may reassign to the pledging depository any registered collateral pledged to the state by assignment thereon, in writing. At no time shall the treasurer maintain a deposit in any depository against collateral in excess of 90 per cent of the market value thereof.

[1919 c. 419 s. 6; 1921 c. 313; 1925 c. 265 s. 4] (102)

Explanatory note—See s. 118.03.

9.09 FALSE STATEMENT OF FINANCIAL CONDITION, GROSS MISDEMEANOR. When deemed necessary the executive council may require any depository having state funds on deposit, or any surety on a bond of such bank, to furnish a sworn statement of the financial condition of such depository or surety; and a failure to render such statement within a reasonable time shall be sufficient ground for revoking the designation. Every person who shall make any false statement to the executive council touching the financial condition of such depository, or touching his own financial ability as a surety, whether in an affidavit of justification or in response to any inquiry or request of the executive council, shall be guilty of a gross misdemeanor.

[1919 c. 419 s. 7] (103)

9.10 SECURITY NOT SUBROGATED TO STATE'S CLAIM IN INSOLVENCY OF BANKS. In proceedings to wind up an insolvent bank in which state funds were deposited, the state shall continue to be a preferred creditor, and in cases

where a bond with sureties has been given by the depository as security for such deposit, then the state may proceed either as a preferred creditor against the assets of the insolvent depository or as the obligee on such bond against the surety thereon or against both according as the executive council may deem advisable, but in case the state receives or recovers any amount of its claim from such surety, the latter shall not, by reason thereof, be subrogated to the claim of the state against the assets of the insolvent depository as a preferred creditor.

[1921 c. 518 s. 1] (106)

9.11 DEPOSITORIES; SECURITIES IN LIEU OF BOND. When any bank authorized to transact a banking business in this state shall be designated as a depository of state, county, or city moneys, as provided by law, it may, in lieu of the corporate or personal surety bond provided by law to secure such deposit, furnish or deposit with the state, county, or city treasurer, as the case may be, United States government bonds, federal farm loan bonds, state bonds of this or any other state, "fire relief certificates" of the state or any other certificates of indebtedness thereof, the issuance and sale of which are now or may hereafter be authorized, bonds of any county, school district, city, town, or village of this state, and county drainage bonds of this state of the classes and kinds in which the permanent school fund of the state may be invested, in an amount equal to the maximum amount of money at any time to be deposited with such bank. These securities must have a market value of at least par and shall be approved by the executive council, if given to secure state moneys, by the county board, if given to secure county moneys, and by the common council or city council, if given to secure city moneys, and shall be accompanied by a proper assignment to the end that the depository so depositing and assigning such securities shall and will safely keep and pay over to the treasurer, or his order, on demand, free of exchange, all moneys deposited therein at any time while such bonds or securities shall be so deposited, with interest thereon at the rate agreed upon; and, in case of default on the part of such depository, the executive council, county board, or common council, or city council, as the case may be, shall have full power and authority to sell such securities, or so much thereof as may be necessary to realize the full amount of the funds so deposited in such depository, together with interest thereon, and to pay the balance or overplus, if any, to the depository entitled thereto. Authority is given to the treasurer to return these securities to the depository so depositing them when the trust so created is terminated, and to exchange, upon application, any other securities for the securities so deposited, of equal value and of any of the classes herein permitted to be deposited. The interest on the bonds or securities so deposited and furnished shall, when paid, be turned over to the bank so depositing the same, so long as it is not in default. If the surety on the bond of any depository of state, county, or city moneys is a surety company authorized to do business in this state, the bond shall be in a penal sum to the amount designated by the executive council as the limit of deposits in the bank.

[1909 c. 362 s. 1; 1919 c. 423] (107)

Explanatory note—The provisions of this section, in so far as they are inconsistent with sections 118.01 and 118.02, and except as they relate to state depositories, are superseded, amended, and qualified to conform to the provisions thereof by section 118.03. The provisions of this section, so far as they relate to state depositories, are also superseded by sections 9.04, 9.05, 9.07, and 9.08 as provided in section 118.04.

9.12 SETTLEMENT OF CLAIMS. The executive council shall have power to consider and propose terms of settlement of all claims to the legislature of all differences or controversies that now exist or may hereafter arise between the state and the United States over lands granted to the state by the United States under any act of congress. It may consider and propose terms of settlement of such claims, differences, or controversies separately or in toto. To the end that such settlements may be carried out and completed, the executive council is hereby authorized to accept patents of lands issued by the United States and to reconvey to the United States any state lands which it may by unanimous vote determine should be so reconveyed in order to carry out the provisions of sections 9.12 to 9.14 whenever approved by the legislature.

[1917 c. 324 s. 2] (6533)

9.13 FINDINGS REFERRED TO LEGISLATURE. The executive council shall refer its findings and conclusions to the legislature for confirmation and no adjustment or settlement of any claim by the executive council shall be final

until ratified by the legislature; provided, that the executive council have authority to make final settlement and adjustment of individual claims of settlers or Indian allottees, where the land in question does not exceed 160 acres in area.

[1917 c. 324 s. 3] (6534)

9.14 AUDITOR TO REPORT STATUS OF CLAIMS AGAINST THE UNITED STATES. The state auditor is hereby directed to report to the executive council the status of all claims of the state against the United States for lands patented to the state by the United States under any acts or grants relating to lands; and the status of all claims of the United States against the state for lands alleged to have been wrongfully patented or conveyed to the state by the United States.

[1917 c. 324 s. 4] (6535)

9.15 AUDITOR, EXPENSES. The state auditor is hereby directed to expend from any fund appropriated for the maintenance of any department of his office such sums as may be necessary for clerk hire, expenditure of travel, hotel bills, or otherwise as may be necessary to carry out the provisions of sections 9.12 to 9.14. These expenditures shall be audited by the state auditor and approved by the executive council and for such purpose a per diem expenditure may be audited and approved.

[1917 c. 324 s. 5] (6536)

9.16 CERTAIN INVESTMENTS MADE. The investment of the teachers' insurance and retirement fund and the sale of any securities belonging to this fund shall be made by the executive council, but the trustees of the fund shall determine the amount to be so invested or sold.

[1925 c. 426 art. 19 s. 1, last sentence] (53-47)

9.17 ACQUISITION AND DISPOSAL OF LANDS. Subdivision 1. **Acquisition and disposal.** In all acquisitions of land, made under authority of the executive council, involving flood control, water supply, water diversion, control of erosion, reforestation, afforestation, and recreation, and not presently needed for such purpose or purposes, which may be or have been purchased or acquired under the terms of Extra Session Laws 1937, Chapter 89, Laws 1935, Chapter 51, or Extra Session Laws 1935-1936, the executive council is hereby authorized to lease, rent, sell, or otherwise dispose of or deal with, upon such terms and conditions as it may deem advisable, any and all of the lands, buildings, or improvements thereon so acquired, and it may make necessary repairs to any buildings, fences, wells, ditches, roads, or other structures or improvements thereon, and may construct a road over and across a strip of land running north and south, 25 feet in width, on each side of the west line of the southeast quarter (SE $\frac{1}{4}$) of section 19, and of the northwest quarter of the northeast quarter (NW $\frac{1}{4}$ NE $\frac{1}{4}$) of section 30, township 120, range 43, Swift county, in fulfillment of an agreement made by the state in acquirement of these lands and adjoining lands from John B. Sturm and George Wilson, the owners thereof.

Subdivision 2. **Receipts credited to Lac qui Parle County revolving fund.** All money hereafter received from such leasing, sale, or disposition of these lands, or improvements thereon, shall be credited to a special fund to be known as the Lac qui Parle revolving fund, which is hereby created, and all money heretofore received by the executive council from such sources, now remaining in the treasury, are hereby transferred to and shall form a part of the fund, which is hereby appropriated to the executive council for the maintenance and conduct of the activities authorized by this section.

[1937 c. 459 ss. 1, 2; 1941 c. 142 ss. 1, 2] (6340-1) (6340-2)

9.18 SCHOOL DISTRICT RELIEF FUND. There is hereby created a special fund to be known as the school district relief fund, into which shall be paid the proceeds of the tax levies hereinafter authorized and from which shall be paid the relief provided for in sections 9.18 to 9.27. This fund is hereby appropriated to the executive council for the relief of distressed school districts, including dissolved school districts and unorganized school territory, as hereinafter provided.

[1941 c. 297 s. 1]

9.19 DISTRESSED SCHOOL DISTRICTS. Any school district or school territory within the state having a bonded and floating indebtedness on December 31, 1940, of more than 50 per cent of the assessed valuation of the real and personal property within the district or territory, whether unorganized or dis-

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solved, for the year 1938, and over 50 per cent of the area of which is owned by the state or has become forfeited to the state for taxes shall be deemed and held to be a distressed school district.

[1941 c. 297 s. 2]

9.20 DISTRESSED SCHOOL DISTRICTS MAY APPLY FOR RELIEF. Any such district or territory having such an assessed valuation of less than \$15,000 may apply to the council for the payment of so much of its indebtedness as exceeds 33 $\frac{1}{3}$ per cent of such assessed valuation, and any such district having a valuation of more than \$15,000, may make like application for the payment of so much of its indebtedness as exceeds 50 per cent of its assessed valuation. The application shall be made by resolution of the school board of the district, or the county board of education for unorganized territory, showing the date and amount of such item of its indebtedness, for what purpose it was incurred, the name and address of the payee and of the present holder thereof, if known, or where payable, if payable to bearer, together with the county auditor's certificate of assessed valuation and such other data or information as to its financial affairs as the council may require, including a budget of the anticipated receipts and disbursements of the district or territory for the next ensuing school year approved by the state department of education.

[1941 c. 297 s. 3]

9.21 PAYMENTS TO DISTRESSED SCHOOL DISTRICTS. Upon the filing of the application and approved budget and the determination of the council that such district or school territory qualified for relief, the council is hereby authorized to make payment of so much of the indebtedness of such district or territory as exceeds the percentage of its assessed valuation, as hereinabove provided, upon the cancelation and surrender of the evidence of such indebtedness or receipt for any partial payment made thereon.

[1941 c. 297 s. 4]

9.22 REDEMPTION OF BONDS HELD BY STATE. The council is authorized to redeem any of such indebtedness which is held in the permanent trust funds of the state, or in any other state fund, at par and accrued interest and to compromise, determine, and fix the value of any other indebtedness of the school district or school territory and to redeem the same at the value so determined and fixed; provided, that the rate at which bonds not held by the state may be redeemed shall not exceed ten per cent of the face thereof and the rate at which warrants may be redeemed shall not exceed 75 per cent of the face thereof; and the council is hereby authorized to elect and determine upon what indebtedness of the school district to apply the amount herein authorized to be paid by the state and, in its discretion, to withhold any payment unless a satisfactory adjustment can be made with the creditors of the district or territory.

[1941 c. 297 s. 5]

9.23 SCHOOL DISTRICT RELIEF CERTIFICATES. The council is hereby empowered, as funds are needed for these purposes, to issue and sell certificates of indebtedness of the state to be known as school district relief certificates, which certificates shall be numbered consecutively, be in such form and denomination, mature at such times, and bear such rate of interest, not exceeding three per cent, as the council shall determine, but none of such certificates shall be issued for a period exceeding five years, nor shall more than \$50,000 thereof mature in any fiscal year. These certificates shall be signed by the chairman and attested by the secretary of the council, and the proceeds of the sale thereof shall be credited to the school district relief fund, herein created. These certificates and the interest thereon shall be payable from the relief fund, provided that such interest as may become due on any such certificates prior to the collection of the tax levy therefor shall be paid out of the revenue fund.

[1941 c. 297 s. 6]

9.24 TAX LEVY TO RETIRE CERTIFICATES. For the purpose of providing funds with which to discharge the obligations provided and imposed by the terms of sections 9.18 to 9.27 and to redeem the certificates of indebtedness therein authorized to be issued, the state auditor is hereby authorized and directed to levy for the school district relief fund upon all the taxable property in the state in the manner in which other state taxes are levied an amount sufficient to pay the annual interest accruing upon these certificates of indebtedness, as herein-

above provided, and in the year prior to the maturity of any such certificate to levy an additional tax upon such taxable property sufficient to meet the principal thereof when due.

[1941 c. 297 s. 7]

9.25 PURCHASE OF CERTIFICATES. These certificates of indebtedness may be purchased by the state board of investment for the permanent school fund or any other trust pension fund of the State of Minnesota but the amount thereof shall not exceed \$250,000.

[1941 c. 297 s. 8]

9.26 BUDGET OF SCHOOL BOARD FILED. Until the indebtedness of any school district taking advantage of sections 9.18 to 9.27 shall be reduced to less than 20 per cent of the assessed valuation of the real and personal property therein, the governing body of such district, at its first meeting in each fiscal year, shall prepare, adopt, spread on the minutes, and file with the council a budget of its anticipated receipts from all sources and of its necessary expenditures for the ensuing school year, and shall therein first set aside the amount required to meet the principal and interest due in each year on its outstanding bonds, and may then set aside and allot the remainder for the several current school purposes, but the total expenditures authorized under the budget shall in no case exceed the aggregate receipts so anticipated. Should it become necessary in any year, by reason of some emergency or some act beyond the control of the governing body of the school district, to make expenditures for purposes or in amounts in excess of the amount determined by the budget, the governing body of the school district may apply to the council for permission to incur such additional expenditures, and the council shall have power to authorize such additional expenditures in such amount as it shall find necessary and proper.

[1941 c. 297 s. 9]

9.27 FORFEITURE OF OFFICE FOR UNAUTHORIZED EXPENDITURES. Any member of such governing body knowingly authorizing the making of any expenditures in excess of the amount set up in the budget or allowed by the council shall forfeit his office and all the emoluments thereof; and, upon petition of the council or of five freeholders of the district and proof of such unauthorized expenditure knowingly authorized, shall be removed from such office by the district court of the county in which the district, or some part thereof, is situated after such hearing as the court may prescribe.

[1941 c. 297 s. 10]