

1944 Supplement  
To  
**Mason's Minnesota Statutes, 1927**  
and  
**Mason's 1940 Supplement**

Containing the text of the acts of the 1941 and 1943 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 Law Review Articles and digest of all common law decisions.

Edited by  
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Rule requiring mandatory retirement at age 70 does not apply to veterans. Op. Atty. Gen. (644D), Mar. 26, 1942.

**254-87. Laws to be continued in force.**

Commissioner of highways could reduce hourly compensation of bridge worker following passage of State Civil Service Act and prior to approval by Commission of Administration and Finance of Wage Schedules. State v. Hoffman, 296NW24.

War veterans serving as first class guards at Stillwater penitentiary on date act became effective were employees with a permanent classified status, and if they were reduced to second and third class guards, with reduction in pay, civil service department has jurisdiction and should reinstate them with lost pay if reduction was for religious or-for political reasons. Op. Atty. Gen. (644), Nov. 22, 1939.

**254-88. Political subdivision may insure officers and employees in group insurance.**—Any County, Municipal Corporation, Town, School District or other political subdivision of this state may, through its governing body, insure its officers and employees, or any class or classes thereof, under a policy or policies of group insurance covering life, health, accident, surgical benefits, and hospitalization insurance, or any one or more of such forms of insurance. The premiums required from time to time to maintain such insurance in force shall be paid by its insured officers and employees jointly, and the appropriate officer of such political subdivision shall deduct from the salary or wages of each officer and employee who elects to become insured, on the officer's or employee's written order, the officer's or employee's share of such premiums and remit the same to the insurer. (Act Apr. 24, 1943, c. 615, §1.) [471.62(1)]

Group insurance covering life, health, accident, surgical benefits and hospitalization must be paid for from deductions from salaries of insured officers or employees, and in this respect the same is true as to employees of water, light, power and building commission, and law is not retroactive but applies from and after April 25, 1943, and act applies to all insurance now in effect. Op. Atty. Gen. (249b-9), June 4, 1943.

Act is constitutional. Op. Atty. Gen. (249b-8), June 18, 1943.

**254-89. State may insure officers and employees in group insurance.**—The state, through the insurance board, may insure its officers and employees, or any class or classes thereof, under a policy or policies of group insurance covering life, health, accident, surgical benefits, and hospitalization insurance, or any one or more of such forms of insurance. The premiums required from time to time to maintain such insurance in force shall be paid by its insured officers and employees, and the auditor shall deduct from the salary or wages of each officer or employee who elects to become insured, on the officer's or employee's written order, the officer's or employee's share of such premiums, and issue his warrant therefor to the insurer. The insurance board shall be composed of the governor, the commissioner of insurance and the state treasurer. (Act Apr. 24, 1943, c. 615, §2.) [471.62(2)]

Statutes requiring the contract for supplies, materials, and equipment shall be based upon competitive bids, have no application to this act. Op. Atty. Gen. (249b-8), June 18, 1943.

**254-90. Payroll deductions.**—A like payroll deduction and remittance shall be made upon the written order of any such officers or employees who are, or become, subscribers under a contract with a non-profit hospital service plan corporation as defined by law. (Act Apr. 24, 1943, c. 615, §3.) [471.62(3)]

**254-91. State not to contribute.**—The state or any of its political subdivisions shall not at any time contribute any part of such premiums required from its insured employees. (Act Apr. 24, 1943, c. 615, §4.) [471.62(4)]

**DECISIONS**

**RELATING TO OFFICERS AND EMPLOYEES  
IN GENERAL**

**1. In general.**

Contracts by state or political subdivisions must contain provision against discrimination on account of race, creed or color in hiring labor. Laws 1941, c. 238.

A public officer or employee appointed pursuant to statutory authority does not have a vested right to continue in his position, and legislature may abolish and modify any civil service or preference rights which it has granted as well as remedies for enforcement of them. Reed v. T., 209M348, 296NW535. See Dun. Dig. 1619.

A public office is a public trust, created for benefit of public, not for benefit of incumbent. Removal of Mesenbrink, 211M114, 300NW398. See Dun. Dig. 7984, 7985.

Duties imposed upon a public officer are functions and attributes of the office to be performed by the incumbent, though they may have been left undone by a predecessor. Id. See Dun. Dig. 7998.

The administrative head of a governmental department cannot escape a charge of inefficiency in performing a public duty by pleading that the inefficiency, if any, was that of a subordinate. State v. State Board of Education, 213M184, 6NW(2d)251, 143ALR503. See Dun. Dig. 8010.

Original specifications of charges against an official charged with misconduct in office may be supplemented or amended during progress of removal proceedings before a referee, proper opportunity to meet such additional or amended charges having been given. State v. State Board of Education, 213M184, 6NW(2d)251, 143ALR503. See Dun. Dig. 8010, 8318.

Customhouse brokers are not public officers but perform purely personal services as agents of the shippers, though licensed by government. Union Brokerage Co. v. Jensen, 215M207, 9NW(2d)721. See Dun. Dig. 7984.

**5. Vacations.**

University employee during paid vacation may be employed and paid by state for performance of duties in another department of the government. Op. Atty. Gen. (618a-13), Aug. 5, 1943.

**6. Wages and salaries.**

Officers and employees of municipal corporation who, knowing city's financial straits and the need for retrenchment, have acquiesced in contributions from their salaries to the city by accepting pay checks and signing the payroll, are estopped from subsequently seeking to recover the amounts by which their salaries had been reduced, although the reductions were acted upon by the city by resolution of council, rather than by municipal ordinance. Pratts v. C., 206M557, 289NW788. See Dun. Dig. 8007.

Unearned compensation of state institutional employees cannot be assigned, and it is not possible to make deductions for insurance premiums from pay roll checks upon written request and authorization by employee. Op. Atty. Gen., (88a-19), Feb. 14, 1940.

State employee at teachers college may not assign his state check, especially a check on the retirement fund. Op. Atty. Gen. (270m-6), Apr. 1, 1941.

**7. Liabilities.**

A public officer whose functions are judicial or quasi judicial is not liable to persons injured by the honest exercise of his judgment within his jurisdiction, however erroneous his judgment may be. Robinette v. Price, 214M521, 8NW(2d)800. See Dun. Dig. 8002a.

**CHAPTER 5C**

**Public Contracts in General**

**254-101. Mandatory nondiscriminatory provisions.—Civil rights of employees protected.**—Every contract for, or on behalf of, the state of Minnesota, or any county, city, borough, town, township, school, school district, or any other district or districts, in the state of Minnesota, for materials, supplies, or construction, shall contain provisions by which the contractor agrees:

(a) That, in the hiring of common or skilled labor for the performance of any work under any contract, or any subcontract hereunder, no contractor, material supplier, or vendor, shall by reason of race, creed or color, discriminate against the person or persons who are citizens of the United States who are qualified and available to perform the work to which such employment relates.

(b) That no contractor, material supplier, or vendor, shall in any manner, discriminate against, or intimidate, or prevent the employment of any such person or persons, or on being hired, prevent, or conspire to prevent, any such person or persons from the performance of work under and contract on account of race, creed or color.

(c) Any violation of this Act shall be a misdemeanor.

(d) That this contract may be cancelled or terminated by the state, county, city, borough, town, township, school board, or any other person or persons authorized to grant contracts for such employment, and all money due, or to become due hereunder, may be forfeited for a second or any subsequent violation of the terms or conditions of this contract. (Act Apr. 16, 1941, c. 238, §1.)  
[181.59]

## CHAPTER 6 Elections

(This chapter is re-enacted under Chapter 6A.)

### NOMINATION BY DIRECT VOTE

#### 294. Political party defined. [Repealed.]

Section does not prevent a candidate stating his party affiliations except with reference to filing for nomination and upon the ballot. *Moon v. H.*, 206M331, 288NW579. See Dun. Dig. 2929.

Section does not prohibit a candidate for a non-partisan elective office from procuring the indorsement and support of his candidacy from a political party, or prevent him from engaging in political activities. *Id.*

#### 317-1. Primary election in certain villages. [Repealed.]

Adoption of primary election system for nomination of candidates for village offices did not make applicable provisions of corrupt practices act requiring candidates to file verified itemized statements of their expenditures. *Aura v. Brandt*, 211M281, 1NW(2d)381. See Dun. Dig. 2994.

A primary election should be held in advance of village election in Nashauk. *Op. Atty. Gen.* (186E), Oct. 27, 1939.

Attorney general will abide by declaratory judgment of district court in St. Louis county that Laws 1939, chapter 271, amending this section, is unconstitutional because of an improper classification. *Op. Atty. Gen.* (472t), Nov. 14, 1939.

Names of candidates on primary election ballots in village of Hibbing should be rotated, notwithstanding Laws 1939, chapter 345, part 11, chapter 2, §4. *Op. Atty. Gen.* (186E), Nov. 20, 1939.

Sections 317-1 to 317-6 were repealed by Laws 1939, c. 345. *Op. Atty. Gen.* (472t), Oct. 21, 1943.

### CORRUPT PRACTICES

#### 556. Statements of disbursements. [Repealed.]

Provisions of this section were not continued in new act so far as requiring candidates for village offices to

file verified statements of expenditure. *Aura v. Brandt*, 211M281, 1NW(2d)381. See Dun. Dig. 2994.

#### 563. Contributions by corporations prohibited. [Repealed.]

See 601-10(1)o.

Bar association organized as a social and charitable corporation is doing business within state within meaning of corrupt practices act, and can not contribute money, property or services to any political party, organization, committee or individual for political purposes, but expenditures to defray expense of a plebescite and furnishing services of officers in managing the same in connection with election of judicial officers does not constitute contribution of money or services. *La Belle v. H.*, 206M290, 288NW788. See Dun. Dig. 2994.

#### 570. Contest on ground of violation of act. [Repealed.]

See 601-7(1).

Section does not prevent a candidate stating his party affiliations except with reference to filing for nomination and upon the ballot. *Moon v. H.*, 206M331, 288NW 579. See Dun. Dig. 2929.

Section does not prohibit a candidate for a non-partisan elective office from procuring the indorsement and support of his candidacy from a political party, or prevent him from engaging in political activities. *Id.*

### PENAL PROVISIONS

#### 601. Certain corporations not to contribute—Penalty. [Repealed.]

See 601-9(1)s.

*La Belle v. H.*, 206M290, 288NW788; note under §563.

## CHAPTER 6A

### Minnesota Election Law

#### PART ONE

##### CHAPTER 1.—DEFINITIONS

#### 601-1(1). Short title of act.

A person may be a candidate in an election only for an office which is to be filled at the election. *Howard v. Holm*, 208M589, 296NW30. See Dun. Dig. 2915a, 2927b, 2928, 2929.

Statutory regulation of the election franchise must be so construed as to insure, rather than defeat, full exercise thereof when and wherever possible. *Flakne v. Erickson*, 213M146, 6NW(2d)40. See Dun. Dig. 2915.

Statutes relating to primaries and elections do not confer right on qualified persons to become candidates for office but merely regulate the exercise of such right in an orderly way. *Id.*

An election may be held only under constitutional or statutory authorization. *Id.* See Dun. Dig. 2915.

#### 601-1(1)a. Definitions—"Election".

District court has no jurisdiction of a contest of a school district election. *Johnson v. D.*, 208M557, 294NW 839. See Dun. Dig. 2981.

Where failure of election officials to comply with requirements of election laws designed to give notice of election results in but a few out of a large number of voters exercising right to vote at time and place

designed by law, there is no election, and there was no election of a village assessor where there was no indication on ballot that an assessor was to be elected, due to misconstruction of law by village election officers. *State v. Turnbull*, 212M382, 3NW(2d)674. See Dun. Dig. 2960, 2960a.

As a general rule an election shall be decided by required majority of votes cast, irrespective of number of persons entitled to vote, and qualified voters who fail to vote are bound by expressed will of those who do. *Id.* See Dun. Dig. 2968.

Act is not applicable to school district elections, except where made applicable by reference by some other special act. *Op. Atty. Gen.*, (28C-7), April 15, 1940.

#### 601-1(1)ee. Same—"Political party".

Where regular nomination for Congress by a particular party fails for lack of required votes by that party at primary in a district, certificates of nomination of candidate for that office may carry the political appellation of the party which failed to nominate candidate at the primary, but not names of other party successful in nominating candidate. *Op. Atty. Gen.* (28b-3), Sept. 28, 1942.

#### 601-1(1)i. Same—"Village".

Candidate for office in borough of Belle Plaine, incorporated under special laws, should be nominated by filing