

## CHAPTER 8

## ATTORNEY GENERAL

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**8.01 APPEARANCE.** The attorney general shall appear for the state in all causes in the supreme and federal courts wherein the state is directly interested; also in all civil causes of like nature in the district courts whenever, in his opinion, the interests of the state require it. Upon request of the county attorney he shall appear in the district court in such criminal cases as he shall deem proper. Whenever the governor shall so request, in writing, he shall prosecute any person charged with an indictable offense; and in all such cases he may attend upon the grand jury and exercise the powers of a county attorney.

[1905 c. 227 s. 1] (109)

**8.02 DEPUTIES; ASSISTANTS.** The attorney general may appoint, and at his pleasure remove, two deputy attorneys general and six assistant attorneys general, who shall render such aid as he may require of them in the discharge of his official duty. He shall keep a record of his official correspondence and of all matters placed in his hands by the governor, auditor, secretary of state, or treasurer, or any officer or board in charge of any of the business of the state upon which any official action is necessary; he shall also keep a record of all legal proceedings instituted by him or in which he appears, and of the several steps taken therein. All official opinions shall be in writing and copies thereof made and filed in his office. The deputy attorneys general and each of such assistants shall, to the extent authorized in writing by the attorney general, have authority to appear before grand juries or in any court of this state, as the attorney general himself might do.

The attorney general shall have power to employ such assistance, whether lay, legal, or expert, as he may deem necessary for the protection of the interests of the state through the proper conduct of its legal business.

[1905 c. 227 s. 2; 1911 c. 56 s. 1; 1917 c. 61 s. 1; 1919 c. 272 s. 1; 1931 c. 211 s. 1] (110)

**8.023 ASSISTANT ASSIGNED TO DEPARTMENT OF TAXATION.** The attorney general shall appoint an assistant attorney general, in addition to the number now authorized by law, who shall be assigned to the department of taxation. He shall receive the same salary as other assistant attorneys general, and the compensation and all expenses and disbursements of such assistant attorney general shall be paid from the moneys appropriated to and for the use of the department of taxation.

[1945 c. 66 s. 1]

**8.03 PROSECUTIONS.** The attorney general shall cause to be prosecuted all assessors and other officials for such delinquencies in connection with revenue laws as may come to his knowledge; also all bonds of officers and others upon which any liability to the state has accrued. When any corporation shall have offended against the laws of the state, or misused, surrendered, abandoned, or forfeited its corporate authority, or any of its franchises or privileges, he shall cause proceedings to be instituted against it.

[1905 c. 227 s. 3] (111)

**8.04 PUBLIC LANDS.** The attorney general shall begin and prosecute actions against all persons claiming to own any portion of the school or other public lands adversely to the state, whenever, in his opinion, an action can be sustained, and shall cause an appearance to be entered for the state whenever an application

to preempt any such land shall come to his notice. In case of any such application he may require the county attorney of the county in which the same is made to enter such appearance, and he may cause witnesses to be subpoenaed, and take such other measures in the premises as the public interests may require.

[1905 c. 227 s. 4] (112)

**8.05 FORMS PREPARED; OPINIONS.** The attorney general shall prepare forms for bonds and other contracts and instruments for the use of state officials, boards, and commissions and give legal advice in all matters relating to their official duties, whenever required by the governor, auditor, treasurer, or secretary of state, or any board or commission created by law. When required by either house of the legislature he shall give his written opinion upon any question of law.

[1905 c. 227 s. 5] (113)

**8.06 SPECIAL COUNSEL; STATE OFFICERS AND BOARDS.** The attorney general shall act as the attorney for all state officers and all boards or commissions created by law in all matters pertaining to their official duties and, when requested by the attorney general, it shall be the duty of any county attorney of the state to appear within his county and act as attorney for any such board, commission, or officer in any court of such county; and when, in his judgment, the public welfare will be promoted thereby the attorney general may, upon request in writing, employ a special attorney for any such board, commission, or officer and fix his compensation, and when such special attorney is so employed his fees shall be paid from the appropriation made for such board, commission, or officer. Except as herein provided, no board, commission, or officer shall hereafter employ any attorney at the expense of the state.

Whenever the attorney general, the governor, and the chief justice of the supreme court shall certify, in writing, filed in the office of the secretary of state, that it is necessary, in the proper conduct of the legal business of the state, for the state to employ additional counsel, the attorney general shall thereupon be authorized to employ such counsel and, with the governor and the chief justice, fix their compensation. Except as herein stated, no additional counsel shall be employed and the legal business of the state shall be performed exclusively by the attorney general and his assistants.

The compensation of any attorney employed by the attorney general to assist in criminal prosecutions shall not exceed \$20 per day.

[1905 c. 227 s. 6; 1911 c. 56 s. 2] (114)

**8.07 OPINIONS TO COUNTY, CITY, VILLAGE, OR TOWN ATTORNEY; COMMISSIONER OF EDUCATION.** The attorney general on application shall give his opinion, in writing, to county, city, village, or town attorneys on questions of public importance; and on application of the commissioner of education he shall give his opinion, in writing, upon any question arising under the laws relating to public schools, and on all school matters such opinion shall be decisive until the question involved shall be decided otherwise by a court of competent jurisdiction.

[1905 c. 227 s. 7] (115)

**8.08 REPORT.** The attorney general shall report to the governor annually the number, character, and result of all actions and proceedings in which he has appeared for the state, the expense incurred by the state in each, and the amount of fines, penalties, and other moneys collected; also the opinions of general interest given by him and his assistants since the preceding report, with such recommendations for amendment of the laws as he may deem necessary or proper, and tables shall be appended showing the offenses reported to him by county attorneys.

[1905 c. 227 s. 8] (116)

**8.09 PROSECUTION OF CLAIMS OF STATE AGAINST UNITED STATES; AGREEMENTS WITH ATTORNEYS.** The attorney general is hereby empowered, authorized, and directed to retain attorneys to take exclusive charge of prosecuting, collecting, and recovering from the United States any such claim which may be developed, and to prosecute, at their own expense, any claim before such tribunal of the government as may be deemed best for the interests of the state, detailed reports to be made, from time to time and whenever requested

by the attorney general, of the progress of prosecution of any claim; provided, that no composition of any claim shall be concluded without the written approval of the attorney general.

[1927 c. 315 s. 1] (116-1)

**8.10 COMPENSATION OF ATTORNEYS.** The compensation of these attorneys for this service shall be 25 per cent of the sums and amounts collected and received by the state, such compensation to be contingent upon collection and payment thereof to the state, with no further liability on the part of the state, and the amount of such compensation is hereby appropriated, payable upon the certificate of the attorney general filed with the state auditor.

[1927 c. 315 s. 2] (116-2)

**8.11 TO BRING ACTION TO RECOVER ON BONDS.** The attorney general is hereby authorized, with the approval of the governor, to commence any action or proceeding, in the name of the state, to recover upon any bonds or obligations of any other state of the United States which may now or hereafter be held or owned by the state, or any of its boards or departments, and upon any bonds held in any sinking fund or guaranty funds deposited or pledged with the state by trust companies, banks, fidelity or insurance companies, or held by the commissioner of banks as liquidator.

[1933 c. 399] (116-3)