

MINNESOTA STATUTES 1953 ANNOTATIONS

269

DEPARTMENT OF EDUCATION 120.06

council in designating the bank or trust company as a depository, must prescribe a maximum amount of allowed deposits. OAG May 29, 1947 (454-E).

118.12 DEPOSIT OF TOWN AND SCHOOL DISTRICT FUNDS WITH COUNTY TREASURER IN CERTAIN CASES

The school board of the city of Duluth may invest surplus funds in government short term securities. OAG Aug. 31, 1949 (159-A-13).

Surplus school district sinking funds may be temporarily invested in a certificate of deposit. OAG May 22, 1953 (159-A-13).

Town funds not needed during the current fiscal year may be invested in securities authorized by section 118.12. Section 475.66 is not applicable. OAG Sept. 1, 1953 (442-A-14).

Funds derived from the sale of bonds not immediately needed may be invested under the provisions of section 118.12. OAG Oct. 16, 1953 (707-A-14).

CHAPTER 120

DEPARTMENT OF EDUCATION

120.01 STATE BOARD OF EDUCATION

HISTORY. 1877 c 74 t 3 s 1-3; 1883 c 145 s 1, 2; 1885 c 94; 1887 c 233; 1913 c 550 s 1, 2; 1919 c 334 s 1; 1925 c 426 art 10 s 1; 1941 c 169 art 1 s 1; 1951 c 491 s 1.

A sovereign state cannot be sued by individuals in its own courts or any court without its consent. Unless duly authorized by law, the attorney general may not waive the immunity of the state from suit and thus cannot bind the state by appearing in an action. The vocational education work carried on by the director of vocational education for the state department of education in his official capacity is but a phase of the department's governmental functions within the rule that state agencies vested with performance of governmental functions are immune from suit. *Dunn v Schmid*, M, 60 NW(2d) 14.

120.023 CONTRACTS WITH FEDERAL GOVERNMENT

If at the annual meeting a tax was levied for a school lunch program and a revenue has been raised thereunder and if the regulations adopted by the state board of education prescribes rules therefor, a common school district may use the funds so raised to sponsor a school lunch program. OAG Dec. 3, 1948 (159-B-11).

The governor is authorized under section 128.36 to accept the provisions of the act of congress upon the recommendation of the state board of education at any time when the legislature is not in session. By section 128.26 the legislature has accepted the provisions of the act of congress of Feb. 23, 1917. Section 128.27 requires cooperation of the state board for vocational education with the federal agency. This implies application of benefits under section 128.27, regulations and agreements with the federal government are authorized under section 120.023. Under section 120.06 the commissioner of education is the executive officer of the state board and under section 128.29 the state treasurer is custodian of all funds. OAG Feb. 23, 1951 (170-H).

120.05 COMMISSIONER OF EDUCATION; OFFICES

HISTORY. 1919 c 334 s 4; 1941 c 169 art 1 s 5; 1949 c 739 s 4; 1951 c 713 s 13.

120.06 STATE COMMISSIONER OF EDUCATION

The governor is authorized under section 128.36 to accept the provisions of the act of congress upon the recommendation of the state board of education at any time

MINNESOTA STATUTES 1953 ANNOTATIONS

120.11 DEPARTMENT OF EDUCATION

270

when the legislature is not in session. By section 128.26 the legislature has accepted the provisions of the act of congress of Feb. 23, 1917. Section 128.27 requires cooperation of the state board for vocational education with the federal agency. This implies application of benefits under section 128.27, regulations and agreements with the federal government are authorized under section 120.023. Under section 120.06 the commissioner of education is the executive officer of the state board and under section 128.29 the state treasurer is custodian of all funds. OAG Feb. 23, 1951 (170-H).

120.11 FUNCTIONS, POWERS AND DUTIES OF BOARD

HISTORY. 1877 c 74 t 3 s 1 to 4, 8; 1895 c 17; 1899 c 352 s 2-4, 27; 1899 c 353 s 8, 9, 12, 13; 1901 c 148 s 2; 1907 c 341 s 1; 1909 c 188 s 1; 1913 c 550 s 2, 4 to 6; 1917 c 356 s 1, 2; 1919 c 278 s 1; 1919 c 334 s 6; 1921 c 350 s 1, 2; 1923 c 323 s 3; 1925 c 233 s 1; 1937 c 139 s 1; Ex1937 c 81 s 6; 1939 c 162 s 1; 1939 c 172 s 1; 1939 c 437 s 7; 1941 c 169 art 1 s 11; 1943 c 454 s 1.

NOTE: See section 471.18 relating to powers pertaining to recreational activities.

The high school area law permits a school district to receive pupils who reside in another high school area, the parents transporting the pupils at their own expense. OAG Aug. 6, 1947 (180-F).

The state board of education having disposed of funds provided under the appropriation, Laws 1945, Chapter 610, Section 6, cannot reimburse districts entitled to reimbursement from funds provided by Laws 1947, Chapter 599, Section 6. OAG Sept. 10, 1947 (9-A-13).

The intent of the legislature in making an appropriation under Laws 1947, Chapter 599, Section 7, Clause (7), may be construed and determined by considering the language used in the department of education's budgeted request for the appropriation. OAG Oct. 2, 1947 (9-2-13).

The state board of education formulates rules and regulations necessary for establishing high school areas and transporting non-resident pupils. When the state board of education has granted permission in conformity with such rules, the school district may transport pupils attending its schools but residing beyond the borders of the district. OAG July 11, 1950 (166-A-4).

The state board of education determines questions of state aid. OAG Feb. 20, 1951 (168-C).

Statutory procedure is a sufficient guide to the people in forming high school areas in accordance with the wishes of the people. This applies particularly to transportation aid. OAG Aug. 20, 1953 (168-E).

When a school district is set over to another high school area by the board under the provisions of section 120.11, subdivision 3, the approval of the state board is not required. OAG Sept. 15, 1953 (161-B-5).

120.12 FORMS AND BLANKS

HISTORY. 1861 c 13 s 66; 1862 c 1 s 42; 1877 c 74 t 3 s 9; 1913 c 550 s 7; 1941 c 169 art 1 s 12; 1947 c 21 s 1.

120.17 QUESTIONS SUBMITTED TO ATTORNEY GENERAL

HISTORY. 1862 c 1 s 37; 1863 c 11 s 1; 1877 c 74 t 2 s 30; 1941 c 169 art 1 s 17.

120.34 INCAPACITATED PERSONS AIDED; COOPERATION

Under the provisions of Laws 1953, Chapter 742, Section 5, the department of education is limited to the employment of a total of 31 persons for the vocational training of disabled persons, including the homecraft program. OAG June 25, 1953 (9-A-13).

MINNESOTA STATUTES 1953 ANNOTATIONS

271

ADMINISTRATION, SUPERVISION 121.07

120.35 REPORTS; TO WHOM AVAILABLE; DISCLOSURE PROHIBITED

The director of public institutions may release information as to patients or former patients to the division of vocational rehabilitation without the patient's consent. OAG March 23, 1953 (851-B).

120.36 AREA VOCATIONAL-TECHNICAL SCHOOLS

Under the provisions of section 120.36, subdivision 7, transportation may not be furnished by the district of the pupil's residence to the state line for the purpose of enabling a pupil to attend a vocational school in another state. OAG March 11, 1947 (166-A-4).

Where a district does not provide for instruction of its pupils in other districts, but a pupil resident therein attends vocational classes in an area vocational-technical school outside the district, the district is liable for the student's board and lodging or transportation but is not liable for the tuition. OAG June 14, 1948 (168).

CHAPTER 121

ADMINISTRATION, SUPERVISION

121.01 COUNTY SUPERINTENDENT, DUTIES; PERFORMANCE BY COMMISSIONER OF EDUCATION

HISTORY. 1864 c 1 s 5; 1877 c 74 subc 4 s 5; 1941 c 169 art 2 s 1; 1947 c 70 s 1; 1953 c 130 s 1.

Where four school districts in Marshall County and six school districts in Beltrami County joined to create joint school district No. 79 under the provisions of sections 122.40 to 122.56, if new district No. 79 has elected a superintendent no duty devolves on the county superintendent to visit or administer schools of district No. 79, but if it has no superintendent, then the county superintendent's duties are defined in section 121.01 and must be performed in the county in which he was elected. He has no authority beyond the borders of the county. OAG Oct. 28, 1949 (399).

121.02 COUNTY SUPERINTENDENTS TO KEEP RECORDS

HISTORY. 1861 c 11 s 26; 1862 c 1 s 12; 1864 c 1 s 7; 1877 c 74 t 4 s 8; 1905 c 137 s 2; 1941 c 169 art 2 s 2.

121.05 REPORTS TO COMMISSIONER OF EDUCATION

HISTORY. 1862 c 1 s 22; 1864 c 1 s 1, 5, 7, 8; 1877 c 74 t 4 s 12; 1885 c 57 s 5; 1941 c 169 art 2 s 5.

Where four school districts in Marshall County and six school districts in Beltrami County joined to create joint school district No. 79 under the provisions of sections 122.40 to 122.56, if new district No. 79 has elected a superintendent no duty devolves on the county superintendent to visit or administer schools for district No. 79, but if it has no superintendent, then the county superintendent's duties are defined in section 121.01 and must be performed in the county in which he was elected. He has no authority beyond the borders of the county. OAG Oct. 28, 1949 (399).

121.07 FAILURE TO REPORT

HISTORY. 1862 c 1 s 22, 23; 1864 c 2 s 1; 1877 c 74 t 6 s 6; 1941 c 169 art 2 s 7.