

## CHAPTER 127

## SCHOOL TAXES, SCHOOL FUNDS

## 127.01 STATE SCHOOL TAX

**HISTORY.** 1877 c 74 t 5 s 10; GS 1878 c 36 s 84; Ex1881 c 27; 1883 c 53 s 1; 1887 c 41 s 3; 1893 c 110 s 1; GS 1894 s 3768; 1897 c 75; RL 1905 s 1412; GS 1913 s 2915; GS 1923 s 3011; MS 1927 s 3011; 1941 c 169 art 8 s 1; 1943 c 665 s 3.

For many years the auditor has been directed by section 127.01 to levy annually a tax of one mill on the dollar which shall be added to the general school fund. The making of this levy has at times been suspended, the last time being by Laws 1945, Chapter 421; section 127.01 was neither repealed nor suspended by the 1947 legislature. Based upon interpretive statutes, sections 645.16 and 645.17, it is apparent from an examination of Laws 1947, Chapter 629 and Laws 1947, Chapter 633, Section 22, that the legislature intended the suspension of section 127.01. OAG Aug. 6, 1947 (519).

## 127.02 COUNTY SCHOOL TAX

**HISTORY.** 1877 c 74 t 5 s 10; GS 1878 c 36 s 84; Ex1881 c 27; 1883 c 53 s 1; 1887 c 41 s 3; 1893 c 110 s 1; GS 1894 s 3768; 1897 c 75; RL 1905 s 1413; GS 1913 s 2916; GS 1923 s 3012; MS 1927 s 3012; 1941 c 169 art 8 s 2.

Neither the one-mill tax nor school aids may be used to pay the bonded indebtedness of a part of a consolidated school district. OAG Dec. 14, 1953 (166-F-4).

There is no express repeal of section 127.02. Laws 1947, Chapter 573 is a limitation on the power to tax and relates only to school districts having a population in excess of 5,000 and in no way repeals section 127.02. OAG Oct. 30, 1947 (519-M).

Under Laws 1951, Chapter 398, Section 1, the limitation on the power of the Duluth school board to levy taxes does not require the consideration of section 127.02, which is a tax levied by the legislature and not by the school board. OAG May 26, 1952 (519-M).

The one-mill school tax imposed by section 127.01 and 127.02, is levied by the legislature. It imposes the duty on the county officer to extend the tax on all taxable property irrespective of the school district in which the land is situated. The county board levies the taxes for the county school tax fund, under section 128.088. Voters in a common school district are without power to levy tax on a part only of the taxable property of the district. All property within the district must pay the standard tax. OAG Nov. 10, 1953 (519-M).

## 127.03 DISTRICT SCHOOL TAX

**HISTORY.** 1877 c 74 t 5 s 10; GS 1878 c 11 s 48; GS 1878 c 36 s 84; 1878 c 1 s 48; Ex1881 c 27; 1883 c 53 s 1; GS 1894 s 1557, 3768; 1887 c 41 s 3; 1893 c 110; 1897 c 75; RL 1905 s 869, 1413; GS 1913 s 2051, 2916; GS 1923 s 2058, 3012; MS 1927 s 2058, 3012; 1941 c 169 art 8 s 3.

A special meeting of voters in a common school district which was consolidated with a dissolved district should be called to levy taxes under its powers and such taxes should be certified to the county auditor. OAG Sept. 5, 1950 (519-M).

It is the duty of the county auditor to certify the facts relating to the assessed valuation of lands in a school district, both agricultural and nonagricultural. The information may be furnished to the school district or agents of the district may examine the records in the county auditor's office. Except where the law so requires it is not the duty of the county auditor to search his records or make computations for the convenience of other officers. If his fee is paid therefore his

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certificate should show not only the assessed valuation in a common school district but also the rate of tax for school maintenance. OAG Oct. 6, 1950 (519-M).

### 127.04 LEVIES FOR SCHOOL HOUSES AND SITES

**HISTORY.** 1865 c 13 s 16; GS 1866 c 36 s 22, 26; 1873 c 1 s 1; 1877 c 74 t 2 s 1; 1877 c 74 t 7 s 17; 1878 c 1 s 49; GS 1878 c 11 s 49; GS 1878 c 36 s 19, 110; 1889 c 166 s 1; GS 1894 s 1558, 3677, 3807; 1899 c 117; RL 1905 s 1414; 1909 c 458; 1913 c 36 s 1; GS 1913 s 2917; 1919 c 526; 1921 c 227; GS 1923 s 3013; MS 1927 s 3013; 1939 c 229; M Supp s 3013; 1941 c 169 art 8 s 4; 1953 c 682 s 1.

A school board may not transfer a surplus in the treasury to a building fund for buildings to be erected in the future except when authorized by a vote of the people. OAG Sept. 20, 1951 (159-B-2).

Subject to limitations on public indebtedness and tax levies, the school board may spend such sums for capital outlay as it considers prudent. OAG Dec. 17, 1946 (519-M).

Taxes levied for the purpose of raising money to pay principal and interest on school district bonds may be used for no other purpose. Taxes levied for the purpose of buying or building a schoolhouse, when such buying or building has been authorized by vote of the people, may be used for no other purpose. OAG June 14, 1949 (519-M).

Where a tax levy has been made and bonds of a school district issued, the board cannot levy an additional tax for payment of said bonds. OAG June 16, 1950 (519-M).

The voters must authorize any capital outlet of a consolidated school district maintaining a graded secondary school, for building a schoolhouse. OAG Dec. 4, 1951 (519-M).

The school district of South St. Paul is governed by Laws Ex1887, Chapter 1, and the school board may build an addition to the schoolhouse without a vote of the people authorizing such action. OAG March 10, 1952 (622-J).

### 127.05 AGRICULTURAL LANDS, LIMITATION OF RATE

**HISTORY.** 1933 c 356 s 1; Ex1933 c 37 s 1; 1934 c 66 s 1; 1935 c 289 s 1; 1941 c 169 art 8 s 5; 1945 c 408 s 1; 1947 c 228 s 1; 1949 c 511 s 1; 1951 c 549 s 1, 2.

Petitioner's property consisting of an unplatted 40-acre tract 23 miles distant from Minneapolis, which is used partially for residential purposes by the petitioner, an attorney practicing in Minneapolis, but is in further use for raising garden produce, chickens, trees, pasturage for sheep and in the past has been used on a more expensive scale for the raising of cattle, sheep, hogs, and chickens, is rural in character and devoted or adaptable to rural but not necessarily agricultural use, and should have been classified under section 273.13, subdivision 6, class 3 (b) and subdivision 4, class 3. *Staples v State*, 233 M 312, 46 NW(2d) 651.

Under section 127.05 as amended by laws 1951, chapter 549, a school district does not have authority to enter into an agreement with a city under which it would pay a portion of the cost of tiling a county ditch contiguous to the school property. OAG Aug. 15, 1951 (159-B-8).

Subject to limitations on public indebtedness and tax levies, the school board may spend such sums for capital outlay as it considers prudent. OAG Dec. 17, 1946 (519-M).

The provisions of section 122.01, subdivision 6 mean that in joint school district tax rate for school maintenance, imposed on agricultural land must be the same in both counties; and where the average rate in common school districts in the two counties is not the same, the higher rate applies. Where terms of section 127.05, subdivisions 2 and 3 both apply to the facts, the limitations of subdivision 3 controls over subdivision 2. OAG Nov. 18, 1947 (519-M).

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The average rate of taxation on agricultural lands for school maintenance in the common school districts of the counties having 20 or more such districts must be ascertained on the basis of the rates of such lands, fixed pursuant to levies in and by the common school districts and not by adding thereto the rate fixed by the county for tuition and transportation. OAG Dec. 15, 1947 (519-M).

Where an independent school district levies taxes to pay outstanding orders representing money spent for maintenance, such levy should be reported to the auditor as maintenance and not as debt service. It is necessary to keep within limit provided by Laws 1947, Chapter 228, relating to the tax that may be imposed on agricultural land. OAG Dec. 22, 1947 (519-M).

Where taxes are levied upon agricultural lands for purposes other than maintenance, the money realized from the taxes so levied cannot be used for maintenance. OAG Aug. 2, 1949 (519-M).

The legislature intended by this section to provide limitation on the maximum rate as herein fixed on agricultural land, and that the rate should never be higher than on non-agricultural land. OAG July 27, 1950 (519-M).

It is the duty of the county auditor to certify the facts relating to the assessed valuation of lands in a school district, both agricultural and non-agricultural. The information may be furnished to the school district or agents of the district may examine the records in the county auditor's office. Except where the law so requires it is not the duty of the county auditor to search his records or make computations for the convenience of other officers. If his fee is paid therefore his certificate should show not only the assessed valuation in a common school district but also the rate of tax for school maintenance. OAG Oct. 6, 1950 (519-M).

Taxation of agricultural lands for school maintenance, pursuant to the 1951 amendment, is subject to the limitation imposed by section 275.12. OAG July 28, 1951 (519-M).

Under section 127.05, as amended by Laws 1951, Chapter 549, the tax imposed for school maintenance is subject to limitation. Under provisions of Minnesota Statutes, Section 125.08, the auditor does not levy the tax but the school board in the independent district does. OAG Nov. 20, 1951 (519-M).

Pipe lines are not included for tax purposes in class 3A or class 3D, section 273.13. Pipe lines are not "personal property having taxable situs on farms." OAG Nov. 13, 1951 (519-M).

Classifications in section 127.05 are not based upon the political character of the subdivision in which the land to be taxed is located. To be assessed as agricultural lands the property must be essentially and primarily in use for agricultural purposes at the time of the assessment, irrespective of whether the location is rural or urban. OAG Feb. 29, 1952 (519-M).

**127.053** Renumbered, 128.234.

**127.054** Renumbered, 128.235.

## 127.07 DEPOSITORIES OF SCHOOL FUNDS

**HISTORY.** 1907 c 133 s 1; 1909 c 332 s 1; 1927 c 118 s 1; MS 1927 s 2836; 1929 c 76 s 1; 1941 c 169 art 8 s 7; 1953 c 85 s 1.

When the school board designates a depository in accordance with the requirements of section 127.07, it is the duty of the treasurer to deposit school district funds therein. Accordingly, if a certain bank is the only bank in the school district, and if the assistant cashier who is also clerk of the school district, is interested in the bank which has been designated as a depository, such bank nevertheless is an authorized depository. OAG April 16, 1952 (90-C-2).

The statute does not require that interest be secured on school fund deposits, but good business judgment dictates that the board secure the maximum rate of

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interest, and the board in designating a depository may accept collateral in lieu of the bond required in section 118.01. OAG Nov. 7, 1951 (140-C-7).

A school district cannot designate a savings and loan association as a depository of school funds. OAG Jan. 25, 1952 (159-A-9).

Section 127.07 relates to transportation aid payable to consolidated school districts, county boards of education for unorganized territory, county school districts, and to ten or more township school districts. Based upon the policy indicated by section 125.06, subdivision 12, and, irrespective of section 128.07, the state board of education is warranted in paying to a consolidated district, to a county board of education, to a county school district, or to ten or more township districts, reimbursement for transportation of pupils resident in a district to a school in another district, at rates determined by the state board not to exceed \$40 per pupil. OAG Feb. 10, 1948. (168-E).

### 127.13 ACCEPTANCE OF PROPERTY IN SETTLEMENT OF CLAIMS

Property owned by a consolidated district and used to house the teachers and for which the teachers pay rent, is exempt from taxation. OAG Dec. 18, 1946 (414-B-4).

### 127.14 COMPENSATION

HISTORY. 1907 c 133 s 4; 1909 c 332 s 4; GS 1913 s 2766; GS 1923 s 2839; MS 1927 s 2839; 1941 c 169 art 8 s 14.

## CHAPTER 128

### STATE AND FEDERAL SCHOOL AIDS

#### 128.01 STATE AID FUNDS; SOURCES

HISTORY. 1862 c 1 s 22, 26; 1864 c 2 s 1; 1864 c 3 s 1; 1921 c 467 s 1; GS 1923 s 3022; MS 1927 s 3022; 1941 c 169 art 9 s 1; 1947 c 633 s 3.

It is the duty of the school clerk to issue orders on the treasurer for the disbursement of district funds and each order shall state the fund on which the order is drawn. Teachers' salaries have preference. Money applicable for teachers' wages from the current school fund cannot be used for any other purpose, nor can the teachers' wages be paid from any fund except that raised and apportioned for that purpose. Money raised by taxation on a levy by a school district for one purpose cannot be used for another purpose. In a common school district the voters determine the amount of the tax levy and the purpose thereof. In an independent school district, the school board determines the amount of the tax levy and levies the necessary taxes. There is no limitation on expenditures as there is on a common district. The board in an independent district may use the money in the treasury of the district received under a general tax levy and not under a levy certified for a particular purpose, for such purposes as it considers to be in the interest of the district. An independent district does not make up a budget or certify a budget to the county auditor. OAG Oct. 7, 1948 (159-C-6).

128.015 Repealed, 1947 c 633 s 22.

128.03 Repealed, 1947 c 633 s 22.

#### 128.04 APPORTIONMENT

HISTORY. 1873 c 1 s 86, 87; 1877 c 74 t 5 s 3-7; GS 1878 c 36 c 77-81; 1883 c 54 s 2; 1887 c 41 s 2; GS 1894 s 3761-3765; RL 1905 s 1398, 1399, 1401; GS 1913