

MINNESOTA STATUTES 1953 ANNOTATIONS

348.073 BOUNTIES, REWARDS

950

Payment of bounties upon certain predatory animals is county governmental expense, and it is the county board's duty to pay such bounties from the county revenue fund. OAG Oct. 30, 1952 (47-F).

In the absence of a verified statement or claim described by claimant, the production of a wolf pelt from outside the state does not constitute a criminal act. OAG Jan. 13, 1953 (133-B-28).

348.073 BOUNTY FOR BEAR

The obvious purpose of granting a bounty on the killing of bear was to restrict or eliminate predatory wild animals, and it applies to any county where the commissioners have determined and established a bounty on bear. Payments may be made to an Indian for bear killed on an Indian reservation within the county. OAG Oct. 13, 1949 (47-C).

348.08-348.11 Repealed, 1945 c 262 s 4.

348.12 BOUNTIES, CERTAIN BIRDS AND ANIMALS

HISTORY. 1877 c 125 s 1; GS 1878 c 124 s 78; 1885 c 182 s 1; 1887 c 144 s 1, 2; GS 1894 s 7879-7882; 1903 c 377 s 1; RL 1905 s 2402; 1909 c 48 s 1; GS 1913 s 5202; Mason's 1927 s 6259; 1939 c 40 s 1; 1951 c 372 s 1; 1953 c 247 s 1.

Payment of bounties upon certain predatory animals is county governmental expense, and it is the county board's duty to pay such bounties from the county revenue fund. OAG Oct. 30, 1952 (47-F).

348.14 Repealed, 1945 c 262 s 4.

348.15-348.18, Superseded by 348.071.

OTHER PUBLIC RIGHTS AND PRIVILEGES

CHAPTER 350

STATE OFFICERS AND EMPLOYEES, SALARIES

350.01 AMOUNT

Where the right to enjoin payment of the salary annexed to a public office depends upon a determination of title to the office, and the title to the office is disputed and has not been determined in quo warranto proceedings, an injunction should not issue to restrain payment of salary. *Ryan v Hennepin County*, 224 M 444, 29 NW(2d) 385.

350.02 GOVERNOR

HISTORY. Amended, 1949 c 738 s 1; 1951 c 712 s 1.

350.03 SECRETARY OF STATE

HISTORY. Amended, 1949 c 738 s 2; 1951 c 712 s 2.

350.04 STATE AUDITOR

HISTORY. Amended, 1949 c 738 s 3; 1951 c 712 s 3.

MINNESOTA STATUTES 1953 ANNOTATIONS

951

STATE OFFICERS AND EMPLOYEES, SALARIES 350.10

350.05 STATE TREASURER

HISTORY. Amended, 1949 c 738 s 4; 1951 c 712 s 4.

No salary is paid to the state treasurer by the board of regents. OAG June 14, 1949 (454-J).

350.06 ATTORNEY GENERAL

HISTORY. Amended, 1949 c 738 s 5; 1951 c 712 s 5.

350.07 Repealed, 1951 c 713 s 39.

350.08 RAILROAD AND WAREHOUSE COMMISSION

HISTORY. Amended, 1949 c 738 s 6; 1951 c 712 s 6.

350.09 SUPREME COURT JUSTICES

HISTORY. Amended, 1947 c 427 s 1; 1951 c 455 s 1.

An associate justice who retires is entitled, from the effective date of his retirement, to the sum of \$11,000 for each year until the expiration of the term for which he was elected and thereafter at the rate of \$5,000 annually for the remainder of his life. OAG Jan. 15, 1953 (141-D-5-6-M).

350.091 CLERK AND DEPUTY CLERK OF SUPREME COURT

HISTORY. 1951 c 455 s 2.

350.092 SUPREME COURT EMPLOYEES

HISTORY. 1951 c 455 s 3.

350.093 RETIREMENT COMPENSATION, NOT AFFECTED BY SALARY CHANGES

HISTORY. 1951 c 455 s 4.

NOTE: 1951 c 455 s 4 repealed by 1953 c 360 s 2.

350.10 DISTRICT COURT JUDGES

HISTORY. 1913 c 400 s 1; GS 1913 s 294; Ex1919 c 30 s 1; 1921 c 431 s 1; 1927 c 446 s 1; MS 1927 s 252; 1941 c 195 s 1; 1945 c 507 s 2; 1947 c 545 s 1; 1949 c 667 s 1; 1951 c 456 s 1.

NOTE: Senate File No. 867, a bill relating to salaries and retirement compensation of judges of the district court; amending Minnesota Statutes 1949, Section 350.10, as amended by Laws 1951, Chapter 456, passed both Houses on April 21, 1953, and was delivered to the Governor for his approval. The legislature adjourned sine die April 22, 1953. The Governor did not approve the bill. Three qualified persons petitioned the district court of the Fourth Judicial District, File No. 283,378, for a writ of mandamus requiring the Secretary of State, the Commissioner of Administration, and the Revisor of Statutes, to recognize and publish as a law the enactment which the Governor had failed to approve. The trial judge held that under the constitution and laws of Minnesota no approval of said legislation by the Governor was required, and the enactment became law upon its passage by both Houses of the legislature; and ordered that a peremptory writ be issued requiring the three respondents to recognize and publish the Act as a law. Upon appeal, the Supreme Court held:

"Under Minnesota Constitution, Article VI, Section 6, which provides that judges of the district courts of this state 'shall receive such compensation at stated times as may be prescribed by the legislature,' the signature of the governor is not

MINNESOTA STATUTES 1953 ANNOTATIONS

350.105 STATE OFFICERS AND EMPLOYEES, SALARIES

952

a necessary prerequisite to the validity of an act of the legislature prescribing such salaries."

"We therefore hold that the Act of the legislature in prescribing the salaries for judges of the district court was complete without the signature of the Governor and that the decision of the trial court should be affirmed."

As thus enacted and proclaimed, section 350.10 reads:

The yearly salaries to be paid to the judges of the district court shall be \$11,700 each from the state and \$1,500 additional from each county in their respective districts having a population of 200,000 or more and \$300 additional in each judicial district having an area of more than 15,000 square miles from the counties comprising such judicial district in such proportion as the assessed valuation of each county bears to the total assessed valuation of such judicial district in the preceding year. When any district judge shall preside upon the trial or hearing of any cause outside of his resident judicial district wherein the district judge receives a larger salary he shall receive as additional compensation during the period of such trial or hearing the difference between his fixed compensation and the compensation of the district judge of the district where he has been so engaged to be paid by the county wherein the trial or hearing was held upon certification of the senior resident district judge thereof.

The retirement compensation for judges of the district court who have heretofore retired shall continue at the present rate of their retirement compensation and the retirement compensation of judges of the district court who shall hereafter retire shall be based upon salaries paid to such judges by the state immediately prior to the passage of this Act.

A judge of the district court more than 70 years of age, but who has not "served as a judge of the district court or as such judge and as a judge of a municipal court or a probate court of this state, or either, continuously for 25 years or more" is entitled upon retirement to receive compensation for the remainder of his term and not thereafter. Under Laws 1945, Chapter 507, Section 3, the amount of retirement compensation is fixed by the salary paid to the district judge in effect as the date of the enactment of chapter 507 and under construction of the statutes as found in section 645.31 the retirement compensation must be as it would have been prior to the passage of chapter 507, notwithstanding any later increase in the compensation of district judges. OAG March 29, 1948 (141-D-5).

350.105 Repealed, 1949 c 640 s 5; 1949 c 645 s 3.

350.11 MILEAGE, ALLOWANCE; EXCEPTION

HISTORY. 1931 c 331 s 1, 2; 1933 c 13 s 1; 1935 c 225 s 1; 1949 c 681 s 1; 1951 c 641 s 1; 1953 c 159 s 1.

Section 350.11 was amended by Laws 1951, Chapter 641, and provides that the maximum amount which shall be paid by any city to any officer or employee thereof as compensation or reimbursement for the use of his own automobile in the performance of his duties shall not exceed seven and one half cents per mile. OAG Aug. 7, 1951 (59-A-29).

County officers other than the sheriff are limited to six cents per mile for the use of a privately owned automobile. OAG Sept. 13, 1949 (104-A-8).

Section 350.11 is not a grant of authority to pay traveling expense. It is a statute of limitation. OAG March 6, 1947 (104-A-8).

Under section 350.11 the amount payable as reimbursement or as compensation for the use by official or employee of his automobile while in the performance of his duty is limited to five cents per mile. This limitation does not apply to sheriff or deputies. OAG May 29, 1947 (124-J); July 15, 1947 (124-J); Dec. 4, 1947 (104-A-8).

Under the provisions of sections 282.13 and 350.11 the land commissioner or his assistant are allowed five cents per mile as compensation for the use of their automobile. OAG Dec. 4, 1947 (104-A-8).

MINNESOTA STATUTES 1953 ANNOTATIONS

953

RESIGNATIONS; VACANCIES; REMOVALS 351.01

The compensation for the use of a private automobile by county officers other than sheriffs or deputy sheriffs is 6 cents per mile. The board may fix the rate by a resolution but it is not necessary to do so, the matter being covered by statute. OAG Aug. 9, 1949 (104-A-8).

When the county attorney presents to the district judge a bill for allowance involving travel expense by the county attorney when using his own automobile and such disbursements are to be paid out of the county attorney's contingent fund, the district judge is controlled by section 350.11 without any action on the part of the county board. If the county attorney uses his automobile in the performance of his duties in litigation or in other work in which the county is interested where his reimbursement should be audited and allowed by the county board, the board is guided by the same section, section 350.11 and in any event he is paid out of the county attorney's contingent fund under the provisions of section 388.14. OAG Aug. 18, 1949 (121-C-4).

Section 375.06 allows mileage to the commissioner for committee work as an emolument of office, not as compensation or reimbursement for use of his own automobile in performance of duty. Section 350.11 does not apply. OAG July 29, 1947 (124-J).

Section 350.11 defines the compensation of employees of the county welfare board in using their personal automobile and no extra compensation may be allowed. OAG Jan. 6, 1950 (125-A-64).

The compensation for a member of the interim tax commission for using his car in his duties is limited to seven and one-half cents per mile. As to other expenses, members of the commission are allowed such amount as is necessarily incurred in the performance of their duties. In presenting their expense bill, the provisions of Laws 1953, Chapter 736, Section 6, must be complied with. OAG Dec. 31, 1953 (280-C).

When necessary for the county treasurer to use his own car when inspecting safety deposit boxes, he may charge five cents per mile mileage. OAG Jan. 26, 1948 (450-F-3).

Members of the veterinary examining board may be paid six cents per mile for the use of their automobiles in going to and returning from board meetings. OAG Aug. 24, 1949 (980-A-15).

Under the provisions of Laws 1949, Chapter 681, the mileage allowance for the personal automobiles of state officers and employees while engaged in state business is fixed at six cents per mile. OAG Aug. 1, 1949 (980-A-15).

The 1951 amendment did not state when it became effective and under the provisions of section 645.20 it took effect at the beginning of the next day following its final enactment and was effective at 12.01 a.m. on that date. OAG June 15, 1951 (980-A-15).

CHAPTER 351

RESIGNATIONS; VACANCIES; REMOVALS

351.01 RESIGNATIONS

HISTORY. RS 1851 c 10 s 1; PS 1858 c 10 s 1; GS 1866 c 9 s 1; GS 1878 c 9 s 1; GS 1894 s 891; RL 1905 s 2666; GS 1913 s 5722; GS 1923 s 6952; MS 1927 s 6952.

On June 30 the chairman of the county welfare board sent his resignation asking that it become effective on July 1. At a meeting of the board on July 9 the resignation was accepted, effective as of July 1. The former chairman was not a county officer on July 8 and a contract between the county and the firm, of which the former chairman was a member, was valid. OAG July 22, 1948 (90-B-3).