

1934 Supplement
To
Mason's Minnesota Statutes
1927

(1927 to 1934)
(Superseding Mason's 1931 Supplement)

Containing the text of the acts of the 1929, 1931, 1933 and 1933-34 Special Sessions of the Legislature, both new and amendatory, and notes showing repeals, together with annotations from the various courts, state, federal, and the opinions of the Attorney General, construing the constitution, statutes, charters and court rules of Minnesota



Edited by

WILLIAM H. MASON, Editor-in-Chief
W. H. MASON, JR. }
R. O. MASON } Assistant Editors
J. S. O'BRIEN }

CITER- DIGEST CO.
SAINT PAUL, MINNESOTA.
1934

5302. Municipalities given right to operate telephone exchanges.

Village council may sell or lease its telephone exchange without submission to electors. Op. Atty. Gen., Apr. 16, 1929.

5306. Companies given right to purchase property of other companies with consent of commission.

Section applies to sale of telephone exchange by a village. Op. Atty. Gen., Apr. 16, 1929.

Commission having consented to purchase of one telephone corporation by another had no power to thereafter revoke such order, and could take no official interest in proceedings before interstate commerce commission. Op. Atty. Gen., May 10, 1933.

5308. Mode of procedure for appeals from decisions of commission.

Issue of confiscation as to telephone rates must be submitted to a judicial tribunal for determination upon its own independent judgment as to both law and facts. *Western Buse Telephone Co. v. N.*, 248NW220.

Rate making is a legislative and not a judicial function. Id.

5310. Violation a gross misdemeanor.

In determining whether severing of connections would be a violation of §5295, the fact that the connection between the lines of the companies was made under a private arrangement would be immaterial. Op. Atty. Gen., Apr. 7, 1931.

In a prosecution for severing connections of lines of two companies in violation of §5295, complaint must allege sufficient facts to bring both companies within the definition of the term "telephone company" as set forth in §5287. Op. Atty. Gen., Apr. 7, 1931.

5312. Town boards may construct telephone systems for fire protection.

A township telephone company organized under State Fire Protection law has no authority to buy an interest in an adjoining exchange without a vote of the township voters. Op. Atty. Gen., Aug. 6, 1931.

5314. Tax levy for construction.

Where levy for one year is insufficient to construct telephone system the levies of several years may be accumulated until the fund is sufficient for the purpose. Op. Atty. Gen., Apr. 24, 1930.

Town board has no authority to use the road and bridge fund to keep up the operating expenses of a township telephone company organized under State Fire Protection law. Op. Atty. Gen., Aug. 6, 1931.

5318. Private owners may sell telephone lines to township—Railroad and Warehouse Commission to fix value.—When, under the provisions of this act, a township telephone system shall be established in any township wherein any of the inhabitants of such town are already provided with telephone service furnished by any other telephone company, person or persons, such township shall, when so requested by said telephone company, person or persons, acquire from said telephone company all telephone equipment used by said telephone company, person or persons, in furnishing telephone service to the inhabitants of such township exclusively. For the purpose of determining the purchase price of such equipment application shall be made to the state railroad and warehouse commission, whose duty it shall be thereupon to determine the just compensation which the owner of such telephone equipment is entitled to receive therefor from the township. Before deciding upon such compensation, said commission shall at a public meeting which may be adjourned from time to time hear all interested parties on the question involved. The commission shall by order fix the com-

penetration and furnish a copy of its order to the township, and to the telephone company, person or persons concerned. An appeal may be taken to the district court of the county wherein such township is situated from that part of the order fixing the compensation to be paid, within thirty days, by either party, which appeal shall be tried the same as other appeals hereunder; if no such appeal is taken the order of the commission shall become final at the end of thirty days, and when appeal is taken the decision of the district court or of the supreme court, if taken there from the district court shall be final.

When, under the provisions of this act a township telephone system has been established in any township, and it has been determined by the board of supervisors of said township to be for the best interest of public service and all parties concerned, to sell and transfer said township telephone system to any telephone company, person or persons giving service organized for that purpose and qualified to purchase said system and operate the same, the said board or supervisors shall have authority to sell, transfer, and convey said township telephone system upon such reasonable price and terms as it may determine, provided, that there shall be presented to the board of supervisors by a petition signed by at least twenty-five per cent of the freeholders of said township asking the sale thereof, and, if such sale and agreed sale price be approved at an annual or special town meeting, it being stated in the notice of such annual and special meeting that the proposition will be considered thereat, by sixty-six per cent of the legal voters attending such meeting.

If any township telephone lines are sold under the provisions of this act, and the township has theretofore issued bonds for the construction thereof, and any part of said bonds are then outstanding and unpaid; the entire consideration received from the sale, or such part as may be necessary, shall be held and applied only for the payment and retirement of such bonds. ('21, c. 439, §7; Apr. 11, 1929, c. 150, §1.)

A town board is without power to give away an interest which it has purchased in an adjoining exchange. Op. Atty. Gen., Aug. 6, 1931.

5319. Town boards to manage.—The town board of supervisors of any such township is hereby vested with all necessary authority to manage, maintain and operate any township telephone system constructed under the provisions of this act, and, to that end, may, among other things, contract for the connection of such township lines with exchanges owned by others for switching, lease the system for a reasonable compensation, local exchange and toll connections, hire and discharge such employees as may be necessary to operate and maintain such township system, establish rules and regulations, and, subject to the approval of the railroad and warehouse commission establish and from time to time change rates and charges, covering the service furnished to the users. ('21, c. 439, §8; Apr. 11, 1929, c. 150, §2.)

Town board may cancel out and refuse to connect with another exchange and operate its telephone service by house to house calls without a central exchange connection. Op. Atty. Gen., Aug. 6, 1931.

Town board has no authority to use the road and bridge fund to keep up the operating expenses of a township telephone company organized under State Fire Protection law. Op. Atty. Gen., Aug. 6, 1931.

CHAPTER 28B

Department of Banking—Division of Banking in
Department of Commerce**5323. Powers and duties of superintendent.**

179M217, 228NW926.

Duluth Morris Plan Company comes within provisions of section and gives commissioner of banks power and duty to safeguard rights of those dealing with it. Op. Atty. Gen., Jan. 19, 1933.

Whether Duluth Morris Plan Company may purchase of its own stock to hold for resale is a matter resting

within discretion of commissioner of banks. Op. Atty. Gen., Jan. 19, 1933.

5324. Supervision over banks and other financial corporations.

179M217, 228NW926.

Op. Atty. Gen., Jan. 19, 1933; note under §5323.

5325. Refusal to obey directions of examiner.

One is not excused by the absence of guilty knowledge or intention and his consequent moral innocence. 178M9, 225NW927.

This section applies whether the duty violated was imposed by the action of 1909 or by a prior statute. 179M217, 228NW926.

The offense consists in knowingly and intentionally or negligently failing to report, and it is error to reject evidence tending to show good faith and lack of knowledge that the report was false. 179M217, 228NW926.

Offense, held committed in Isanti County though report was sent by mail to Commissioner in Ramsey County. 179M217, 228NW926.

Rulings on evidence considered. 179M217, 228NW926.

5328. State bank examiners or employees prohibited from holding bank stock.—No person who is a bank examiner or other officer or employee of the division of banking of the department of commerce of this state shall be interested, either directly or indirectly, as a stockholder, director, officer, trustee, assignee, employee, or otherwise, in any bank, savings bank, trust company, financial institution, or corporation holding the stock of any such a corporation within this state, or which carries on a banking business within this state, either directly or indirectly, or through an affiliated group or chain bank operating within this state. If the wife, or any other member of the household of a bank examiner or other officer or employee shall be so interested, it shall be conclusive-

ly presumed that said bank examiner or other officer or employee is indirectly interested in the corporation within the meaning of this act; but the meaning of the words "directly or indirectly" is not otherwise qualified. The provision of this section shall not apply to the Commissioner of Banks. (15, c. 164, §1; Mar. 7, 1931, c. 43, §1.)

5328-1. Penalty for violation.—Any person violating the provisions of this act shall be disqualified from holding any office or employment in the division of banking of the department of commerce, and shall be removed from such office or employment by the commissioner of banks immediately upon knowledge of such violation. (Act Mar. 7, 1931, c. 43, §2.)

5332-1. Examiners powers enlarged.—The examiner in charge of liquidation in the banking division of the department of commerce is hereby authorized to sign the name of the commissioner of banks and to act for him in all matters connected with the liquidation of insolvent corporations under the supervision and control of the commissioner of banks, with the same force and effect as though the commissioner himself had signed or acted. Provided, that said examiner shall have no authority to order an assessment against the stockholders of an insolvent state bank or trust company under the provisions of Laws 1927, Chapter 254 [§§7699-20 to 7699-247]. (Act Apr. 9, 1931, c. 137.)

CHAPTER 29

Public Health

5339. General duties of board—Reports.

Op. Atty. Gen., June 28, 1933; note under §5345.

5345. State board of health, general and special rules.

Op. Atty. Gen., June 20, 1933; note under §9580.

Resolution by state board of health that plans and specifications must be prepared by person not prohibited from doing so under Laws 1933, c. 404, is not bound to act according to such resolution, it being merely a declaration of policy. Op. Atty. Gen., June 28, 1933.

5348. Local boards—Health officers.

Member of town board may receive compensation as health officer as well as member of board. Op. Atty. Gen., Feb. 7, 1929.

Town board cannot appoint as health officer one who is not a duly licensed physician. Op. Atty. Gen., Apr. 16, 1931.

Action of voters at town meeting in attempting to elect a health officer is nugatory. Op. Atty. Gen., Apr. 16, 1931.

Village is not compelled to establish its own board of health, but where it does establish one, village is liable for costs and expenses lawfully incurred under its direction. Op. Atty. Gen., Apr. 28, 1932.

Where village has no board of health, it is, nevertheless, liable for costs and expenses lawfully incurred under direction of town board in connection with public health affairs. Op. Atty. Gen., Apr. 28, 1932.

A town chairman appointed health officer pursuant to this section is entitled to compensation in addition to his compensation as a board member. Op. Atty. Gen., Apr. 6, 1933.

5349. Duties of local boards of health—Penalties.

City health department has right to subject school children exposed to tuberculosis to reasonable tests. Op. Atty. Gen., June 15, 1933.

5351. Powers of health officer in assuming jurisdiction over communicable diseases.

Op. Atty. Gen., Apr. 28, 1932; note under §5348.

Whether removal of tonsils of diphtheria carrier would be control measure for benefit of public, is question of fact. Op. Atty. Gen., June 11, 1932.

There are three classes of measures employed in controlling communicable diseases, quarantine, other control measures such as vaccination, etc., and measures looking only to comfort and treatment of particular individual suffering from disease, first is purely public measure, expenses of which are paid by local health districts, one-half to be claimed against county, and same is true as to second class, if individuals cannot pay, but there is no public liability as to third class except by way of poor relief. Op. Atty. Gen., June 11, 1932.

Local board of health on advice of state board of health has power to seize a person afflicted with tuberculosis and carry him off to public hospital. Op. Atty. Gen., May 10, 1933.

Whether tuberculosis of knee is a communicable disease is question of fact to be determined by medical experts. Op. Atty. Gen., Sept. 26, 1933.

5352. Allowance and payment of expenses, etc.

Op. Atty. Gen., Apr. 28, 1932; note under §5348.

Op. Atty. Gen., June 11, 1932; note under §5351.

Person who has communicable disease should pay expenses of care, but if it is impossible to secure payment from him, local health district must assume expense and may recover one half from county. Op. Atty. Gen., July 31, 1933.

5353. Appeal from disallowance—costs.

Op. Atty. Gen., June 11, 1932; note under §5351.

5353-2. Same—Expenses.

If the county purchases an automobile, gasoline and repairs, the limitations of Laws 1931, c. 331, have no application but such act does apply if county nurse furnishes her own automobile and bills the county for reimbursements. Op. Atty. Gen., May 23, 1931.

5353-3. Same—Must be registered nurses.

Nurses employed by municipalities must be registered pursuant to statute. Op. Atty. Gen., Aug. 10, 1932.

5356. Birth certificates—Form and contents.

Manner of correcting birth certificates, discussed. Op. Atty. Gen., Aug. 11, 1931.

5356-1. School nurses, etc., shall keep health records of children.—It shall be the duty of every school nurse, school physician, school attendance officer, superintendent of schools, principal, teacher and of the persons charged with the duty of compiling and keeping the school census records to cause a permanent public health record to be kept for every child of school age. Such record shall be kept in such form that it may be transferred with the child to any school which the child shall attend within the state and transferred to the board of health when the child ceases to attend school. It shall contain a record of such health matters as shall be prescribed by the board of health, and of all mental and physical defects and handicaps, which might permanently cripple or handicap the child. Nothing in this act shall be construed to require any child whose parent or guardian objects in writing thereto to undergo a