

1944 Supplement
To
Mason's Minnesota Statutes, 1927
and
Mason's 1940 Supplement

Containing the text of the acts of the 1941 and 1943 Sessions of the Legislature, both new and amendatory, and notes showing repeals, together with annotations from the various courts, state and federal, and the opinions of the Attorney General, construing the constitution, statutes, charters and court rules of Minnesota together with Law Review Articles and digest of all common law decisions.

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CHAPTER 3A

Organization of State Government

ARTICLE I.—DEPARTMENTS OF STATE GOVERNMENT

53-1p. Application of act.

Appropriations under Laws 1941 Chapter 524 were expressly made subject to budgetary control of reorganization act, and thus unexpended balances on hand June 30, 1941, which were reappropriated, became subject to such control, though previously exempt therefrom. Op. Atty. Gen. (521w), Nov. 28, 1942.

Reorganization Act of 1939 applies to Department of Rural Credit. Op. Atty. Gen. (640), Feb. 24, 1943.

53-1t. Transfer of real estate owned by state between state departments.—In order to facilitate the transfer of the control of state owned lands between state departments of government and avoid the necessity of condemning state lands by a department of government of said state, any department of the state government of the State of Minnesota may acquire the control of state lands for said public purposes from the department of state government having such lands under its control and supervision, upon such terms and conditions as may be mutually agreed upon by the heads of the interested state departments. (Act Apr. 23, 1941, c. 387, §1.) [15.16(1)]

53-1u. Same—Failure to agree—Executive Council.—In the event the heads of such departments are unable to agree as to the terms and conditions of a transfer of control of said state lands the Executive Council of the State of Minnesota, upon application of a state department having the power to acquire lands for public purposes, shall determine the terms and conditions and may order the transfer of the control of state lands to the department so requesting. (Act Apr. 23, 1941, c. 387, §2.) [15.16(2)]

53-1v. Same—Transfer of funds.—The state auditor and the state treasurer are hereby authorized and directed to transfer funds between state departments to effect the terms and conditions to transfer the control of real estate as hereinbefore provided. (Act Apr. 23, 1941, c. 387, §3.) [15.16(3)]

53-1w. Same—Transfer documents—Filing.—The transfer of control of real estate as hereinbefore provided shall be made on such transfer documents as the Attorney General of the State of Minnesota shall prescribe, and all such transfer documents shall be permanently filed in the office of the state auditor. (Act Apr. 23, 1941, c. 387, §4.) [15.16(4)]

53-1x. Deductions from salaries of employees—Payment of borrowed money—Savings accounts.—The heads of the various departments of the government of the State of Minnesota are hereby authorized, by and with the written consent of any employee of any state department, to deduct from the salary of such employee such sum or sums as may be agreed to by such employee for the payment of any moneys borrowed from any state employees credit union or for the purpose of creating a savings account in behalf of such employee or employees as the case may be.

This act shall take effect and be in force from and after its passage. (Act Apr. 26, 1941, c. 464, §1.) [10.39]

Act gives state auditor authority to draw his warrant to state credit union for purposes set forth in act. Op. Atty. Gen. (24a), July 17, 1941.

ARTICLE II.—EXECUTIVE COUNCIL

53-3. Powers and duties of council—Meetings.

Executive council has no authority to approve or put into operation a welfare group plan of accident, health, and surgical benefits sponsored by an insurance company,

whereby deductions are to be made from salaries of state employees for payment of premiums. Op. Atty. Gen., (249B-9), Feb. 27, 1940.

ARTICLE III.—DEPARTMENT OF ADMINISTRATION AND FINANCE

53-4b. State agencies are included in act.

Commission of administration has control over employment and compensation of agents of Railroad and Warehouse Commission in weighing and inspection of grain, but power to approve salaries and salary schedules is vested in director of civil service, to be thereafter approved by civil service board, and thereafter approved by commissioner of administration, but after salary schedules have once been approved, commissioner of administration has no power or right to change or reduce individual salaries within classification and schedules. Op. Atty. Gen. (644), Aug. 22, 1940.

Appropriations under Laws 1941 Chapter 524 were expressly made subject to budgetary control of reorganization act, and thus unexpended balances on hand June 30, 1941, which were reappropriated, became subject to such control, though previously exempt therefrom. Op. Atty. Gen. (521w), Nov. 28, 1942.

53-7. Classification, grading, titles and salaries of state employees.

Commission of administration has control over employment and compensation of agents of Railroad and Warehouse Commission in weighing and inspection of grain, but power to approve salaries and salary schedules is vested in director of civil service, to be thereafter approved by civil service board, and thereafter approved by commissioner of administration, but after salary schedules have once been approved, commissioner of administration has no power or right to change or reduce individual salaries within classification and schedules. Op. Atty. Gen. (644), Aug. 22, 1940.

53-18b. Powers and duties of the Commissioner.—Subject to other applicable provisions of this chapter and to other laws not inconsistent herewith, the commissioner shall have the following powers and duties respecting all agencies of the state:

(1) To purchase, rent or otherwise provide for the furnishing of all supplies, materials, equipment, printing and utility services, prescribed standard specifications therefor, to provide for inspecting and testing the same, and otherwise to enforce compliance with such specifications; to prescribe and designate classes of state printing. (As amended Act Apr. 22, 1941, c. 381, §1.)

(2) To prescribe time, manner, authentication and form of making requisitions for supplies, materials, equipment, printing, and utility services, and the manner and form in which claims therefor shall be submitted, allowed, and paid;

(3) To supervise and control the making of all contracts for building, highways, and other improvements, and to prescribe the amount of certified checks, deposits, or bonds to be submitted in connection with bids and contracts, when not otherwise provided for by law;

(4) To cause to be prepared plans and specifications for the construction, alteration, or enlargement of all state buildings, structures, and other improvements except highways and bridges; to approve such plans and specifications; to advertise for bids and award all contracts in connection with such improvements; to supervise and inspect all work relating thereto; after any contract for such an improvement is let, to approve all lawful changes in plans and specifications; to approve estimates for payment; and to accept such improvements when completed according to such plans and specifications;

(5) To maintain and operate the state capitol building, state office building, historical society building, and the grounds appertaining thereto, also, where deemed advisable and practicable by the commissioner, any other building or premises owned or rented by the state for the use of any state department or other administrative agency; provided, that this shall not apply to state hospitals or to educational, penal, cor-

rectional, or other institutions the control of which is vested by law in some other agency;

(6) To provide for the periodical inspection and appraisal of all state property, real and personal, and for keeping current and perpetual inventories thereof, and to require all departments and agencies to make reports of the real and personal property in their custody at such intervals and in such form as he may deem necessary;

(7) To inspect all state power, heating, and lighting plants, and to make such rules regulating the operation thereof and to recommend such improvements therein as will promote economical and efficient operation;

(8) To supervise and control the making of necessary repairs to all state buildings and structures, except structures, other than buildings, under the control of the state highway department;

(9) To rent land and other premises when necessary for state purposes; provided, that no such land or premises shall be rented for a term exceeding two years at a time; except that, with the approval of the legislative emergency committee, the commissioner may lease land or premises for a term not exceeding five years, subject to cancellation upon 30 days' written notice by the state for any reason except rental of other land or premises for the same use;

(10) To prepare a biennial budget, under the supervision of the governor-elect;

(11) To operate the allotment system;

(12) To provide for the printing and distribution of the session laws, the legislative manual, the capitol guide book, official reports and other publications of all kinds, and to supervise and control the form of such reports and publications so as to coordinate the same, avoid duplications and make the same useful and informative to the public; subject, however, to the following restrictions and requirements:

(a) The legislative manual shall be indexed and contain: the federal and state constitutions; the acts of congress relating to the organization of the territory and state; the rules of order and joint rules of the two houses, and lists of their members, committees and employees; the names of all state officials, whether elected or appointed and of all persons holding office from this state under the national government, including postmasters appointed by the president; the places where said several officials reside and the annual compensation of each; and statistical and other information of the kind heretofore published in the legislative manual.

(b) 25,000 copies of said manual shall be printed and distributed as follows:

1. 50 copies to the president of the senate and to each member of the legislature and 50 copies to the state historical society.
2. Five to the state university.
3. Three to the state library.
4. Two to each of the following: the library of congress, the Minnesota soldiers' home, the state normal schools, the state high schools, the public academies, seminaries and colleges of the state and the free public libraries thereof.

5. One to each of the following: the state institutions not hereinbefore mentioned, the elective state officials, the appointed heads of departments, the officers and employees of both houses of the legislature, the supreme and district court judges, the senators and representatives in congress from this state and the several county auditors.

6. Each county superintendent of schools, one copy for each public school in his county.

7. There shall be retained for distribution to members of the next succeeding legislature 275, and the remainder may be disposed of as the commissioner shall deem best.

(c) As soon as practicable after the adjournment of each legislative session, the laws and joint resolu-

tions passed thereat shall be published by the commissioner in the general form heretofore adopted, with suitable head-lines and marginal notes, and shall be indexed by the commissioner with the assistance and advice of the attorney general and each volume of such session laws shall have a full and complete index of the laws of the session, each index of each volume of session laws hereafter published to give briefly subject matter of law, reference to year, chapter and section of session laws, and to sections of the revised laws of 1927, altered, repealed or amended, and a reference by chapter and year to the session laws of 1927 and subsequent years, altered, amended or repealed. Whenever any law enacted by the legislature amends a statute contained in a compilation of the general statutes of the state, but fails to refer to the section of such last compilation of general statutes, the commissioner, with the assistance and advice of the attorney general, shall note at the head of the law, as printed, the number of the section of the general statutes in which the amended law is contained. Unless otherwise prescribed by law, the number of copies and the manner and terms of disposition of the same shall be determined by the commissioner; provided that 100 copies shall be assigned to the state university for the use of its law library; and, if the legislature shall appropriate money for the publication of such session laws in the newspapers, the commissioner shall apportion the same equitably among such qualified newspapers as may make publication thereof within a time and in a manner by him directed or approved. (As amended Act Apr. 22, 1941, c. 381, §2.)

(13) To rent out, with the approval of the governor, any state property, real or personal, not needed for public use, the rental of which is not otherwise provided for or prohibited by law; provided, that this shall not apply to state trust fund lands, or other state lands under the jurisdiction of the department of conservation, or to property under the jurisdiction of the department of rural credit, or to lands forfeited for delinquent taxes; provided further, that no such property shall be rented out for a term exceeding two years at a time;

(14) To have charge of all central store rooms and supply rooms serving more than one department now or hereafter established and operated by the state;

(15) To maintain and operate for state departments and agencies a central mailing service, and a duplicating division in which all duplication shall be done; to require that all equipment now or hereafter owned by the State be turned into the central duplicating division for use therein with the following exceptions:

(a) Duplicating machines may be used in any department, institution or State agency not located in St. Paul or Minneapolis.

(b) The Motor Vehicle Department may continue to fill in the necessary data on automobile license registration cards on duplicating machines or by duplicating process.

(c) The Civil Service Department may continue to produce work of confidential nature on their own duplicating machines.

(d) The Railroad and Warehouse Commission may utilize a duplicating machine for the purpose of issuing its orders and other work which is confidential until the time of its release.

The duplicating work to be done by the duplicating division shall be restricted to producing any form, booklet or pamphlet as follows:

- 4 pages or less, not to exceed 5,000 copies.
- Over 4 pages and not to exceed 24 pages, 1,000 copies.
- Over 24 pages and not to exceed 50 pages, 750 copies.
- Over 50 pages, not to exceed 500 copies. (As amended Apr. 22, 1941, c. 381, §3; Apr. 9, 1943, c. 359, §1.)

(16) To distribute all public printing to officers, organizations, agencies, and persons entitled thereto;

(17) To sell all public books and documents which are subject to sale;

(18) To transfer to or between state departments and agencies or to sell supplies, materials, and equipment which are surplus, obsolete, or unused, making proper adjustments in the accounts and appropriations of the departments or agencies concerned;

(19) To purchase from the state penal institutions and other state institutions all articles manufactured by them which are usable by the state;

(20) To make rules and regulations relative to travel of state officers and employes on state business and the expenses incurred thereon.

(21) To make rules and regulations relative to the expenses of moving state officers and employes to new stations, subsistence, and such other expenses as may be necessary and incident to assignments to such stations, and to provide for the payment thereof by reimbursement of actual expenses or payment therefor at a daily flat rate. (As amended Act Apr. 22, 1941, c. 381, §3; Apr. 23, 1941, c. 392, §1; Apr. 9, 1943, c. 359, §1.)

Editorial note.—Title of Act Apr. 22, 1941, c. 381, purported also, to amend Laws 1939, c. 431, Art. II, §3, subd. 19. Such amendment did not appear in the act.

Laws 1943, c. 614, authorizes Commissioner of Administration to purchase Lots 14 to 16, Block 9 of St. Paul proper for housing the Division of Employment and Security.

Commissioner of administration has nothing to do with sale of escheated property. Op. Atty. Gen. (700d-28), Apr. 30, 1941.

Money contributed by men living in dormitory at state teachers college and furniture and equipment purchased with it are state property subject to reorganization act. Op. Atty. Gen. (316D), Sept. 30, 1941.

Commissioner of administration invested with authority to prescribe rules and regulations governing the manner in which payment shall be made by the state to state employes for travel upon official business. Op. Atty. Gen. 980A-(15), Dec. 29, 1943.

(1). A county sanatorium may not purchase supplies through department of administration. Op. Atty. Gen. (640), July 19, 1940.

Printing expenses of district supervisors under soil conservation matters should be incurred by state committee pursuant to regulations of commissioner of administration. Op. Atty. Gen. (705A-8), Jan. 30, 1942.

(4). Director of division of public property has authority to wreck a fish meal plant building and use lumber in construction of a field station by the division of game and fish. Op. Atty. Gen., (640), Jan. 30, 1940.

Appropriation made by legislature to state board of control for payment of salaries of architect and of engineer should be transferred to commissioner of administration who now has duty of maintenance of public institutions. Op. Atty. Gen., (640), Sept. 20, 1940.

(5). Commissioner of administration with approval of governor may permit tourist bureau to construct log cabin on capitol grounds. Op. Atty. Gen., (9831), Feb. 19, 1940.

The commissioner of administration is not vested with the control and management of armories within this state. Op. Atty. Gen. (640), July 10, 1941.

(6). Property purchased with the "company fund" as set up by the military code is not state property. Op. Atty. Gen. (640), July 10, 1941.

(15). Amended. Laws 1943, c. 359. See above text.

(18). Director of division of public property may not give away obsolete property to a municipal hospital. Op. Atty. Gen., (640), Feb. 7, 1940.

Terms "supplies", "materials", and "equipment", do not apply to sale of iron ore in a stock pile belonging to the state. Op. Atty. Gen., (983m), Oct. 10, 1940.

State Sanatorium cannot sell telephone equipment at private sale to telephone company, which will install new equipment, and if it did sell the equipment it could not retain the money received and use it to help defray expenses on telephone service to be rendered, authority to sell obsolete and surplus property being in the commissioner of administration, and sale on basis of competitive bids being necessary, and the proceeds thereof would go to general revenue fund of the state. Op. Atty. Gen., (640), Oct. 22, 1940.

Where surplus, obsolete or unused property is sold, the money received from this sale should be deposited in the general revenue fund; and the Division of Public Property may not deduct the expenses of advertising or any other expenses attached to the sale from the money received therefrom and deposit the same to the credit

of the Department of Administration. Op. Atty. Gen. (640a), July 10, 1941.

Since recovered and unidentified automobile tires in possession of bureau of criminal apprehension can no longer be sold at public auction, in view of federal law and war regulation, this provisions authorizes transfer of such property to state agencies and making proper adjustments in accounts of departments or agencies. Op. Atty. Gen. (985), Mar. 24, 1942.

(19). Commissioner must purchase entire output of state testing mill, if it is usable by the state in other departments or institutions, and though state mill is not required to bid in competition with commercial manufacturers of the same products, it is only entitled to fair market value. Op. Atty. Gen. (640), Sept. 26, 1939.

53-18c. Definitions.

Terms "supplies", "materials", and "equipment", do not apply to sale of iron ore in a stock pile belonging to the state. Op. Atty. Gen., (983m), Oct. 10, 1940.

53-18e. To purchase supplies and materials.

Writ of quo warranto is not remedy for official misconduct, and is not to be employed to test legality of official action, such as a proposed purchase of material by commissioner of administration without competitive bidding. State v. Gravlin, 295NW654. See Dun. Dig. 8060.

Ladies of the G.A.R. Home receiving appropriation from the state must comply with requirements as to budget, purchases, etc. Op. Atty. Gen. (640a), Sept. 20, 1939.

Director of purchases advised not to comply with rule of Bituminous Coal Act requiring payment of interest. Op. Atty. Gen. (980b-7), Oct. 6, 1942.

(a).

Employees of state treasurer do not come within general rule laid down for writing of blanket bond, since state treasurer is personally accountable for all funds deposited with him, and selection of surety should be subject to his approval. Op. Atty. Gen., (454), Jan. 29, 1940.

53-18f. To receive competitive bids.—(a) Except as otherwise provided by this act, all contracts for construction or repairs and all purchases of and all contracts for supplies, materials, purchase or rental of equipment, and utility services shall be based on competitive bids, and all sales of property shall be to the highest responsible bidder after advertising for bids as herein provided; provided, that competitive bids shall not be required for utility services where no competition exists, or where rates are fixed by law or ordinance.

(b) If the amount of the expenditure or sale is estimated to exceed \$500, sealed bids shall be solicited by public notice inserted once each week for two successive weeks in a newspaper or trade journal of general circulation in the territory from which bids are likely to be received before the final date of submitting bids. The commissioner shall designate the newspaper or trade journal for such publication, and may designate different newspapers or journals according to the nature of the purchase or contract. The commissioner shall also solicit sealed bids by sending notices by mail to all prospective bidders known to him, and by posting notice on a public bulletin board in his office at least five days before the final date of submitting bids. All bids shall be sealed when received, shall be opened in public at the hour stated in the notice, and all original bids together with all documents pertaining to the award of a contract shall be retained and made a part of a permanent file or record, and shall be open to public inspection. This subdivision shall not apply to the purchase of fibre used in the manufacture of binder twine, ply twines, and rope at the state penal institutions, which shall be purchased in accordance with such regulations as the commissioner may prescribe, requiring competitive bids as far as practicable. (As amended Act Apr. 16, 1941, c. 281, §1.)

(c) All purchases or sales estimated to exceed in amount \$200 but not to exceed \$500 shall be made after receipt of sealed bids following at least three days notice posted on a public bulletin board in the office of the commissioner. The commissioner shall also solicit sealed bids by mail in such cases, in like manner as hereinbefore provided.

(d) All purchases or sales the amount of which is estimated to be less than \$200 may be made either

upon competitive bids or in the open market, in the discretion of the commissioner, but so far as practicable shall be based on at least three competitive bids which shall be permanently recorded. All rentals of equipment and animals with operators or drivers furnished the amount of which is estimated to be less than \$200 in any 30 day period shall be made in accordance with rules prescribed by the commissioner of administration.

(e) Contracts and purchases shall in all cases be based on the standard specifications prescribed by the commissioner in accordance with this act, unless otherwise expressly provided, and shall be accompanied by a certified check in such amount as the commissioner shall prescribe.

(f) Notwithstanding anything herein to the contrary, all contracts for the repair, improvement, maintenance, or construction of highways or highway bridges shall be advertised and let as now or hereafter provided by law for highway construction contracts. (As amended Act Apr. 26, 1941, c. 478, §1.)

(g) 1. **Purchases of certain supplies without competitive bids.**—The commissioner of administration, with the approval of the governor, may establish by regulation categories of supplies, materials or equipment which may be purchased in the open market, provided that the commissioner of administration or the director of purchases shall certify after investigation that he cannot secure competitive bids therefor. The provisions of this subdivision shall expire six months after the cessation of hostilities in the present war as declared by proper federal authority. (As amended Apr. 16, 1941, c. 281, §1; Apr. 26, 1941, c. 478, §1; subdivision (g) added Act Apr. 21, 1943, c. 556, §§1, 2.)

There is no legal obstacle to inclusion in one advertisement of calls for bids for several departments, and there may be consolidation of bids so that it will not be necessary to repeat preliminary statement which is standard in all bids, and form is provided therefor. Op. Atty. Gen. (640), Sept. 25, 1939.

Form provided for calling of bids to be opened at staggered hours throughout the day. Op. Atty. Gen. (640), Sept. 27, 1939.

Sale of products manufactured in factory in state prison at Stillwater is subject to §§10812, 10815, and 10816, and is not affected or controlled by the Reorganization Act. Op. Atty. Gen., (342e), Jan. 5, 1940.

Where there is only one seller of natural gas, advertising for competitive bids is unnecessary, and this is also true of equipment which may be included in contract and involve elements of scientific knowledge and mechanical skill. Op. Atty. Gen. (707a-13), June 15, 1940.

Though purchases for inmates at state prison and state reformatory are made by division of purchases of department of administration, requirement of reorganization act of competitive bidding is not applicable, stores being owned and operated by inmates. Op. Atty. Gen. (980b-22), July 10, 1940.

State Sanatorium cannot sell telephone equipment at private sale to telephone company, which will install new equipment, and if it did sell the equipment it could not retain the money received and use it to help defray expenses on telephone service to be rendered, authority to sell obsolete and surplus property being in the commissioner of administration, and sale on basis of competitive bids being necessary, and the proceeds thereof would go to general revenue fund of the state. Op. Atty. Gen. (640), Oct. 22, 1940.

Employees' schedule bond of Department of Conservation, filed in office of Secretary of State, does not properly include division of state parks, and could not include director. Op. Atty. Gen. (980a-4), July 10, 1942.

Petroleum products distributor bond is to be arranged for by applicant for a license, and though state is required to pay a reasonable premium, it is not required to call for bids. Op. Atty. Gen. (325a-5), Apr. 16, 1943.

(a) Mason's Minn. Stat. 1927, chapter 34, is still controlling law regarding letting of printing contracts except where inconsistent with Laws 1939, chapter 431, and this is true as to such items as letterheads and envelopes. Op. Atty. Gen., (340a), Feb. 2, 1940.

(c) Bidder's bonds are not permitted in lieu of certified checks. Op. Atty. Gen., (640), Sept. 26, 1940.

A bid for a building may not be withdrawn after bids are opened because of a clerical error, but the bid may be rejected and check deposited returned, and the contract be awarded to next lower bidder. Op. Atty. Gen. (980a-11), July 2, 1943.

(f) Commissioner could enter into a contract for improvement of trunk highway in city, whereby city of Minne-

apolis would resurface with asphaltic concrete pavement, without necessity of advertising for bids. Op. Atty. Gen. (229e-2), Apr. 24, 1941.

(g) Subdivision (g) added. Laws 1943, c. 556, §§1, 2.

53-18g. Same—Lowest bidder.

Editorial note.—Title of Act Apr. 22, 1941, c. 381, purporting to amend Laws 1939, c. 431, Art. 2, §8. Such amendment did not appear in such act.

Act Apr. 22, 1941, c. 381, §4, repeals Mason's Minnesota Statutes of 1927, Chapter 34.

Commissioner of administration in purchasing fidelity bond may take into consideration reasonably probable dividends that will be declared. Op. Atty. Gen., (980a-4), Jan. 31, 1940.

Where bid on its face shows there has been an alteration or erasure, changing bid from a high bid to lowest bid, rejection of bid is mandatory. Op. Atty. Gen., (640), March 6, 1940.

A bidder is not disqualified merely because he is a broker, or does not happen to have goods on hand when he bids. Id.

State may purchase surety bonds from mutual companies if they are non-assessable and otherwise comply with statute, and probable dividend may be taken into consideration in determining lowest bid. Op. Atty. Gen., (707a-13), Jan. 31, 1940.

A bid for a building may not be withdrawn after bids are opened because of a clerical error, but the bid may be rejected and check deposited returned, and the contract be awarded to next lower bidder. Op. Atty. Gen. (980a-11), July 2, 1943.

53-18h. Contracts and leases shall be approved by Attorney General—Etc.

Form of bill of sale to be given by state when it conveys personal property provided. Op. Atty. Gen. (640), Nov. 17, 1939.

Agreement between division of game and fish of department of conservation and secretary of the interior for project under federal aid to Wild Life Restoration Act, commonly known as the Pittman-Robertson Act, require approval and signature of attorney general, commissioner of administration, and state auditor, but exercise of discretion by those officers should not conflict with federal act. Op. Atty. Gen. (983f), May 24, 1941.

Contract for vocational rehabilitation between division and training agency must be approved by commissioner of administration and attorney general. Op. Atty. Gen. (170h), July 29, 1943.

53-18i. Shall be signed by head of department commissioner and state auditor.

There is no authority for head of a department or agency to delegate power to sign a lease, but if department head has a deputy who is authorized by law to act for him lease may be signed by deputy in name of head of department. Op. Atty. Gen., (640), Sept. 19, 1940.

No contract, which includes a lease is valid or effective without counter-signature of auditor, who shall certify thereon that appropriation and allotment have been encumbered for full amount of contract liability, and notwithstanding that a lease has a 30-day cancellation clause head of department making lease has no power to determine what encumbrance period should be. Id.

Appropriation made by legislature to state board of control for payment of salaries of architect and of engineer should be transferred to commissioner of administration who now has duty of maintenance of public institutions. Op. Atty. Gen., (640), Sept. 20, 1940.

Contract for "building, highways, and other improvements" are to be signed by head of interested department or agency and approved by commissioner of administration, but in all other contracts and purchase orders in behalf of the state, commissioner is "prime mover", and in determining in any given case what signatures are required, it might be considered that whenever subject matter of any contract is unusual or not capable of uniform application, or requires some highly technical knowledge, head of department interested is to sign contract, but if subject matter is ordinary and usual of general application, it will be unnecessary for head of department to sign. Op. Atty. Gen., (980a-11), Feb. 20, 1941.

Agreement between division of game and fish of department of conservation and secretary of the interior for project under federal aid to Wild Life Restoration Act, commonly known as the Pittman-Robertson Act, require approval and signature of attorney general, commissioner of administration, and state auditor, but exercise of discretion by those officers should not conflict with federal act. Op. Atty. Gen. (983f), May 24, 1941.

Contract for vocational rehabilitation between division and training agency must be approved by commissioner of administration and attorney general. Op. Atty. Gen. (170h), July 29, 1943.

53-18m. Commissioner to prepare budget—Etc.

Ladies of the G.A.R. Home receiving appropriation from the state must comply with requirements as to budget, purchases, etc. Op. Atty. Gen. (640a), Sept. 20, 1939.

53-18o. Year to be divided into quarterly allotment periods.

Fact that a lease is approved by legislative emergency committee for a period of 5 years does not alter necessity for encumbering funds of department involved for full amount of contract liability even though lease contains cancellation clause available if no appropriation is made or funds are not available, funds to be encumbered each fiscal year. Op. Atty. Gen. (640), Sept. 19, 1940.

Necessity of encumbering funds of a department for liability upon a lease is not altered in any respect by source of funds which are to be used in payment of rentals. Id.

No contract, which includes a lease is valid or effective without counter-signature of auditor, who shall certify thereon that appropriation and allotment have been encumbered for full amount of contract liability, and notwithstanding that a lease has a 30-day cancellation clause head of department making lease has no power to determine what encumbrance period should be. Id.

Funds of highway department should be encumbered for full amount of rental of truck units in accordance with estimated length of time for which trucks are to be used. Id.

Where leases are drawn for a period of 2 years, it is necessary for all departments to encumber funds for each of the two fiscal years even though lease contains cancellation clause if funds are not available. Id.

Appropriation made by legislature to state board of control for payment of salaries of architect and of engineer should be transferred to commissioner of administration who now has duty of maintenance of public institutions. Op. Atty. Gen., (640), Sept. 20, 1940.

Appropriations to State Soil Conservation Committee, expenditure, accounting and expenses. Op. Atty. Gen. (705a), May 13, 1941.

Agreement between division of game and fish of department of conservation and secretary of the interior for project under federal aid to Wild Life Restoration Act, commonly known as the Pittman-Robertson Act, require approval and signature of attorney general, commissioner of administration, and state auditor, but exercise of discretion by those officers should not conflict with federal act. Op. Atty. Gen. (983f), May 24, 1941.

Budgeting division has control over funds reimbursed from federal government in connection with poultry and eggs. Op. Atty. Gen., June 25, 1941.

Statute was not intended to operate so as to compel state to abandon an important legal contest simply because an encumbrance for necessary expenses was not made in advance, there being an existing appropriation. Op. Atty. Gen. (640a), Dec. 6, 1941.

Employees of deputy registrar at Minneapolis are not employees of the state and services rendered by them are personal services to deputy registrar and not to state, and amount allotted to Secretary of State for expenditure for personal services may not be used for payment of personal services rendered to such deputy registrar, who is in a sense a contractor with state. Op. Atty. Gen. (644B), Jan. 7, 1942.

Allotment and encumbrance provisions are inapplicable to appropriations by a later act, such as Laws 1941, c. 537, the so-called "general claims bill". Op. Atty. Gen. (9A), Jan. 9, 1942.

Appropriations under Laws 1941 Chapter 524 were expressly made subject to budgetary control of reorganization act, and thus unexpended balances on hand June 30, 1941, which were reappropriated, became subject to such control, though previously exempt therefrom. Op. Atty. Gen. (521w), Nov. 28, 1942.

(c). Primary responsibility for operation of a department in manner prescribed by law is imposed upon head of that department, and within prescribed legal limits, it is for him to determine how his department shall function, the emphasis to be given to a particular activity, and, if any activity is to be curtailed or discontinued for lack of funds, which activity is to be so curtailed or discontinued. Op. Atty. Gen. (640a), July 30, 1942.

(h). Obligation of tourist bureau having been incurred and work done prior to said bureau's taking steps to have its funds encumbered is null and void. Op. Atty. Gen., May 27, 1941.

Obligation for which funds have not been encumbered may not be paid, and every official authorizing or making payment and every person receiving such payment shall be jointly and severally liable to state. Op. Atty. Gen. (640a), May 29, 1941.

53-18p. Appropriations to revert to State Treasury—Exceptions.

Under Laws 1941, c. 521, §6 (8)(b), state auditor properly transferred all excess over \$1500.00 of revolving fund in general revenue fund, though there were some outstanding bills at end of fiscal year. Op. Atty. Gen. (640a), Aug. 27, 1942.

Appropriations under Laws 1941 Chapter 524 were expressly made subject to budgetary control of reorganization act, and thus unexpended balances on hand June 30, 1941, which were reappropriated, became subject to such control, though previously exempt therefrom. Op. Atty. Gen. (521w), Nov. 28, 1942.

(a).

Unexpended balances of moneys appropriated to state teachers colleges will revert to the general revenue fund at the end of each fiscal year unless expressly otherwise provided. Op. Atty. Gen. (640a), July 8, 1941.

An unused balance of appropriation made in Laws 1939, c. 365, §7, "addition to Dairy Barn", should be transferred to appropriation made by Laws 1941, c. 529, §1(5B), and should not be cancelled out, and might be used to increase appropriation of \$1500 for machine shed despite wording of Laws 1941, c. 358, §21. Op. Atty. Gen. (9A-39), Jan. 13, 1942.

(b).

Book and library funds are subject to the authority of the commissioner of administration as provided by this section, the extent of that authority with respect to a particular matter depending on the circumstances. Op. Atty. Gen. (640a), July 8, 1941.

53-18q. Receipts to be deposited with the State Treasurer—Credit to proper fund.

Fees collected pursuant to §§2720-103 and 2720-108 are for use of drivers' license division of state highway department in administration of Drivers' License Law and Safety Responsibility Act, but such fees as collected should be deposited with state treasury each day and properly credited by him to fund created by §2720-146a as provided by §53-18q. Op. Atty. Gen., (454-E), Jan. 10, 1940.

Money received by secretary of state for transcript of motor vehicle records must be turned in to state treasurer daily, subject to voucher to cover expense, any surplus to be covered into general revenue fund. Op. Atty. Gen., (640a), Jan. 30, 1940.

Refunds by telephone company to highway department should be credited to trunk highway fund. Op. Atty. Gen., (229a), March 5, 1940.

Wholesale Produce Dealers' License fees received with applications for licenses which were not received for any reason may not be refunded. Op. Atty. Gen., (196S), Jan. 13, 1941.

State teachers colleges must not retain money received from library fees but must pay it over to the state treasurer. Op. Atty. Gen. (640a), July 8, 1941.

Earnings from operation of rock crushing plant at Rochester State Hospital must be paid to state treasurer and not used as revolving fund. Op. Atty. Gen. (454e), Nov. 5, 1942.

Funds collected by state teachers' colleges from government to reimburse civilian pilot training must be turned into state treasurer and remain there until appropriated. Op. Atty. Gen. (454e), Nov. 9, 1942.

Provisions that board shall fix rates of tuition for "pupils in the model schools" relate to tuition to be paid by pupils in model school and not pupils of teachers' colleges teaching therein, and tuition collected should be turned over to state treasurer. Op. Atty. Gen. (316), Nov. 10, 1942.

State teachers' colleges may require students to make a deposit as security against loss to college to occur in future by default of student to pay college for lodging, lockers and other items, but such deposits should not be turned over to state treasurer. Id.

State teachers' colleges have no authority to require students to pay expenses in connection with graduation exercises, such as diploma fees, certificate fees, transcript fees, and cap and gown rental, though charges may be required for transcript fees and special engraved diplomas and other things if a pupil wants them. Id.

Receipts received by state teachers' colleges for milk, hot lunches, and crackers are state funds which must be turned over to state treasurer. Id.

Laboratory and class fees in teachers' colleges are state funds subject to this section. Id.

Loan and scholarship funds donated to state teachers' colleges should be turned over to state treasurer. Id.

Under Laws 1943, c. 660, §52, registrar of motor vehicles may furnish transcripts of records at cost of preparation, and only excess above costs need be paid into state treasury. Op. Atty. Gen. (385b), May 21, 1943.

Student activities, over and above contingent fund, should be deposited daily with state treasurer. Op. Atty. Gen. (316), Sept. 8, 1943.

Commissioner of banks may not pay to state treasurer miscellaneous funds and property accumulated in his hands and not distributed because of impracticability of so doing, since such funds do not belong to the state. Op. Atty. Gen. 29B-(7), Dec. 8, 1943.

53-18r. Treasurer to establish suspense funds.

No refund of state teachers' college tuition without an appropriation by legislature, though student left school several weeks after starting. Op. Atty. Gen., (316B), Feb. 14, 1940.

Where division of public institutions requires that those legally responsible for hospital support of a patient committed to state hospital to make quarterly payments in advance, and a patient dies before the end of the quarter, unused balance does not belong to state, and should be refunded, but a suspense fund should be established and payments vouchered and audited as provided by this section. Op. Atty. Gen. (454E), Aug. 26, 1941.

Statutory requirement that purchaser of small lot of timber settle on the scale implies that adjustment of any difference shall be made, whether against purchaser or in his favor, and where purchaser is entitled to a refundment state auditor should draw his warrant therefor against amount deposited in advance, and for that purpose there should be established a suspense fund. Op. Atty. Gen. (27H), Oct. 7, 1941.

Money in special deposit in hands of state treasurer received in payment of iron ore royalty taxes accrued on royalties during current calendar year may be covered into the revenue fund at any time retaining only a sum necessary for suspense fund. Op. Atty. Gen. (454e), Nov. 28, 1941.

53-18s. Five per cent of receipts to be set aside for expenses; etc.

Section is unconstitutional in so far as it imposes upon highway fund a charge to be used to defray general cost of government. *Cory v. K.*, 209M431, 296NW506. See Dun. Dig. 8452.

53-18t to 53-18t(5). [Expired.]

The provisions of sections 53-18t to 53-18t(5) lapsed by virtue of the terms of Act Apr. 28, 1941, c. 497, §5.

As to the first salary and wage schedules of employees, legislative emergency committee must take classifications as they have been prepared by director of civil service and approved by civil service board, and has no authority to modify the classifications or to create any new classifications. Op. Atty. Gen., (644), Oct. 14, 1940.

State senators and representatives may not constitutionally serve on legislative emergency committee created under Laws 1939, c. 431. Op. Atty. Gen. (280h), Apr. 7, 1941.

All acts of legislative emergency committee taken prior to decision holding act creating such committee unconstitutional are valid, including adoption of compensation plan in civil service. Op. Atty. Gen. (644), June 30, 1941.

Civil service board has no power to amend salary schedule which has been approved, but may establish salary ranges for classes of employment not in existence at times of adoption of compensation plan, subject to approval of governor. Op. Atty. Gen. (644), June 16, 1941.

Appropriations made by Laws 1941, c. 548, §42, is subject to provisions of section 53-18t and power of commissioner of administration to authorize transfer was not terminated as of January 1, 1943. Op. Atty. Gen. (9c-6), Apr. 8, 1943.

Section 53-18t does not terminate as of January 1, 1943, the power of the commissioner of administration to authorize transfers without approval of governor and without latter's consultation with the legislative advisory committee. Op. Atty. Gen. (9c-6), Apr. 8, 1943.

53-18t(6). Subdivision 1. General contingent appropriation authorized—transfers—legislative advisory committee created.—There is hereby authorized one general contingent appropriation for each year of the biennium in such amount as the legislature may deem sufficient. Transfers from such appropriation to the appropriations of the various departments and agencies may be made by the state auditor subject to the following provisions:

(a) Transfers may be authorized by the commissioner of administration not exceeding \$2000 for the same purpose for any quarterly period;

(b) Transfers exceeding \$2000 but not exceeding \$5000 may be authorized by the commissioner of administration with the approval of the governor;

(c) Transfers exceeding \$5000 may be authorized by the governor; provided, that no such transfer shall be made until the governor has consulted the legislative advisory committee hereinafter provided for and such committee has made its recommendation thereon. Such recommendation shall be advisory only. Failure or refusal of the committee to make a recommendation promptly shall be deemed a negative recommendation.

Subd. 2. The chairman of the senate committee on taxes and tax laws, the chairman of the senate committee on finance, the chairman of the house committee on taxes and tax laws, and the chairman of the house committee on appropriations shall constitute a committee to be known as the legislative advisory committee. The governor shall preside over the meetings of the committee but shall not be a member thereof. If any of the legislative members elect not to serve on the committee, the house of which they are members, if in session, shall select some other member for such vacancy. If the legislature is not in session, vacancies in the legislative membership of the com-

mittee shall be filled by the last speaker of the house or, if he be not available, by the last chairman of the house rules committee, in case of a house vacancy, and by the last senate committee on committees or other appointing authority designated by the senate rules in case of a senate vacancy. The commissioner of administration shall act as secretary of the committee and shall keep a permanent record and minutes of its proceedings, which shall be made available for examination upon request of any interested citizen. The commissioner of administration shall transmit a report to the next legislature of all actions of said committee. The members of the committee shall receive travelling and subsistence expenses in attending meetings of the committee. The sum of \$2000, or so much thereof as may be necessary, is hereby annually appropriated out of any money in the state treasury not otherwise appropriated for the travelling and subsistence expenses of members of the committee in attending meetings thereof and for the payment of stenographic services which if performed by a person in the classified service of the state shall be in addition to his regular salary. The committee shall meet from time to time upon the call of the governor or upon the call of the secretary at the request of three or more of its members.

Subd. 3. The provisions of this act shall not be construed to prevent the appropriation of separate contingent funds to the governor and the attorney general, or to limit the use of said funds as otherwise authorized by law. (Act Apr. 23, 1943, c. 594, §1.)

53-18uu. Commission of Administration to approve allotments for road material.—The Commissioner of Administration is hereby authorized to approve allotments for sand, clay, stone, gravel and other earth materials heretofore purchased for trunk highway purposes for which allotments were not made as required by Laws of 1939, Chapter 431. (Act Apr. 1, 1943, c. 270, §1.)

[16.02(22)]

53-18uuu. State Auditor may encumber state highway funds.—The State Auditor is hereby authorized to encumber trunk highway funds for sand, clay, stone, gravel and other earth materials heretofore purchased for trunk highway purposes for which funds were not encumbered as required by Laws 1939, Chapter 431, and to pay for such sand, clay, stone, gravel and other earth materials upon proper authorization by the Commissioner of Highways. (Act Apr. 1, 1943, c. 270, §2.)

[16.02(23)]

53-18v. Administration revolving fund created.—There is hereby created the Administration Revolving Fund for the purpose of carrying on repair and maintenance activities in connection with state property. (Act Apr. 14, 1943, c. 440, §1.)

[16.024]

53-18w. Same—Appropriations.—Such fund shall consist of the five thousand dollars appropriated therefor and the moneys transferred to it as herein provided which are reappropriated to the Commissioner of Administration for the purposes of this act. (Act Apr. 14, 1943, c. 440, §2.)

[16.024]

53-18x. Same—Fund to be kept in State Treasury.—Such fund shall be in the state treasury and shall be paid out in the manner prescribed by law for moneys therein. (Act Apr. 14, 1943, c. 440, §3.)

[16.024]

53-18y. Same—Uses of fund.—Such fund shall be used for the purchase of raw materials, payment of salaries, wages, and other expenses necessary and proper in the conduct of the activities provided for herein. (Act Apr. 14, 1943, c. 440, §4.)

[16.024]

53-18z. Subdivision 1. Same—Powers of Commissioner.—The commissioner of Administration may repair, alter or construct machinery, furniture or other property for any officer, department or agency of the state, or construct any partition or alter any arrangement of an office upon written requisition by such officer or the head of such department or agency. Such requisition shall be subject to the allotment and encumbrance provisions of Laws 1939, Chapter 431.

Subd. 2. State Auditor to transfer funds.—When such repair, alteration or construction has been completed, the Commissioner of Administration shall present to the department or agency a detailed statement of the cost thereof. If the head of the department or agency approves the statement, he shall request the state auditor to transfer the amount thereof from the proper appropriation to the Administration Revolving Fund and the state auditor is hereby authorized to make such transfer. If the head of any department or agency disapproves of any statement so presented, the dispute shall be submitted to the Governor whose decision shall be final and binding upon the officer or the head of the department or agency.

Subd. 3. Commissioner of Administration to request transfer.—When the Commissioner of Administration shall have paid from his appropriation for salaries, supplies or expense for any materials or labor used for the purposes of this subdivision, he shall request the state auditor to transfer the amount thereof from the Administration Revolving Fund to the appropriation item from which it was paid and the state auditor is hereby authorized to make such transfer. (Act Apr. 14, 1943, c. 440, §5.) [16.025]

ARTICLE IV.—DEPARTMENT OF CONSERVATION

53-23½ a to 53-23½ u. [Repealed.]

Repealed. Laws 1943, c. 60.

Act Apr. 22, 1941, c. 383, §1, authorizes commissioner of conservation to withdraw certain school lands in Hubbard county, from the Paul Bunyan State Forest, and sell it.

Division of department of conservation shall be known as the division of water resources and engineering. Laws 1941, c. 138.

Act Apr. 26, 1941, c. 481, creates an ad interim legislative commission to study the problems and the work of the Division of Game and Fish and make a report at the next meeting of the legislature.

Commissioner of conservation may designate his deputy to serve on State Soil Conservation Committee. Op. Atty. Gen. (705a-2), Apr. 17, 1941.

Commissioner of conservation may sell 3.2 beer in state park, but should secure a license from county and a federal retail dealer's malt liquor stamp for each place of business, but should not be required to give a bond. Op. Atty. Gen. (2177-1), May 6, 1941.

This section was not repealed by Laws 1941, c. 553, (Mason's St. §8008-1), and director may destroy documents and papers, or dispose of them pursuant to either act. Op. Atty. Gen. (851r), Jan. 21, 1942.

Where director of division of game and fish is ordered into active military service, a vacancy exists, and deputy director performing duties of director is entitled to salary of director during vacancy, to be paid from fund allotted and encumbered to pay director's salary instead of salary of deputy. Op. Atty. Gen. (983F), Feb. 5, 1942.

Methods of acquiring federal lands for state park purposes and operation thereof defined. Op. Atty. Gen. (330a), Feb. 7, 1942.

Employees' schedule bond of Department of Conservation, filed in office of Secretary of State, does not properly include division of state parks, and could not include director. Op. Atty. Gen. (980a-4), July 10, 1942.

Maintenance of a golf course in connection with a state park comes within authority of statutes, and sale of multiple game tickets amounted to a contract, which cannot be avoided by attempting to refund money paid in. Op. Atty. Gen. (454e), July 11, 1942.

Transfer of funds follow a reassignment of activities from one division to another. Op. Atty. Gen. (208b-4), Sept. 11, 1942.

53-23¾. Department of Conservation continued.—Subdivision 1. The department of conservation shall continue as now constituted, subject to the provisions of this act.

Subdivision 2. Department under supervision of Commissioner of Conservation.—The department shall be under the supervision and control of the commissioner of conservation, who shall be appointed by the governor by and with the advice and consent of the senate. The commissioner shall be chosen with regard to his knowledge, training, experience, and ability in administration of conservation work. The commissioner, if his appointment be approved by the senate at a regular session of the legislature, shall serve for a term expiring March 1 in the sixth calendar year following the calendar year in which such approval was given, and until his successor is appointed and has qualified. Appointment of a commissioner for the ensuing term may be made by the incoming governor at any time after taking office in the year in which the current term expires, but such appointee shall not take office until the expiration of such current term nor until approved by the senate unless there is a vacancy. In case of a vacancy the governor may appoint a commissioner to serve at the pleasure of the governor but not later than the next following March 1 in an odd numbered year and until a successor is appointed and has qualified as in case of the expiration of a regular term.

Subdivision 3. Salary—bond.—The salary of the commissioner shall be \$6,000 per year. He shall give a bond to the state in the sum of \$25,000.

Subdivision 4. Commissioner may appoint deputy.—The commissioner may appoint a deputy, to serve at his pleasure, who shall be in the unclassified service of the state. The deputy may exercise all the powers of the commissioner, subject to his direction and control. The deputy shall receive the same salary as the maximum prescribed for directors of divisions. He shall give a bond to the state in the sum of \$5,000.

Subdivision 5. May employ assistants.—The commissioner may employ such other assistants as may be necessary for his administrative staff and for the performance of such other functions of the commissioner or the department as are not assigned to the several divisions. (Act Feb. 20, 1943, c. 60, §1.) [84.025]

53-23¾ a. Commissioner shall be administrative and executive head of department.—Subdivision 1. The commissioner of conservation shall be the administrative and executive head of the department. Subject to the provisions hereof and other applicable laws, he shall have the powers and duties herein prescribed. The enumeration of specific powers and duties herein shall not limit or exclude other powers or duties.

Subdivision 2. Duties.—The commissioner shall have charge and control of all the public lands, parks, timber, waters, minerals, and wild animals of the state and of the use, sale, leasing, or other disposition thereof, and of all records pertaining to the performance of his functions relating thereto.

Subdivision 3. Powers.—The commissioner shall have all the powers and duties prescribed for the commissioner of conservation by Laws 1931, Chapter 186, all the powers and duties therein prescribed for the conservation commission except the power to appoint a commissioner, and all other powers and duties now prescribed by law for the commissioner of conservation, the conservation commission, the department of conservation, its divisions, or the director of any division.

Subdivision 4. Powers.—The commissioner shall have all existing powers and duties now or heretofore vested in or imposed upon the state auditor in any capacity and not heretofore transferred to any other officer or agency with respect to the public lands, parks, timber, waters, and minerals of the state, and the records thereof; provided, that nothing herein shall divest the state auditor of any power or duty otherwise prescribed by law with respect to auditing,

accounting, disbursement, or other disposition of funds pertaining to the matters herein specified, nor of any power or duty expressly vested in or imposed upon him by the following provisions of law:

(1) The provisions of Mason's Minnesota Statutes of 1927, Section 76, so far as the same pertain to the crediting of payments on account of state lands, timber, or other products to the proper funds, or to the depositing and keeping of conveyances and abstracts of title; also all other provisions pertaining to the filing or keeping of deeds, grants, or conveyances to the state or abstracts or other evidence of title to state property;

(2) All provisions pertaining to escheated property;

(3) Mason's Minnesota Statutes of 1927, Sections 2220, 6442 to 6449, inclusive, 6646, 6660, and 8223.

Subdivision 5. Powers.—The commissioner shall have all the powers and duties prescribed for the state auditor by Mason's Supplement 1940, Sections 5620-1 to 5620-13, inclusive, 6452-1 to 6452-13, inclusive, and 4031-75 to 4031-88, inclusive, with respect to the receipt, filing, keeping, and certification of reports, lists, and records of descriptions of lands, reserving to the state auditor all other powers and duties therein prescribed for him. The county auditor shall make and transmit to the state auditor all the certificates and reports therein required except certificates and reports of land descriptions, which shall be made and transmitted to the commissioner.

Subdivision 6. Powers.—The commissioner shall have all the powers and duties prescribed for the state auditor by Mason's Supplement 1940, Sections 5620-13 ½ to 5620-13 ½ j, inclusive, as amended, and 2139-27b to 2139-27k, inclusive, as amended, with respect to the receipt, filing, and keeping of reports of sales of land and the execution of conveyances, reserving to the state auditor all other powers and duties therein prescribed for him. The county auditors shall make and transmit to the commissioner all the certificates and reports therein required to be made to the state auditor with respect to such sales and conveyances. The county treasurers shall make all reports of collections thereunder in duplicate and shall transmit a copy of each report to the state auditor and the commissioner.

Subdivision 7. Limitation of powers.—Except as otherwise expressly provided, nothing herein shall confer on the commissioner any authority over any property of the state devoted pursuant to law to any specific purpose under any officer or agency of the state other than the commissioner or the department of conservation or its divisions. (As amended Act of Feb. 20, 1943, c. 60 §2.) [84.027]

Care and management of property acquired by county through foreclosure of old age assistance lien is with the commissioner of conservation, until the sale of the land, and he has authority to lease the same and is charged with all of the responsibilities. Op. Atty. Gen. (521p-4), Aug. 26, 1943.

53-23 ¾ b. Divisions — directors — qualifications. — **Subdivision 1.** The department of conservation shall be organized with the following divisions: a division of forestry, a division of water resources and engineering, a division of game and fish, a division of lands and minerals, a division of state parks, and a tourist bureau. Each division shall be under the immediate charge of a director, subject to the general supervision and control of the commissioner. The directors shall be appointed by the commissioner, to serve at his pleasure, and shall be in the unclassified service of the state. They shall be chosen with regard to knowledge, training, experience, and ability in administering the work of their respective divisions.

Subdivision 2. Salary of directors of department of conservation.—Each director shall receive an annual salary of \$4,800. Each director shall give a bond to

the state in the sum of \$5,000, except the director of forestry and the director of game and fish, who shall each give a bond in the sum of \$15,000. (Act Feb. 20, 1943, c. 60, §3, as amended Apr. 24, 1943, c. 601, §1.)

Subdivision 3. Directors may employ assistants.—Each director, with the approval of the commissioner, may employ such assistants as may be necessary for the work of his division. Each director, with the approval of the commissioner, may designate one of his employees as deputy director, and may revoke such designation at any time, regardless of the civil service status of such employee and without affecting such status. Each deputy director may exercise all of the powers of the director, subject to his direction and control, including powers delegated by the commissioner unless otherwise prescribed by him. (Act Feb. 20, 1943, c. 60, §3 as amended Apr. 24, 1943, c. 601, §1.)

[84.081]

53-23 ¾ c. Vacancies—power of deputy.—In case of a vacancy in the office of commissioner or of any director, his deputy shall have all of the powers and perform all of the duties thereof until a successor, either as an acting or regular incumbent, has been appointed and has qualified; provided, no deputy commissioner serving as commissioner in the event of a vacancy shall have power to discharge a director or to revise or change the assignments of activities among the divisions of the department or to designate another deputy. While serving in such vacated office a deputy shall receive the same salary as the regular incumbent. (Act Feb. 20, 1943, c. 60, §4.)

[84.082]

53-23 ¾ d. Duties and powers of division heads.—Each division shall have charge of administering the activities indicated by its title and such other duties and functions as may be assigned by the commissioner, subject to the right of the commissioner to revise and change assignments of any and all activities or of specific duties or functions among the several divisions at any time as he may see fit. The commissioner may, by written order filed in the office of the secretary of state, delegate to the director of any division any of the powers or duties vested in or imposed upon the commissioner by this act or by any other law upon such conditions as he may prescribe and subject to modification or revocation at his pleasure. Such delegated powers and duties may be exercised or performed by the respective directors in their own names or in the name of the commissioner, as he may direct. (Act Feb. 20, 1943, c. 60, §5.)

[84.083]

53-23 ¾ e. Power of Commissioner.—The commissioner may authorize the performance of services for any division by any other division or by the department staff, and, with the approval of the commissioner of administration, may require appropriate transfers of funds to compensate for the cost of such service. (Act Feb. 20, 1943, c. 60, §6.)

[84.084]

53-23 ¾ f. Commissioner may accept gifts.—The commissioner may accept in behalf of the state all gifts or grants of lands or personal property tendered to the state for any purpose pertaining to the activities of the department of conservation or any of its divisions. (Act Feb. 20, 1943, c. 60, §7.)

[84.085]

53-23 ¾ g. Shall have seals.—The department of conservation and the several divisions thereof shall have seals in the form and design heretofore adopted, bearing the words "State of Minnesota, Department of Conservation," also, in case of a division seal, the title of the division. The seals may be used to authenticate the official acts of the commissioner or the directors, respectively, but omission or absence of the seal shall

not affect the validity or force of any such act. (Act Feb. 20, 1943, c. 60, §8.)
[84.086(1)]

53-23 ¾ h. Commissioner may furnish badges.—The commissioner may provide for the issuance at state expense of such badges and uniforms as he may deem necessary and suitable for officers or employees of the department and its divisions. (Act Feb. 20, 1943, c. 60, §9.)
[84.086(2)]

53-23 ¾ i. Original records to be kept in offices of divisions.—Except as otherwise prescribed or required by law, the originals of all official records, orders, and other documents made, executed, or issued by or under the authority of the commissioner of conservation or the directors of the several divisions of the department shall be filed and kept in the respective offices where the same were made, executed, or issued, or in such other office in the department as the commissioner may direct. (Act Feb. 20, 1943, c. 60, §10.)
[84.087]

53-23 ¾ j. Duties transferred to Commissioner of Conservation.—Subdivision 1. So far as any duties herein vested in or imposed upon the commissioner of conservation are now exercised or performed by any other officer or agency of the state, such powers or duties are hereby transferred to the commissioner, subject to the provisions of this act, and all existing and unexpended appropriations for the purposes of such powers or duties are hereby transferred therewith, to be available for the same purposes under the commissioner but otherwise subject to the same conditions and limitations as the original appropriations.

Subdivision 2. **Appropriations to be transferred.**—Any unexpended appropriation made for the purposes of any activity or function which may be transferred by the commissioner at any time from one agency to another within the department shall be transferred therewith, to be available for the same purposes but otherwise subject to the same conditions and limitations as the original appropriation. (Act of Feb. 20, 1943, c. 60, §11.)
[84.088]

53-23 ¾ k. Specific and inconsistent laws repealed.—Except as incorporated or referred to in this act, Laws 1931, Chapter 186, Laws 1937, Chapter 310, Laws 1939, Chapter 441, Section 40, Mason's Supplement 1940, Sections 53-23 ½ a to 53-23 ½ h, inclusive, and 53-23 ½ i to 53-23 ½ u, inclusive, are hereby repealed. All other acts and parts of acts inconsistent herewith are hereby repealed to the extent of such inconsistency. (Act Feb. 20, 1943, c. 60, §12.)

ARTICLE IX.—DEPARTMENT OF HEALTH

53-34. Same—Powers and duties; etc.

The hotel inspector, now referred to as director of division of hotel inspection under the department of health, is head of a division established by law and is of the unclassified service. Op. Atty. Gen., (644), Sept. 20, 1940.

ARTICLE XA.—HISTORICAL SITES AND MARKERS COMMISSION

53-35a. Minnesota Historic Sites and Markers Commission.—There is hereby constituted a non-salaried commission to be known as the "Minnesota Historic Sites and Markers Commission," whose membership shall consist of the director of state parks of the department of conservation, the commissioner of highways and the superintendent of the Minnesota historical society or their representatives. The superintendent of the Minnesota historical society shall be ex-officio secretary of this commission. (Act Apr. 24, 1941, c. 418, §1.)
[138.08]

53-35b. Duties and powers.—It shall be the duty of this commission to designate as historic sites such sites or areas as have special archeological or his-

torical significance, and to authorize the erection of markers thereon. (Act Apr. 24, 1941, c. 418, §2.)
[138.08]

Counties may acquire historic sites. Laws 1943, c. 462.

53-35c. Same—Approval of plans and inscriptions.—The commission shall act as an advisory body to give assistance in the erection of markers commemorating historic sites. Plans and inscriptions for such markers shall be submitted to the commission for approval as to form, adequacy, suitability and accuracy. (Act Apr. 24, 1941, c. 418, §3.)
[138.08]

ARTICLE XIII.—DEPARTMENT OF PUBLIC INSTITUTIONS

53-39. Department of Public Institutions—State Board of Control—Advisory commission of state sanatoriums for consumptives abolished.

Records in office of director of public institutions are not for public inspection. Op. Atty. Gen. (851b), June 11, 1943.

ARTICLE XV(D).—DEPARTMENT OF VETERANS' AFFAIRS

53-41d. Department of Veterans' Affairs created.—There is hereby created and established a Department of Veterans' Affairs, hereinafter referred to as the department. (Act Apr. 13, 1943, c. 420, §1.)
[196.01]

53-41e. Subdivision 1. Commissioner of Veterans' Affairs to be appointed by Governor—eligibility.—The department shall be under the supervision and control of a Commissioner of Veterans' Affairs who shall be appointed by the Governor by and with the advice and consent of the senate. No person shall be eligible to receive appointment as commissioner unless he has the following qualifications:

(1) Residence in the State of Minnesota for at least five years prior to his appointment;

(2) Citizenship in the United States;

(3) Service in the Army, Navy or Marine Corps of the United States during a time when a state of war shall have been declared to exist by the Congress of the United States and an honorable discharge from such service. The commissioner, if his appointment be approved by the senate at a regular session of the legislature, shall serve for a term expiring March 1 in the fourth calendar year following the calendar year in which such approval was given, and until his successor is appointed and has qualified. Appointment of a commissioner for the ensuing term may be made by the incoming Governor at any time after taking office in the year in which the current term expires, but such appointee shall not take office until the expiration of such current term nor until approved by the senate unless there is a vacancy. In case of a vacancy the Governor may appoint a commissioner to serve at the pleasure of the Governor but not later than the next following March 1 in an odd numbered year and until a successor is appointed and has qualified as in the case of the expiration of a regular term.

Subd. 2. **Salary of Commissioner.**—The salary of the commissioner shall be \$5000 per year payable semi-monthly. He shall give bond to the state in the sum of \$10,000.

Subd. 3. **Deputy Commissioner.**—The commissioner may designate one of his employees as deputy commissioner, who shall have the qualifications prescribed in Sec. 2, and may revoke such status at any time, regardless of the civil service status of such employee and without affecting such status. The deputy may exercise all the powers of the commissioner, subject to his direction and control. (Act Apr. 13, 1943, c. 420, §2.)
[196.02]

53-41f. Officers and employees.—All officers and employees of the department shall be appointed by the

commissioner and they shall perform such duties as may be assigned to them by the commissioner. (Act Apr. 13, 1943, c. 420, §3.)
[196.03]

53-41g. Subdivision 1. Commissioner to promulgate rules.—The commissioner shall adopt reasonable and proper rules to govern the procedure of the divisions of the Department and to regulate and provide for the nature and extent of the proofs and evidence and the method of taking and furnishing the same, in order to establish the right to benefits provided for by the law. Such rules shall become effective when approved by the Attorney General and then be filed in the office of the Secretary of State.

Subd. 2. Existing rules to govern.—Until modified or repealed by the commissioner, all orders, rules and regulations and permits or other privileges issued or granted with respect to any function consolidated hereunder, and in effect at the time of such consolidation, shall continue in effect to the same extent as if such consolidation had not occurred. (Act Apr. 13, 1943, c. 420, §4.)
[196.04]

53-41h. Duties of commissioner.—The commissioner shall:

(1) Act as the agent of any resident of the state having a claim against the United States for a pension, bounty, or back pay arising out of or by reason of any war or any federal military or naval service and prosecute such claim without charge;

(2) Make and preserve, by counties, as a part of the war records' collection, a permanent registry of the graves of all persons who shall have served in the military or naval forces of the United States whose mortal remains may rest in Minnesota;

(3) Compile and maintain the individual record of each Minnesota resident who served or participated in the Civil War, Spanish American War, Philippine Insurrection, Boxer Rebellion, or any armed expedition for which Congress has awarded a campaign badge or medal, Mexican Border Service, Indian Wars, the World War, in the armed forces in the period between September 16, 1940, and December 7, 1941, both dates inclusive, and the war wherein the United States of America and the allied nations of England, Russia and other allied nations are engaged in war against Germany, Japan, Italy, and their allies, and include therein all obtainable military history of such person; and the compilations made hereunder may be used in place of the original records for all practical purposes;

(4) Administer the laws relating to pensions to Indian War Veterans;

(5) Act as custodian of all veterans' bonus records and perform all duties now imposed upon the Adjutant General under Laws relating to soldiers' bonus;

(6) Administer the laws relating to
(a) The burial of veterans,
(b) The placing of headstones at veterans' graves,
(c) The providing of markers at veterans' graves for memorial purposes, and
(d) The furnishing of flags for deceased veterans;

(7) Administer the laws relating to recreational or rest camps for veterans so far as applicable to state agencies;

(8) Administer the State Soldiers' Welfare fund and veterans' relief as administered by the Division of Social Welfare; and all funds hereafter appropriated for the payment of bonuses or other benefits to veterans or for the rehabilitation of veterans;

(9) Cooperate with all national, state, county, municipal, and private social agencies in securing to veterans and their dependents the benefits provided by national, state, and county laws, municipal ordinances, or public and private social agencies;

(10) Establish and provide such assistance to a war veteran needing hospitalization, but unable to accept hospitalization because the acceptance thereof

would imperil his then employment, as would insure employment after hospitalization;

(11) Provide necessary assistance where other adequate aid is not available to the dependent family of a war veteran while such veteran is being hospitalized and afterwards during such period as is necessary;

(12) Act as the guardian for a minor or an incompetent person receiving moneys from the United States Government when no other suitable person will so act;

(13) Cooperate with United States governmental agencies providing compensation, pensions, insurance, or other benefits provided by federal law, by supplementing the benefits prescribed therein, when conditions in an individual case make it necessary;

(14) Perform all the present duties of the Soldiers' Welfare director;

(15) Establish and provide such employment placement and advisement service for disabled veterans as cannot be furnished by cooperation with other free employment agencies;

(16) Contact, at such times as he deems proper, all war veterans, as defined in Mason's Minnesota Statutes of 1927, Section 4368, as amended, who are confined in any public institution; investigate the treatment accorded these veterans and report quarterly to the Governor the results of such investigations; and the heads of such public institutions shall permit the commissioner, or his representative, to visit any such veteran; and, if the commissioner, or his representative requests any information relative to any such veteran and his affairs, the head of such institution shall furnish the same;

(17) Have such other powers as may be authorized and necessary to carry out the provisions of this act. (Act Apr. 13, 1943, c. 420, §5.)
[196.05]

53-41i. Subdivision 1. Commissioner to make annual report.—The commissioner shall make an annual written report to the Governor giving:

- a. An account of all moneys received and disbursed;
- b. A description of the work done;
- c. Administrative improvements;
- d. Activities of the department;
- e. The number of veterans who have, during the past year, received relief in any form;
- f. The number of veterans on relief rolls;
- g. The number of veterans who are receiving hospital and medical treatment;
- h. The number of claims presented on behalf of veterans, and the disposition thereof;
- i. The recommendations he may deem necessary for the active performance of the duties and purposes of the department.

Subd. 2. Report to be made available to Legislature.—The report referred to in the preceding subdivision shall be made available to the members of the legislature. (Act Apr. 13, 1943, c. 420, §6.)
[196.06]

53-41j. Qualifications of technical staff.—The commissioner's technical staff shall have the same qualifications as enumerated for the commissioner in Section 2 hereof. (Act Apr. 13, 1943, c. 420, §7.)
[196.07]

53-41k. Files and records confidential.—The contents of, and all files, records, reports, papers and documents pertaining to, any claim for the benefits of this act, whether pending or adjudicated, shall be deemed confidential and privileged and no disclosure thereof shall be made, without the consent in writing of the claimant who has not been adjudicated incompetent, except as follows:

- a. To said claimant personally, his duly appointed guardian, his attorney in fact, or his duly authorized representative, and as to matters concerning himself alone, when, in the judgment of the commissioner, such disclosure would not be injurious to the physical or mental health of the claimant.

b. To the representatives of veterans' organizations recognized by the United States Government, not exceeding five from each such veterans' organizations, and when such representatives have been duly certified as such by the state department of any such veterans' organizations in the State of Minnesota.

c. In any court in the State of Minnesota which has jurisdiction of the parties to, and subject matter of, an action or proceeding therein pending, as found by said court, when required to be produced by the process of such court, and then only in open court, as evidence, in such action or proceeding after a judge thereof shall have ruled the same to be relevant and competent evidence in such action or proceeding according to the laws and statutes of said State. (Act Apr. 13, 1943, c. 420, §8.)

[196.08]

53-41l. May secure additional recreational facilities.

—The commissioner is authorized to secure additional recreational facilities, supplies and equipment for the use of his department, as, in his discretion, he may deem necessary, within the limits of the appropriation made by any act of the legislature for such purposes. (Act Apr. 13, 1943, c. 420, §9.)

[196.09]

53-41m. Powers of commissioner.

—The commissioner shall have the power to order, regulate, consolidate, eliminate, or redistribute the functions of the departments, agencies, divisions, offices or activities in the Department of Veterans' Affairs, and fix the functions thereof and the duties and powers of their respective executive aids. (Act Apr. 13, 1943, c. 420, §10.)

[196.10]

53-41n. Certain powers of adjutant general transferred.—All powers and duties now imposed by law upon the Adjutant General with reference to war veterans and the Soldiers' Welfare Director are hereby transferred to the Commissioner of Veterans' Affairs and shall hereafter be exercised, performed, and administered by him. (Act Apr. 13, 1943, c. 420, §11.)

[196.11]

53-41o. To constitute continuance of former agency.

—The Department of Veterans' Affairs constitutes a continuation of the former department, agency, or officer as to matters within the jurisdiction of the former department, agency, or officer, and not a new authority, for the purpose of succession to all rights, powers, duties, and obligations of the former department, agency, or officer as constituted at the time of such assignment or transfer, except as otherwise provided by this act, with the same force and effect as if such functions, powers, and duties had not been assigned or transferred. (Act Apr. 13, 1943, c. 420, §12.)

[196.12]

53-41p. Subdivision 1. Former heads to deliver records.

—The head of the department or other agency, or the officer whose functions, powers, and duties are by this act assigned and transferred to the Department of Veterans' Affairs, shall transfer and deliver to the latter all state contracts, books, maps, plans, papers, records, and property of every description connected with the functions, powers and duties transferred to the Department of Veterans' Affairs within his jurisdiction or control, and shall also transfer thereto any and all employees engaged in the exercise of such functions, powers or duties. The commissioner is hereby authorized to take possession of said

property, and shall take charge of said employees, and shall employ them in the exercise of their respective functions, powers, and duties transferred as aforesaid, without reduction of compensation, subject, however, to change or termination of employment or compensation as may be otherwise provided by law.

Subd. 2. Application of act.—The provisions of Subdivision 1 of this section and of Sections 13 and 17 hereof, without otherwise limiting the application thereof, shall apply to the Division of Social Welfare so far as it engages in the distribution of relief to veterans, and to all employees thereof engaged in such distribution. All appropriations hereafter made to any state agency for relief to veterans shall be disbursed by the Department of Veterans' Affairs, unless specifically prohibited by other provisions of law. (Act Apr. 13, 1943, c. 420, §13.)

[196.13]

Veteran's relief may be handled on a cash grant basis instead of the prevailing relief order base, in a discretion of the commissioner of veteran's affairs. Op. Atty. Gen. (310s), June 29, 1943.

53-41q. Employees entitled to preference.—The commissioner, whenever he deems it practicable shall employ persons entitled to preference under Mason's Supplement 1940, Section 254-79. Upon request by the commissioner, the director of the state civil service shall certify for appointment to positions in the department from the appropriate eligible list only those persons entitled to preference under Mason's Supplement 1940, Section 254-79. Otherwise employment in the department shall be governed by the provisions of the state civil service act. (Act Apr. 13, 1943, c. 420, §14.)

[196.14]

53-41r. Commissioner of administration to assign office.—The commissioner of administration shall assign the office space in the Capitol and other state buildings so far as necessary to carry out the purposes of this act. (Act Apr. 13, 1943, c. 420, §15.)

[196.15]

53-41s. Appropriations transferred.—All unexpended funds appropriated or made available to any department, agency, or officer for the purpose of any of its functions, powers, or duties, which are transferred by this act to the Department of Veterans' Affairs, are hereby transferred to the latter. (Act Apr. 13, 1943, c. 420, §16.)

[196.16]

53-41t. Inconsistent acts repealed.—All other acts or parts of acts now in effect inconsistent with the provisions of this act are hereby superseded, modified, repealed or amended to conform to and give full force and effect to the provisions of this act. (Act Apr. 13, 1943, c. 420, §17.)

53-41u. Effective July 1, 1943.—This act, so far as it directs an appointment by the Governor, shall take effect and be in force from and after its passage, but in all other respects it shall take effect and be in force from and after July 1, 1943. (Act Apr. 13, 1943, c. 420, §18.)

ARTICLE XIX.—RECORDS AND FUNDS OF VARIOUS STATE AGENCIES**53-47. Registration records of certain examining boards, etc.**

Monies referred to in §53-47 and §5872, means license and examination fees collected by board, and not fines which are imposed by courts of competent jurisdiction for violations of act, which should be disposed of in accordance with §9707. Op. Atty. Gen., (188), April 9, 1940.