

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



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municipal judge, if any, shall prepare or draw any pleadings or other papers in any civil actions in said municipal court, nor shall they institute, for another, any civil action in such court. (R. L. '05, §133; G. S. '13, §267; '13, c. 104, §1; Feb. 21, 1931, c. 23, §1.)

It would be unethical for municipal judge to prepare proceedings or to advise in connection with civil action in his court. Op. Atty. Gen., May 25, 1932.

Clerk of municipal court does not come within provisions of Soldiers' Preference Law. Op. Atty. Gen., Mar. 13, 1933.

Appointment of municipal court clerk need not be approved by village council. Op. Atty. Gen., Apr. 8, 1933.

Court officer of municipal court of Virginia may serve papers any place in county, even where issued out of another municipal court in county. Op. Atty. Gen., May 17, 1933.

## 226. Court officers.

Salaried officer of municipal court of Virginia is entitled to collect fees for serving papers, but is not entitled to retain them. Op. Atty. Gen., May 17, 1933.

## 228. Powers and duties—Practice—Rules—Fees.

Right of defendant to appeal after plea of guilty in municipal court. Op. Atty. Gen., Dec. 9, 1930.

## 229. Costs and disbursements.

Where defendant prevailed on his counter claim in amount equal to plaintiff's recovery, defendant was entitled to costs. 179M461, 229NW579(2d).

"Costs" refers to disbursements where no statutory costs are involved. Id.

## 233. Fees in criminal cases, etc.

It is not the duty of a city attorney to prosecute violators of state laws within the city limits in justice court, and in assisting in such a prosecution he is not entitled to compensation from the city, but county attorney might allow compensation out of his contingent fund. Op. Atty. Gen., Feb. 18, 1931.

This section refers to prosecutions in municipal courts and does not apply to justice courts. Op. Atty. Gen., Sept. 26, 1932.

Neither village nor city attorneys are under any obligation to prosecute violators of state laws in justice court. Op. Atty. Gen., Sept. 26, 1932.

City of So. St. Paul must pay expense trial in municipal court of criminal cases arising outside city limits. Op. Atty. Gen., July 14, 1933.

## 236. Appeals to district court.

The district court is not required to make findings of fact in an appeal upon questions of law alone from judgments of the municipal courts in cities of the class of Worthington. Iowa Mortgage Corp. v. K., 181M477, 233NW18. See Dun. Dig. 6905.

Defaulting defendant in municipal court was not entitled to notice of entry of judgment as respected time for appeal. Pandolfo v. S., 183M336, 236NW483. See Dun. Dig. 486(74).

## 237. Courts in cities of fourth class, etc.

Judge of municipal court, organized under this section, may also hold the office of member of school board of an independent school district. Op. Atty. Gen., Apr. 15, 1931.

If there is no special act of the legislature requiring justices, a particular city may abolish the office on drafting a home rule charter. Op. Atty. Gen., Oct. 3, 1931.

Judge of municipal court, also discharging duties of clerk of court on failure of council to appoint clerk, must give bond. Op. Atty. Gen., Mar. 1, 1933.

## Laws 1895, c. 229.

Council of city of Waterville cannot abolish municipal court created by legislative act, though organized by resolution of council. Op. Atty. Gen., July 13, 1933.

## Laws 1895, c. 200, §6.

Where city council of Marshall adopted provisions of Mason's Stats., §§215 to 240, summons in actions in municipal court should be subscribed by plaintiff, or his attorney, and such summons may be served by any disinterested person. Op. Atty. Gen., Mar. 28, 1932.

## Laws 1895, c. 209 \* \* \* \* \*

Sec. 30. **Lien not to attach unless judgment is filed in District Court.**—No judgment rendered in said municipal court shall attach as a lien upon real estate until a transcript thereof shall have been filed in the district court, as hereinafter provided; but writs of execution thereon may issue against the goods and chattels of the judgment debtor, at any time after the entry of judgment, returnable within 30 days. The provisions for renewals of executions in district court shall apply to this court, except that such renewal shall extend the life of the execution for only 30 days from the date of such renewal, and except that no renewal of such execution shall be made by the clerk until the fee of 25c therefor shall have been paid.

Every person in whose favor a judgment is rendered, in said municipal court for an amount exceeding \$5.00 besides costs, may, at any time after the entry of such judgment, upon paying the fee therefor, demand and shall receive from such clerk a transcript of the docket entries of such judgment, duly certified, and may file the same in the office of the clerk of the district court in and for the county in which said city is situated, who shall file and docket the same, as in the case of transcripts of judgments from other district courts in the state.

And every such judgment, after being so transcribed and docketed in the district court, shall become a lien upon the real estate of the debtor from the time of filing such transcripts to the same extent as a judgment of said district court, and shall thereafter be exclusively under the control of said district court and carried into execution by its process as if said judgment had been rendered in district court, the clerk of said municipal court shall not issue such transcript while a writ of execution is outstanding, in the hands of an officer, or otherwise, and shall note on the record of said judgment the fact that such transcript has been given; and shall not thereafter, issue any writ of execution on the same judgment, but may, at any time after the first transcript is issued, give to any party applying therefor, upon such party paying the clerk's fee therefor, a new transcript, and the clerk shall note the record of each transcript given upon such judgment. (As amended Mar. 27, 1933, c. 119.) \* \* \* \* \*

## 240. Form of summons in municipal court.

Where city council of Marshall adopted provisions of Mason's Stats., §§215 to 240, summons in actions in municipal court should be subscribed by plaintiff, or his attorney, and such summons may be served by any disinterested person. Op. Atty. Gen., Mar. 28, 1932.

## COURT COMMISSIONER

## 246. Election—Term of office.

Laws 1929, c. 341, §2 (§997-4), fixes salary at \$3,500 and marriage fees in counties of 415,000 population.

## 250. Vacancy.

Section 250, and not Section 822, governs an appointment to fill a vacancy in the office of court commissioner. Op. Atty. Gen., Jan. 26, 1931.

## CHAPTER 5A

## Salaries of Certain State Officers and Employees

Act limiting amount which may be paid state officer or employee for use of automobile. Laws 1931, c. 331, §§254-47, 254-48.

## 252. Amount—Payment.

### 2. Judicial Department.

**Salary of chief justice, associate justices and commissioners.**—The annual salary of the chief justice of the supreme court shall be \$9,000.00 and that of each associate justice and each commissioner of the supreme court \$8,500.00. (G. S. '13, §294; '13, c. 400, §1; Ex. Sess. '19, c. 30; '21, c. 504; '23, c. 377; '25, c. 268; Apr. 24, 1929, c. 322, §1.)

The above provision amends this paragraph with respect to the salaries of the chief justice, associate justices, and the commissioners.

## 6. Office of Attorney General.

**Salary of attorney general and assistants.**—The annual salary of the attorney general is hereby fixed at \$7,000.00 and of the deputy attorney general at \$6,000.00, and of the several assistant attorneys general, other than the assistant attorney general who is a member of the rural credit bureau, at \$5,000.00. (G. S. '13, §294; '13, c. 400, §1; '21, c. 324; Apr. 25, 1929, c. 382, §1.)

The above provision amends this subdivision "so as to read as" above. As to whether it amends the provisions of the former law which are not embraced in the amendatory act may be open to question.

**8. Office of State Librarian.**

The salary of the assistant state librarian is hereby fixed at twenty-one hundred dollars annually, payable in semi-monthly installments. (G. S. '13, §294; '13, c. 400, §1; Ex. Sess. '19, cc. 30, 31, §1.)

**Explanatory note**—Laws Ex. Sess. 1919, c. 31, §1, implicitly amended Laws Ex. Sess. 1919, c. 30, by increasing the salary of the assistant librarian to the amount above stated.

**9. Office of Commissioner of Banks.**

Commissioner of Banks, forty-five hundred dollars; one deputy commissioner of banks, four thousand dollars; one bank examiner assigned to examination in cities of the first class, thirty-seven hundred fifty dollars; ten bank examiners thirty thousand dollars; eleven assistant examiners, twenty-seven thousand five hundred dollars; three second assistant examiners fifty-four hundred dollars; three examiners'

clerks, forty-five hundred dollars; four examiners' clerks, at an amount not to exceed fifty-six hundred dollars; one chief clerk, twenty-four hundred dollars; one first assistant clerk, fifteen hundred dollars; seven stenographers and clerks, eighty-two hundred eighty dollars; one extra clerk hire for contingencies, one thousand dollars. (As amended '21, c. 499; '23, c. 252; Apr. 13, 1933, c. 232, §1.)

**Commissioner to fix salary of Examiner in charge of Liquidation.**—The Commissioner of Banks shall fix the salary of the Examiner in Charge of Liquidation appointed by him, but not to exceed four thousand dollars, and the same shall be paid out of funds of banks in the hands of the Commissioner of Banks for liquidation. (Act Apr. '13, 1933, c. 252, §2.)

**22. District Court Judges.**

Governor attempted to veto this bill but did not return it in time. See State v. Holm. 172M162, 215NW200.

## CHAPTER 5B

## Public Officers and Employees in General

## STATE EMPLOYEES' RETIREMENT ASSOCIATION

**254-1. Definitions.**—That the following words and phrases as used in this Act, unless a different meaning is plainly required by the context, shall have the following meaning:

1. "State Employee" shall mean any person holding a state office or regularly employed by the state in any capacity whatever and whose salary is paid either by warrant of the state auditor or from the fees or income of any department or agency of the state, excepting court commissioners, district judges, and the president, deans, professors, and instructors in the state university and in the state teachers' colleges, but shall not include temporary employees. Any employee who has been employed for a period of over six months continuously shall become a member, any classification of employees as temporary, permanent, or otherwise, by the head of any department, or any commission or agency of the state notwithstanding.

2. "Head of Department" shall mean the head of any department, institution, or branch of the state service which directly pays salaries out of its income or which prepares, approves and submits salary abstracts of its employees to the state auditor and state treasurer.

3. "Accumulated Deductions" shall mean the total of the amounts deducted from the salary of a member and the total amount of assessments paid by a member in lieu of such deductions and credited to his or her individual account in the retirement fund, without interest.

4. "The Retirement Fund" shall mean and include the aggregate of all accumulated deductions from the salaries of members of the retirement association, all assessments paid by such members in lieu of such deductions, and all other moneys paid into the state treasury or received by the retirement board pursuant to the provisions of this Act, together with all income and profits therefrom and interest thereon. (Act Apr. 15, 1929, c. 191, §1; Apr. 25, 1931, c. 351, §1; Apr. 20, 1933, c. 326, §1.)

The title of the amendatory act (Laws 1933, c. 326) reads: "An act to amend Laws 1929, Chapter 191, Section 1, Subdivision 1; Sections 2, 4, 9, 10, 11 and 12, as amended by Laws 1931, Chapter 351; Laws 1929, Chapter 191, Sections 13 and 14; Laws 1929, Chapter 191, Sections 15 and 16, as amended by Laws 1931, Chapter 351; and Laws 1929, Chapter 191, Section 19, relating to the State Employees' Retirement Fund." The sections of the amendatory act do not correspond to those of the acts amended.

District boiler inspector from 1905 to 1919 was a state employee. Op. Atty. Gen., Oct. 16, 1933.

Employees in dormitories at state teachers' colleges are "state employees" though their income is from student meals, banquets, etc. Op. Atty. Gen., Oct. 19, 1933.

**254-2. State employees' retirement association created.**—There is hereby established a state employees' retirement association the membership of which shall consist only of state employees. Membership in such association shall be optional on the part of persons in the employ of the state on July 1, 1929, but all new state employees entering the service of the state after July 1, 1929, except elective state officers shall become members of said association by acceptance of state employment and the head of the department shall thereupon cause deductions to be made from the salary of such new employees. Persons in the employ of the state on July 1, 1929, who apply for membership in the retirement association prior to January 1, 1930, shall pay a membership fee of One Dollar (\$1.00) and persons in the employ of the state on July 1, 1929, who apply for membership therein after January 1, 1930, shall pay a membership fee of Ten Dollars (\$10.00), but no person in the employ of the state on July 1, 1929, shall be eligible to apply for membership in the retirement association after July 1, 1931. In addition to such membership fee, every person in the employ of the state on July 1, 1929, who becomes a member of the retirement association shall pay in a sum equal to all accrued deductions from his or her salary which would have been made had such employee become a member of the retirement association July 1, 1929, with interest thereon at the rate of four per cent per annum compounded annually. (Act Apr. 15, 1929, c. 191, §2; Apr. 25, 1931, c. 351, §1; Apr. 20, 1933, c. 326, §1.)

**254-3. Board of managers—officers.**—The management of said state employees' retirement fund is hereby vested in a board of seven members, who shall be known as the State Employees' Retirement Board. Said board shall consist of the state auditor, the state treasurer, the insurance commissioner and four state employees who shall be elected by the members of the retirement association at a time and in a manner to be fixed by the retirement board. The members of said board so elected shall hold office for a term of four years and until their successors are elected and qualified; provided that at the first election held after the passage of this act one of said members shall be elected for the term of one year, one member for the term of two years, one member for the term of three years, and one member for a term of four years. Any vacancy in said board caused by the death, resignation or removal of either of the members so elected shall be filled by the retirement board for the unexpired portion of the term in which such vacancy occurs. The members of the retirement board shall serve without compensation,