

REVISED LAWS OF MINNESOTA 94

SUPPLEMENT 1909

CONTAINING

THE AMENDMENTS TO THE REVISED LAWS,
AND OTHER LAWS OF A GENERAL AND
PERMANENT NATURE, ENACTED
BY THE LEGISLATURE IN
1905, 1907, AND 1909

WITH HISTORICAL AND EXPLANATORY NOTES TO PRIOR STATUTES
AND FULL AND COMPLETE NOTES OF ALL
APPLICABLE DECISIONS

COMPILED AND ANNOTATED BY
FRANCIS B. TIFFANY

ST. PAUL
WEST PUBLISHING CO.

1910

register to the secretary of state as soon as recorded. Such secretary shall submit all such bonds to the attorney general for approval as to form and execution, who, if he finds the same satisfactory, shall endorse his approval thereon and thereupon the secretary of state shall file the same in his office for the use of all parties interested. (R. L. § 608, as amended by Laws 1909, c. 115, § 1.)

614. Records to be public.

Cited in *Nixon v. Dispatch Printing Co.*, 101 Minn. 309, 112 N. W. 258, 12 L. R. A. (N. S.) 188.

617. Officials not to be interested in contracts.

Curative.—See Laws 1909, c. 186, legalizing certain contracts made with officials.

619. Contracts in counties of more than two hundred thousand.

See section [619—] 1.

[619—]1. **Same—Emergency.**—In case of an emergency arising from breakage, damage or decay in any county property of any such county that cannot be allowed to wait for the time required to advertise for bids as herein required then such repairs may be made without advertising for bids, provided, however; such work is authorized by a majority of the board of county commissioners, and such action shall be ratified and recorded in the official proceedings of said board at their next meeting. ('05 c. 189 § 1)

Historical.—"An act to amend section 4, chapter 50 of the General Laws of Minnesota for the year 1902, relating to advertising for bids and the letting of contracts in excess of one hundred dollars by county commissioners in all counties having 225,000 inhabitants or over." Approved April 15, 1905.

Laws 1902, c. 50, by its terms applied to counties having 200,000 inhabitants or over. It was repealed by R. L. § 5545, but its provisions were embodied in section 619. So far as Laws 1905, c. 189, differs from said section 619, it is to be construed, by virtue of section 5504, as amendatory or supplementary.

620. Actions against counties.

Claims against county.—When a board has deliberately acted on a claim and allowed or disallowed it, it cannot in the absence of fraud or mistake and notice of hearing, set aside its decision and take other action thereon. *State ex rel. Devine v. Peter*, 120 N. W. 896.

CHAPTER 8.

TOWNS AND TOWN OFFICERS.

POWERS—DUTIES—LIABILITIES.

625. Powers of town meetings.— * * *

6. To vote money for the repair and construction of roads and bridges, and determine the amount thereof to be assessed as labor tax, and to vote such sums as they deem expedient for other town expenses, including the construction and maintenance of docks and breakwaters. (R. L. § 625, subd. 6, as amended by Laws 1909, c. 350, § 1.)

Subd. 3.—The electors may ratify the action of counsel in bringing to judgment a claim of the town, although such counsel were directed to bring the action by a town board without authority of law. *Town of Partridge v. Ring*, 99 Minn. 286, 109 N. W. 248.

[625—]1. **Certain towns to have certain powers of villages.**—Any township in this state having therein a platted portion on which there resides 1,200 or more people shall have and possess the same power and the same authority now possessed by villages in this state under the laws of this state in so far as such powers

are enumerated in section 727 of the Revised Laws of the State of Minnesota, 1905, and subdivisions 1, 7, 8, 9, 11, 12, 16, 17, 18, and 22 of said section 727. Also have the powers enumerated in sections 729 and 735, Revised Laws of the State of Minnesota, 1905. ('07 c. 193 § 1)

Historical.—"An act giving unto certain townships containing platted portions and having 1,200 or more inhabitants residing on such platted portion, certain powers now possessed by villages now operating under chapter 9, Revised Laws of 1905." Approved April 15, 1907.

See section next following.

[625—]2. Certain towns to have certain powers of villages of fourth class.—Any township in this state having a platted portion on which there resides 1,200 or more people, shall have and possess the same power and the same authority now possessed by the villages of the fourth class under the laws of this state, insofar as such powers are enumerated in sub-division 7, 8, 9, 12 and 17, of section 727, Revised Laws of 1905. ('07 c. 397 § 1)

Historical.—"An act giving unto certain townships containing platted portions and having 1,200 or more inhabitants residing on such platted portion, certain powers now possessed by villages of the fourth class." Approved April 8, 1907.

See section next preceding.

[625—]3. Certain town orders legalized.—That all town orders or warrants heretofore issued by any town for work performed in the repair and construction of roads and bridges in such town are hereby legalized and made valid insofar as such invalidity arises from the fact that such town orders or warrants were issued in excess of the amount voted at the annual meeting for the repair and construction of roads and bridges in such town for the year in which such road or bridge work was performed and for which such orders or warrants were issued. Provided, that this act shall not apply to any suit now pending involving the legality of town orders or warrants issued. ('09 c. 321 § 1)

Historical.—"An act to legalize and make valid certain town orders or warrants issued in excess of the amount voted at the annual town meeting." Approved April 21, 1909.

[628—]1. Procuring town hall — Indebtedness — Curative.—That whenever and in all cases between the 1st day of July, A. D. 1908, and the 16th day of March, A. D. 1909, a petition or request signed by legal voters of any organized town in this state has been made and filed with the town clerk and township board of such town, asking that such township and the board of supervisors thereof, proceed to procure a site and construct and complete thereon, a town hall for such town, pursuant to the provisions of chapter 8 of the Revised Laws, 1905, or any other law or laws of this state, then in force, and also asking that the town clerk of said town and said board of supervisors proceed to call and cause to be held, a town meeting and election for the legal voters and electors of such town, to vote upon said proposition including the amount of money to be raised and expended therefor, and thereafter such proceedings were had that a town meeting and election was held in such town for the electors and legal voters thereof to vote upon said proposition, and at which town meeting and election the electors and legal voters of such town, did vote upon said proposition, including the procuring of a site, the construction and completion of a town hall thereon, and the raising of money and the amount to be raised therefor, and a majority of all the ballots and votes cast at such town meeting and election, as counted and canvassed, were in favor of said town and its said town board procuring such site and building, constructing and completing thereon a town hall, as described in said petition and notice of said election, and the amount of money to be raised and expended by said town and

its said town board for said purpose was voted upon and authorized by said electors and legal voters at such town meeting, the full amount of the cost of the same, together with all other outstanding indebtedness of said town, not exceeding ten per cent of the assessed valuation thereof, and thereafter the board of supervisors of said town, in pursuance of said town meeting, and as authorized by the vote of the electors cast thereat, have proceeded to procure a site and to build and construct thereon a town hall for said town, and have expended money therefor, and have issued the township orders and other evidences of indebtedness therefor, the full amount of money so expended, the orders, warrants and other evidences of indebtedness issued, not exceeding the amount so voted by said electors at said town meeting, all steps taken, acts and proceedings done and performed, orders, town orders, warrants and other evidences of indebtedness issued for the procuring of such site and the building, constructing and completing thereon, such town hall, are hereby legalized, validated, ratified and confirmed, and all such orders, township orders, warrants and other evidences of indebtedness so issued by said town board for said purpose, are hereby legalized, ratified, validated and confirmed and made the legal, valid and binding obligations of said town. In all such cases, the act or acts of said electors in voting said amount of money for said purpose, and in authorizing said town board of said town to expend the same for said purpose, is hereby legalized, validated, ratified and confirmed. ('09 c. 279 § 1)

Historical.—"An act to legalize, validate, ratify and confirm the acts and proceedings of organized towns, and the acts and proceedings of boards of supervisors or township boards of organized towns, in the matter of procuring sites and building, constructing and completing thereon, town halls and the issuing of township orders and evidences of indebtedness for the same, and the procuring and disbursing of money and funds for the same, between the 1st day of July, 1908, and the 16th day of March, 1909." Approved April 20, 1909.

TOWN MEETINGS.

637. Clerk of meeting.

G. S. 1894, §§ 934, 938, cited in *State v. Bollenbach*, 98 Minn. 480, 108 N. W. 3.

638. Order of business.

G. S. 1894, § 935, cited in *State v. Bollenbach*, 98 Minn. 480, 108 N. W. 3.

642. Officers, how elected.

G. S. 1894, § 940, cited in *State ex rel. Rosckes v. Dreger*, 97 Minn. 221, 106 N. W. 904.

645. Canvass of votes.

G. S. 1894, § 945, cited in *State v. Bollenbach*, 98 Minn. 480, 108 N. W. 3.

646. Manner of canvassing.

G. S. 1894, § 946, cited in *State v. Bollenbach*, 98 Minn. 480, 108 N. W. 3.

[647—]1. **Clerk to report to auditor.**—Immediately after the annual town meeting each town clerk elected thereat shall, as soon as he has qualified, report to the auditor of his county the name and postoffice address of each town officer who was elected and for what term elected. ('07 c. 26 § 1)

Historical.—"An act to require town clerks to report names and addresses of newly elected town officers." Approved March 1, 1907.

TOWN CLERK.

660. Duties.

G. S. 1894, §§ 982, 983, cited in *State v. Bollenbach*, 98 Minn. 480, 108 N. W. 3.

[660—]1. **Office in certain villages.**—The town clerk of any town in this state may hold his office in any village, the territory

of which said village shall have been, prior to the incorporation thereof, a part of and included within the boundaries of such town. ('05 c. 98 § 1)

Historical.—"An act to authorize town clerks to hold their office in certain villages." Approved March 31, 1905.

GENERAL PROVISIONS.

668. [Superseded in part by sections 668—1 and 668—2.]

G. S. 1894, § 928, cited in State ex rel. Rosckes v. Dreger, 97 Minn. 221, 106 N. W. 904.

[668—]1. Officers elected—Terms—New town.—There shall be elected at the annual town meeting in each town three supervisors as hereinafter provided. The supervisors now in office shall hold their office for the full term for which they were elected according to the provisions of the Laws of 1903. One supervisor shall be elected in the year 1906 for a term of three years, and at each annual town meeting thereafter there shall be one supervisor elected for a term of three years to fill the place of the one whose term expires at that time. After the expiration of the term for which any supervisor has been elected chairman under the provisions of said amended act of 1903 the supervisors shall at their first meeting after the annual town meeting thereafter elect by ballot one of their number chairman for a term of one year, and each year thereafter shall in the same manner elect their chairman for one year, but a vacancy may be filled by an election for the unexpired term at any meeting of the supervisors. There shall also be elected at the annual town meeting in each year one town clerk, one treasurer, one assessor, each for a term of one year, and one overseer of highways for each road district in said town for one year, and there shall be elected, every two years, two justices of the peace and two constables, each to hold office for a term of two years and until their successors are elected and qualified, except a vacancy may be filled by election at any annual town meeting. Provided, that where a new town has been or may be organized and supervisors have been or may be elected for such town at a town meeting prior to the annual town meeting, such supervisors shall serve only till the next annual town meeting at which meeting three supervisors shall be elected, one for three years, one for two years and one for one year, so that one shall go out each year. The number of years for which each is elected shall be indicated on the ballot, and at each annual town meeting thereafter one supervisor shall be elected for three years to fill the place of the one whose term expires at that time. (G. S. 1894, § 928, as amended by Laws 1903, c. 64, Laws 1905, c. 243, § 1, and Laws 1907, c. 103, § 1.)

Historical.—G. S. 1894, § 928, as amended by Laws 1903, c. 64, as amended by Laws 1905, c. 243, was amended, so as to read as above set forth, by section 1 of an act entitled "An act amending chapter 243 of the Laws of Minnesota for the year 1905, relating to the election of township supervisors." Approved April 4, 1907.

G. S. 1894, § 928, was G. S. 1866, c. 10, § 13, which, as well as Laws 1903, c. 64, was repealed by R. L. §§ 5518, 5546, their provisions being incorporated in part in section 668.

This section, so far as it relates to assessors, is superseded in part by the section next following.

[668—]2. Town and village assessors—Election—Term.—Town and village assessors in all towns and villages, except those operating under special laws, shall be elected in odd numbered years and shall hold their office for two years and until their successors qualify. All assessors in towns or villages affected by this act, elected at the annual town meeting or village election in 1909, or

who are appointed to fill a vacancy, shall hold office until their successors are elected and qualified in 1911. ('09 c. 316 § 1)

Historical.—"An act fixing the term of office of town and village assessors." Approved April 21, 1909.

See note under section next preceding. See also note under section 711.

682. Compensation.—The following town officers shall be entitled to compensation for each day's service necessarily rendered as follows, viz: Assessors, two dollars; supervisors and clerks, one dollar and fifty cents, when the service is rendered within the town, and two dollars when rendered without the town; but no supervisor shall receive more than forty dollars as compensation in any one year except that in counties having a population of two hundred and ninety thousand or more, the assessors shall receive three dollars per day; and supervisors and clerks, two dollars per day, when the service is rendered within the town, but no supervisor shall receive more than seventy-five dollars as compensation in any one year. For the following services the clerk shall receive fees, and not a per diem, viz: for certifying each notice of election, twenty-five cents; posting notices, each, twenty-five cents; filing each paper ten cents; recording orders and other instruments, six cents per folio; copying and certifying any record or instrument recorded or filed in his office, six cents per folio, to be paid by the person applying therefor. The voters at any town meeting, before balloting for officers begins, may by resolution increase the compensation of town officers, not to exceed fifty per cent. (R. L. § 682, as amended by Laws 1907, c. 402, § 1.)

[682—]1. Compensation of supervisors in certain towns.—In every organized township in this state having an area of forty sections or more the compensation allowed each supervisor shall not exceed the sum of sixty dollars in any one year. ('07 c. 313 § 1)

Historical.—"An act relating to the compensation of town supervisors." Approved April 23, 1907.

[686—]1. Town charges—Damages caused by work on supposed highway.—That in all towns in this state where any road work has been performed, or may hereafter be performed, upon a supposed highway thereof, by order of the proper officer or officers of such town, on the belief that the same is a lawful public highway, and where an action at law has been or may hereafter be commenced, in any court of competent jurisdiction, in which it is or may be determined that such supposed highway was not a legal highway at the time said work was performed, all necessary costs and expenses incurred by the defendant or defendants therein, and any damages that may have been allowed or shall be allowed in any such action because of such road work shall be a charge against such town in favor of the defendant or defendants, and shall be allowed and paid by such town the same as other claims. Provided, that before such cost, expenses and damages shall be a charge, and be paid by said town the same shall be authorized by a majority of all legal voters present and voting in favor thereof at any annual or special meeting of such town, after due notice that such question will be submitted and voted upon at such meeting. ('07 c. 150 § 1)

Historical.—"An act authorizing and providing for the payment by towns of damages, costs and necessary expenses, resulting from actions brought against any person or persons, performing road work by order of the proper town officer." Approved April 11, 1907.

687. Public places.

Construction.—This section is to be reasonably construed, so as to effect its purpose. *Lutgen v. Board of County Com'rs of Stearns County*, 99 Minn. 499, 110 N. W. 1.

[691—]1. Separation from villages and cities in certain cases legalized.—That in all cases where there has been heretofore an attempted separation from a village or city under the provisions of chapter 52 of the General Laws of 1897, whether such city or village was organized under a general or special law, where the petition for the separation was signed by at least twenty (20) electors of the township and filed with the town clerk and notices thereof were duly given for the annual election of the township, and a majority of the votes cast were in favor of the separation of the township from the village or city, but the legality of such action is questioned on the ground that the word town is not inserted in the title of said chapter 52, and on the further ground that said law does not include cities organized under special act, each and every such case is hereby legalized and declared valid, effectual separation for all purposes. Provided, that nothing in this act shall affect or apply to any action or proceeding now pending in any court of this state. ('07 c. 294 § 1)

Historical.—"An act to legalize the separation of townships from villages or cities organized under a general or special law under chapter 52 of the General Laws of the State of Minnesota of 1897." Approved April 22, 1907.

[691—]2. Towns and detached territory—Liability for prior bonds.—Whenever any territory in this state has heretofore been incorporated, or has been attempted to become incorporated into a town under the laws of this state, and has acted or assumed to act as a town, or has exercised, or assumed, or purported to exercise or assume the prerogatives, privileges, functions or duties of a town and where the said town or purported town has prior to such division or detachment of territory therefrom, actually issued its bonds, for a valuable consideration received by said town, or purported town, and the said town or purported town was thereafter, and after issuance of said bonds and the receipt of the consideration therefor, divided or constituted into one or more additional towns, or the territory constituting, or purporting to constitute a portion of such town or purported town has been detached or set off therefrom, either by the vote of the people, or by operation of law, or by reason that at the time of the incorporation or attempted or purported incorporation of said town, territory not proper or lawful to be included therein was so included, or purported to be included, or by reason that at the time of said incorporation or purported incorporation the boundary lines of the county wherein said town was so incorporated or purported to be incorporated was in doubt, or was unknown, and because thereof or for any other reason, territory not within such last mentioned county was included or purported to be included within said town so incorporated or purported to be incorporated, and where such original town has, since such division, or such detachment of territory therefrom, continued to act as and perform the functions and duties of a town under the laws of this state, and has, since such division or detachment of territory, and either before or after six years prior to the time of the passage of this act, paid the said bonds so issued as aforesaid, or the interest thereon, or either of the same, or any part thereof, and such territory so detached or set off has since the issuance of said bonds been incorporated or purported to become incorporated into a new town under the laws of this state and has been since, and is now exercising the powers, duties and functions of a town under the laws of this state, and such portion thereof so detached or set off therefrom or such new town comprising the same, has not, since such division or detachment, paid any portion of the amount of such bonds or interest thereon, then and in that case, or either or any of them, the said territory so

set off or detached and the said town comprised thereof shall nevertheless be liable for and shall pay to such original town which has paid the said bonds such pro rata share of the whole of such amount or amounts so paid on such bonds as principal or interest or either or both thereof by such original town after such division or detachment of territory, as the proportion of the assessed valuation of all taxable property in such new town or such detached or set off territory as fixed by the state board of equalization next preceding the time of payment of or on said bonds and interest thereon or either of them bears to the assessed valuation of all taxable property as then likewise equalized in the entire territory comprising such town or such purported or de facto town at the time of the issuance of such bonds. Provided, that nothing herein contained shall in any manner affect any action or proceeding now pending in any of the courts of this state in relation to any bonds so issued. ('09 c. 492 § 1)

Historical.—"An act relating to the liability of towns and territory detached therefrom in cases where bonds have been theretofore issued thereby and the territory comprising same has been thereafter divided, or territory detached therefrom, and providing the manner of enforcing such liability." Approved April 24, 1909.

[691—]3. Same—Recovery from new town—Judgment, how enforced.—Any town which has paid any of said bonds and interest as hereinbefore provided may maintain an action in any of the courts of this state against the new town comprising such territory detached or divided from such original town as provided in section 1 [691—2] hereof, to determine and establish the amount for which such new town or the territory comprising the same is liable as provided in section 1 [691—2] hereof and may obtain judgment therefor against such new town comprising the territory liable therefor and all the provisions of section 696 and 697 of Revised Laws of 1905 shall be applicable to the enforcement of any judgment so obtained or rendered, provided, that, if said judgment is not paid or proceedings thereunder stayed, and at the annual town meeting mentioned in said section 697 the town board does not add the amount of such judgment to the tax levy as therein provided, the court shall thereupon on motion on behalf of the plaintiff, and in such original action, and upon proof of such failure, order the county auditor of the county wherein such town against which judgment was rendered is situated, to enter the amount of such judgment as a tax against the taxable property of such town liable therefor and it shall thereupon become and be the duty of such county auditor to forthwith assess, enter, and spread the same as a tax against such taxable property, and enter the same as such tax on the next succeeding tax duplicates of his said county and the same shall be levied and collected as other taxes and shall with interest when and as the same is collected be paid over by the said county treasurer to the town treasurer of such town obtaining such judgment. ('09 c. 492 § 2)

694. Actions, in what name.

Parties.—The supervisors are not necessary parties defendant in an action to enjoin the township from maintaining a ditch to the damage of property owners. *Koeper v. Town of Louisville*, 106 Minn. 269, 118 N. W. 1025.