

CHAPTER 9

EXECUTIVE COUNCIL

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9.01 [Repealed, 1953 c 492 s 8]

9.011 MEMBERS; DUTIES, POWERS. Subdivision 1. The executive council consists of the governor, secretary of state, state auditor, state treasurer, and attorney general. The governor is chairman.

Subd. 2. The executive council appoints, fixes the salary of, and removes at pleasure an executive secretary. He shall act as secretary of the state board of pardons and the state board of investment and perform such other duties as are assigned to him by the executive council.

Subd. 3. Within the limits of, and subject to the conditions of, the appropriation for salaries for the council, the executive secretary may employ such personnel as is necessary, and who may be employed in other departments of the state when so assigned.

[1953 c 492 s 1]

9.02 [Repealed, 1953 c 492 s 8]

9.021 MEETINGS. The executive council shall meet upon the call of the governor or upon the call of the executive secretary at the request of three or more members.

[1953 c 492 s 2]

9.03 [Repealed, 1953 c 492 s 8]

9.031 DEPOSITORIES FOR STATE FUNDS. Subdivision 1. The executive council shall designate banks or trust companies within the state as depositories to receive state funds. The state treasurer is not liable for the safe-keeping of the funds so lawfully deposited. The banks or trust company so designated as depositories must:

- (1) Have been organized for at least one year; or
- (2) Have taken over or absorbed a bank or trust company that has been organized for at least one year.

Subd. 2. Except as provided in subdivision 3, a depository shall furnish and file with the state treasurer a corporate surety bond to secure state funds deposited with it. The executive council shall approve the bond.

The executive council shall not approve any depository bond until fully satisfied that the bond is in proper form, the securities sufficient, the depository prosperous and financially sound, and the capital stock claimed by it fully paid up and not impaired. Each depository bond shall provide that during the time the bond is in force the depository will pay all the state funds deposited with it to the state treasurer, free of exchange, at any place in the state designated by him. If the deposit is a time deposit it shall be paid, together with interest, only when due. At any time the executive council or the state treasurer may require a new or additional bond from any depository.

Subd. 3. In lieu of the corporate bond required in subdivision 2, a depository may deposit with the state treasurer collateral to secure state funds that are to be deposited with it. The executive council must approve the collateral.

The executive council shall not approve any collateral except:

- (1) Bonds and certificates of indebtedness, other than bonds secured by real estate, that are legal investments for savings banks under any law of the state; and
- (2) Bonds of any insular possession of the United States, of any state, or of any agency of this state, the payment of the principal and interest of which is provided for by other than direct taxation.

The collateral deposited shall be accompanied by an assignment thereof to the state, which assignment shall recite that:

- (1) The depository will pay all the state funds deposited with it to the state treasurer, free of exchange or other charge, at any place in this state designated by him; if the deposit is a time deposit it shall be paid, together with interest, only when due; and
- (2) In case of default by the depository the state may sell the collateral, or as much of it as is necessary to realize the full amount due from the depository, and pay any surplus to the depository or its assigns.

Upon the direction of the executive council, the treasurer, on behalf of the state, may reassign in writing to the depository any registered collateral pledged to the state by assignment thereon.

A depository may deposit collateral of less value than the total designation and may, at any time during the period of its designation, deposit additional collateral, withdraw excess collateral, and substitute other collateral for all or part of that on deposit, approval of the executive council is not necessary for the withdrawal of excess collateral.

If the depository is not in default the treasurer shall pay the interest collected on the deposited collateral to the depository.

Subd. 4. A depository may furnish more than one bond or both bonds and collateral to secure state funds to be deposited with it. If both bonds and collateral are furnished the depository may withdraw all or any part of the collateral without in any way impairing the bond unless there is a provision in the bond that the collateral will not be withdrawn without the consent of the surety on the bond.

Subd. 5. The executive council shall prescribe the maximum amount that may be deposited in each depository. In no case shall the amount of the deposit exceed:

- (1) The penalty on the bonds;
- (2) 90 percent of the market value of the bonds; or
- (3) The penalty on the bonds plus 90 percent of the market value of the collateral, if both are furnished.

Subd. 6. The state treasurer may deposit in any qualified depository, in the name of the state, state funds in his hands.

Subd. 7. The executive council may permit any designated depository to receive from any official, department, institution, or other agency of the state special deposits of state moneys that have not been paid into the state treasury. All moneys so deposited are deemed deposited pursuant to such designation.

Upon the direction of the state treasurer a depository may receive and carry as a special deposit departmental receipts received by the treasurer in accordance with Minnesota Statutes, Section 10.07, until the report required by that section has been filed with the state auditor and the proper entries have been made in the treasurer's records transferring these receipts to the proper funds.

Upon direction of the state treasurer a depository may receive and carry as a special deposit an amount of money withdrawn from the treasury that may be immediately required to pay principal or interest, or both, of maturing obligations of the state. Upon the direction of the treasurer the depository may pay out of such deposit the maturing obligations and surrender them to the treasurer for cancellation.

The executive council shall fix the rate of interest to be paid upon the special accounts authorized by this subdivision or may waive payment of interest if in its judgment the average amount deposited is not sufficient to justify charging interest.

Subd. 8. Depositories shall be divided into two classes to be known as active and inactive. A depository may be designated as a depository of both classes.

All state funds deposited in active depositories are subject to withdrawal by the state treasurer upon demand and no interest shall be charged on these deposits.

Surplus funds not required to meet the state's current disbursements shall be deposited for a definite period in inactive depositories and interest shall be paid on

these deposits at a rate not less than one percent nor more than three percent per annum. This rate shall be fixed by the executive council in accordance with the current rate upon similar deposits.

Subd. 9. When the executive council deems necessary it may require any depository of state funds or any surety on a depository bond to furnish a sworn statement of the financial condition of the depository or surety. Failure to render a statement within a reasonable time is sufficient ground for revocation of the designation.

Any person who makes a false statement to the executive council with regard to the financial condition of a depository or the surety on a depository bond is guilty of a gross misdemeanor.

Subd. 10. The closing of a depository is a default by the depository and no demand by the state or its treasurer is necessary to establish the default. When a depository closes, any time deposit therein is immediately due and payable.

Subd. 11. In any proceeding to wind up an insolvent depository of state funds the state is a preferred creditor.

Where a bond has been given by the depository the state may proceed either as a preferred creditor against the assets of the insolvent depository or as the obligee on the surety bond against the surety thereon or against both as the executive council deems advisable.

If the state receives or recovers any amount of its claim from the surety, the latter is not, by reason thereof, subrogated to the claim of the state against the assets of the insolvent depository as a preferred creditor.

Subd. 12. The executive council may revoke its designation of any depository at any time. Upon revocation of an active depository the treasurer shall withdraw the state funds deposited therein immediately and shall make no further deposits therein. Upon revocation of an inactive depository the treasurer shall withdraw state funds deposited therein when they become due and shall make no further deposits therein.

[1953 c 492 s 3]

9.035 [Obsolete]

9.036 [Repealed, 1953 c 492 s 8]

9.04 [Repealed, 1953 c 492 s 8]

9.041 SETTLEMENT OF CERTAIN CLAIMS AND CONTROVERSIES WITH UNITED STATES. Subdivision 1. The executive council may consider and propose terms of settlement to the legislature of all claims and controversies between the state and the United States over lands granted to the state by the United States under any act of Congress. It may consider and propose terms of settlement of these claims separately or totally. When the legislature approves a settlement, the executive council may accept patents of land issued by the United States and may reconvey to the United States any lands that it, by unanimous vote, determines should be reconveyed to carry out the provisions of this section.

Subd. 2. The executive council shall refer its findings and conclusions to the legislature for confirmation and no adjustment or settlement of any claim by the executive council is final until ratified by the legislature. The executive council may make final settlement and adjustment of individual claims of settlers or Indian allottees, where the land in question does not exceed 100 acres.

Subd. 3. The state auditor shall report to the executive council the status of:

- (1) All claims of the state against the United States for lands patented to the state by the United States under any acts or grants relating to lands; and
- (2) All claims of the United States against the state for lands alleged to have been wrongfully patented or conveyed to the state by the United States.

Subd. 4. The state auditor shall expend from any fund appropriated to maintain any department of his office sums for clerk hire, travel, hotel bills, or other expenses necessary to carry out this section. The state auditor shall audit and the executive council shall approve these expenditures. A per diem expenditure may be audited and approved for these purposes.

[1953 c 492 s 4]

9.05 [Repealed, 1953 c 492 s 8]

9.051 TIMBER PERMITS, EXTENSION. Subdivision 1. When the legislature authorizes extension of incomplete timber permits, upon application of the holders of such incomplete permits the executive council may, for good and sufficient reason and with the recommendation of the commissioner of conservation, extend the permits for such period of time as it deems advisable.

Subd. 2. Any permit extended under this section is subject to a charge of six percent per annum interest on the entire unpaid purchase price. The destruction of the timber by any cause during the time of the extension does not relieve the purchaser from payment for the destroyed timber and he is liable to the state for the destroyed timber as provided in Minnesota Statutes, Section 90.07.

[1953 c 492 s 5]

9.06 [Repealed, 1953 c 492 s 8]

9.061 ADDITIONAL POWERS; EMERGENCIES. Subdivision 1. The executive council may:

- (a) take such measures as are necessary to prevent an impending disaster that threatens to destroy life or property;
- (b) grant relief to communities stricken by disease, fire, action of the elements, or extreme economic distress; and
- (c) prevent the occurrence or spread of any disaster.

In these emergencies, the executive council may, when necessary, commandeer and use any property, vehicle, means of transportation, means of communication, or public service. The owner of any property taken shall be given a receipt for the property and be paid for its use and for any damages inflicted upon the property while in the service of the executive council.

Subd. 2. When necessary to grant relief or to prevent disaster, the executive council may use any of the facilities or offices of the state, may command the services of any state military organization, the services of the forces of the state fire marshal or any state department, and the services of employees of the state. These employees shall serve without additional pay, but all proper and necessary expenses incurred while in the performance of duty shall be paid out of funds provided in this section. Members of any state military organization shall be paid for their services while on duty as provided by the military code upon warrants drawn by the adjutant general.

Subd. 3. When an emergency exists and the attorney general certifies that money is needed, the executive council shall furnish the requested money from funds provided by this section.

Subd. 4. The executive council shall transmit to the legislature a detailed report of all its expenses and all moneys paid out not later than March first of each year in which there is a regular session. It shall transmit information and make recommendations to assist the legislature in the enactment of legislation to prevent calamities.

Subd. 5. Where an emergency exists the executive council may, within the amount appropriated to the executive council for the purposes of this section, expend such amount as is necessary.

Subd. 6. For the purpose of carrying out the provisions of this section, whenever an emergency exists, the executive council, within the limitations hereinafter prescribed, is authorized to borrow such a sum of money as shall in its judgment be necessary and sufficient. The executive council shall not expend or borrow, under authority of this section, more than \$200,000 during any fiscal year.

Subd. 7. The executive council shall have power for that purpose to issue the interest-bearing certificates of indebtedness of the state in such denominations and sums as it shall determine advisable, to bear interest at a rate not exceeding five percent per annum payable semi-annually, and to be due and payable at such times as it may designate, but none of these certificates shall be issued for a period exceeding ten years.

Subd. 8. The certificates of indebtedness issued under this section shall be made payable at such place as the executive council shall determine. There shall be attached to each certificate coupons evidencing the semi-annual installments of interest to fall due on the same.

Subd. 9. The state auditor is hereby authorized and required to formally levy, and enter and collect annually, after the date of issuance of these certificates of indebtedness, a tax upon the taxable property of the state, in addition to all other taxes levied, sufficient to pay the interest annually accruing upon the certificates of indebtedness issued in pursuance of this section; and, in advance of the maturity of the principal of any of the certificates, he shall in like manner levy a tax upon the taxable property of the state sufficient to pay such principal sum when due.

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Subd. 10. The executive council shall sell such certificates to such persons, associations, and corporations, including the State of Minnesota, as it deems advisable, but in no case for less than par.

[1953 c 492 s 6]

9.07 [Repealed, 1953 c 492 s 8]

9.071 SETTLEMENT OF CLAIMS; OTHER SPECIFIED POWERS. The council has the powers with respect to the:

(1) Cancellation or compromise of claims due the state provided in Minnesota Statutes, Sections 10.11 to 10.15;

(2) Refunding abandoned property or funds in banks that have been taken by the state in escheat provided in Minnesota Statutes, Section 48.527;

(3) Timberlands provided in Minnesota Statutes, Sections 90.11, 90.12, 90.21;

(4) Lands acquired from the United States provided in Minnesota Statutes, Section 94.50;

(5) Lands subject to delinquent drainage assessments provided in Minnesota Statutes, Section 84A.20;

(6) Transfer of lands between departments of state government provided in Minnesota Statutes, Section 15.16;

(7) Sale or exchange of lands within national forests provided in Minnesota Statutes, Sections 92.30, 92.31;

(8) Approval of acquisition of land for camping or parking area provided in Minnesota Statutes, Section 97.48;

(9) Modification of iron leases provided in Minnesota Statutes, Section 93.191;

(10) Awarding permits to prospect for iron ore provided in Minnesota Statutes, Section 93.17;

(11) Approval of regulations for issuance of permits to prospect for minerals under state lands provided in Minnesota Statutes, Section 93.08;

(12) Rural credit deficiency fund certificates of indebtedness provided in Minnesota Statutes, Section 11.37;

(13) Construction of dams provided in Minnesota Statutes, Section 110.13.

[1953 c 492 s 7]

9.08-9.15 [Repealed, 1953 c 492 s 8]

9.16 [Renumbered 11.09]

9.17 [Obsolete]

9.18 SCHOOL DISTRICT RELIEF FUND. There is hereby created a special fund to be known as the school district relief fund, into which shall be paid the proceeds of the tax levies hereinafter authorized and from which shall be paid the relief provided for in sections 9.18 to 9.27. This fund is hereby appropriated to the executive council for the relief of distressed school districts, including dissolved school districts and unorganized school territory, as hereinafter provided.

[1941 c. 297 s. 1]

9.19 DISTRESSED SCHOOL DISTRICTS. Any school district or school territory within the state, having a bonded and floating indebtedness of more than 75 percent of its maximum debt limit, whether organized or dissolved, and in which the population during the ten years preceding the making of the application herein mentioned has increased 200 percent or more, resulting in an increase of the population of children of school age, shall be deemed and held to be a distressed school district and shall be entitled to issue the certificates of indebtedness herein provided, bearing interest at the rate of not to exceed 3½ percent per annum. One-third of the principal thereof shall become due ten years after date of issue; one-third shall become due 15 years after date of issue, and one-third shall become due 20 years after date of issue.

[1941 c 297 s 2; 1943 c 436 s 1; 1947 c 533 s 1; 1953 c 730 s 1]

9.20 DISTRESSED SCHOOL DISTRICTS MAY APPLY FOR RELIEF. Any such district or territory having such an assessed valuation of less than \$15,000 may apply to the council for the payment of so much of its indebtedness as exceeds 33⅓ per cent of such assessed valuation, and any such district having a valuation of more than \$15,000, may make like application for the payment of so much of its indebtedness as exceeds 50 percent of its assessed valuation. The application shall be made by resolution of the school board of the district, or the county board of education for unorganized territory, showing the date and amount of such item of its indebtedness, for what purpose it was incurred, the

name and address of the payee and of the present holder thereof, if known, or where payable, if payable to bearer, together with the county auditor's certificate of assessed valuation and such other data or information as to its financial affairs as the council may require, including a budget of the anticipated receipts and disbursements of the district or territory for the next ensuing school year approved by the state department of education.

[1941 c. 297 s. 3]

9.21 PAYMENTS TO DISTRESSED SCHOOL DISTRICTS. Upon the filing of the application and approved budget and the determination of the council that such district or school territory qualified for relief, the council is hereby authorized to make payment of so much of the indebtedness of such district or territory as exceeds the percentage of its assessed valuation, as hereinabove provided, upon the cancelation and surrender of the evidence of such indebtedness or receipt for any partial payment made thereon.

[1941 c. 297 s. 4]

9.22 REDEMPTION OF BONDS HELD BY STATE. The council is authorized to redeem any of such indebtedness which is held in the permanent trust funds of the state, or in any other state fund, at par and accrued interest and to compromise, determine, and fix the value of any other indebtedness of the school district or school territory and to redeem the same at the value so determined and fixed; provided, that the rate at which bonds not held by the state may be redeemed shall not exceed ten per cent of the face thereof and the rate at which warrants may be redeemed shall not exceed 75 percent of the face thereof; and the council is hereby authorized to elect and determine upon what indebtedness of the school district to apply the amount herein authorized to be paid by the state and, in its discretion, to withhold any payment unless a satisfactory adjustment can be made with the creditors of the district or territory.

[1941 c. 297 s. 5]

9.23 SCHOOL DISTRICT RELIEF CERTIFICATES. The council is hereby empowered, as funds are needed for these purposes, to issue and sell certificates of indebtedness of the state to be known as school district relief certificates, which certificates shall be numbered consecutively, be in such form and denomination, mature at such times, and bear such rate of interest, not exceeding three per cent, as the council shall determine, but none of such certificates shall be issued for a period exceeding five years, nor shall more than \$50,000 thereof mature in any fiscal year. These certificates shall be signed by the chairman and attested by the secretary of the council, and the proceeds of the sale thereof shall be credited to the school district relief fund, herein created. These certificates and the interest thereon shall be payable from the relief fund, provided that such interest as may become due on any such certificates prior to the collection of the tax levy therefor shall be paid out of the revenue fund.

[1941 c. 297 s. 6]

9.24 TAX LEVY TO RETIRE CERTIFICATES. For the purpose of providing funds with which to discharge the obligations provided and imposed by the terms of sections 9.18 to 9.27 and to redeem the certificates of indebtedness therein authorized to be issued, the state auditor is hereby authorized and directed to levy for the school district relief fund upon all the taxable property in the state in the manner in which other state taxes are levied an amount sufficient to pay the annual interest accruing upon these certificates of indebtedness, as hereinabove provided, and in the year prior to the maturity of any such certificate to levy an additional tax upon such taxable property sufficient to meet the principal thereof when due.

[1941 c. 297 s. 7]

9.25 PURCHASE OF CERTIFICATES. These certificates of indebtedness may be purchased by the state board of investment for the permanent school fund or any other trust pension fund of the State of Minnesota but the amount thereof shall not exceed \$250,000.

[1941 c. 297 s. 8]

9.26 BUDGET OF SCHOOL BOARD, FILING. Until the indebtedness of any school district taking advantage of sections 9.18 to 9.27 shall be reduced to less than 20 percent of the assessed valuation of the real and personal property therein, the governing body of such district, at its first meeting in each fiscal year, shall prepare, adopt, spread on the minutes, and file with the council a

budget of its anticipated receipts from all sources and of its necessary expenditures for the ensuing school year, and shall therein first set aside the amount required to meet the principal and interest due in each year on its outstanding bonds, and may then set aside and allot the remainder for the several current school purposes, but the total expenditures authorized under the budget shall in no case exceed the aggregate receipts so anticipated. Should it become necessary in any year, by reason of some emergency or some act beyond the control of the governing body of the school district, to make expenditures for purposes or in amounts in excess of the amount determined by the budget, the governing body of the school district may apply to the council for permission to incur such additional expenditures, and the council shall have power to authorize such additional expenditures in such amount as it shall find necessary and proper.

[1941 c. 297 s. 9]

9.27 UNAUTHORIZED EXPENDITURES, FORFEITURE OF OFFICE. Any member of such governing body knowingly authorizing the making of any expenditures in excess of the amount set up in the budget or allowed by the council shall forfeit his office and all the emoluments thereof; and, upon petition of the council or of five freeholders of the district and proof of such unauthorized expenditure knowingly authorized, shall be removed from such office by the district court of the county in which the district, or some part thereof, is situated after such hearing as the court may prescribe.

[1941 c. 297 s. 10]

9.28 [Repealed, 1953 c 492 s 8]

9.31 CERTIFICATES OF INDEBTEDNESS, ISSUANCE. Any such school district or territory may make application to the executive council by resolution that such council purchase such certificates of indebtedness, specifying the amount of the principal thereof and the rate of interest to be paid thereon, the purpose of which the money represented by such certificates will be used, which, with the county auditor's certificate of assessed valuation and such other data and information as to the financial affairs of the school district, the council may require. Such application by resolution shall be filed with such executive council.

[1953 c 730 s 2]

9.32 PURCHASE OF CERTIFICATES OF INDEBTEDNESS. Thereupon the executive council may purchase all, or such part of, such certificates as it may deem advisable. To obtain money with which to make such purchase, the executive council is empowered to issue and sell certificates of indebtedness of the state as authorized by Minnesota Statutes 1949, Section 9.23, pay the proceeds thereof into the school district relief fund, and to retire such certificates. The procedure provided in Minnesota Statutes 1949, Section 9.24, shall be employed.

[1953 c 730 s 3]

9.33 APPLICABLE LAW. So far as applicable, the provisions of Minnesota Statutes 1949, Sections 9.21 to 9.24, 9.26 to 9.27, are made applicable hereto.

[1953 c 730 s 4]

9.34 STATE CERTIFICATES OF INDEBTEDNESS. When an application for loan, or any part thereof, shall be approved by the state board of investment, the state auditor, on its request, shall issue and call certificates of indebtedness of the state in an aggregate sum not to exceed the maximum amount to be paid out by the state in completing the purchase contemplated by such application and approval, such certificate to be numbered serially and to be of such denomination and bear such dates of issue and of maturity and bear interest at such rate, not exceeding five percent per annum, and payable at such intervals, as the state auditor shall determine; provided, none of such certificates of indebtedness shall run beyond a time reasonably feasible for its retirement out of collections on the bonds for the purchase of which it was issued. The interest on such certificates shall be less, by at least one-fourth of one percent and not more than one percent, than the interest on the bonds so purchased by the state. Such certificates shall be so issued, from time to time, as the proceeds thereof are needed for the taking of the municipal bonds contemplated to be purchased. The certificates shall be in such form and upon such terms and conditions, not inconsistent with the terms of sections 9.31 to 9.35, as the state auditor shall determine, shall be signed by the governor, attested by the state auditor, and sold for not less than par. Such certificates may be purchased by the state board of investment for the permanent school fund, swamp land fund, internal

improvement land fund, or any other trust fund of the state of Minnesota, and shall be deemed authorized securities, within the provisions of section 48.78 and acts supplemental thereto.

[1953 c 730 s 5]

9.35 PAYMENT; TAX LEVY. There is hereby levied for payment, in each year in which an installment or installments of interest or principal of all certificates issued under the provisions of sections 9.31 to 9.35 shall become due, the aggregate of the same becoming due thereunder for such year, less the amount remaining in the fund applicable thereto at the time of the certification of state taxes payable in such year, after satisfaction of all obligations payable therefrom for the preceding year. The levy so made shall be certified and extended upon the tax rolls for the tax levy payable in each such year, and shall be collected as other state taxes are certified and extended and collected; and the proceeds of such levies, together with the proceeds of collections of interest and principal of municipal bonds purchased by the state hereunder, are hereby appropriated and pledged to the payment of the interest and principal of the certificates of indebtedness issued pursuant to the provisions of sections 9.31 to 9.35.

[1953 c 730 s 6]