

1940 Supplement  
To  
**Mason's Minnesota Statutes**  
1927

(1927 to 1940)  
(Superseding Mason's 1931, 1934, 1936 and 1938  
Supplements)

Containing the text of the acts of the 1929, 1931, 1933, 1935, 1937 and 1939 General Sessions, and the 1933-34, 1935-36, 1936 and 1937 Special 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 digest of all common law decisions.



Edited by  
**William H. Mason**  
*Assisted by*  
**The Publisher's Editorial Staff**

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establish a Commission to be composed of the members of such county boards, which Commission shall be authorized to license and regulate boats in the manner hereinafter described. Wherever the word "Commission" is used in this act it shall mean the Commission so established. (July 16, 1937, Sp. Ses., c. 80, §1.)

County boards can set up a commission by joint action only. Op. Atty. Gen. (34g-2), Feb. 9, 1938.

**2740-12. Commission to enforce act—rules and regulations.**—The Commission is hereby authorized and empowered, and it shall be its duty, to carry out the provisions of this act, and it shall have the power and authority to make such rules and regulations as it may deem necessary to carry out the purposes of this act. (July 16, 1937, Sp. Ses., c. 80, §2.)

**2740-13. Inspectors.**—The Commission shall appoint such inspectors as may be necessary for the purposes of enforcing this act and shall fix the compensation therefor. (July 16, 1937, Sp. Ses., c. 80, §3.)

**2740-14. License to operate boats.**—Any person, co-partnership, corporation and association having in his or its possession, as owner or otherwise, any boat used in the carrying of five passengers or more for hire, or for the purpose of rental or for use by others than the owner thereof on any inland lake having a water area of at least two hundred and fifty square miles, shall, on or before the 10th day of April, 1938, and annually thereafter, procure from the Commission a license before using any such boat for the purposes herein stated. (July 16, 1937, Sp. Ses., c. 80, §4.)

Boats coming within this act must procure license from commission, though they are also examined and charged an inspection fee by the boiler inspector under §5481. Op. Atty. Gen. (34g-2), Feb. 9, 1938.

Commission determines which county treasury shall carry "boat inspection fund." Op. Atty. Gen. (34g-2), Feb. 9, 1938.

**2740-15. Application for license.**—Before any license is issued by the Commission it shall require the ap-

plicant therefor to make and file an application, in writing, showing the number of boats owned or controlled by the applicant, the size thereof, the owner's name and address, and such other information that the Commission may require. The owner of any boat transported to any inland lake for the uses stated in this act shall make application to the Commission in writing and must secure permission before such boat can be used. All applications shall designate the lake or lakes on which said boat or boats are to be used. (July 16, 1937, Sp. Ses., c. 80, §5.)

**2740-16. Rules and regulations for operation of boats.**—The Commission shall make rules and regulations regulating the operation of all such boats and shall designate the number of persons that each of such boats shall be permitted to carry, and when so determined the Commission shall cause such capacity to be plainly marked on each licensed boat. Should any boat carry more than the designated number of persons, the Commission shall revoke the license issued for such boat. (July 16, 1937, Sp. Ses., c. 80, §6.)

**2740-17. License fee.**—The Commission shall determine the license fee and shall pay all monies received for such licenses into the county treasury and the county treasurer shall credit such monies to the "Boat Inspection Fund" for the use of the Commission in carrying out the provisions of this act. (July 16, 1937, Sp. Ses., c. 80, §7.)

**2740-18. Offense.**—Any persons, co-partnership, corporation or association who shall let, lease or carry five passengers or more in any boat without first procuring a license as herein provided for, or who shall violate any rule or regulation of the Commission or any provision of this act shall be guilty of a misdemeanor. (July 16, 1937, Sp. Ses., c. 80, §8.)

**2740-19. Effective date.**—This act shall become effective on January 1, 1938. (July 16, 1937, Sp. Ses., c. 80, §9.)

## CHAPTER 14 Education

### 2741. Public schools—Tuition free—Age of pupils.

Interim committee to study educational situation in state. Laws 1939, c. 331.

Maintenance of public school system is a matter of state and not of local concern. State v. Erickson, 190M 216, 251NW519. See Dun. Dig. 8662, 8669.

Children of an orphanage have legal right to attend school without payment of tuition. Op. Atty. Gen., Apr. 17, 1933.

Hiring of unqualified teacher does not deprive school of its public nature, but does deprive school of right to apportionment aid while such teacher is employed. Op. Atty. Gen. (8b), Oct. 6, 1937.

Dependent children placed in homes in school districts are entitled to tuition and transportation from those districts. Op. Atty. Gen. (169g), Oct. 28, 1937.

Board cannot detach federal land from district, though no taxes are received by district from such land. Op. Atty. Gen. (180d), Jan. 17, 1938.

Board may exclude pupils for immoral conduct where morals of other pupils are endangered, but such danger must be real and in fact exist. Op. Atty. Gen. (169i), Feb. 10, 1938.

Residents of Camp Ripley may vote at town and school elections, and children living thereon are entitled to same treatment as other pupils with respect to transportation. Op. Atty. Gen. (490k), June 1, 1938.

Board of a common school district may pay transportation and tuition of kindergarten pupils over five years of age to an independent district where no class is maintained for them in their own district. Op. Atty. Gen. (169k), April 28, 1939.

### 2742. School districts.

Board of education of city of Duluth is not a department of city, and it is no part of official duties of city attorney to act for board, and board has power to retain an attorney and pay him upon a continuing monthly basis, and also has power to authorize employees to attend conventions. Lindquist v. A., 196M233, 265NW54. See Dun. Dig. 6586.

School districts are governmental agencies subject to control of the legislature, and their powers and privileges may be changed or abrogated by legislature, their boundaries may be enlarged, diminished, or abolished, and they are quasi municipal corporations, coordinate with and not subordinate to counties in which they are situated. McSherry v. C., 202M102, 277NW541. See Dun. Dig. 8662.

School districts are governmental agencies established by legislative authority to perform duties of educating children, and legislature may clothe them with such powers as it deems wise and regulate manner of exercise thereof. State v. School Dist. No. 70, 204M279, 283NW 397. See Dun. Dig. 8662.

Laws 1933, c. 356, relating to taxation of agricultural lands, is not applicable to special school districts. Op. Atty. Gen., July 17, 1933.

### 2743. Formation of districts.

Corporate organization of certain special school districts in cities of fourth class under home rule charters and bonds issued thereby legalized. Laws 1939, c. 98.

Where independent school district sells all school buildings located in village within district, freeholders of village may vote or petition county board to make the village a district separate from the independent district, and no vote of electors of independent district are necessary. Op. Atty. Gen. (166c-3), Sept. 7, 1934.

Indians owning tribal allotment lands are not qualified to petition for formation of school district. Op. Atty. Gen. (240w), July 7, 1936.

### 2744. Petition.

Op. Atty. Gen., June 16, 1932; note under §2753.

### 2745. Notice of hearing.

Op. Atty. Gen., June 16, 1932; note under §2753.

### 2747. Appeal from order.

Determination of board in granting or rejecting petition will not be disturbed by the courts unless based

upon erroneous theory of law, or unless the decision is clearly arbitrary, oppressive, fraudulent or in unreasonable disregard of the best interests of the territory affected, or such as to work manifest injustice. 174M347, 219NW289.

Verdict that rejection of petition was arbitrary and unreasonable held sustained by evidence. 174M347, 219NW289.

Action of county board in detaching territory from one district and adding it to another is legislative in character, and cannot be disturbed unless arbitrary, unreasonable or unjust or against the best interests of the public. 174M380, 219NW456.

School board may employ attorneys to prosecute appeal, and attorneys are entitled to fees notwithstanding new board decides to dismiss appeal. Op. Atty. Gen. (166c-1), Mar. 25, 1935.

Issues of fact are to be tried as in civil action. Id. Appeal should be taken by members of school board acting as school officials. Id.

**2748. Changing boundaries of school districts.**—By like proceedings, and upon petition of the majority of the freeholders of each district affected, qualified to vote at school meetings, the boundaries of any existing district may be changed, or two or more districts consolidated, or one or more districts annexed to an existing district. No change in the boundaries of a district by organization of a new district, by detachment of land on petition of the owner or owners, or otherwise shall be made, so as to leave the old district without at least one school house used for school purposes and without at least four sections of land if not a consolidated district and not less than 12 sections if a consolidated district, nor shall any change of districts in any way affect the liabilities of the territory so changed upon any bond or other obligation; but any such real estate shall be taxed for such outstanding liability and interest, as if no change had been made. In case of the consolidation or annexation of districts, whether under the foregoing or any other provisions of the law, action shall be brought by or against the new or remaining district upon any cause existing in favor of or against any discontinued district, but a judgment in such action against such existing district shall be satisfied only from taxes upon the real property included in the discontinued district, when the liability was incurred.

Provided, that when any incorporated borough, village or city of seven thousand or less inhabitants, has within its limits a school district, however organized, or is wholly or partly included within the boundaries of any school district, however organized, or whenever any such school district shall include within its boundaries part or the whole of any incorporated borough, village or city of seven thousand inhabitants, or less, the boundaries of any such district or districts may be enlarged or changed so as to include all lands within the corporate limits of such borough, city or village or so as to include lands within and outside of such incorporated borough, city, or village, but contiguous to said district in the following manner, to-wit:

Whenever a majority of the legal voters residing within such school district and a majority of the legal voters residing upon the lands proposed to be attached or annexed to such school districts shall petition the board of county commissioners of the county wherein such district is situated for an enlargement of such district, and shall file a petition with the auditor of said county, it shall be the duty of the board of county commissioners at its next regular meeting, or special meeting, to set a time and place for hearing upon such petition, and it shall cause a copy of the notice of such hearing to be posted in some public place in each district to be affected by such proposed change, and a copy thereof to be served upon the clerk of each of said districts, at least ten (10) days before the time appointed for such hearing. The posting of such copy of notice shall be proven by the affidavit of the person posting the same; said affidavit shall state the time and place of posting and serving of the copy of notice as herein specified, and upon filing proof of the posting and serving of such notice

in the office of the county auditor, the board of county commissioners shall at the time and place fixed proceed with the consideration of such matter and shall hear all evidence offered by any person interested, tending to show what territory should be included within such district, and having heard the evidence they shall, if they find it conducive to the good of the inhabitants of the territory affected, proceed to enlarge the said school district as asked for in the petition, and to fix the boundaries thereof and of all the remaining school districts thereby affected, attaching to or detaching contiguous territory to or from any of such districts, in such manner as in their judgment the best interests of the persons and districts thereby affected may require; provided, that no action or order changing any boundaries of any school district shall be valid unless and until the foregoing requirements as to posting and serving of notices have been observed; and provided further, that whenever the territory affected by any of the foregoing proceedings lies in two or more counties, like proceedings shall be had in each county affected, and no order in such proceedings shall be valid unless concurred in by the county board of all such counties affected.

At the time of making such division, enlargement or change of boundaries, the county commissioners shall apportion to the district so enlarged that portion of the debts of said other districts as may seem to them right and proper, and said apportionment when so made shall be binding upon all the districts affected, and the county commissioners may also apportion to said districts so enlarged, such portion of the property of such other districts as shall seem to them just and proper. Said last mentioned apportionment shall be subject to review by the district court;

And provided further, that any person or officer of any school district aggrieved by any order of the county board made pursuant to the provisions of this section, may appeal to the district court from such order, such appeal to be governed by the provisions of section 1285, Revised Laws 1905 [Mason's Minn. Stat., 1927, §2747]. (R. L. '05, §1286; '07, c. 88; '09, c. 13; '11, c. 264; G. S. '13, §2677; '13, c. 435, §1; '23, c. 304; Mar. 20, 1931, c. 81.)

Laws 1935, c. 107. Detachment of lands of district having population of from 26,500 to 28,000 and valuation of \$9,000,000 to \$14,000,000 and 27 to 29 townships, and attachment to adjoining district.

174M380, 219NW456; note under §2747. The County Board cannot create a new common school district from the territory of an existing district so as to leave the latter without a school house. Zimmerman, 179M30, 228NW168.

Detachment lands from one district and attachment of same to another district, held not improper though small loss to one district of tax revenue would result, as the interest of both districts to be considered. 179M445, 229NW585.

The limitation as to the territorial extent of a district set off from another district is applicable to an independent district located in a village. Op. Atty. Gen., Feb. 18, 1930.

This section is applicable to an independent district containing an incorporated village. Op. Atty. Gen., May 10, 1930.

Op. Atty. Gen., June 16, 1932; note under §2753. In the absence of special act, a parcel of land within a village may be detached from a school district having boundary coterminous with the village and attached to an adjoining school district without detaching the land from the village. Op. Atty. Gen., Aug. 27, 1931.

Lands added in enlarging school districts are not subject to taxation for bonds given to fund floating indebtedness of original district. Op. Atty. Gen., June 29, 1935.

Section does not refer to unorganized territory or unorganized districts, and procedure for annexation of unorganized territory to an adjacent school district is governed by §2753. Op. Atty. Gen., Dec. 29, 1933.

A school district may not annex land from adjoining district where it would leave that district with less than 4 sections of land, and it is immaterial that land to be annexed is non-taxable state land used for extension purposes by the university. Op. Atty. Gen., Mar. 20, 1934.

Territory of one school district may not be annexed to another district where it would leave less than four sections in first district. Op. Atty. Gen. (166c-2), May 9, 1934.

If a part of a territory of a school district is separated from it by annexation to another, or by its erec-

tion into a new corporation, the old corporation retains all of its property, including that which happens to fall within limits of other corporation. Op. Atty. Gen. (622a), May 31, 1934.

School property not apportioned at time of division of school districts may be apportioned later. Op. Atty. Gen. (622a), May 31, 1934.

Appeal should be taken by members of school board acting as school officials. Op. Atty. Gen. (166c-1), Mar. 25, 1935.

Pending appeal from an order consolidating school district, county auditor should pay tax moneys to each respective district in order that they may continue to conduct their school. Op. Atty. Gen. (166f), July 25, 1935.

Where several landowners filed petition with county board to have their farms set off from one district and annexed to another, and subsequently the first district and a third district voted for consolidation, county board would not have legal authority to act on individual petition, but detachment petition would not render an election invalid, or prevent subsequent petition for detachment from consolidated district. Op. Atty. Gen. (166c-8), June 27, 1936.

United States cannot petition as a freeholder for transfer of land from school district to another. Op. Atty. Gen. (771b), Feb. 24, 1937.

Territory taken from one district and annexed to another is not relieved from paying its proportionate share of outstanding bonds issued by district from which it was taken. Op. Atty. Gen. (166d-6), August 30, 1939.

**2748-2. Detachment of lands in certain cases legalized.**—That in all cases where in a proceeding instituted in court for the detachment of unplatted agricultural lands from cities containing 10,000 inhabitants, or less, the territorial limits of which were identical with a school district created by special law, situated therein, the territorial limits of such school district, when organized being defined as being the territorial limits of such city, where judgment detaching such lands from such cities was entered more than 20 years prior to the passage of this act, and no appeal was taken from such judgment, all proceedings in reference to such detachment, are hereby legalized and the detachment of such lands thereunder validated for all purposes. (Act Apr. 13, 1929, c. 183, §1.)

Public officials who have no personal pecuniary interest in the matter involved, will not be permitted to raise the question of the constitutionality of a statute to avoid the performance of a ministerial duty which it clearly imposes upon them. 181M427, 232NW737. See Dun. Dig. 8935(78).

**2748-3. Lands to become part of school district.**—Petition.—That all such unplatted agricultural lands thus detached, so situated as to come under the conditions and provisions of section one of this act, shall form and become a part of the organized school district or school districts existing adjoining such city as determined by the board of county commissioners as herein provided, to the same force and effect as if the proceedings for the detachment of such lands had provided, and the laws of this state, then in force, had permitted the detachment of such lands from such special school district of which said lands were formerly a part, providing that the owner or owners of such lands within six months after the passage of this act, prepare and file a petition setting forth the facts as above, in the office of the County Auditor of the county in which said lands are situated, to have the share of any outstanding bonded indebtedness, which said lands should bear prorated and determined as hereinafter provided. (Act Apr. 13, 1929, c. 183, §2.)

**2748-4. Hearing on petition.**—When such petition is thus filed it shall be the duty of the board of county commissioners at its next meeting to set a time and place for hearing upon such petition and the petitioner shall serve or cause to be served a notice of such hearing upon the president or clerk of such special school district from which said lands, describing the same, have been detached by the detachment thereof from such city, at least ten days before the time fixed for such hearing on said petition. (Act Apr. 13, 1929, c. 183, §3.)

**2748-5. County Board to pro-rate indebtedness.**—If upon such hearing it shall be made to appear that there is any outstanding bonded indebtedness of such special school district, then the board of county commissioners in its order attaching such lands to and including the same in such school district or districts adjoining such city and said lands and within said county, shall fix and determine the pro-rata share of such bonded indebtedness, based upon assessed valuations then existing, which such lands should pay and bear, and such detached lands shall pay such fixed share of such outstanding bonded indebtedness and any renewal thereof and interest thereon, and unless the same is paid in full by the owner of such detached lands, which may be made at any time, there shall be levied at the time of the levying of the taxes for school purposes upon the taxable property of such special school district, an equal rate for the payment of interest and any maturing principal of such bonded indebtedness, upon the real estate and lands thus detached, each year until the amount so designated and fixed by the board of county commissioners shall be paid in full, and the county auditor shall levy upon such detached lands and place the same upon the tax list of the taxing district where the same is then situate, in the same manner as other taxes therein and such taxes shall be collected with and in like manner as county and state taxes are paid and payment thereof enforced, and the county treasurer shall pay such taxes when collected over to the treasurer of such special school district from which said lands have been detached, in the same manner as other taxes are paid over. (Act Apr. 13, 1929, c. 183, §4.)

**2748-6. Application.**—The provisions of this act shall not affect any action or proceeding now pending in any of the courts of this state. (Act Apr. 13, 1929, c. 183, §5.)

**2748-7. Invalidity of one part not to affect balance of act.**—If any provision or part of this act shall be held invalid it shall not invalidate or in any manner affect any other provision or part thereof. (Act Apr. 13, 1929, c. 183, §6.)

**2749. [Repealed.]**

Since the repeal of this section, school board may not petition county board for annexation of territory. Op. Atty. Gen. (166c-8), Jan. 14, 1935.

**2750. Districts in two or more counties.**

Where school district contains land in two counties, county board of both counties must concur in dissolution. Op. Atty. Gen., June 16, 1932.

**2753. Dissolution of school districts.**—Any district in which for two years no school has been held and no provision made by it for the education of its pupils may be dissolved by the county board on its own motion; or such district, or any other district, may be dissolved by the county board on a petition signed by a majority of the resident free-holders of the district, or on presentation of resolutions passed by a majority vote at a legal meeting of the electors of the district. The territory of a district so dissolved shall be attached by order of the board to one or more existing districts or to unorganized territory upon notice as in other cases of change of boundaries, as in its judgment shall seem most equitable having regard to the convenience of the inhabitants. If there be no unorganized territory in the county, the board may by such dissolution create unorganized territory to be governed by the laws relating to such territory. (R. L. '05, §1288; G. S. '13, §2685; Apr. 25, 1931, c. 367.)

"Funds" is limited to cash and school board cannot sell school house located on leased land. The school house belongs to the district to which territory containing it is assigned. Op. Atty. Gen., Jan. 14, 1929.

Notice contemplated is one set forth in §2745. Op. Atty. Gen., June 16, 1932.

Consolidated school district which is also joint district, may dissolve and become part of unorganized territory in county. Op. Atty. Gen., June 16, 1932.

Reference on official ballot to §2753 of Mason's Statutes of 1927, instead of same section of 1938 Supp., did not invalidate election. Op. Atty. Gen. (166e-3), May 24, 1939.

**2755. Certain districts to receive aid as consolidated districts.**

Board has no power to revoke rights and privileges of consolidated school district. Op. Atty. Gen., June 21, 1933.

School districts granted rights and privileges of consolidated district under this section is a consolidated school district within meaning of Laws 1933, c. 356. Op. Atty. Gen., July 5, 1933.

**2756. Petition for formation of consolidated school districts to contain signatures of at least 25% of freeholders who have been residents of districts for thirty days prior to signing.**

Election having been called off because of snow cannot be later held unless new petition is filed. Op. Atty. Gen. (187a-6), Mar. 25, 1937.

Successive elections may not be held where majority voted in favor of consolidation at first election. Op. Atty. Gen. (187b-2), Nov. 19, 1937.

Where a consolidated district maintaining a graded elementary school is to be consolidated with another consolidated district maintaining a graded elementary and secondary school, question of consolidation of two districts should be submitted to legally qualified voters of both districts at one central polling place. Op. Atty. Gen. (166f-6), Jan. 18, 1938.

**2757. Liability of common school district.**—At such meeting the electors shall elect from their number a chairman and clerk who shall be the officers of the meeting. The chairman shall appoint two tellers, and the meeting and election shall be conducted as are annual meetings in common and independent districts. The vote at such election or meeting shall be by ballot, which shall read "For Consolidation" or "Against Consolidation." The officers at such meeting or election shall, within ten days thereafter, certify the result of the vote to the superintendent of the county in which such district mainly lies. If a majority of the votes cast be for consolidation, the county superintendent within ten days thereafter shall make proper orders to give effect to such vote, and shall thereafter transmit a copy thereof to the auditor of each county in which any part of any district affected lies, and to the clerk of each district affected, and also to the superintendent of education. If the order be for the formation of a new district, it shall specify the number of such district. The county superintendent shall also cause ten days' posted notice, and one week's published notice, if there be a newspaper published in such district, to be given of a meeting to elect officers of the newly formed consolidated school district; provided, that the board of a consolidated school district shall from and after the formation of the consolidated district have all the powers, privileges and duties, now conferred by law upon boards of independent districts.

After the formation of any consolidated school district, appeal may be taken as now provided by law in connection with the formation of other school districts. Nothing in this Act shall be construed to transfer the liability of existing bonded indebtedness from the district or territory against which it was originally incurred.

Provided that, when a territory desires to consolidate with a district which has incurred a bonded debt for the construction of buildings and purchase of equipment, such new territory shall become liable for its proportionate share of such indebtedness upon a majority vote of the electors of such new territory voting upon the question at a special election called at the request of twenty-five (25) per cent of the resident freeholders of such new territory. The results of such election shall be filed with the county auditor. (As amended Apr. 19, 1937, c. 303, §1.)

Sec. 2 of Act Apr. 19, 1937, cited, provides that the Act shall take effect from its passage.

Bonded indebtedness of individual common school districts consolidated into one district is not transferred to whole territory. Op. Atty. Gen., Jan. 17, 1933.

Where several landowners filed petition with county board to have their farms set off from one district and annexed to another, and subsequently the first district and a third district voted for consolidation, county board would not have legal authority to act on individual petition, but detachment petition would not render an election invalid, or prevent subsequent petition for detachment from consolidated district. Op. Atty. Gen. (166c-8), June 27, 1936.

Section 2757, and not §2793, applies to election of board in a newly organized consolidated district containing two villages. Op. Atty. Gen. (161a-19), Sept. 12, 1938.

**2759. Consolidation with unorganized districts.**

This section and not §2748 governs procedure in case of annexation of unorganized territory to a school district. Op. Atty. Gen., Dec. 29, 1933.

Division of money and property under §2774 applies to consolidation made under §2759. Op. Atty. Gen. (166f-2), Dec. 10, 1937.

County board of education may consolidate all or any part of unorganized territory under its jurisdiction with an existing district in which a state high, graded or semi-graded school is maintained, regardless of whether such district is a common, consolidated, special or independent district, provided school board of such district approves of such consolidation. Op. Atty. Gen. (166f-7), Aug. 4, 1938.

**2761. Powers of consolidated boards.**

Consolidated district may erect garage on school site upon authority being given by electors. Op. Atty. Gen. (622a), May 4, 1938.

**2764. Schools to receive amount expended for transportation of children.**—Consolidated schools shall receive annually the amount reasonably expended for the transportation of pupils, but not to exceed the amount provided for in section 2 of this act.

Every school located in a consolidated district shall be classified under one of the following heads: (1) Ungraded elementary, (2) graded elementary, (3) four-year high school, (4) high school department, (5) junior high school, (6) senior high school, or (7) six-year high school, and every such school shall possess all the rights and privileges of the rank and class which it has attained and shall be entitled to state aid according to such rank and class. ('15, c. 238, §11; '19, c. 443; '21, c. 467, §18; Apr. 24, 1935, c. 288, §1.)

Sec. 10 of Act Apr. 24, 1935, cited, provides that the act shall take effect Sept. 1, 1935.

School district is under no obligation to transport high school pupils who have completed the four-year high school course for the purpose of taking further and additional study. Op. Atty. Gen., Aug. 24, 1931.

**2765-1. Consolidated school district boards given power to acquire lands by condemnation for school house sites and dwellings for teachers and other employees.** The school board of any consolidated school district which does not contain within its limits an incorporated city or village may purchase or acquire by condemnation proceedings, as provided by law for acquiring school house sites, in the name and on behalf of such school district, a suitable tract of land within the limits of said district to be used for the purpose of erecting buildings thereon for use for dwelling purposes by teachers or other employees of said district, and may erect such buildings on said tract or on any other real estate owned by such district. The school board of any such district may also sell, lease or otherwise dispose of such property so built or acquired when deemed advisable and for the best interests of the districts. (Apr. 24, 1915, c. 358, §1.)

Omitted from the compiled Laws of 1923.

Sec. 2 of Act Apr. 24, 1915, cited, provides that the Act shall take effect from its passage.

**2766. Dissolution of consolidated school districts.**—Any Consolidated School District in which the school building is destroyed or is unfit for school purposes may be dissolved in the following manner:

Upon presentation to the clerk of such Consolidated School District of a petition signed and acknowledged by at least twenty-five per cent of the resident freeholders, qualified to vote at school meetings, of such consolidated school district, asking that the question of dissolution of such consolidated school district be submitted to the resident freeholders qualified to vote at school meetings, the clerk shall, within ten

days, cause ten days' posted notice to be given in each of the original school districts or parts of districts, comprising said consolidated district, and one week's published notice if there be a newspaper published in such original districts or parts of districts, of an election or special meeting to be held, at the time and place specified in such notice, to vote upon the question of such dissolution. The terms, "electors" and "qualified voters" in this chapter, mean freeholders residing in such consolidated school district, qualified to vote for school officers and the term "majority of the votes," means a majority vote of such resident freeholders voters therein. ('23, c. 316, §1; Apr. 20, 1931, c. 249.)

There is no constitutional specification of the qualifications of electors to vote upon matters other than the election of elective officers and this act is not invalid. Op. Atty. Gen., Sept. 1, 1931.

This section as amended by Laws 1931, c. 249, is not unconstitutional by reason of the fact that it limits the right to vote on the dissolution of a consolidated school district to resident freeholders. Op. Atty. Gen., Sept. 1, 1931.

**2767. Voters of district to vote on question of dissolution.**

School boards in unobligated districts without taxable real estate may be dissolved. Laws 1933, c. 240.

After consolidated district is dissolved, old board cannot retain teacher for following year. Op. Atty. Gen. (768d-2), June 25, 1935.

**2768-1. School districts dissolved.**—That where a new school district has been or is hereafter created wholly from territory of one existing district, and such new district has or shall fail for a period of three years immediately following its organization to provide a school house within the district and conduct school therein, and has provided or shall provide, during said three-year period, for the education of its pupils in the district from which the territory was taken, such district shall upon the passage of this act or upon the expiration of said three-year period become dissolved and its territory shall revert to and become a part of the district from which it was taken. (Act Feb. 13, 1929, c. 15.)

Act Apr. 13, 1933, c. 227, provides that bonds of dissolved school districts in counties having 28 or 29 townships and assessed valuation of \$4,000,000 to \$5,000,000, shall be an obligation of unorganized territory.

Unconstitutional as special legislation. 180M44, 230 NW115.

This statute did not dissolve a district which provided for education of its children by paying tuition in other districts. Op. Atty. Gen., June 28, 1929.

**2768-2. Disposition of property.**—That all property and funds, including taxes levied or in process of collection or in the possession of the County Treasurer, of the district so dissolved, remaining after the payment of its obligations, shall become the property of and belong to the district to which the territory is attached. (Act Feb. 13, 1929, c. 15, §2.)

**2768-3. Dissolution of school districts.**—Whenever all of the taxable lands within any school district in this state, however organized, have been acquired and are under the control of the state of Minnesota or the United States, and no school has been held therein for more than six months and such district has on hand sufficient money to pay and discharge all of its legal liabilities and obligations, such district may be dissolved by resolution adopted by the school board thereof, without notice, and its school property may be sold and disposed of by such board, without notice, to the state of Minnesota or the United States as such board may determine; a certified copy of the resolution of dissolution adopted by such board shall be filed with the county auditor of the county wherein such district is located; provided, however, that no such dissolution shall become effective unless all of the obligations or liabilities of such district shall have been paid and discharged and the remaining funds thereupon shall be paid to the county treasurer and the same placed to the credit of the unorganized district. If there is no unorganized district within

such county, such funds shall be proratably distributed by the county treasurer to the school districts within such county adjoining such dissolved district. (Act Apr. 13, 1933, c. 240, §1.)

**2768-4. To include statement of obligations in certificate.**—The school board shall attach to such certified copy of resolution dissolving such district a statement setting forth all of the obligations or liabilities and property of such district before such resolution was adopted, the disposition made of such property and receipts from the creditors of such school district showing that all such obligations or liabilities have been paid. (Act Apr. 13, 1933, c. 240, §2.)

**2768-5. Unorganized territory may be annexed to adjoining school districts.**—Whenever any organized school district has heretofore been dissolved, and the territory thereof has become unorganized territory, the school board of any school district adjoining such unorganized territory may have the same annexed to such district, and the indebtedness created by such organized school district before the same became dissolved assumed by the school district annexing such territory in the manner hereinafter provided. (Act Apr. 29, 1935, c. 363, §1.)

**2768-6. Special elections.**—Whenever the school board of such existing school district shall adopt a resolution with the consent and approval of the county board of education proposing to annex such unorganized school district territory, the clerk of the school board adopting such resolution shall within sixty days thereafter in the manner provided by law cause notice to be given of a special election within such existing school district upon the proposition of annexing the territory of such dissolved school district and assuming the indebtedness of such unorganized school district before the same became unorganized, and if a majority of the electors at such special election shall vote in favor of such annexation of such unorganized territory, such unorganized territory shall thereafter become a part of such existing school district, and all of the taxable property within the unorganized school district and such existing school district shall be liable for the indebtedness of both of said school districts. (Act Apr. 29, 1935, c. 363, §2.)

**2768-7. School boards to control property after annexation.**—After such annexation, the governing body of the existing school district shall have control of all of the school property within the territory of such unorganized school district, and the county board of education shall by appropriate action transfer and convey to the school board all of the school property used for or in connection with school purposes in the territory of such unorganized school district to such existing school board. Such county board of education shall also by appropriate action transfer all existing funds available for school purposes in the territory of such unorganized school district at the time of such annexation, and thereupon the money so transferred shall become a part of the funds of the school district annexing such territory. After such annexation the school board of such existing school district shall have the power and authority provided for by law for the issuance of bonds or other evidences of indebtedness to fund or refund any existing indebtedness of the territory so annexed, and such obligations when so issued shall become a lien upon all of the property in the unorganized as well as the existing district so annexing such unorganized territory. (Act Apr. 29, 1935, c. 363, §3.)

**2774. Division of funds on change of district.**

Word "credits" does not include buildings and equipment. Op. Atty. Gen., Aug. 3, 1929.

Division of money and property under §2774 applies to consolidation made under §2759. Op. Atty. Gen. (166f-2), Dec. 10, 1937.

**2780-1 to 2780-7. [Repealed].**

Repealed by Laws 1929, c. 9, §17, post, §§2780-8 to 2780-17.

Members of a school board of a consolidated school district are not entitled to compensation for services rendered as such members. Op. Atty. Gen., May 23, 1931.

**2780-8. Consolidation of school districts in certain counties—submission to voters.**—Any county having less than seven organized school districts may consolidate such districts into one county district which shall be designated as the ..... county school district, in the following manner.

The board of county commissioners of such county may by resolution, and shall upon petition to such board signed by not less than ten per cent of the qualified voters of the county according to the votes of the then last preceding general election, submit to the qualified electors of the county at the next general election to be held in such county not less than thirty days thereafter, the proposition of consolidating said districts into a county district. The ballots submitting the same shall read as follows:

- For Consolidation .....
- Against Consolidation .....

Such ballots shall be voted, canvassed and the result declared and returned in the same manner as ballots for elective county officers. If a majority of the votes cast on the proposition be for consolidation, the county auditor shall make proper orders to give effect to such vote and shall transmit a copy thereof to the clerk of each district.

The school board of each district shall continue to maintain schools therein except that no such board shall have authority to make any contract relating to school business of the ensuing school year in the same manner as if no consolidation had been voted until July 1st next following, at which time all records, moneys, credits and funds of said districts, shall be delivered to the county treasurer to act as custodian of same until such time as the organization of the county district shall have been completed. The county treasurer shall give a receipt for such records and funds and shall cause the financial accounts and statements to be audited by competent authority.

Provided that nothing in this act shall be construed to apply to counties affected by Section 271, Laws of Minnesota, 1919, or acts amendatory thereto. (Act Feb. 7, 1929, c. 9, §1; Feb. 26, 1931, c. 31, §1; Feb. 15, 1933, c. 30.)

In issuing bonds for building purposes procedure prescribed by Laws 1927, c. 131, as amended [§§1938-3 to 1938-13] should be followed, and matter should be submitted to electors. Op. Atty. Gen., Sept. 10, 1929.

School board of county district organized under this act may, without submitting matter to electors, fix school house site, build school houses, change sites, sell sites and buildings and levy tax. Op. Atty. Gen., Sept. 10, 1929.

State is liable for tuition where high school pupils residing in Lake County, organized into a county district under this law, attend high school at Ely in St. Louis County, though Lake County has a high school. Op. Atty. Gen., Dec. 9, 1929.

County school district receiving funds from dissolved school district has authority to apply funds received in paying off outstanding bonds of dissolved district only insofar as trust funds represent levies for purpose of paying off such bonds. Op. Atty. Gen. (159a-15), Nov. 26, 1934.

**2780-9. School Board—Election—Terms.**—The school board of any such county district shall consist of five members, except as herein otherwise provided, to be elected at the same time and in the same manner as school board members in a ten or more townships district but for a term of five years. The board of county commissioners shall appoint the members of such board on or before March 1st following the general election at which time the question of consolidation was submitted, the length of each term for which they are to be appointed being such as to cause the term of one member of said board to expire on August 1st following the next general election and one member on each August 1st thereafter. The school board of the county district shall meet within ten days after the appointment by the county board, and thereafter as may be necessary,

and shall organize in the same manner as independent districts and shall do whatever business is necessary for the best interest of the county district for the ensuing school year and thereafter shall organize in the same manner and at the same time as boards of independent districts. Provided, however, that if within the county there is a school district of ten or more townships with an area greater than one-half the area of the county the members of said board of said district shall continue to serve as members of the school board of the county district for the full term and for the same office for which he or she was elected and until his or her successor has qualified and the board of county commissioners shall appoint such additional members for such terms that the term of all the members of said school board shall expire in consecutive order as above provided.

Those persons elected as members of the board of the school district of ten or more townships at the same election at which the question of consolidation was carried shall take office and continue in office as members of the board of the county district at the time and for the same term as though such school district of ten or more townships were being continued and members of such last named board whose terms expire on August 1st after such election shall become members of the board of such county school district and so continue until the expiration of such term. (Act Feb. 7, 1929, c. 9, §2.)

**2780-10. Duties of school board.**—It shall be the duty of said board to furnish school facilities to every child of school age residing in any part of said county district, either by building school houses, leasing school rooms, transporting said children to the nearest school, boarding said children within convenient distance of school at the expense of said board or otherwise, and to provide necessary supplies, texts, and library books.

The annual meeting as held in ten or more townships districts need not be held, but the clerk of said board shall publish once in a legal newspaper published in the county the annual report required by law to be made by the district treasurer.

When not otherwise provided in this act, the school board of any such county district shall have and shall exercise all the powers and be subject to the same laws and regulations as boards of ten or more townships districts, and all laws applicable to ten or more townships districts, and all laws applicable to State Aid for Equalizing Educational Opportunities in Unorganized Territory shall apply to said county district including Chapter 467, General Laws 1921 [§§3022 to 3026]. (Act Feb. 7, 1929, c. 9, §3; Feb. 26, 1931, c. 31, §2.)

Procedure to be followed by board created under this act in selling abandoned school houses and sites, suggested. Op. Atty. Gen., July 3, 1930.

**2780-11. Time of election.**—The election of the county district shall be held on the same day as the election in ten or more townships districts at the same time and in the same manner as elections are held therein. (Act Feb. 7, 1929, c. 9, §4.)

**2780-12. Election districts.**—Each county commissioner district, as it may from time to time exist, shall constitute an election district from which shall be elected one member of said board. In case there is a ten or more townships district within the county such as herein referred to and in case there are two members of the board of said district living within one commissioner district then the board of county commissioners shall appoint an additional member to such school board so that at all times there shall be a member of such school board from each commissioner district and such board shall consist of six members only until the expiration of the term first expiring of the said two members from the same commissioner district. In making the appointment of the additional member as aforesaid and in determining the length of the terms for which three members

shall be appointed so that the terms of the members of the new board shall expire in consecutive order the term of the member from the commissioners district from which there are two members first expiring shall be disregarded. (Act Feb. 7, 1929, c. 9, §5.)

**2780-13. Compensation of Board Members—Clerk—Treasurer.**—The members of the board shall receive a per diem of \$6.00 while attending any regular or special meeting of the board, but not, however, more than \$144.00 in any one year, and shall receive five cents per mile in going to and from his place of residence to the place of meeting by the usual route of travel.

The chairman, clerk and treasurer of the county district shall receive such additional compensation as may be fixed by the board of education, provided, however, the chairman shall not receive more than \$300.00, the clerk shall not receive more than \$720.00 and the treasurer not more than \$600.00 as total compensation which includes mileage, in any one year in a county having an assessed valuation of less than \$5,000,000.00 which shall be in lieu of any allowance for office clerk hire. (Feb. 7, 1929, c. 9, §6; Apr. 19, 1937, c. 297, §1.)

**2780-14. Office of County Superintendent abolished.**—Upon the completion of the organization of a county district and the election of a superintendent, the office of county superintendent of schools in said county shall cease to exist from January 1st next following and the functions and duties of the county superintendent of schools shall be performed by the superintendent of the county district. (Act Feb. 7, 1929, c. 9, §7.)

**2780-15. County Attorney to serve as attorney for board.**—Whenever any county organizes as a county district, the county attorney shall serve as attorney for the county board of education without additional compensation from said board of the county district, but the board of county commissioners of such county may allow such additional compensation for legal services rendered to said county board of education as said board of county commissioners shall deem proper. (Act Feb. 7, 1929, c. 9, §8.)

Lake county school district cannot employ legal services other than that of county attorney. Op. Atty. Gen. (159b-10), Nov. 6, 1936.

Section 2780-15 does not authorize an increase in salary of county attorney but merely enables county board to grant him extra compensation for legal services performed for county board of education in addition to salary limitations in §335. Op. Atty. Gen. (125a-13), July 22, 1937.

**2780-16. Elections validated.**—In all cases where an election has been held pursuant to the provisions of Section 1, Chapter 82, General Laws 1927 [2780-1], and a majority of the votes cast on the proposition were in favor of consolidation, said election is hereby declared valid and continued in effect and further proceedings thereunder shall be had pursuant to this enactment and the organization of the district and school board, the powers and duties thereof, the terms of the members thereof, their election, appointment and compensation shall be as herein provided. (Act Feb. 7, 1929, c. 9, §9.)

**2780-17. Inconsistent acts repealed.**—That all acts and parts of acts inconsistent with the provisions of this act including Chapter 82, General Laws 1927, is hereby repealed. (Act Feb. 7, 1929, c. 9, §10.)

**2780-17a. Counties may pay school bonds in certain cases.**—Any county organized under the Laws of 1929, Chapter 9, and having a population of less than 10,000 inhabitants, may by unanimous vote of the county board of education pay bonded indebtedness incurred prior to July 1, 1929, of any or all of the school districts which were in existence prior to the organization of said county school district out of any funds that may be on hand with the school treasurer

in an amount the total of which shall not exceed \$10,000.00. (Act Feb. 8, 1935, c. 6.)

Act effective upon passage.

**2780-17b. Board of Education may bond employees.**—The county board of education in any county in this state organized under Laws 1929, Chapter 9, having a population of less than 10,000 inhabitants, shall have authority to indemnify the officers or employees of such county school districts against liability arising out of the operation of motor vehicles, or other equipment, by such officers or employees while in the performance of their duties as public officers or employees, and to pay the premiums on indemnity insurance policies out of funds of such county schools districts. The county board of education may also at the expense of such county school districts defend any such officer or employee in the name and in behalf of such officer or employee in any suit brought against him to enforce a claim, whether legitimate or otherwise, arising out of the operation of any motor vehicle, or other equipment, by him while in the performance of his official duties; to compromise and/or settle any such claim or suit, and to pay out of the funds of such county school district the amount of such settlement or compromise, or the amount of any judgment rendered against any such officer or employee based upon any such claim, without first requiring such officer or employee to settle and/or pay any such claim or judgment. (Act Feb. 16, 1935, c. 15, §1.)

**2780-17c. Board of education may pay premiums.**—The county board of education may at its discretion pay the premiums on said indemnity insurance policies referred to in Section 1 hereof, insuring such officers or employees against liability for injury to persons or property as provided in said Section 1, and such payment of such insurance premiums out of the funds of such county school districts shall in no way impose any liability whatsoever upon the governing body thereof. (Act Feb. 16, 1935, c. 15, §2.)

**2780-17d. Payments validated.**—Any insurance premiums heretofore paid by said county board of education for any indemnity insurance referred to herein are hereby validated. (Act Feb. 16, 1935, c. 15, §3.)

**2780-18. Consolidated school district may build sidewalks in certain cases.**—That the governing board of any consolidated school district which now or hereafter includes within its limits two villages, may appropriate and expend moneys to build or assist in building a sidewalk or sidewalks for the use of pupils and the general public, connecting with sidewalks in said villages and leading to the school house. (Act Mar. 3, 1933, c. 50, §1.)

**2780-19. Village council may appropriate money therefor.**—That the village council of any such village may likewise appropriate money for the same purpose or to assist the school district. (Act Mar. 3, 1933 c. 50, §2.)

**2780-21. Election of school officers in certain districts.**—In all counties having a county school district organized pursuant to Laws 1927, Chapter 82 [§§2780-1 to 2780-7], and amendatory, the members of such school board shall be elected and their terms of office shall be as hereinafter provided. (Act Apr. 29, 1935, c. 362, §1.)

**2780-22. Terms of officers.**—The term of office of the member of such school board to commence on August 1, 1937, shall expire on the Sunday preceding the first Monday in January, 1941. Such member shall be elected for such term under the provisions of law now existing. Thereafter the term of such office shall be for four years, and the election for such office shall be held at the first general election of county officers immediately preceding the year 1941.

The term of office of the member of such school board to commence on August 1st, 1938, shall expire on the Sunday preceding the first Monday in January, 1941. Such member shall be elected for such term under the provisions of law now existing. Thereafter the term of such office shall be for four years, and the election for such office shall be held at the first general election for county officers immediately preceding 1941.

The term of office of the member of such school board to commence on August 1, 1939, shall expire on the Sunday preceding the first Monday in January, 1943. Such member shall be elected for such term under the provisions of law now existing. Thereafter the term of such office shall be for four years, and the election for such office shall be held at the first general election for county officers immediately preceding 1943.

The term of office of the member of such school board to commence on August 1, 1940, shall expire on the Sunday preceding the first Monday in January, 1943. Such member shall be elected for such term under the provisions of law now existing. Thereafter the term of such office shall be for four years, and the election for such office shall be held at the first general election for county officers immediately preceding 1943.

The term of office of the member of such school board to commence on August 1, 1941, shall expire on the Sunday preceding the first Monday in January, 1945. Such member shall be elected for such term under the provisions of law now existing. Thereafter the term of such office shall be for four years, and the election for such office shall be held at the first general election for county officers immediately preceding 1945. (Act Apr. 29, 1935, c. 362, §2.)

**2780-23. Meetings—Organizations.**—School boards in such districts shall meet and organize annually on the first Tuesday after the first Monday in January, or as soon thereafter as practicable, but not later than ten days after such date, commencing in January, 1937. Provided further that such board when organizing in August, 1936, under laws now existing, shall organize only for the period extending to the first Tuesday after the first Monday in January, 1937. (Act Apr. 29, 1935, c. 362, §3.)

**2780-24. Inconsistent acts repealed.**—All acts and parts of acts inconsistent herewith are hereby superseded, modified, or amended, so far as necessary to give full force and effect to the provisions of this act; provided, however, that the members of any such board in such county shall continue to hold office under the law now existing until the members of such board have been elected for a term of four years as provided for in this act; and thereafter the term of office of each member of such board shall commence on the first Monday in January following such election. (Act Apr. 29, 1935, c. 362, §4.)

**2781. Indebtedness of old school district.**

Where common district consolidated with county district, which did not assume outstanding bonds issued to pay for school building, and building burned, proceeds of insurance belong to the county district, and need not be applied on bonded indebtedness of former common district. Op. Atty. Gen. (159a-4), Apr. 18, 1938.

**2784. Notice of meeting.**

Notice giving information to voters of purpose of meeting is sufficient. Op. Atty. Gen. (187a-7), June 18, 1938.

**2789. Annexation of land to school districts.**

When any freeholder shall present to the board of any county a petition, verified by him, stating that he owns land adjoining any district, or separated therefrom by not more than one-quarter section, and that such intervening land is vacant and unoccupied, or that its owner is unknown, and that he desires his said land, together with such intervening land, set off to such adjoining district, and his reasons for asking such change, the board, upon notice and hearing as in other cases, and upon proof of all the alle-

gations of the petition, may make its order granting the same, and like notice of such change shall be given as in other cases; provided, that if the land, or any part thereof, sought to be attached and the adjoining district lie in different counties, such annexation shall not be effective, until such petition has been presented to the county board of each county and each such board has made its order granting the same, in the manner herein provided; and provided, that any person or officer of any school district aggrieved by any order of the county board made pursuant to the provisions of this section, or by any order of the county board, made on the rehearing before it of any such petition, may appeal to the district court from such order, such appeal to be governed by the provisions of Section 2676, General Statutes 1913 [Mason's Stat., §2747]. (R. L. '05, §1301; G. S. '13, §2704; '15, c. 113, §1; Apr. 17, 1931, c. 189.)

County board had no jurisdiction of a petition of a landowner asking that his land be set out from the Albert Lea school district. Op. Atty. Gen., July 8, 1931.

Landowner in one school district in order to have his land detached from said district and attached to another school district adjoining his land must make application under this section. Op. Atty. Gen. (166c), Dec. 11, 1934.

**2790. Districts to be composed of adjoining territory.**

Board cannot detach federal land from district, though no taxes are received by district from such land. Op. Atty. Gen. (180d), Jan. 17, 1938.

**2793. Annual elections in school districts.**—(a) The annual meeting of all common school districts shall be held on the last Tuesday in June, at 8:00 o'clock p. m., unless a different hour has been fixed at the preceding annual meeting, upon ten days' posted notice given by the clerk, and specifying the matters to come before such meeting; but failure of the clerk to give such notice, or to specify the business to be transacted thereat, shall not affect the validity of any business, except the raising of money to build or purchase a schoolhouse, the authorizing of an issue of bonds, the fixing of a schoolhouse site, or the organization as an independent district. The board of education or trustees in special school districts may fix the time of the annual meeting, when so authorized by vote of the district: Provided, that the polls at all school meetings shall be held open at least one hour.

(b) The annual meeting or election of an independent school district shall be held on the last Tuesday in June and shall be called and conducted in the same manner as prescribed in subsection (a) above except as hereinafter provided.

In districts maintaining graded elementary and high schools, the annual meeting or election shall be held on the third Tuesday in May.

In any independent school district which maintains two or more schools the school board may, and upon a majority vote of the electors shall, provide for more than one polling place and in such districts the annual school meeting or election shall be conducted as follows:

(1) Ten days' posted notice shall be given by the clerk specifying the matters to be voted upon at such annual meeting or election and setting forth the polling places established by the board and describing the voting precincts. The clerk shall prepare, or cause to be prepared, ballots, and shall arrange for voting booths at such places as the school board shall previously have determined.

(2) The school board shall, at least thirty days before the date of the annual meeting or election, determine the number of voting precincts and the polling places where such voting shall be conducted and the hours the polls will be open. It shall choose, or cause to be chosen, three election judges for each polling place, which judges shall also act as clerks of election, and shall canvass the ballots cast, and thereafter submit the same to the school board, which

board shall be in session at the time and shall receive such ballots.

(3) The school board may pay such judges an amount not to exceed fifty cents per hour for the time actually served by them in the performance of their duties as judges of election.

(4) The polls shall be opened for at least one hour, and the school board shall have the power to extend such time not to exceed twelve hours.

(5) In such districts one polling place may be designated by the school board as the place for the annual meeting: Provided, that by a majority vote at any annual or special meeting when proper notice has been given, the annual meeting in such districts may be discontinued, substituting therefor an annual election. (R. L. '05, §1305; G. S. '13, §2710; '25, c. 147, §1; Apr. 25, 1931, c. 390; Apr. 24, 1937, c. 427, §1; Mar. 17, 1939, c. 62, §1.)

**Explanatory note.**—The title to Act Apr. 24, 1937, c. 427, is as follows: "An act to provide for the annual election of school board members in any independent school district, and to empower such district to maintain more than one polling place." The enacting clause reads: "That Mason's Minnesota Statutes of 1927, section 2793, be amended so as to read as follows:"

Sec. 9 of Act Mar. 17, 1939, cited, repeals inconsistent acts.

In school districts where the annual meeting had been held on first Monday in September, such meeting changed to third Tuesday in July. Laws 1933, c. 84.

Salary of chairman and treasurer of common school district may be determined at annual meeting without specifying such action will be taken in notice of meeting but opposite is true as to increasing compensation of clerk. Op. Atty. Gen., Aug. 2, 1933.

Electors at annual meeting may vote for reimbursement of officers for expenses in successfully defending action by discharged teacher against them for damages. Op. Atty. Gen. (768a), Aug. 3, 1934.

Voters may provide for keeping polls open from 1 P. M. to 8 P. M. and furnish election officials with their supper. Op. Atty. Gen. (183h), Mar. 28, 1935.

Where electors fail at annual meeting to fix compensation of school board members for the year, board may call a special election for that purpose, but electors cannot ratify salaries for years beyond preceding year. Op. Atty. Gen. (768b-1), Apr. 20, 1936.

Number of polling places in independent school district on special bond election is in discretion of board. Op. Atty. Gen. (187b-3), May 14, 1937.

Annual meeting of independent district is third Tuesday of July at two o'clock p. m. Op. Atty. Gen. (187a-6), June 25, 1938.

Section 2757, and not §2793, applies to election of board in a newly organized consolidated district containing two villages. Op. Atty. Gen. (161a-19), Sept. 12, 1938.

Bond election in a common school district may not be held outside boundaries of district. Op. Atty. Gen. (187B-1), March 3, 1939.

Effect of passage of laws 1939, c. 62, on Mankato special school district. Op. Atty. Gen. (187a-6), April 11, 1939.

Laws 1939, c. 62, repealed all acts or parts of acts inconsistent therewith, but laws 1939, c. 107, relating to Mankato school district and similar districts, prevails where inconsistent, because passed later. Op. Atty. Gen. (187a-6), April 18, 1939.

**2793-1. Annual school meetings.**—In any school district in this state whether organized under a general or a special law, where the annual meeting is required by law to be held on the first Monday of September in each year, the time of such annual meeting is hereby changed to the last Tuesday of June in each year commencing with the last Tuesday of July, 1939. (Act Mar. 16, 1933, c. 84; Mar. 17, 1939, c. 62, §2.)

Sec. 9 of Act Mar. 17, 1939, cited, repeals inconsistent acts.

Op. Atty. Gen. (187a-6), April 18, 1939; note under §2793.

#### **2794. Special school meetings.**

Op. Atty. Gen., Apr. 13, 1932; note under §1962. There is no limit on the number of elections that may be had for change of site on proper petition to clerk. Op. Atty. Gen., July 8, 1929.

School site may be designated by the electors at a special school meeting if such action is specified in the notice of the meeting; and where a petition signed by twenty-three holders and voters requesting the call of a special meeting is filed, it is the duty of the clerk to call such a meeting without waiting for action on that petition by the board, but the clerk cannot insert in the notice of the meeting a specification of business not included in the petition, and when the petition specifies a particular site for a school another site cannot be selected at the special meeting. Where the petition requested

the calling of a special meeting, the meeting is to be of a deliberative character and must be held at some one place. Op. Atty. Gen., Jan. 10, 1930.

Annual meeting having failed to fix salaries of school board members, such members may not be paid compensation in previous year but there may be special meeting for purpose of fixing salaries. Op. Atty. Gen., Sept. 12, 1933.

Voters may reconsider vote at same meeting. Op. Atty. Gen. (161a-16), June 15, 1935.

Where electors fail at annual meeting to fix compensation of school board members for the year, board may call a special election for that purpose, but electors cannot ratify salaries for years beyond preceding year. Op. Atty. Gen. (768d-1), Apr. 20, 1936.

Site and building bonds may be stated as one proposition on ballot. Op. Atty. Gen. (159a-3), Oct. 7, 1936.

A notice of special meeting for purpose of discussing matter of acquiring and improving certain lands to be used as playgrounds was not sufficiently specific to authorize voters to vote into meeting as to whether or not school board should purchase lands. Op. Atty. Gen. (161a-16), June 22, 1937.

An outline of municipal bond procedure in Minnesota. 20MinnLawRev583.

#### **2796. Records to be evidence.**

Record entered by clerk of school district in record book as record of a meeting, and not notes taken by clerk during meeting, are official records of meeting. Op. Atty. Gen. (162f), Nov. 15, 1935.

#### **2797. Publication of proceedings of boards of independent school districts.**

Matter of what shall be published is left to the sound discretion of the school board. Op. Atty. Gen., Sept. 16, 1929.

Laws 1931, c. 188 [Mason's 1931 Supp., §2803-1], confers upon school boards of common school districts, duty to publish official proceedings. Op. Atty. Gen., Mar. 30, 1932.

Proceedings of school district cannot be published in newspaper outside of district if there is a newspaper published in the district. Op. Atty. Gen., Jan. 21, 1933.

A common school district which has maintained an accredited high school for two years prior to passage of Laws 1931, c. 188, and has assessed valuation of \$2,000,000 or less is authorized to publish its official proceedings in same manner as independent district and limitation of 50% per folio applies. Op. Atty. Gen., Nov. 20, 1933.

School board of city of fourth class in an independent district is not required to publish an annual financial statement. Op. Atty. Gen., Dec. 13, 1933.

Where two legal newspapers enter a bid of fifty cents per folio, board may not award an annual contract, first six months to one paper and next six months to another, nor award an annual contract to the two papers at a rate of twenty-five cents per folio each or a total of fifty cents per folio, but must select one of the papers. Op. Atty. Gen. (707b-10), Aug. 2, 1937.

Proceedings of board need not be in detail. Op. Atty. Gen. (161a-20), Aug. 24, 1938.

No law requires school district to publish annual financial statements, but if school board votes to publish such statements, it should be considered as a part of school board proceedings, and published in paper chosen for the year pursuant to this section, cost not to exceed 50 cents per folio. Op. Atty. Gen. (277e), August 3, 1939.

An unorganized school district is required to print financial statement by §2855, but is not controlled by any provision as to independent school districts, and charge is limited to general provision for legal notices under §10939-1, which would be 90 cents per folio. Op. Atty. Gen. (277e), August 17, 1939.

#### **2798. Powers of annual meeting \* \* \* \* \***

4. To designate a site for a school house, and provide for building or otherwise placing a school house thereon, when proper notice has been given, but a site on which a school house stands or is begun shall not be changed, except by vote therefor, designating a new site, of three-fifths of the legal voters of the district voting on the question, who have resided therein not less than one year prior to the vote. (As amended Feb. 19, 1929, c. 26.)

This section authorizes the calling of a special election to rescind authority previously given for an issue of bonds to the state. Independent School Dist. No. 68 of Faribault County v. R., 185M261, 240NW649.

Where high school burned, a vote of majority of electors was necessary to authorize new building on different site owned by the district. Op. Atty. Gen., Apr. 26, 1929.

Vote of three-fifths of electors of more than one year residence is necessary to change site on which school building now stands. Op. Atty. Gen., July 8, 1929.

Where bonds have been voted for the building of a new junior high school without the designation of a site, the board of education has no power to fix the site, but must proceed under subdivision 4 of this sec-

tion by submitting the same to the electors. Op. Atty. Gen., Jan. 10, 1930.

Act relating to power of common school districts to build residences for use of teachers. Laws 1931, c. 109.

A vote of electors in favor of issuing bonds to be used for erection of a new school building may be rescinded by a subsequent vote to remodel and repair the old building instead. Op. Atty. Gen., Mar. 16, 1931.

School district cannot by a vote of the electors close the school and transport the pupils to another district where the board refuses to so do. Op. Atty. Gen., June 10, 1931.

School electors may transfer accumulated building fund to the general fund when need for special fund no longer exists. Op. Atty. Gen., Feb. 1, 1933.

Where motion to move school house was passed, and immediately following motion to reconsider prevailed, question of moving school house could be again voted on at same meeting. Op. Atty. Gen., Mar. 15, 1933.

Where officer was elected at annual school election by viva voce and not by ballot as required by law, another officer could be elected to fill the office at next annual election without necessity of institution of removal proceedings of de facto officer. Op. Atty. Gen., Aug. 21, 1933.

Failure to register voters does not invalidate election. Op. Atty. Gen. (187a-9), Aug. 30, 1934.

When it is not permissible to receive nominations from the floor, making of all nominations does not affect validity of election where names of those orally nominated are written on ballots by electors. Op. Atty. Gen. (184j), Mar. 27, 1935.

School board may not maintain two different voting places. Op. Atty. Gen. (183h), Mar. 28, 1935.

Petition to rescind action of district and board in designating parcel as site for building an addition to present high school building and to designate a present grade school site as a site for a new combined grade and high school building to be erected thereon did not involve a change of site, but did involve establishment of an additional high school, requiring voting by ballot. Op. Atty. Gen. (622i-6), Feb. 23, 1938.

(3).

One school treasurer may resign at annual school meeting and his successor may be elected at same meeting. Op. Atty. Gen. (161a-24), July 11, 1939.

(4).

Where lease of land on which school building stands is cancelled, the school board cannot move the building to another location without calling a special election. Op. Atty. Gen., Oct. 2, 1931.

School district may rescind action to change school house site by three-fifths vote. Op. Atty. Gen., Nov. 22, 1933.

Where a school house has been completely destroyed by fire, site on which it stood may be changed without necessity of a three-fifths vote of electors. Op. Atty. Gen. (622i-4), May 26, 1939.

**2799. Candidates for school district offices.**

Where ballot at school district election contained two names and only two were to be elected, and another name was written or pasted on, and there was no cross mark, the ballot could only be counted in favor of the person whose name was written or pasted on. Adams v. M., 184M602, 239NW594. See Dun. Dig. 2952, 8679.

Where ballots at school district election contained two names and only two are to be elected, ballots cast should be counted for the two names though no cross marks appeared. Adams v. M., 184M602, 239NW594. See Dun. Dig. 8679.

An agreement that of the six directors of a school district, three should be residents of a village and three residents of the district outside the village, is not legal. Op. Atty. Gen., July 16, 1931.

One whose name has been filed as candidate by others may withdraw his name. Op. Atty. Gen., June 5, 1933.

Depositing application in post office does not constitute filing within statutory period of time. Op. Atty. Gen. (184j), July 14, 1937.

When last day of filing, as computed under rules of law, falls on a legal holiday, last day for filing is preceding secular day. Op. Atty. Gen., (622i-8), July 6, 1938.

One vote for one candidate where two officers are to be chosen must be counted. Op. Atty. Gen. (187a), June 2, 1939.

**2800. Additional powers of meetings in common school districts.**

Op. Atty. Gen., June 10, 1931; note under §2798.

**2802. Districts of ten or more townships—Trustees, how elected.**—In all common school districts in Minnesota embracing or containing ten or more townships, the trustees and members of the school board shall be elected as follows: In all such districts existing at the date of the passage of this act, the trustees and members of the school board shall continue to hold their respective offices, as follows: The chairman until July 1 following the next biennial general state election; the treasurer until one year from such date, and the clerk until two years from such date. If

said terms of office or either of them so existing at the date of the passage of this act shall expire prior to said dates, that is, shall expire prior to July 1 following the next biennial general state election, and one year from said date, and two years from said date, as above stated, then and in that event the expiration of such terms shall constitute a vacancy, and such vacancy shall be filled as provided by Sections 2811 and 2812 of Mason's Minnesota Statutes of 1927, as amended hereby. At the first meeting of each newly created or organized district hereafter created or organized, containing ten or more townships, the chairman shall be elected to hold office until July 1 following the next biennial general state election, the treasurer until one year from said date, and the clerk until two years from said date. At the first biennial general state election held after the passage of this act in common school districts embracing or containing ten or more townships and at the first biennial general state election held after the organization of each new district embracing or containing ten or more townships, and in each biennial general state election thereafter, there shall be elected two members of said board, such members being elected to fill the offices expiring respectively July 1 after such election and one year from July 1 after such election, the term of office of one to commence July 1 in the year following his election, and that of the other July 1 in the second year following his election. The office to which each is so elected and the time of the commencement of the term of each, with the length of term, shall be stated on the ballot. For the purpose of carrying into effect this act, and so as to enable the electors in each of such districts embracing or containing ten or more townships to elect officers at such biennial general state election, the general election laws of this state, including the primary election law, shall so far as possible, be applicable hereto, and the candidates for said offices shall file for nomination and be chosen and nominated and their names placed upon the ballot, under and pursuant to the provisions of said general election law and the primary election law in this state, and such general election law and primary election law shall be made applicable hereto and carried out by the officers and persons having the performance and enforcement thereof, except that a separate ballot box shall be used and voters need not register. The votes shall be returned and canvassed and the persons elected notified in the same manner as in the election of county officers. (As amended Mar. 17, 1939, c. 62, §3.)

Sec. 9 of Act Mar. 17, 1939, cited, repeals inconsistent acts.

Op. Atty. Gen. (187a-6), April 18, 1939; note under §2793.

**2802-1 to 2802-4b. [Repealed.]**

Repealed Apr. 14, 1937, c. 221, §8, post, §2802-4j.

**2802-4c. School boards in certain common school districts—annual meeting—elections.**—In each Common School District in the State, now or hereafter, containing ten (10) or more townships and less than ten (10) schools, the school board shall consist of five (5) directors to be elected in the manner and for the term hereafter provided, and to hold office until their successors are elected and qualify.

The annual meeting of each such district for the election of directors, and the transaction of other lawful business, shall be held at the time and in the manner provided by law for Independent Districts. At the annual meeting to be held in July, 1937, there shall be elected two (2) directors to fill the offices of directors expiring on August 1, 1937. At the annual meeting held in July, 1938, two (2) directors shall be elected to fill offices of directors expiring on August 1, 1938. The annual meeting in 1939 and all annual meetings thereafter shall be held on the last Tuesday in June. At the annual meeting held in June, 1939, one (1) director shall be elected to fill the office of the director expiring on July 1, 1939. Each such director as above set forth shall be elected

for a three (3) year term. And annually thereafter at each annual meeting, one or two directors, as the case may be, shall be elected to succeed those whose terms are expiring on July 1 next following such meeting, and to serve for three (3) years. Provided, that directors now holding office shall hold office until the expiration of the terms for which they were heretofore elected but not longer than until July 1 of the year in which their terms expire. (Act Apr. 14, 1937, c. 221, §1; Mar. 17, 1939, c. 62, §8.)

Sec. 9 of Act Mar. 17, 1939, cited, repeals inconsistent acts.

Op. Atty. Gen. (187a-6), April 18, 1939; note under §2793.

**2802-4d. Same—vacancies.**—Any vacancy in the school board shall be filled by the board at any legal meeting thereof until such vacancy can be filled by election at the next annual meeting at which time a director shall be elected to fill the vacancy for the unexpired portion of the legal term. In case the board shall fail to fill such vacancy within fifteen (15) days after the vacancy, on petition of fifteen (15) freeholders of the district and ten (10) days posted notice thereof, a special meeting of the voters of the district shall be held at which time the vacancy shall be filled for a term to expire at the next regular annual meeting (Apr. 14, 1937, c. 221, §2.)

**2802-4e. Same—organization.**—On the first Saturday, or as soon thereafter as practicable, in August, 1937, and annually thereafter, the board shall meet and organize by choosing a chairman, clerk and treasurer who shall hold offices for one year and until their successors are elected and qualify. The chairman, clerk and treasurer elected by the board in August, 1936, shall hold such offices for the term for which they were elected by the board. (Apr. 14, 1937, c. 221, §3.)

**2802-4f. Same—what are schools.**—Schools as herein mentioned shall mean school buildings wherein classes are regularly maintained. (Apr. 14, 1937, c. 221, §4.)

**2802-4g. Same—tax limitations.**—Common school districts having ten (10) or more townships and less than ten (10) schools, shall have the same tax limitations as those of Independent school districts. (Apr. 14, 1937, c. 221, §5.)

**2802-4h. Same—school districts to continue operation.**—Any Common school district of ten (10) or more townships and less than ten (10) schools, operating under Chapter 84, Laws of 1927, during the years 1927 to 1933, and which school district continued to operate pursuant to and under Chapter 84, Laws of 1927 [§§2802-1 to 2802-4], after said laws were amended by Chapter 391, Laws of 1933, shall continue to operate and exist as herein set forth. It is hereby provided that acts and proceedings of such school districts, the annual meetings, boards of education and voters thereof which such school districts operated and followed Chapter 84, Laws of 1927, after said act was amended by Chapter 391, Laws of 1933, are hereby validated and legalized insofar as any such acts or proceedings of such school district, board of education, annual meeting and voters were affected by the provisions of Chapter 391, Laws of 1933. (Apr. 14, 1937, c. 221, §6.)

**2802-4i. Same—Powers.**—Except as herein provided, Common school districts having ten (10) or more townships and less than ten (10) schools shall have and exercise all powers and be subject to the same laws as Common school districts of ten or more townships. (Apr. 14, 1937, c. 221, §7.)

**2802-4j. Same—law repealed.**—Chapter 84, Laws of 1927, and Chapter 391, Laws of 1933 [§§2802-1 to 2802-4], are hereby repealed. (Apr. 14, 1937, c. 221, §8.)

Sec. 9 of Act Apr. 14, 1937, cited, provides that the Act shall take effect from its passage.

**2802-6. Same—Annual and special meetings—Proceedings at.**

Where district was organized as one of 10 or more townships containing 30 or more schools, but number of schools was reduced to 19, annual meeting should be last Tuesday in June. Op. Atty. Gen. (187a-6), June 21, 1939.

**2802-10. Same—Elections to change number of trustees.**

It is proper that annual meetings fix compensation of board members where district was organized as one containing more than 30 schools, but number of schools has been reduced to 19. Op. Atty. Gen. (187a-6), June 21, 1939.

**2802-12. Independent districts with not less than 10,000 nor more than 20,000 inhabitants, etc.**

Independent school district operating under a combined system of registration with village of Hibbing and authority to rent polling places in the respective voting districts. Op. Atty. Gen. (185b-4), Apr. 21, 1934.

**2802-13. Same—School houses to be voting places.**

An independent school district has authority to employ and pay judges and clerks to conduct annual and special elections, but not constables. Op. Atty. Gen. (185b-4), Apr. 21, 1934.

**2802-15. Same—Conduct of elections.**

Fact that polls were open late did not invalidate election. Op. Atty. Gen., Aug. 2, 1933.

**2802-16. Where city council performs duties of board of education.**—That in any city in this state, containing 10,000 inhabitants or less, in which the city council or common council performs the duties of a board of education, the said council may be relieved of said duties, and a board of school inspectors may be elected, and when such election is had, all the powers and duties resting upon the said city council in relation to the public schools of such city, shall vest in and be performed by said inspectors, who shall be known as "the board of education" of such city. (Act Apr. 20, 1903, c. 289, §1.)

**2802-17. Legal voters shall petition city council.**—

Whenever a majority of the legal voters of such city, to be determined by the total vote cast in such city at the last general election, shall desire to relieve the council of the said city from the duties of controlling and managing the public schools of said city, such legal voters shall petition the common council or city council for the election of a board of education, which petition shall be filed with the city recorder or city clerk of said city at least forty (40) days before the city election of said city. (Act Apr. 20, 1903, c. 289, §2.)

**2802-18. Notice of election.**—Upon filing of such petition, the said council shall immediately cause notice to be given that at the next city election the question will be submitted to the voters of said city whether the method of managing the public schools of said city shall be changed, and shall submit said question to the voters at the next election occurring more than thirty (30) days after the filing of said petition. The said question shall be submitted to said electors on the city ballot and may be in the following form:

In favor of a new board of education, against a new board of education, and the voter shall put an X mark opposite the proposition he shall vote for. If a majority of those voting on said question at said election shall vote in favor of such new board, then the management, direction, supervision and control of the public schools of such city shall be vested in such board of education, and shall be divested out of the council of said city. (Act Apr. 20, 1903, c. 289, §3.)

**2802-19. Nomination and election of school inspectors.**—Nominations for members of such board of education, to be denominated "school inspectors," may be made and such inspectors may be elected at the same election at which, the proposition to change the management and control of the schools from the city council to the board of education shall be submitted; and if said proposition is adopted by the vot-



the highest number of votes. Thereafter, the names of the four candidates receiving the highest number of votes shall be placed upon the ballot for the general election. (Apr. 21, 1937, c. 342, §2; July 9, 1937, Sp. Ses., c. 11.)

Must be four nominations for each office to be filled, and where two members of school board are to be elected, eight must be nominated. Op. Atty. Gen. (187a-2), May 24, 1937.

**2802-22d. Same—filing—fee.**—At least 20 days before the primary election any party eligible and desirous of having his name placed on the primary ballot as a candidate for any school office, shall file his affidavit with the clerk, stating his residence, that he is a qualified voter of such independent school district, and the office for which he desires to be candidate. Upon payment by such candidate of \$2.00 to the clerk of such independent school district, the clerk shall place the name of such candidate upon the primary election ballot of such independent school district. (Apr. 21, 1937, c. 342, §3.)

**2802-22e. Same—compensation of judges and clerks.**—The judges and clerks of said election shall receive the same compensation as is provided for the judges and clerks at the regular independent school district election. (Apr. 21, 1937, c. 342, §4.)

**2802-22f. Same—primary election laws to apply.**—All laws now in force as applies to primary elections generally, are to apply to this act as far as applicable. (Apr. 21, 1937, c. 342, §5.)

Act Mar. 25, 1939, c. 86, enacts a primary election law, similar to that embraced in §§2802-22b to 2802-22f above, applicable to independent school districts consisting of one township having population of 4,500 to 6,000, and having two organized villages within its boundaries.

**2802-23. Educational fund transferred.**—Upon the adoption by the legal voters of any such city of such change of the management of the public schools of such city from such city council to such board of education, and immediately after the election and organization of such board, all funds in the city treasury of said city belonging to the educational fund, or to the school fund, or to the common schools of said city, shall immediately be subject to the order, drafts and warrants and under the exclusive control of said board of education, and the city council of said city shall have no further authority over said funds. The city treasurer of said city shall hold the same subject to the order of said board of education only. (Act Apr. 20, 1903, c. 289, §8.)

**2802-24. School board officers received no salary.**—No member of the board of education shall receive any salary, fees or compensation whatsoever for any duties required of him as a member of such board. The city clerk or city recorder shall receive no salary, fees or compensation whatsoever for acting as the secretary of such board of education. The city treasurer shall receive no salary, fees or compensation whatsoever for acting as the treasurer of said board of education, but the salaries, fees or compensation paid to the said city clerk or city recorder by such city; and the salary or compensation paid to such city treasurer by such city shall be in full compensation for all service required by the provisions of this act. (Act Apr. 20, 1903, c. 289, §9.)

**2802-25. Officers may not be interested in contracts.**—No member of the board of education, secretary of said board, or treasurer thereof, shall be a party to, or interested in any contract made with the said board of education, nor shall said board of education engage any superintendent of schools or any teacher for the schools of the said city who is related by blood or marriage to any member of said board of education, except by the unanimous consent and vote of all members-elect of said board. (Act Apr. 20, 1903, c. 289, §10; Apr. 9, 1929, c. 141.)

"Except by unanimous consent and vote of all members-elect of the board" qualifies only prohibition against employment of superintendent and teachers. Op. Atty. Gen., Aug. 20, 1929.

**2802-26. Board of education to establish voting places in certain cases.**—In all bond elections for school purposes held in a city organized as a school district under the provisions of chapter 289, Laws 1903, the board of education of such city shall before notice is given of any such election as required by law, adopt a resolution therein establishing a voting place in each ward of such city and appoint two judges and a clerk for each such ward to act as the officers of election at the voting place therein established. The polls at each voting place shall be held open from 2 P. M. to 9 P. M. on the day of such election. Immediately after closing the polls the judges and clerk of each voting place shall canvass and count the ballots, place such ballots in an envelope, seal it and file such sealed envelope and their return of the result with the clerk of the board of education. Such sealed envelope containing the ballots shall remain on file in the clerks' office and shall not be opened except upon order of court in appropriate contest proceedings. Within five days after the filing of the returns in the office of the clerk the board of education shall meet and canvass the return and by resolution declare the result. (Act Mar. 11, 1921, c. 77, §1.)

**2802-27. Present statutes shall govern.**—Except as herein provided such bond elections shall be held and conducted as provided by the general statutes relative to such elections. (Act Mar. 11, 1921, c. 77, §2.)

**2802-28. Board to fix compensation—How paid.**—The board of education shall have authority to fix the compensation of judges and clerks acting as such at the aforesaid elections and the compensation so fixed shall be paid out of the moneys in the general fund of the district. (Act Mar. 11, 1921, c. 77, §3.)

**2802-29. Schools to make labor regulations.**—That the school board of any independent school district which is within the limits of any city of the second class may adopt any ordinance duly enacted by the council of such second class city, including the penalty provisions for the enforcement thereof, relating to residence requirements, wage scales, and other regulations pertaining to labor on public works, and to require that it be a part of the specifications in contracts and be effective in all construction or repair work or any other public work involving the improvement of school property of such independent district. (Act Apr. 20, 1931, c. 276, §1.)

**2802-30. School board to adopt forms and methods.**—That such school board may adopt and use the same forms and methods of regulating said ordinance as is used by the council of such city of the second class. (Act Apr. 20, 1931, c. 276, §2.)

**2802-31. To be additional powers.**—That these powers shall be in addition to all other powers now vested in the school boards of an independent school district which is within the limits of any city of the second class. (Act Apr. 20, 1931, c. 276, §3.)

**2803. School board—When common school district boards shall exercise same right as independent school district boards.**

Common school district with more than 10 townships is not limited to 30 mills levy for school maintenance, but is limited to 8 mills rate for building and equipment. Op. Atty. Gen. (519m), Oct. 10, 1935.

Superintendent may be employed at meeting other than organization meeting of new board, and new board can abrogate contract with attorney or physician made by old board. Op. Atty. Gen. (768k-1), Sept. 4, 1936.

**2803-1. Powers of school boards in certain common school districts.**—That the school board of every common school district which is maintaining and which for at least 2 years next prior to the passage of this act has maintained a four year accredited high school or high school department shall have and possess all of the powers now or hereafter vested in the school board of independent school districts. Provided however that as to common districts having an assessed

valuation of more than Two Million (\$2,000,000) Dollars none of the powers of independent districts shall be extended to or assumed by such districts except the provisions of law relating to courses of study and the hiring of teachers and superintendents. (Act Apr. 17, 1931, c. 188, §1.)

This statute confers upon common school district boards, duty of school boards of independent districts to publish official proceeds as provided in §2797. Op. Atty. Gen., Mar. 30, 1932.

School boards in common school districts possessing powers of independent school districts may publish an official proceedings in same manner as independent districts. Op. Atty. Gen., Nov. 20, 1933.

Common school districts mentioned in §2803-1 are not thereby made independent school districts within meaning of §3014-6. Op. Atty. Gen. (161b-11), Apr. 6, 1934.

#### 2804. School board of common and independent districts.

School board may rule that hot lunches be served to all students at noon. Op. Atty. Gen., Jan. 17, 1934.

Electors of a school district have no power to fix length of school term, and length of term depends on contract entered into by teacher and school board, regardless of action of electors at meeting. Op. Atty. Gen. (161b-14), Nov. 26, 1934.

When office of treasurer becomes vacant and appointment by board is only until next succeeding annual election of district, at which election a membership be elected for the unexpired term, and where a vacancy is filled by a special election, person elected holds office for unexpired term. Op. Atty. Gen. (768n), Apr. 23, 1936.

2805. School board of common districts.—The school board of each common school district shall consist of a chairman, a treasurer and a clerk. At the first meeting of each school district embracing or containing less than ten townships, the chairman shall be elected to hold office until July 1 following the next annual meeting; the treasurer until one year from such date, and the clerk until two years from such date. At the first meeting in each common school district embracing or containing ten or more townships, the chairman shall be elected to hold office until July 1 following the next biennial general state election, and the treasurer until one year from such date, and the clerk until two years from such date. Said trustees so elected in districts embracing or containing ten or more townships shall be paid such salary or compensation as the electors or legal voters of such district at the annual meeting thereof shall fix or determine, and the electors or legal voters of such district at the annual meeting thereof shall have power and are hereby authorized, by a majority vote, to fix and determine and authorize the payment of salaries or compensation to said trustees. The vote upon the payment of such salaries or compensation shall be by ballot. (As amended Mar. 17, 1939, c. 62, §4.)

Sec. 9 of Act Mar. 17, 1939, cited, repeals inconsistent acts.

Op. Atty. Gen. (187a-6), April 18, 1939; note under §2793.

A director of an independent school district who has taken oath of office need not take a second oath when chosen as treasurer by the members of the school board. 171M376, 214NW258.

Offices of treasurer of district and county commissioner are incompatible. 157M263, 196NW467.

A member of a board of education of a school district may sell textbooks to the pupils providing the district does not undertake in any way to furnish such textbooks. Op. Atty. Gen., Aug. 1, 1931.

Directors selected by electors of a common school district to supervise the building of a new school house have no right to vote with the members of the school board on questions having to do with the erection of the building, and are not entitled to any compensation. Op. Atty. Gen., Aug. 18, 1931.

Office of member of school board leaving to reside elsewhere is automatically vacated. Op. Atty. Gen., Feb. 24, 1933.

Offices of town assessor and member of school board in same town are not incompatible. Op. Atty. Gen., Mar. 6, 1933.

School district may maintain replevin against clerk or treasurer who has failed of re-election and refuses to turn over books and records. Op. Atty. Gen., Aug. 22, 1933.

Clerk, although irregularly elected, is officer de facto empowered to perform all duties until ousted by court proceedings. Op. Atty. Gen., Sept. 27, 1933.

2806. School board of independent districts.—The school board of each independent school district shall consist of six directors. At the first meeting of the district, six directors shall be elected, two to hold until July 1 following the next annual meeting, and two to hold until the expiration of one year, and two until the expiration of two years, from said July 1, the time which each director shall hold being designated on the ballot. (As amended Mar. 17, 1939, c. 62, §5.)

Sec. 9 of Act Mar. 17, 1939, cited, repeals inconsistent acts.

171M376, 214NW258; note under §2805.

Where board of independent school is holding a legal meeting and has been in session for 6 hours and nothing has been done and motion to adjourn is made and vote on motion stands 3 to 3, chairman has no power to bring meeting to an end either by declaring a recess or otherwise. Op. Atty. Gen., Nov. 4, 1933.

If three members of board of an independent school district leave the meeting, remaining three have no right to continue to legally conduct business. Id.

A board member who moves his business to another community may continue to serve if he has not changed his legal residence. Op. Atty. Gen., Apr. 2, 1934.

Laws 1939, c. 62, has effect of shortening term of incumbent members of school board. Op. Atty. Gen. (187a-6), April 5, 1939.

Op. Atty. Gen. (187a-6), April 18, 1939; note under §2793.

#### 2807. Boards of independent districts—Meeting and organization—Officers—Superintendent.—

Within ten days after the election of the first school board in independent districts, and annually thereafter on the first Saturday in July, or as soon thereafter as practicable, the board shall meet and organize by choosing a chairman, a clerk, and treasurer, who shall hold their offices for one year, and until their successors are elected and qualified. They may also elect a superintendent who shall be ex-officio a member of the board, but not entitled to vote therein. (As amended Mar. 17, 1939, c. 62, §6.)

Sec. 9 of Act Mar. 17, 1939, cited, repeals inconsistent acts.

171M376, 214NW258; note under §2805.

Op. Atty. Gen. (187a-6), April 18, 1939; note under §2793.

Official bond covering term of officer and "until successor is elected and qualified" extends only for a reasonable time after expiration of term. American Surety Co. v. Independent School Dist., (CCA3), 53F(2d) 178. Cert. den. 284US683, 52SCR200. See Dun. Dig. 8021.

Where by reason of a tie, board has not been able to elect a treasurer, the old treasurer holds over until his successor has been elected, regardless of fact that he is no longer a member of the board. Op. Atty. Gen. (161a-19), Sept. 5, 1934.

Superintendent may be employed at meeting other than organization meeting of new board, and new board can abrogate contract with attorney or physician made by old board. Op. Atty. Gen. (768k-1), Sept. 4, 1936.

Treasurer of independent district may only be elected for term of one year. Op. Atty. Gen. (451a-22), Nov. 8, 1937.

Superintendent of schools may take acknowledgment required by §2849-3. Op. Atty. Gen. (768k), Jan. 10, 1938.

Although §2807 provides that board may elect a superintendent for a term not to exceed one year, superintendents of cities outside of three cities of the first class come under terms of §2903 so that their contracts are automatically renewed for one year unless board takes action prior to April 1. Op. Atty. Gen. (768K-1), April 20, 1939.

Where board was unable to select a chairman because deadlocked, former chairman, and not temporary chairman, should act as chairman until deadlock is broken, since office of temporary chairman is functus officio after meeting is over. Op. Atty. Gen. (161a-5), May 29, 1939.

In view of Laws 1939, c. 62, amending this section, terms of board members in all districts affected by act terminate on July 1. Op. Atty. Gen. (187a-6), July 8, 1939.

2807-1. Election of officers in certain school districts.—That in all special school districts where the election of school officers, by the provisions of any special law, is held at the same time and place and in the same manner as the election of village officers of a village and the judges of the village election act as judges of the school election, and such village has been or shall be organized as a city, such school election shall be held at the same time and place and in the same manner as the election of city officers in said city, and the judges of the city election shall act

as judges of said school election. (Act Mar. 27, 1929, c. 92.)

**2807-2. School board to be elected at large in certain cases.**—Any school district, however organized, now or hereafter having a population of not less than 10,000 and not more than 20,000 inhabitants, and wherein the members of its governing board are elected by and from precincts or subdivisions of the district, shall elect such members by and from the district at large upon the electors thereof voting in favor of so doing, as herein provided. (Act Mar. 9, 1931, c. 52, §1.)

**2807-3. Petitions—elections.**—Whenever a petition, signed by 100 or more qualified electors of any such district, shall be presented to the governing board thereof requesting that the proposition of electing the members of such board by and from the district at large be submitted to the electors of such district, the governing board shall by resolution direct such proposition to be submitted at the next general election held not less than 30 days and not more than 60 days thereafter, if any. If there be no such general election to be so held, the said board shall cause a special election to be called and held in the manner provided for the calling and holding of other special elections in said district. (Act Mar. 9, 1931, c. 52, §2.)

**2807-4. Ballot.**—The ballot used at such election shall be substantially in the following form:

"Shall the members of the governing board of our school district be elected by and from the district at large?

Yes.....  
No....."

Notice shall be given and such election shall be conducted and the ballots counted and canvassed, returns made, and the results declared in the same manner as in the case of other propositions submitted to the electors when voted upon by the district at large. (Act Mar. 9, 1931, c. 52, §3.)

**2807-5. Conduct of elections.**—If a majority of the votes cast upon the proposition be in the affirmative, members of the board shall thereafter be elected by and from the district at large, but the several precincts or subdivisions of the districts shall be continued as voting places, notwithstanding such change, and such elections shall be held and conducted as theretofore, except that the members of such board shall be elected by and from the district at large. (Act Mar. 9, 1931, c. 52, §4.)

**2807-6. Members to finish term.**—The members of the board in office at the time such change is effected shall continue to serve for the balance of their respective terms, unless sooner vacated, and their successors shall be elected by and from the district at large. (Act Mar. 9, 1931, c. 52, §5.)

**2807-7. Vacancies.**—Vacancies in the membership of the board occurring otherwise than by expiration of the term shall be filled by the board of education, and the member appointed by the board shall hold office until the next election after his appointment. (Act Mar. 9, 1931, c. 52, §6.)

**2807-8 to 2807-14. [Repealed].**

Repealed by Act Mar. 27, 1933, c. 117.

**2807-15. Annual election of school board in certain districts.**—That in any independent school district, however organized, in any city of the first class in the state of Minnesota, the territorial limits of which independent school district coincide with the territorial limits of such city, and the government of which independent school district is not provided for in the charter of such city, the annual election of members of the board of education of such school district shall be held on the first Tuesday in April. That the governing body of any such school district and

the governing body of any such city shall apportion the cost of such a school election and any such general municipal election in any such city, when both of said elections occur on the same day, in such proportion and amount as said governing bodies shall agree upon. The members of said board of Education shall be so elected for the terms and in the manner prescribed by law. (Act Mar. 27, 1933, c. 117, §1; Apr. 23, 1935, c. 236.)

**2807-16. May be held on same date as general election.**—Whenever the date for holding such election shall coincide with the date of a general municipal election in any such city, the members of said board of education shall be voted for in the several voting precincts and at the several places where city officers are or may be voted for at such general elections. The persons entitled to vote at such general municipal elections for officers of such city, and only such persons, shall be entitled to vote for members of such board or other governing body. The polls shall be open for voting for members of such school board during the times that the polls are open for the election of city officers and no longer. Separate boxes shall be provided at each voting place in which shall be deposited the ballots cast for members of such school board. The judges and clerks of election appointed to receive and count the ballots cast at such election for officers of such city shall act as judges and clerks of such school district election, and shall certify to the board of education or governing body of said independent school district the number of votes cast in their respective precincts for each person voted for therein for such school district offices, and said board of education or governing body of said school district shall on the Monday following said election, at 8:00 o'clock P. M., meet and canvass the votes cast in said school district and declare the results thereof, and the clerk of said board of education or governing body shall issue certificates of election to the persons found by said canvassing board to be entitled thereto. (Act Mar. 27, 1933, c. 117, §2.)

**2807-17. Elections validated.**—That any election of members of the board of education or governing body of any such school district heretofore held in any such school district and the tenure of all members elected thereat for the terms of office for which they were elected, are hereby declared in all respects legal and valid. (Act Mar. 27, 1933, c. 117, §3.)

**2807-18. Law repealed.**—Laws 1931, chapter 359 [2807-8 to 2807-14] is hereby repealed. (Act Mar. 27, 1933, c. 117, §4.)

Sec. 5 of Act Mar. 27, 1933, cited, provides that the act shall take effect from its passage.

**2807-18a. Organization of certain special school district.**—In any school district in this state, created, organized and operating under a special law, and now or hereafter having a population of not less than 10,000 and not more than 20,000 inhabitants, and wherein some members of the governing board or board of education are elected by and from the district at large on the third Saturday in July of each year for a term of two years, the term of office of such members shall commence on the first Saturday in August after said election.

The polls at all elections in such district shall be open between the hours of 9 A. M. and 8 P. M., unless the Board of Education by resolution shall fix other hours. (Act Apr. 21, 1937, c. 322, §1; Mar. 31, 1939, c. 107, §1.)

Laws 1939, c. 62, repealed all acts or parts of acts inconsistent therewith, but laws 1939, c. 107, relating to Mankato school district and similar districts, prevails where inconsistent, because passed later. Op. Atty. Gen. (187a-6), April 18, 1939.

**2807-18b. Same—annual meeting.**—The governing board or board of education of such special district shall meet on the first Saturday in August in each year or as soon thereafter as possible and organize by the

election of officers. If such organization shall not be completed at that time it may be completed at a future meeting. (Apr. 21, 1937, c. 322, §2.)

**2807-18c. Same—board to audit bills before annual meeting.**—The governing board or board of education of such special district shall also meet on the Friday preceding the first Saturday in August of each year and close up as far as practicable all old or unfinished business of said board and audit all proper bills, and order the same paid, and do all such other business as may properly appertain to said board, but at said meeting no business shall be transacted, and no person shall be nominated, chosen or elected to fill any vacancy in the board. (Apr. 21, 1937, c. 322, §3; Mar. 31, 1939, c. 107, §2.)

**2807-19. Independent school districts not to draw orders without funds.**—That from and after January 1, 1934, no independent school district which in the year 1932 had a population exceeding 20,000 and an assessed valuation (exclusive of moneys and credits) of more than \$2,750 per capita of population shall draw any order or warrant on any fund until there is sufficient money in such fund to pay the same, together with all orders previously issued against said fund. (Act Apr. 10, 1933, c. 210, §1.)

**2807-20. Population to be determined by special census.**—That in determining the application of this law to any school district, the population thereof shall be determined by any special census taken pursuant to the provisions of Laws 1921, Chapter 417, since the year 1930 and prior to the enactment of this statute; and if no such special census has been taken, the population shall be determined by the last Federal census; if the report of the Director of the Census does not show the population of such school district, its population shall be considered as being that used by the county auditor of the county in which such school district is located as a basis for determining the per capita limitations of the levies of such school district for the years 1931, and 1932. The valuation of such school district shall, for the purpose of this Act, be the valuation of the property therein, exclusive of moneys and credits, used by the county auditor of such county as a basis for spreading the 1932 taxes of said district. (Act Apr. 10, 1933, c. 210, §2.)

**2807-21. Not to create additional indebtedness.**—Whenever from and after January 1, 1934, the expenses and obligations incurred, chargeable to any particular fund of such district in any calendar year, are sufficient to absorb 85% of the entire amount of the tax levy for such fund payable in that year, including such amount as may remain in the fund from the levy of the prior year or years, no officer or board of such school district shall have power, and no power shall exist, to create any additional indebtedness (save as the remaining 15% of said tax levy is collected) which shall be a charge against that particular fund or shall be in any manner a valid claim against such district; but such additional indebtedness attempted to be created shall be a personal claim against the officer or members of the board voting for or attempting to create the same. (Act Apr. 10, 1933, c. 210, §3.)

**2807-22. May issue and sell tax levy certificates.**—At any time after January 1, following the making of an annual tax levy the governing body of such school district may, for the purpose of meeting the obligations of the ensuing year, by resolution issue and sell as many certificates of indebtedness as may be needed in anticipation of the collection of taxes so levied for any fund named in such tax levy for the purpose of raising money for such fund. No certificate shall be issued and outstanding for any separate fund exceeding 65% of the amount named in the tax levy for that fund as spread by the county auditor, and in no event exceeding the uncollected portion of

said levy. No certificate shall be issued to become due and payable later than December 31 of the year succeeding the year in which said tax levy, certified to the county auditor as aforesaid, was made. Such certificates shall not be sold for less than par and accrued interest and shall not bear a greater rate of interest than six per cent per annum. Each certificate shall state upon its face for which funds proceeds of the certificate shall be used, the total amount of the certificate so issued under such fund, and the whole amount embraced in the tax levy for that particular purpose. They shall be numbered consecutively and be in denominations of \$25 or multiple thereof and may have interest coupons attached, and shall be otherwise of such terms and form and be made payable at such place as will best aid in their negotiation. The proceeds of the tax assessed and collected as aforesaid on account of said fund, and the full faith and credit of such school district shall be irrevocably pledged for the redemption of the certificates so issued. Such certificates shall be paid from the moneys derived from the levy for the year against which such certificates were issued, or if there be not sufficient for such purpose, from other funds of the district. The money derived from the sale of said certificates shall be credited to such fund or funds for the calendar year immediately succeeding the making of such levy and shall not be used or spent except during such succeeding year. No certificates for any year shall be issued until all certificates for prior years have been paid, nor shall any certificate be extended; provided that money derived from the sale of the certificates for any one year may, if necessary, be used to redeem unpaid certificates issued in a prior year. The certificates of indebtedness issued hereunder shall be legally negotiable the same as any other commercial paper or bills of exchange. (Act Apr. 10, 1933, c. 210, §4.)

**2807-23. Certificates may be held by school treasurer.**—In the event the school board of any such district is unable to sell such certificates of indebtedness in the manner prescribed, it may issue such certificates of indebtedness to the district treasurer, or his order, and deposit the same with him. Certificates so issued shall be held by the treasurer until they may be sold and shall bear interest at six per cent per annum. The district may thereupon, so long as such certificates are on deposit with the treasurer, issue warrants upon the funds against which such certificates were issued, the total principal amount of such warrants not to exceed the total principal amount of the certificates so held by the treasurer. Such warrants shall bear interest at six per cent per annum from and after the date they are presented to the treasurer and stamped "Not paid for want of funds, but protected by certificates of indebtedness now held by me." Such certificates may be sold by the school board and the proceeds of such sale shall be used to take up such warrants in the order presented for payment. Interest upon such warrants shall stop upon the date they are called by the treasurer for payment. Such certificates of indebtedness so held by the treasurer shall be paid at the same time and in the same manner as if they had been issued to a purchaser thereof. All warrants attempted to be issued and all obligations or indebtedness attempted to be incurred under authority of this section, in excess of the principal amount of the certificates of indebtedness so held by such treasurer shall be void. (Act Apr. 10, 1933, c. 210, §5.)

**2807-24. To be on cash basis after January 1, 1934.**—From and after January 1st, 1934, such district shall be deemed for all purposes to be on a cash basis and shall thereafter remain on a cash basis. All taxes levied in 1933 shall be considered as the tax revenues for the year 1934, and thereafter in any such school district taxes shall be levied as now provided by law,

but for the succeeding year. (Act Apr. 10, 1933, c. 210, §6.)

**2807-25. May issue bonds to take up indebtedness.**—If any such school district prior to January 1, 1933, has incurred by proper authority a valid indebtedness, excluding bonds, in excess of its cash on hand not specifically set aside for the retirement of bonds and interest thereon, such school district may for the purpose only of paying and discharging such valid indebtedness and interest thereon, issue its bonds in the manner now provided by law, except that such bonds may be issued on a vote of the school board thereof, without a vote of the electors; provided that if any moneys received from taxes levied in 1932 and payable in 1933 for any purposes other than payments on bonds and bond interest have been used prior to the issuance of bonds authorized by this Act for the retirement of indebtedness existing on January 1, 1933, or interest thereon, such bond issue may include the amount of such payments for the purpose of reimbursing the funds from which such moneys were paid; provided further that the purchaser of such bonds shall not be charged with notice of invalidity of any indebtedness funded by such bonds, and bonds issued hereunder in the total amount of such indebtedness as determined by resolution of the school board of said district, in the hands of any purchaser, shall be valid obligations of the school district notwithstanding any claims of invalidity of any such indebtedness funded thereby; provided further that any expenditures prior to the date of this Act for any of the following purposes in said district are hereby legalized and validated as against any claim that such district had not the power to incur the obligation or had not proceeded in the proper manner to exercise such power, viz.; architects' commissions and salaries of building inspectors; salary paid to school attorney; hospital bills and bills for medical and dental services to students and employees injured in connection with school activities; medical, dental and optical supplies for school doctor, dentist or nurse; liability and property damage, insurance premiums on cars, busses and trucks owned by the school district; indemnity insurance premiums for school dentists and doctors; premiums on surety bonds for officers and employees of the district; athletic and physical training supplies; expenses of operating students' savings system; recreational activities and facilities. (Act Apr. 10, 1933, c. 210, §7.)

**2807-26. Annual tax levy.**—The school board of any such district issuing bonds pursuant to the authority of this Act shall, at the time of the issuance thereof, by resolution provided for a levy for such year until the principal and interest of said bonds are paid in full of a direct annual tax in an amount sufficient to pay the principal and interest thereon when and as such principal and interest become due. Such tax levies shall be within the per capita limitations provided by law upon the tax levies of said district, and the county auditor at the time of spreading the annual tax levy of said district shall adjust the same so that the total levy, including any levy for said bonds, whether issued to the state or a private purchaser, shall be within the per capita limitations provided by law plus any levies which may be authorized in excess of such limitation by Laws 1921, Chapter 417, for bonded indebtedness and interest thereon. (Act Apr. 10, 1933, c. 210, §8.)

**2807-27. Disposition of bonds.**—Such bonds may be issued and sold to the State of Minnesota pursuant to existing laws at the time of the issuance thereof (except as herein modified) or to private purchasers, or to both, or exchanged for outstanding orders at par with accrued interest. (Act Apr. 10, 1933, c. 210, §9.)

**2807-28. School Board to prepare budget.**—The school board of such district shall, each year prior to

the making of the tax levy for the ensuing year, prepare a budget of the expenditures of such district during the year in which such taxes will be collected, itemizing the purposes for which such moneys will be expended, and the amount of obligations that will be incurred for each such purpose. If at any time during such year it appears that such district is incurring obligations at a rate or upon a scale which would make it probable, if such rate or scale be continued, after allowing for variations in seasonal requirements, that the total expenditures for said year would exceed the moneys to be received therein, after allowance for probable tax delinquencies, the District Court, in an action brought by any taxpayer, may require such district to limit its expenditures to a rate and scale which will assure that the total obligations incurred in such year will not exceed the moneys available therein. (Act Apr. 10, 1933, c. 210, §10.)

**2807-29. Contracts in violation to be null and void.**—Each contract attempted to be entered into, or indebtedness or pecuniary liability attempted to be incurred in violation of the provisions of this Act, shall be null and void in regard to any obligation thereby sought to be imposed upon the school district, and no claim therefor shall be allowed by the school board of said district; nor shall the clerk of such district or any other officer issue or execute, nor shall the district treasurer pay any warrant or certificate of indebtedness issued on account thereof. Each member of the school board and each other district officer participating in or authorizing any violation of this Act shall be individually liable to the district or to any other person for any damage that is caused thereby. Every member of the school district present at a meeting thereof when any action is taken with reference to paying money or incurring indebtedness or entering into any contract in violation of the provisions of this Act shall be deemed to have participated in and authorized the same unless he shall have caused his dissent therefrom to be entered upon the minutes of the meeting. (Act Apr. 10, 1933, c. 210, §11.)

**2807-30. Not to change on account of changing population.**—When a school district has once come under the provisions of this Act, it shall continue under its provisions notwithstanding any subsequent change in assessed valuation or population. (Act Apr. 10, 1933, c. 210, §12.)

**2807-31.—May be postponed for one year in certain cases.**—The funding of the indebtedness of the school district is necessary to the functioning of this law and if any such school district shall find it impossible to sell the bonds herein provided for, prior to January 1, 1934, the operation of this Act shall be postponed for one year. In that event the indebtedness authorized to be funded hereunder shall be the valid indebtedness, excluding bonds, in excess of cash on hand not specifically set aside for the retirement of bonds and interest thereon, incurred prior to January 1, 1934; and the provisions of Sections 1, 3, 4, 5, 6, 10 and 11 shall not take effect until and after January 1st, 1935. (Act Apr. 10, 1933, c. 210, §13.)

**2807-32. Provisions separable.**—If any provision hereof is found unconstitutional, such determination shall not affect the validity of the remaining provisions not clearly dependent thereon. (Act Apr. 10, 1933, c. 210, §14.)

**2807-33 to 2807-46. [Superseded.]**

These sections seem to be superseded by Act Apr. 24, 1935, c. 261, §§2807-47 to 2807-63, post.

Consisted of Act Apr. 22, 1933, c. 433, §§1-14.

**2807-47. School districts may not incur indebtedness.**—From and after January 1, 1936, no independent school district having a population exceeding 7,500 and less than 11,000 and an assessed valuation of more than \$2,000 per capita of population, exclusive of moneys and credits, shall draw any order or

warrant on any fund until there is sufficient money in such fund to pay the same, together with all orders previously issued against such fund. (Act Apr. 24, 1935, c. 261, §1.)

**2807-48. Special census to control.**—In determining the application of this law of any such school district the population thereof shall be determined by any special census taken pursuant to the provisions of Laws 1921, Chapter 417 [§§2061 to 2066], since the year 1930 and prior to the enactment of this statute; if no such special census has been taken the population shall be determined by the last federal or state census, provided that nothing in this section shall preclude any such school district from hereafter taking a special census for the purpose of determining the amount of taxes that may be levied thereon. (Act Apr. 24, 1935, c. 261, §2.)

**2807-49. Not to create indebtedness.**—Whenever, from and after January 1, 1936, the expenses and obligations incurred, chargeable to any particular fund of such district in any calendar year, are sufficient to absorb 95 per cent of the entire amount of the tax levy for such fund payable in that year, including such amount as may remain in the fund from the levy of the prior year or years, no officer or board of such school district shall have power, and no power shall exist, to create any additional indebtedness (save as the remaining five per cent of said tax levy is collected) which shall be a charge against that particular fund, or shall be in any manner a valid claim against such district, but such indebtedness attempted to be created shall be a personal claim against the officer or member of the board voting for or attempting to create the same. (Act Apr. 24, 1935, c. 261, §3.)

**2807-50. May issue certificates.**—At any time after January first following the making of an annual tax levy the school board of any such district may, for the purpose of meeting the obligations of the current year, by resolution issue and sell as many certificates of indebtedness as may be needed in anticipation of the collection of taxes so levied for any fund named in said tax levy for the purpose of raising money for any such fund. All certificates of indebtedness issued under the provisions of this act shall be negotiable and shall be payable to the order of the payee and shall have a definite due date. No certificate shall be issued to become due and payable later than December 31st of the year of issuance. Such certificates shall not be sold for less than par and accrued interest and shall not bear a greater rate of interest than six per cent per annum. Each certificate shall state upon its face for which funds proceeds of the certificate shall be used, the total amount of the certificates so issued against such fund and the whole amount embraced in said tax levy for that fund. They shall be numbered consecutively and be in denominations of \$25, or any multiple thereof, and may have interest coupons attached, and shall be otherwise in such terms and form and be made payable at such place as will best aid in their negotiation. (Act Apr. 24, 1935, c. 261, §4.)

**2807-51. Limitation of certificates.**—No such school district shall be permitted during any year to anticipate by issuance of certificates of indebtedness more than sixty per cent of its tax levy payable in said year for any of its funds during the period prior to July 1st, and not more than thirty-five per cent of said levy (plus any amount authorized but not issued during the period prior to July 1st) during the period subsequent to July 1st and prior to December 31st; provided that the total amount of certificates of indebtedness issued against any fund, with interest thereon to maturity, shall not exceed 95 per cent of the tax levy for such fund payable in such year, and the aggregate of outstanding certificates shall in no event exceed the uncollected portion of said tax levy for such fund. Any such school district may renew any outstanding certificate of indebtedness of any prior

year or any prior six-months period, or issue new certificates, notwithstanding the fact that prior certificates were unpaid, whenever inability to pay such outstanding certificates is due to failure to collect sufficient moneys from the tax levy payable in said year to discharge such certificates; in the event such certificates are renewed, such municipality may pay accrued interest thereon at the time of renewal. (Act Apr. 24, 1935, c. 261, §5.)

**2807-52. May issue certificates to creditors.**—If any such school district is unable to sell such certificates of indebtedness in the manner prescribed hereby it may proceed by one of the following methods: (a) issuing its certificates of indebtedness in any denomination but within the limitations as to total amounts herein contained, payable to the order of the creditor of such district, in payment of the debt, claim or account of such creditor after the same has been allowed by the school board; or (b) issuing certificates of indebtedness to the school board treasurer, or his order, and depositing the same with him. Certificates so issued shall be held by the treasurer until they may be sold and shall bear interest at not to exceed six per cent per annum. The school district may thereupon, as long as such certificates are on deposit with the treasurer, issue warrants upon funds against which such certificates were issued, the total principal amount of such warrants not to exceed the total principal amount of the certificates so held by the treasurer. Such warrant shall bear interest at not to exceed six per cent per annum from and after the day they are presented to the treasurer and stamped "Not paid for want of funds, but protected by certificates of indebtedness now held by me." Such certificates may be sold by the school board and the proceeds of such sale shall be used to take up such warrants in the order in which they were presented to the treasurer, registered by him and stamped as aforesaid. Interest upon such warrants shall stop upon the date they are called by the treasurer for payment. Such certificates of indebtedness so held by the treasurer shall be paid at the same time and in the same manner as if they had been issued to a purchaser thereof. All warrants attempted to be issued and all obligations or indebtedness attempted to be incurred under authority of this sub-section in excess of the principal amount of the certificates of indebtedness so held by such treasurer shall be void. (Act Apr. 24, 1935, c. 261, §6.)

**2807-53. Tax levies to be set aside for payment of certificates.**—The proceeds of the taxes assessed and collected as aforesaid on account of said fund and the faith and credit of the school district shall be irrevocably pledged for the redemption of the certificates so issued. Such certificates shall be paid from the moneys derived from the levy for the year against which such certificates were issued, or if there be not sufficient for that purpose, from other funds of the district. The money derived from the sale of such certificates (except those issued to take up old certificates as hereinbefore authorized) shall be credited to such fund or funds for the calendar year in which issued, and shall not be used or spent except during such year. Except as hereinbefore authorized, no certificate for any year shall be issued until all certificates for prior years have been paid, nor shall any certificates be extended; provided that money derived from the sale of certificates for any one year may, if necessary, be used to redeem unpaid certificates issued in a prior year. (Act Apr. 24, 1935, c. 261, §7.)

**2807-54. To be on cash basis.**—From and after January 1, 1936, any such district shall be deemed for all purposes to be on a cash basis and shall thereafter remain on a cash basis. All taxes levied in 1935 shall be considered as tax revenues for the year 1936, and thereafter in any such school district taxes shall be levied as now provided by law, but for the succeeding years. (Act Apr. 24, 1935, c. 261, §8.)

**2807-55. May issue funding and refunding bonds.**—If any such school district prior to January 1, 1936,

has incurred by proper authority a valid indebtedness of whatsoever character in excess of its cash on hand, such school district may, for the purpose of paying and discharging such valid indebtedness or changing the maturities of the funded portion thereof, issue its funding or refunding bonds in the manner now provided by law, except that such bonds may be issued by a resolution of the school board thereof without vote of the electors; provided further that if any moneys properly applicable to the payment of current expenses in 1936 shall have been used prior to the issuance of bonds authorized by this act for the retirement of indebtedness existing on January 1, 1936, or interest thereon, such bond issue may include the amount of such payments for the purpose of reimbursing the fund from which such moneys were paid. The purchaser of such bonds shall not be charged with notice of the invalidity of any indebtedness funded by such bonds, and bonds issued hereunder in the total amount of such indebtedness, as determined by resolution of the school board of said district in the hands of any purchaser, shall be valid obligations of the district, notwithstanding any claims of invalidity of any such indebtedness funded thereby. (Act Apr. 24, 1935, c. 261, §9.)

**2807-56. Tax levy to retire bonds.**—The school board of any such district issuing bonds pursuant to the authority of this act shall, at the time of the issuance thereof, by resolution provide for the levy of an annual and irrevocable tax to be levied each year until the principal and interest of said bonds are paid in full, in an amount sufficient to pay and discharge principal and interest thereon at maturity. Such tax levies shall be within the per capita limitations now provided by law upon the tax levies of said district, except as herein otherwise provided, and the county auditor, at the time of spreading the annual tax levy of any said district, shall adjust the same so that the total levy, including any levy for said bonds, whether issued to the state or a private purchaser, shall, except as herein otherwise provided, be within the per capita limitations provided by law. (Act Apr. 24, 1935, c. 261, §10.)

**2807-57. Taxes to be paid into special fund.**—The proceeds of the tax levies for the payment of bonds issued hereunder shall be paid into a special fund and used solely for the retirement of such bonds and interest thereon. Any taxes collected subsequent to January 1, 1936, on taxes levied by any such district in the year 1934 and prior years, shall be paid into such special fund and used solely for the reduction of such indebtedness. (Act Apr. 24, 1935, c. 261, §11.)

**2807-58. Levies in excess of per capita limitations.**—If any school district subject to this act shall at the time of the enactment hereof have bonds outstanding issued for the purpose of defraying the cost of erecting and equipping school buildings therein, levies in a total amount not exceeding \$300,000 for the principal, plus interest thereon to maturity, may be made in excess of existing per capita limitations for the retirement of such bonds, such levies when collected to be paid into the special fund herein provided. Such excess levies may be made in as nearly equal installments as practicable over a period of years beginning with the levy made in the year 1935, such installments to be not less than four. If such outstanding bonds, or any portion thereof, shall have been paid or retired prior to the making or collection of the excess levies permitted hereunder, such excess levies may nevertheless be made, and when collected shall be paid into such special fund and used for the retirement of other indebtedness of the district authorized to be funded or refunded hereunder. (Act Apr. 24, 1935, c. 261, §12.)

**2807-59. May be sold to the State of Minnesota.**—Bonds authorized to be issued hereunder may be issued and sold to the State of Minnesota pursuant to existing laws at the time of the issuance thereof, ex-

cept as herein modified, and to private purchasers, or to both. They may be issued bearing such rates of interest as may best lead to their negotiation or sale, not, however, exceeding six per cent per annum, and in the event of sales to the state, not exceeding the rate of interest fixed by statute therefor. (Act Apr. 24, 1935, c. 261, §13.)

**2807-60. Board to make budget.**—The school board of such district shall, each year, prior to the making of the tax levy for the next ensuing year, prepare a budget of the expenditures of such district during the year in which such taxes will be collected, itemizing the purposes for which such moneys will be expended, and the amount of obligations that will be incurred for each such purpose, during each quarter of such year. The clerk of such school district shall prepare and present at the first meeting of the board in each month a statement showing all expenditures made and obligations of indebtedness incurred for the preceding month and for the preceding portion of the fiscal year; the amount allotted by the budget for such month and the preceding portion of the fiscal year; the amount allotted by the budget for the remainder of the year; and the probable expenditures for the remainder of the fiscal year. If at any time during such year it appears that such district is incurring obligations at a rate or upon a scale which would make it probable, if such rate or scale of expenditures were to be continued, that the total expenditure for said year would exceed the available revenues for such year, after proper allowance for probable tax delinquencies, such statement so required to be presented and kept by the clerk shall be prima facie evidence of the fact that such school district is exceeding the legal limit of obligations, and thereupon the power of such school district to incur further obligations or expenditures shall be limited and restricted to the extent necessary which will make certain that the said budget will not be exceeded in such year. Where it appears that money budgeted for any fund or purpose is not needed therefor the school board may, by resolution, transfer the excess to any other fund or purpose; provided that this shall not authorize transfers from the special indebtedness fund hereinbefore referred to, until all of such indebtedness shall have been paid. (Act Apr. 24, 1935, c. 261, §14.)

**2807-61. Contracts to be null and void in certain cases.**—Each contract attempted to be entered into, or indebtedness or pecuniary liability attempted to be incurred, in violation of the provisions of this act, shall be null and void in regard to any obligation thereby sought to be imposed upon the school district, and no claim therefor shall be allowed by the school board of said district; nor shall the clerk of such district or any other officer or employe issue or execute, nor shall the district treasurer pay, any warrant or certificate of indebtedness issued on account thereof. Each member of the school board and each other district officer or employe participating in or authorizing any violation of this act shall be individually liable to the district or to any other person for any damage that is caused thereby. Each member of the school board present at a meeting of the board when any action is taken with reference to paying money or incurring indebtedness or entering into any contract, shall be deemed to have participated in and authorized the same, unless he shall have caused his dissent therefrom to be entered upon the minutes of the meeting. (Act Apr. 24, 1935, c. 261, §15.)

**2807-62. Act remedial.**—This act is remedial in its nature, intended to remedy the financial condition of districts within the class stated, and for such purposes to secure a sound fiscal policy therein. If any district shall come within the provisions of this act, the act shall continue to govern the operations thereof, notwithstanding any subsequent change in population or valuation. (Act Apr. 24, 1935, c. 261, §16.)

**2807-63. Provisions severable.**—The provisions of this act are severable and the unconstitutionality of any portion hereof shall not affect the constitutionality of the remainder hereof. (Act Apr. 24, 1935, c. 261, §17.)

**2807-64. Inconsistent acts repealed.**—All acts and parts of acts inconsistent herewith are repealed or amended to the extent of such inconsistency. (Act Apr. 24, 1935, c. 261, §18.)

**2807-71. Certificates of indebtedness anticipating tax collections; application of act.**—This act shall apply to any Independent School District in any city of the first class, the territorial limits of which school district coincide with the territorial limits of such city and the governing of which school district is not provided for in the charter of such city. (Apr. 22, 1937, c. 355, §1; July 14, 1937, Sp. Ses., c. 47, §1.)

**2807-72. Same; issuance and sale; amount; due date; price; interest; form; pledge of faith; payment; disposition of proceeds.**—At any time after the annual tax levy of any such school district has been certified to the County Auditor, the school board of such school district may by resolution with or without advertisement for bids issue and sell as many certificates of indebtedness as they may deem necessary in anticipation of the collection of taxes levied for any fund named in the tax levy for the purpose of raising money for any such fund. Certificates of indebtedness issued and outstanding for any of such separate funds shall not at any time exceed 75% of the amount of taxes levied for such fund remaining uncollected. No certificate shall be issued to become due and payable later than December 31st of the year succeeding the year in which said tax levy certified to the County Auditor as aforesaid was made. Said certificates shall not be sold for less than par with accrued interest and shall not bear a greater rate of interest than six per cent (6%) per annum, which interest shall be payable as provided in such resolution. Each certificate shall state upon its face for which fund the proceeds of said certificates shall be used, the total amount of certificates against such fund issued and outstanding and the whole amount embraced in said tax levy for that particular purpose remaining uncollected.

They shall be numbered consecutively, be in denominations of \$100 or any multiple thereof and shall be otherwise of such forms and terms and be made payable at such place as will best aid in their negotiation.

The proceeds of the tax levied and collected as aforesaid on account of said fund and the full faith and credit of such school district and the Board of Education thereof, if a body corporate, shall be irrevocably pledged for the redemption of the certificates so issued. Such certificates shall be paid in the numerical order of their issuance primarily from the monies derived from levies for the year against which such certificates were issued, and if the proceeds from such levies are insufficient, they shall be paid from other funds of the district.

The money derived from the sale of such certificates shall be credited to such fund or funds against which issued and which shall be issued for the payment of warrants, checks or orders issued against such fund in the order in which such claims are entitled to payment as provided by law. (Apr. 22, 1937, c. 355, §2; July 14, 1937, Sp. Ses., c. 47, §2.)

**2807-73. Same; curative provision.**—Any certificates of indebtedness heretofore issued pursuant to Laws 1937, Chapter 355, are hereby validated and made general obligations of the district with the same effect as if they had been issued under this amendment. (July 14, 1937, Sp. Ses., c. 47, §3.)

**2807-74. Signatures may be facsimiles in certain cases.**—When authorized so to do by resolution of the governing body of any school district within territorial limits which coincide with the territorial lim-

its of any city of the first class in the State of Minnesota and the government of which independent school district is not provided for in the charter of said city, the chairman and clerk of such school district may execute by their facsimile signatures orders upon the treasurer of such school district for payment of claims allowed by such governing body and the treasurer of such school district may accept such orders so executed and disburse funds of the school district thereon. (Act Mar. 28, 1939, c. 95, §1.)

**2807-75. Treasurer to use facsimile signatures.**—When authorized so to do by resolution of the governing body of any such school district, the treasurer thereof may execute by his facsimile signature checks for disbursement of the funds of the school district. (Act Mar. 28, 1939, c. 95, §2.)

**2807-76. Governing body to authorize use.**—A resolution of the governing body of such a school district may authorize the use of facsimile signatures on all orders, warrants and checks of the school district or it may limit the use of the same to the particular orders, warrants and checks described in such resolution. (Act Mar. 28, 1939, c. 95, §3.)

**2808. Election of superintendent in special districts.**

Independent special school districts coinciding with a city of first class may contract with its superintendent. Laws 1939, c. 61.

**2810. Clerk in special districts.**

Op. Atty. Gen., Apr. 28, 1932.  
Board of education of South St. Paul must accept the city recorder as the secretary thereof, and may not select one of its own choice. Op. Atty. Gen., Aug. 29, 1931.

**2811. Vacancies.**

Vacancy in office of directors occasioned by absence of election in spring of 1930 may be filled by appointment under this section. Op. Atty. Gen., Nov. 27, 1929.

Appointment to fill vacancy should be until next annual election at which time it will be filled for balance of unexpired term. Op. Atty. Gen., Mar. 1, 1933.

Where the leading two candidates for office of director of independent school district receive equal number of votes, result was a vacancy at expiration of term of present member. Op. Atty. Gen., July 24, 1933.

Where three candidates ran to fill vacancies on board and two tied for second place, tie vote had effect of creating vacancy at expiration of term of office of incumbent. Op. Atty. Gen., Aug. 2, 1933.

In case of a tie vote at a school election a second ballot cannot be taken, and there is a vacancy. Op. Atty. Gen. (187a-1), July 31, 1934.

Resignation of a board member is effective and creates a vacancy without acceptance by board, and three members of remaining five members then constitute a quorum who may fill vacancy. Op. Atty. Gen. (161a-25), August 21, 1933.

Offices of chairman and clerk failing to file official oath were vacant at next annual meeting and could be filled at that meeting, though incumbents were sitting as de facto officers, but it was proper to vote such officers compensation for their services to that time. Op. Atty. Gen. (768G), Sept. 15, 1939.

**2812. Special election to fill vacancy.**

Vacancy in office of members of school board occasioned by lack of election in spring of 1930 may be filled under this section. Op. Atty. Gen., Nov. 27, 1929.

Where there is a tie vote in election for school officer and thereafter board failed to fill vacancy for a period of ten days and a special election was called and another tie vote resulted, board may make an appointment to fill the vacancy. Op. Atty. Gen., Sept. 29, 1931.

Treasurer who had not filed bond had no power to vote to elect chairman of board to fill vacancy. Op. Atty. Gen., Oct. 12, 1933.

Only qualified member of school board could not proceed to appoint chairman to fill vacancy. Id.

A special meeting may be called for purpose of electing a member of board to fill vacancy created by removal of member from district. Op. Atty. Gen. (172c-1), May 11, 1934.

Vacancy in board need not be filled by appointment as a condition precedent to filling such vacancy by electors at annual meeting. Op. Atty. Gen. (768o), July 25, 1934.

**2813. Acceptance of office.**

American Surety Co. v. Independent School Dist., (CC A8), 53F(2d)178; note under §2807. Cert. den. 284US683, 52SCR200.

A director of an independent school district who has taken an oath of office need not take a second oath when chosen as treasurer by the members of the school board. 171M376, 214NW258.

Chairman of board who failed to qualify by taking oath did not gain right to hold office by reason of acting as chairman for 13 months. Op. Atty. Gen., Oct. 12, 1933.

One having knowledge of his election as clerk and demanding possession of records and books from incumbent was not entitled to the office where he did not qualify as required by this section, with result that special election was called in which another person received highest number of votes. Op. Atty. Gen. (162d), August 31, 1933.

Acceptance of office need not be under oath, but office is vacant if an oath of office is not signed and duly acknowledged. Op. Atty. Gen. (768G), Sept. 15, 1939.

**2814. Quorum of school board.**—A majority of the School Board shall constitute a quorum, but no contract shall be made or authorized except at a meeting of the Board of which all members have had legal notice; provided, however, that where a husband and wife, brother and sister, or two brothers, and/or sisters, constitute a quorum, no contract employing a teacher shall be made or authorized except upon the unanimous vote of the School Board. (R. L. '05, §1318; G. S. '13, §2744; Apr. 13, 1933, c. 238.)

Effect of designation of depository without formal meeting. School Dist. No. 75 v. F., 182M381, 234NW594. See Dun. Dig. 2699.

Where all members of common school district board were present at special meeting, employment of school teacher was valid though notice of meeting was irregular and insufficient. Hlavka v. C., 192M169, 255NW820. See Dun. Dig. 8675, 8686.

There was no legal notice where member of board was called on phone but was out of town and had no actual notice of meeting at which architect was employed. Op. Atty. Gen., Nov. 23, 1931.

Where board of education advertised for bids for painting, and accepted bid, there was contract, and board could not thereafter reject accepted bid. Op. Atty. Gen., May 19, 1932.

Special meeting of school board having 6 members cannot be held where only three members are present, though others were notified. Op. Atty. Gen., Feb. 24, 1933.

Where three members of school board vote for election of teacher and three against, motion fails to carry. Op. Atty. Gen., Feb. 24, 1933.

Laws 1933, c. 238, amending this section, is not retroactive. Op. Atty. Gen., July 6, 1933.

Where two brothers serve on same board of a common district, a teacher may be legally elected at a properly called meeting of the board attended by one of the brothers and a third member of the board. Op. Atty. Gen. (172c-2), June 8, 1934.

Whether election of teacher and principal is valid held a question of fact upon which attorney general cannot pass. Op. Atty. Gen. (166h-4), Aug. 21, 1936.

Board may authorize examination of teachers and pupils where teacher is afflicted with a communicable disease and pay charges incurred therefor, but need not pay expenses unless examination was authorized at meeting of board. Op. Atty. Gen. (159b-7), Aug. 23, 1937.

Resignation of a board member is effective and creates a vacancy without acceptance by board, and three members of remaining five members then constitute a quorum who may fill vacancy. Op. Atty. Gen. (161a-25), August 21, 1939.

#### 2815. Powers and duties of school board.

9. Defray the necessary expenses of the board, including two dollars per day for attending one meeting of the school boards of the county in each year, when called by the county superintendent, and five cents per mile in going to and returning from such meeting, and pay for such record books, stationery and other incidental matters as may be proper. (As amended Mar. 23, 1933, c. 105.)

Judgment against district, restraining performance of a contract, illegal for want of previous authorization by the voters, is not a bar to a suit by one of the contracting parties to recover for the reasonable value of the benefits received by the district. 175M201, 220NW 606.

Member of school board joining with other members in paying out money without legal authority is personally liable to school district, but if district receives and appropriates property, member has right to offset value. Johnson v. I., 189M293, 249NW177. See Dun. Dig. 8676.

Where contracts of employment of public school teachers in special school district of city of Minneapolis stipulate a monthly salary, but provide that board of education, employer, may reduce same whenever it deems necessary, no certain or definite rights spring from such contracts so that mandamus will lie to en-

force same, and fact that, when so reducing said stipulated salary, board promised that if more money came from tax collections than estimated when reduction was made, such excess would be distributed pro rata to teachers, and that there is such excess, do not legally obligate board to distribute same. State v. Bauman, 194 M439, 260NW523. See Dun. Dig. 8686.

Independent school district may purchase building to be used as skating rink, etc. School board cannot be compelled to purchase by vote of electors. Op. Atty. Gen., Apr. 17, 1929.

A district has power to contract with a public accountant to audit its books and affairs. Op. Atty. Gen., Dec. 9, 1929.

The board is authorized to pay architects' charges for plans and specifications out of the proceeds of a bond issue for "constructing a school building." Op. Atty. Gen., Jan. 14, 1930.

Member of board voting against a proposition may move for its reconsideration. Op. Atty. Gen., Jan. 28, 1930.

Where the electors authorize sale of school property no longer required for school purposes, the board may sell without advertising for bids, and at such price as it deems advisable; but the board is without power to donate the land to a city in the district, or to enter into a long term lease. Op. Atty. Gen., Mar. 19, 1930.

District is without power to convey its school auditorium building to an American Legion Post for conversion into a war memorial, the only consideration being one dollar and the use of the building by the district as a community house. Op. Atty. Gen., Apr. 10, 1930.

It is the duty of the school board to act in good faith in selling an abandoned building, and to obtain the best price possible, and the board is not bound by a favorable vote of the electors on a proposition to sell the building at a nominal sum to an organization which pledges to use the same as a community building. Op. Atty. Gen., Apr. 28, 1930.

While a school board has no power to expend money for medical or physical examination of children generally, it may provide for such examination of children who may apply for attendance at the next school session. Op. Atty. Gen., Apr. 28, 1930, May 6, 1930.

In the call of a special meeting of the school board to vote on bond issue resolution the notice of meeting need not specify the business to come before the meeting; the school board need not have a definite site in view before passing the resolution; and the board is without power to select and acquire the site without designation by the electors. Op. Atty. Gen., May 13, 1930.

A school board has no authority to employ a superintendent of schools whose term is to extend beyond the year for which the members of the board are elected. Op. Atty. Gen., July 2, 1930.

Procedure to be followed by board of school district organized under Laws 1929, c. 9, §3, stated. Op. Atty. Gen., July 3, 1930.

Act authorizing school districts to contract in certain cases with cities for heating of buildings. Laws 1931, c. 134.

Act to permit regulation by school board of labor on public schools in independent school district within city of second class. Laws 1931, c. 276.

School board of independent consolidated school district may disregard petition by electors demanding that board call a special election to determine whether or not the district should continue the high school course. Op. Atty. Gen., Apr. 20, 1931.

Where electors of independent school district authorized sale of small school building, the school board, on discovering it could not sell it at a fair price, had no authority to wreck the building and use the material for other purposes. Op. Atty. Gen., Apr. 29, 1931.

Neither a school board nor the district is liable for injuries inflicted in the operation of its busses, and school funds may not be used to pay premium on indemnity bond. Op. Atty. Gen., Aug. 12, 1931.

A school district may employ a dentist to make examination of the teeth of pupils and to recommend dental work, but it is not legal for the district to divide or pay for the doing of the work itself. Op. Atty. Gen., Sept. 11, 1931.

Where a balance remains in a building fund which resulted from a tax levy made for the particular buildings completed, it may be transferred to the general operating fund of the district. Op. Atty. Gen., Sept. 30, 1931.

A school board has authority to lease land for a gasoline filling station. Op. Atty. Gen., Dec. 21, 1931.

A school district may obtain title to a school house site by adverse possession. Op. Atty. Gen., Dec. 23, 1931.

School board did not have authority to purchase a mortgage, and the assignment may be rescinded. Op. Atty. Gen., Dec. 23, 1931.

The pendency of a petition to divide a school district does not as a matter of law prevent district from proceeding with the erection of a permanent school house. Op. Atty. Gen., Dec. 23, 1931.

Where a school house burns, board when duly authorized by electors may legally expend school funds for erection of a temporary building. Op. Atty. Gen., Dec. 23, 1931.

School district may not use its funds to purchase class pins and class colors for pupils. Op. Atty. Gen., Apr. 4, 1932.

School district may not use school district funds to provide pupils hot lunches. Op. Atty. Gen., Apr. 11, 1932.

Mankato school board has power to sell abandoned school building several blocks removed from site of new building without vote of district. Op. Atty. Gen., Mar. 7, 1933.

School board may not expend moneys to send members to conventions to secure general information. Op. Atty. Gen., Aug. 29, 1933.

A school district may employ dentist to make examination of teeth of school children and report their finding and to care of teeth of students injured on playgrounds, but cannot pay for dental work such as filling and cleaning teeth, bridgework and other similar services. Op. Atty. Gen. (159b-7), Aug. 8, 1934.

Board has authority to make ordinary repairs to school property without authorization of electors. Op. Atty. Gen. (166c-3), Sept. 7, 1934.

School district cannot pay salaries of teachers unless they are under contract, but has right to use teachers not under contract who are paid by the federal government. Op. Atty. Gen. (172c), Oct. 8, 1934.

School districts not being liable for the negligence of their employees may not take out liability and collision insurance. Op. Atty. Gen. (159b-4), Oct. 13, 1934.

School board of independent district has no authority to tear down abandoned school building and dispose of salvage without vote of electors. Op. Atty. Gen. (622a-8), Nov. 20, 1934.

Electors of a school district have no power to fix length of school term, and length of term depends on contract entered into by teacher and school board, regardless of action of electors at meeting. Op. Atty. Gen. (161b-14), Nov. 26, 1934.

School board has authority to lease vacant school building to private or civic organizations for recreational or community purposes and charge therefor and obtain the benefit of repairs to be made by lessee, but a town board has no authority to enter into an agreement to make repairs on a vacant school building to be used as a community hall other than for township purposes. Op. Atty. Gen. (622a-14), Dec. 11, 1934.

School district funds cannot be used to vaccinate school children to prevent spread of smallpox during an epidemic. Op. Atty. Gen. (611a-9), Feb. 1, 1935.

District may pay reasonable value of services of attorneys in defending action brought against members of school board. Op. Atty. Gen. (779a-3), Oct. 26, 1935.

There was no necessity for receiving new bids because question of making addition to high school was submitted to voters after bids were received. Op. Atty. Gen. (707a-12), Jan. 28, 1936.

It is not necessary for school board to call for bids when selling property under authority of vote of electors. Op. Atty. Gen. (622f), Dec. 19, 1936.

School board has right to buy school supplies and to sell them to students at cost plus handling charges, but not for purpose of making a profit. Op. Atty. Gen. (161b-11), Mar. 20, 1937.

Driver of school bus may secure liability insurance at his own expense for his own protection, but this does not impose liability on district. Op. Atty. Gen. (844f-6), Apr. 10, 1937.

School district cannot expend funds for a private tutor for a backward pupil. Op. Atty. Gen. (159b-10), Apr. 20, 1937.

School district may appropriate funds to pay additional salary of superintendent of construction under WPA project, the WPA furnishing all labor, including a superintendent of construction. Op. Atty. Gen. (159b-14), Apr. 23, 1937.

Where school site contains more than one block, vote of electors is necessary to add thereto. Op. Atty. Gen. (622i-2), May 12, 1937.

Board cannot pay expenses of person injured at school play. Op. Atty. Gen. (844f-3), Aug. 11, 1937.

Board may authorize examination of teachers and pupils where teacher is afflicted with a communicable disease and pay charges incurred therefor, but need not pay expenses unless examination was authorized at meeting of board. Op. Atty. Gen. (159b-7), Aug. 23, 1937.

School district has right to retain attorney on month to month or yearly basis. Op. Atty. Gen. (779a-3), Aug. 25, 1937.

School board may appoint a safety man for interest of school and for protection of school property and pupils. Op. Atty. Gen. (159b-11), Sept. 24, 1937.

Board may require teacher to deposit \$50 cash or a bond to be forfeited as liquidated damages if teacher resigns before middle of school term, but cannot deduct that amount of money from last year's salary to be held under contract without consent of teacher. Op. Atty. Gen. (172c-2), Oct. 5, 1937.

School district cannot borrow money for general purposes, but may issue warrants in an amount not to exceed tax levy. Op. Atty. Gen. (159a-14), Jan. 31, 1938.

School board may lease land to village to be used as a playground if it reserves for itself right to use land at any time for school purposes, without vote of electors, and village may enter into such agreement. Op. Atty. Gen. (622a-7), Feb. 18, 1938.

Illness of teacher rendering her unable to teach does not automatically cancel contract, in absence of specific provisions in contract, but contract must be terminated by majority vote of full membership of school or by written resignation of teacher before April 1, or for cause. Op. Atty. Gen. (172c), Mar. 21, 1938.

School district may contract with village for water supply, contract to be made by each board, but to run no longer than one year. Op. Atty. Gen. (707b-10), Mar. 29, 1938.

Board may reimburse employee for loss sustained in course of employment, as where judgment was rendered against him for injuries to a third person. Op. Atty. Gen. (161b-11), May 20, 1938.

Village scavenger ordinance does not bind school district within village, and village cannot require school district to employ official scavenger to clean septic tank. Op. Atty. Gen. (161b-11), May 12, 1938.

School district is not liable for negligence of agents or employees. Op. Atty. Gen. (844a-20), May 12, 1938.

Minneapolis Board of Education has no legal right to delegate its discretionary power to an arbitration committee in a labor dispute, but may appoint a committee to confer with a labor union to make proposals of adjustment. Op. Atty. Gen. (270d-9), March 23, 1939.

Expenditure of money in treasury of an independent school district rests largely in discretion of board, and money in general fund, not being result of taxes levied for any specific purpose, may be transferred by board to a building fund in connection with application for a federal grant and upon vote of electors. Op. Atty. Gen. (159B-2), April 24, 1939.

Minneapolis school district may properly pay for parking space at city hall to be used by board members and employees in performance of their official duties. Op. Atty. Gen. (161a-12), June 26, 1939.

District may pay expenses of board members' in attending National Education Association Meeting in another state if the purpose is both public and educational. Op. Atty. Gen. (161a-12), June 27, 1939.

(1).  
If a school board expends money in the purchase of real estate without authority from the voters, an individual member of the board who participates therein is liable to the district for the money so expended. *Tritchler v. B.*, 185M414, 241NW578. See *Dun. Dig.* 7938, 8676.

School board on cancellation of lease of property on which it has a school house may not wreck the building and sell the same to the highest bidder without a vote of the electors of the district. Op. Atty. Gen., Oct. 2, 1931.

School board has authority to rent school house site which is no longer used for school purposes, without authorization of voters, but has no authority to sell without authorization of voters. Op. Atty. Gen., May 9, 1933.

School board has authority to improve school grounds and expend \$3,000 without vote of district where there is sufficient money on hand and no bond issue is necessary. Op. Atty. Gen., June 26, 1933.

School board may refuse to change site of school voted for after lapse of years during which time voters defeated issue of bonds for the purpose. Op. Atty. Gen., Aug. 24, 1933.

School board has no authority to contract for preliminary plans for school building without authority from voters. Op. Atty. Gen., Dec. 26, 1933.

School districts may acquire title to school sites by adverse possession and also by condemnation proceedings. Op. Atty. Gen. (622i-14), Apr. 14, 1934.

Independent school district owning half block of land in village has authority to purchase the other half without first securing authorization of voters. Op. Atty. Gen. (622i-1), May 21, 1934.

School district desiring to sell school site need not call for bids but such course is advisable. Op. Atty. Gen. (622i-8), June 25, 1934.

School district may sell a school site and building on a credit basis, but it is recommended that sale be made on a contract for deed rather than the taking of a mortgage. Op. Atty. Gen. (622i-8), June 25, 1934.

School district may sell a school site and building when authorized by voters at a regular meeting or special meeting called for that purpose, but the Duluth school district created by special Laws 1891, c. 312, may sell a school site and building without vote of electors. *Id.*

A school site bounded by four streets is a "block" and cannot be increased in size by vacation of street and purchase of additional land without a vote of electors, though the parcel is very small in comparison with other blocks in the village. Op. Atty. Gen. (622i-1), Nov. 9, 1934.

A school district cannot insure in mutual company where there is unlimited liability, but can where there is a fixed limited liability. Op. Atty. Gen. (487c-5), Dec. 28, 1934.

As regards construction of an addition to a school on land to be acquired, a ballot designating the site authorizing construction of addition, and authorizing bond issue is not correct unless such three questions are placed on ballot so as to permit each separate issue to be voted on. Op. Atty. Gen. (159a-3), Feb. 7, 1935.

Board may specify minimum wage at time of letting contract for construction of addition to school building. Op. Atty. Gen. (846), Mar. 6, 1935.

Board may condemn land without vote of people where site is less than one block. Op. Atty. Gen. (622i-4), Apr. 27, 1935.

If additional land to be purchased, together with existing site, does not equal a full block, electors must authorize purchase. Op. Atty. Gen. (622i-1), May 25, 1936.

Vote of electors is necessary to authorize lease of land for athletic field. Op. Atty. Gen. (622b), May 28, 1936.

School board by a majority vote may acquire addition to existing school site when authorized by voters, but in a village vote is unnecessary if entire site would not exceed one block after purchase of addition. Op. Atty. Gen. (90c-8), Mar. 23, 1937.

Clause in teacher's contract providing for damages if teacher violates contract is enforceable if based on amount of damages that might reasonably be sustained. Op. Atty. Gen. (172c-2), Oct. 5, 1937.

Board may forbid student from using automobile during noon hours if use interferes with conduct of school. Id.

Surplus derived from taxes levied for general school purposes may be used for paying part of cost of constructing new school building, where bond issue voted is inadequate. Op. Atty. Gen. (159b-2), Nov. 16, 1937.

Where electors of school district authorize issuance of bonds for purpose of remodeling and building an addition to a school, board may not issue bonds in a lesser amount for use only in constructing a new plant in present building. Op. Atty. Gen. (159a-5), Dec. 3, 1937.

School board has authority to issue warrant without approval of electors for construction of a new heating plant where an emergency exists. Id.

Addition to school building must be authorized by voters where funds are to be supplied by executive council and Works Progress Administration. Op. Atty. Gen. (161b-1), Dec. 3, 1937.

Board may acquire enough land to make two separate school sites one block each in area without vote of people. Op. Atty. Gen. (622i-1), Dec. 3, 1937.

A consolidated school district owning four acres of land cannot purchase an additional five acres for playground purposes without a vote of electors. Op. Atty. Gen. (622b), Dec. 6, 1937.

Upon authorization of voters board may lease land for athletic purposes for ten years and may pay rent in advance. Op. Atty. Gen. (622a-6), Dec. 13, 1937.

Board may contract with architect to draw plans and specifications before voters authorize improvements. Op. Atty. Gen. (161b-11), Dec. 29, 1937.

Whether a given area of land constitutes more than one block is primarily fact to be determined by board of education, and this is true with respect to plan to acquire approximately 6 acres to be added to 2.67 acres and not traversed by any street. Op. Atty. Gen. (622i-12), Mar. 9, 1938.

"Schoolhouse site" is sufficiently broad to include land acquired for a recreation field. Op. Atty. Gen. (622i-12), Mar. 9, 1938.

Contract of district with architect binding school board to pay a 5% fee of total cost of construction in case building was completed or 1½% of total cost in case building was abandoned, entered into before voters of district authorized erection of a new building, was invalid. Op. Atty. Gen. (166b-1), Mar. 23, 1938.

Where village and school district joined in construction of school building and village rented its interest to school district which failed to pay rent for more than 40 years, school district could not convey building to village without vote of electors. Op. Atty. Gen. (622i-4), Mar. 21, 1938.

Vote of electors to convey school house worth \$27,000 to county for use as a court house for a consideration of one dollar is valid. Op. Atty. Gen. (622i-8), Mar. 23, 1938.

Voters must authorize exchange of land. Op. Atty. Gen. (622i-4), Mar. 24, 1938.

Voters may authorize sale of site by resolution or by written ballot. Op. Atty. Gen. (622i-8), July 6, 1938.

Proceeds of bond issue may be used to erect schoolhouse on site different than that chosen at time of issuance of the bonds upon vote of electors. Op. Atty. Gen. (159a-5), Oct. 11, 1938.

A school board may not use insurance proceeds for construction of a new building to replace one burned without first submitting question to electors. Op. Atty. Gen. (159b-4), Jan. 20, 1939.

Independent school district may issue bonds and construct a recreation field as part of a school house site. Op. Atty. Gen. (40c-2), April 3, 1939.

School board could not vote \$5500 of its unexpended surplus for acquisition of new school site and construction of new buildings without vote of electors. Op. Atty. Gen. (622i), April 20, 1939.

In submitting question as to purchase of additional property, question to voters should specify exact property required, but if this is not feasible it cannot be said as a matter of law that a general authorization would be improper. Op. Atty. Gen. (622i-2), May 26, 1939.

Common school district closing its school and transporting its pupils to adjoining district may lease vacant school house for a private dwelling for a limited time,

and without vote of electors. Op. Atty. Gen. (622a-6), May 29, 1939.

Where board purchases additional land without vote of electors and sells part of it, to legalize the transaction it is necessary that they hold a special election and do over again what has already been done, but both matters could be voted upon at same election. Op. Atty. Gen. (622i-1), June 28, 1939.

School board in village may acquire additional sites up to one block without vote of electors, but only when land to be acquired will bring site up to one complete block, and there must be a special election to acquire additional land owned by village in block if one lot is privately owned, unless such lot is also acquired in the same transaction. Op. Atty. Gen. (622i-2), August 8, 1939.

(3). A common school district had authority to spend money for repair of building which it has constructed under contract with the government for vocational instruction of former service men, belonging to district. Op. Atty. Gen., Jan. 6, 1934.

A school district having two years of junior college in addition to grades in high school has authority to construct a stadium or bleachers around its athletic field, including fence and necessary lighting equipment. Op. Atty. Gen. (159b-1), Apr. 10, 1934.

District may insure school bus against loss by fire, theft or collision. Op., Atty. Gen. (159b-4), Aug. 1, 1938.

School board may use proceeds of insurance policies to construct and equip a new school house, and need not use money to retire outstanding bonds of district. Op. Atty. Gen. (159b-4), Jan. 20, 1939.

Member of school board may not act as agent in writing of insurance or in renewing policy, but insurance written by one before he becomes a member is valid. Op. Atty. Gen. (90c-5), March 1, 1939.

Rebuilt school house need not be according to specifications of department of education. Op. Atty. Gen. (622j-19), April 11, 1939.

School board has authority to make a settlement with insurance company for less than full amount of policy. Id.

Where school house is entirely destroyed by fire and money is received from insurance sufficient to cover cost of rebuilding, insurance money may not be used for rebuilding until authority is granted by electors. Op. Atty. Gen. (622j-6), May 29, 1939.

(4). Rule providing that substitute teachers working day preceding holiday and day following holiday be paid for holiday, is legal. Op. Atty. Gen. (174), Mar. 28, 1938.

(5). Evidence of teacher's inability to maintain discipline or enforce school regulations held to sustain finding that board had cause for discharging teacher. Edie v. S., 183M522, 237NW177.

G. S. 1923, §2926, 2927, relating to revocation and suspension of teachers' certificates, does not by implication repeal section 2815, subd. 5, providing that the board may discharge a teacher for cause. Edie v. S., 183M522, 237NW177.

School board of consolidated district may establish policy relative to employment of unmarried teachers to exclusion of married teachers. Backie v. C., 186M38, 242NW389.

Qualified teacher employed subject to rules of board against marriage was not entitled to teach against board's wishes where she married prior to commencement of term. Backie v. C., 186M38, 242NW389.

School board of consolidated district may make rules and regulations governing selection and removal of teachers. Backie v. C., 186M38, 242NW389. See Dun. Dig. 8686.

Decision of board of education discharging a teacher "for cause" is controlling upon courts in an action for breach of contract, unless board acted in bad faith or arbitrarily or capriciously upon facts before it or properly within its knowledge, and burden of proof was upon plaintiff. Anderson v. C., 196M256, 264NW784. See Dun. Dig. 8688b.

School district may insure its buildings in a mutual insurance company provided there is a limitation within maximum indebtedness limit of district. Op. Atty. Gen., Dec. 22, 1933.

A school board of six members may not elect a teacher by a vote of 3 members when other 3 members remain silent. Op. Atty. Gen., Apr. 2, 1934.

The voters do not have authority to revoke a teacher's contract, that being a matter for the school board to act upon. Op. Atty. Gen. (172c-1), May 11, 1934.

Board member cannot be compensated either by board or by voters for teaching services. Op. Atty. Gen. (768b), Feb. 9, 1935.

Substitute teacher must have teacher's certificate and may not be a board member. Op. Atty. Gen. (161b-14), Mar. 28, 1935.

Teacher's contract is not terminated by closing of school, but school board may make a reasonable settlement of contractual rights. Op. Atty. Gen. (172c), Aug. 11, 1938.

If teacher's contract is terminated for cause during school, teacher must be given a hearing and an opportunity of refuting preferred charges. Op. Atty. Gen. (161b-14), Aug. 24, 1938.

Independent school district may pay expenses of superintendent incurred in hiring teacher. Op. Atty. Gen. (3991), Oct. 27, 1938.

(6).

If school board had authority to hire men to do work about buildings, expenditures were legal, though work was timed by board to afford relief to workers. Op. Atty. Gen., June 26, 1933.

School districts may not construct water mains for benefit of private parties. Op. Atty. Gen. (166h), Apr. 11, 1934.

School district may purchase stock in cooperative electric association if necessary, or may contract with the association for purchase of electricity. Op. Atty. Gen. (159a-13), June 14, 1938.

(7).

School district may not pay for medical services for injuries received in physical education classes, on playgrounds or in science laboratory. Op. Atty. Gen. (844f-3), March 27, 1939.

School district is not liable for damages caused by surface water from playgrounds if filling in and construction did not change natural flow. Op. Atty. Gen. (622B), June 30, 1939.

(9).

Amended. Laws 1933, c. 105.

School board may not appropriate in a lump sum \$20 to each member to reimburse him for gasoline and other expenses incurred in using his automobile to attend twenty regular and special meetings of board during year, and statute in any event limits expense money to one meeting. Op. Atty. Gen. (161a-6), June 28, 1939.

(10).

School board is authorized to pay fee for accrediting high school to association of colleges and schools extending over the northern part of the United States. Op. Atty. Gen., June 30, 1933.

School board has no right to pay expense of athletic contest incident to training of high school teams. Op. Atty. Gen., Nov. 15, 1933.

School board may rule that hot lunches be served to all students at noon. Op. Atty. Gen., Jan. 17, 1934.

School district may pay part of office rent, etc., in connection with reemployment office where district receives direct benefits from conducting such offices. Op. Atty. Gen. (159b-10), Apr. 20, 1934.

Independent school districts may within limitations purchase their own bonds at a discount before maturity and issue warrants in payment thereof, but only in such an amount that it will be able to issue additional warrants necessary to take care of other indebtedness. Op. Atty. Gen. (40), Apr. 21, 1934.

School authorities may offer musical instruction, and defray expense thereof out of current expense fund, but they may not purchase uniforms for school bands out of tax money, but such uniforms may be purchased out of recreational fund. Op. Atty. Gen. (159B-11), July 5, 1939.

School board may not require pupils to have kindergarten training before they may enter first grade. Op. Atty. Gen. (169K), July 18, 1939.

(11).

Board of education of city of Duluth is not a department of city, and it is no part of official duties of city attorney to act for board, and board has power to retain an attorney and pay him upon a continuing monthly basis, and also has power to authorize employees to attend conventions. *Lindquist v. A.*, 196M233, 265NW54. See Dun. Dig. 8675.

School district may employ attorney to defend superintendent of high school in action for damages for refusing to give student passing marks. Op. Atty. Gen., June 29, 1932.

Expenses of election contest of board members are not payable by school district. Op. Atty. Gen., Aug. 22, 1933.

Board has authority to take an appeal despite action of voters at special school meeting expressing an almost unanimous desire that no appeal be taken. Op. Atty. Gen., Jan. 3, 1934.

Board has power to compromise claim in favor of district. Op. Atty. Gen., Mar. 21, 1934.

School board has no authority to pay for services of attorney in successfully defending individual members of board in action for injuries growing out of collision between school bus and an automobile. Op. Atty. Gen., Mar. 24, 1934.

School board has authority to retain attorney for legal services. Op. Atty. Gen. (166b-2), Mar. 8, 1935.

## 2816. Further powers and duties of school board.

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4. Provided for the free transportation of pupils to and from school, and to schools in other districts for grades and departments not maintained in the district, including high school, at the expense of the district, provided funds for such purpose are available and if agreeable to district to which it is proposed to transport the pupils, for the whole or such part of the school year as they may deem expedient, and subject to such rules and regulations as they may adopt; and they shall require from every person employed for

that purpose, a reasonable bond for the faithful discharge of his duties, as prescribed by the board. No school board shall enter into any agreement for the transportation of pupils unless the vehicle or vehicles used for such purpose shall have an emergency exit which exit shall be in the rear portion of the bus but not on the same side as the regular exit, and the same shall be in usable condition at all times, provided, however, that this act shall not apply to vehicles with seating capacity of seven passengers or less. (As amended Feb. 8, 1929, c. 12; Apr. 6, 1937, c. 167, §1.)

\* \* \* \*

Sec. 2 of Act Apr. 6, 1937, cited, provides that the Act shall take effect from Sept. 1, 1937.

Op. Atty. Gen., Apr. 20, 1931: note under §2815.

School district is not liable at common law for injuries to a pupil which result from the negligent operation of a bus used in the transportation of pupils at public expense. 173M5, 216NW533.

Where district is compensating parents of students for transporting them to school a nonresident is entitled to payment for transporting his child from the point where he crosses the district line. Op. Atty. Gen., Feb. 14, 1929.

A person who owns an undivided interest in a quarter section of land in a district of which he is not a resident is entitled to school privileges and need not pay any tuition if his interest is equivalent to eighty acres. Op. Atty. Gen., Sept. 16, 1931.

School board did not have authority to purchase a mortgage, and the assignment may be rescinded. Op. Atty. Gen., Dec. 23, 1931.

This statute confers no right upon a nonresident to transportation for children to high school in another district. Op. Atty. Gen., Jan. 2, 1932.

School districts in operation of busses must comply with §2720-40 giving highway officers authority to restrict character and weight of traffic during spring break-up. Op. Atty. Gen. (377a-9), Apr. 4, 1935.

School district cannot lease school bus to chamber of commerce for purpose of transporting drum corps throughout state. Op. Atty. Gen. (166a-9), Apr. 20, 1935.

City cannot lease auditorium added to high school building for a long term, or issue bonds therefor, though the auditorium is built for purpose of obtaining federal money and to take care of unemployed. Op. Atty. Gen. (63b-2), May 17, 1935.

Where extra-curricular activities are not required as part of requirements of school program, board cannot use school buses to transport pupils to athletic or debating contests. Op. Atty. Gen. (622d), May 23, 1936.

School district cannot transport members of a citizenship class at expense of district. Op. Atty. Gen. (159b-13), Feb. 18, 1937.

Common school district cannot pay transportation of post graduate high school students. Op. Atty. Gen. (161b-15), Jan. 17, 1938.

Owner of more than 80 acres of land receives all benefits afforded to a resident of district, including transportation, but owner of less than 80 acres gets only right to have amount of school taxes paid by him applied to payment of tuition fees. Op. Atty. Gen. (166a-8), August 26, 1939.

(1).

Privilege of free tuition to children of owner of 80 acres or more is purely personal, and where student with other children is from a district which discontinues its school, tuition should be paid by that district for all students. Op. Atty. Gen. (168d), Feb. 6, 1939.

(2).

School district may not legally require of students in training departments payment of any fixed charges for any purpose whatever. Op. Atty. Gen., Nov. 15, 1933.

(3).

School board may permit use of school house for a political meeting. Op. Atty. Gen., Feb. 26, 1934.

An independent school district has right to rent to township, village or other municipal body a school house, school building or part thereof to be used as a polling place. Op. Atty. Gen. (185b-4), Apr. 21, 1934.

School board has authority to lease vacant school building to private or civic organizations for recreational or community purposes and charge therefor and obtain the benefit of repairs to be made by lessee, but a town board has no authority to enter into an agreement to make repairs on a vacant school building to be used as a community hall other than for township purposes. Op. Atty. Gen. (622a-14), Dec. 11, 1934.

A regular teacher cannot be compelled to teach religious instruction in a school after school hours, but she may do it voluntarily and at no expense to the school district if such work does not interfere with her work as a teacher. Op. Atty. Gen. (622a-17), Mar. 2, 1935.

(4).

Statute confers on school officers discretionary power to furnish free transportation of pupils, and this discretion cannot be controlled by mandamus. *State v. School Dist. No. 70*, 204M279, 283NW397. See Dun. Dig. 8675.

Common school district discontinuing high school could use any money on hand to pay for transportation of pupils to adjoining city without calling a special meeting to vote an increased levy. Op. Atty. Gen., Aug. 10, 1932.

Furnishing of transportation for pupils is discretionary with school board. Op. Atty. Gen., Nov. 1, 1933.

Special school district No. 1 in Dakota county has no authority to expend public money for transportation of pupils. Op. Atty. Gen., Nov. 22, 1933.

Minor person resident of school district may be transported to school in another district irrespective of parent's residence. Op. Atty. Gen., Dec. 27, 1933.

Special school district in South St. Paul has authority to expend public moneys for transportation of pupils. Op. Atty. Gen., Feb. 1, 1934.

Common school district without high school has authority to furnish transportation to meet bus of independent school district maintaining high school. Op. Atty. Gen. (166a-3), Sept. 5, 1934.

Driver of school bus may secure liability insurance at his own expense for his own protection, but this does not impose liability on district. Op. Atty. Gen. (844f-6), Apr. 10, 1937.

Where consolidated district discontinues high school, it must transport pupils to neighboring district, but a district which does not have a high school may, but need not, transport pupils. Op. Atty. Gen. (166a-10), Oct. 1, 1937.

Dependent children placed in homes in school districts are entitled to tuition and transportation from those districts. Op. Atty. Gen. (169g), Oct. 28, 1937.

Owner of school bus may transport parochial students if school district expends no funds therefor. Op. Atty. Gen. (159b-13), Dec. 10, 1937.

District may receive aid for pupils transported to or boarded at high school, at teacher's colleges or agricultural schools under regulations of board of education. Op. Atty. Gen. (168), Mar. 28, 1938.

Residents of Camp Ripley may vote at town and school elections, and children living thereon are entitled to same treatment as other pupils with respect to transportation. Op. Atty. Gen. (490k), June 1, 1938.

District may insure school bus against loss by fire, theft or collision. Op. Atty. Gen., (159b-4), Aug. 1, 1938.

District which has closed its school may sell school bus if price is reasonable, and sale is made in good faith, though it owes duty to provide instruction and transportation of pupils of district. Op. Atty. Gen. (161b-10), Sept. 12, 1938.

District cannot pay for transportation of pupils to another district under §2823 to attend grades or departments maintained by itself. Op. Atty. Gen. (166a), Sept. 12, 1938.

School board may not provide transportation by round-about road due to impassable condition of township road and then legally collect from township, proper remedy being to file a complaint with county board under §2607. Op. Atty. Gen. (377b-10(h)), Oct. 27, 1938.

School district cannot transport pupils to schools in another state and pay tuition. Op. Atty. Gen. (161b-15), Dec. 15, 1938.

Board of a common school district may pay transportation and tuition of kindergarten pupils over five years of age to an independent district where no class is maintained for them in their own district. Op. Atty. Gen. (169k), April 28, 1939.

Contract for bus transportation made by a school board with husband of one of its members is illegal. Op. Atty. Gen. (90c-6), July 14, 1939.

(5).  
School cannot fine pupils for damage to books or school property. Op. Atty. Gen. (169u), May 15, 1939.

**2816-2. School houses or buildings used for election purposes.**

An independent school district has right to rent to township, village or other municipal body a school house, school building or part thereof to be used as a polling place. Op. Atty. Gen. (185b-4), Apr. 21, 1934.

**2816-4. School boards may contract for heat in certain cases.**—That the governing board of any school district having one or more buildings within a city or village maintaining a municipal central heating plant may contract with such city or village or the water, light, power, and building commission of said city or village or the board having the control of said central heating plant for the furnishing of heat for said buildings for such a term as it may deem for the best interest of the district, not, however, exceeding ten years. (Act Apr. 9, 1931, c. 134, §1; Jan. 15, 1936, Ex. Ses., c. 31, §1.)

The title to Act Jan. 15, 1936, cited, purports to amend "sections 1816-4 and 2816-5" etc., while the body of the act amends sections 2816-4 and 2816-5.

**2816-5. May pay cost of connections.**—Where it is necessary for such city or village to lay mains or pipes to connect said buildings with its heating system, the said district is authorized to advance to such city or village or commission or board all or any part

of the cost thereof, upon such terms and conditions as shall be agreed upon. (Act Apr. 9, 1931, c. 134, §2; Jan. 15, 1936, Ex. Ses., c. 31, §2.)

See note under §2816-4.

**2816-5a. Certain school districts to employ public accountants.**—The school board of any independent school district having a population of more than 2,000 and having an assessed valuation of taxable property, exclusive of moneys and credits, of more than \$4,000,000.00, may employ public accountants on a monthly basis or on a yearly basis for the purpose of auditing examining and reporting upon the books and records of account of said independent school district. (Apr. 14, 1937, c. 216, §1.)

**2816-6. Same—who are public accountants.**—For the purpose of this act public accountants are herein defined as any individual or individuals, who for a period of five years prior to the date of such employment have been actively engaged exclusively in the practice of public accounting. (Apr. 14, 1937, c. 216, §2.)

**2816-7. Same—limit of expenditures.**—All expenditures for the purposes herein set forth shall be within the statutory limits upon levies in such school districts. (Apr. 14, 1937, c. 216, §3.)

**2816-8. School boards may provide liability insurance.**—The school board, of any school district of this state, however organized, is hereby authorized and empowered to provide for the protection of school children in its respective district, being transported for all school purposes or activities in district owned, operated, leased or controlled motor vehicles, against injuries or damages arising out of the operation thereof. If said board deems it advisable, insurance may be procured, and paid for from any funds available.

Provided, however, any insurance contract covering such risk shall contain as a condition precedent, a clause or provision expressly waiving the defense, by the insurer, that the school district is engaged in a governmental function. (Apr. 19, 1937, c. 301, §1.)

School funds may not be expended for insurance against damage or injury to pedestrians or persons not transported or against damage to property. Op. Atty. Gen. (159b-4), Sept. 24, 1937.

School district giving driving instructions as a part of its curriculum may take out insurance to protect students. Op. Atty. Gen. (844a-20), May 12, 1938.

Insurance protects school children while being transported in school bus. Op. Atty. Gen. (166a), Sept. 12, 1938.

School district may not pay for liability insurance on its school buses if coverage includes injuries to other than school children. Op. Atty. Gen. (844f), June 21, 1939.

**2816-9. Same—payment of premiums not to make district liable.**—The payment of any insurance premiums by such school district shall not thereby make the school district liable for any injuries or damages incurred by such transportation, and all payments made pursuant to this act are hereby legalized. (Apr. 19, 1937, c. 301, §2.)

Sec. 3 of Act Apr. 19, 1937, repeals inconsistent acts. Sec. 4 provides that the act shall take effect from its passage.

**2816-10. School boards may contract with highway department for removal of snow.**—All school districts, however organized are hereby authorized to enter into contracts with the state highway department or any county highway department for the removal of snow from the roads used for regular bus routes transporting school pupils to and from school either within or without the district. (Apr. 23, 1937, c. 375, §1.)

**2817. Extension of powers of school boards.**

This section does not authorize suit against the school district to recover damages for personal injury caused by the negligence of its officers or its agents in the performance of its governmental functions. 177M446, 225NW292.

School district without athletic field cannot appropriate money to a city for the improvement of city property to be used by the school as an athletic field. Op. Atty. Gen., June 22, 1931.

It is not legal to purchase through a special athletic fund from business men who are on the school board. Op. Atty. Gen., Sept. 30, 1931.

The school board of an independent district may make a regulation compelling members of a graduating class to wear a cap and gown at graduation exercises, and exclude any pupil from such exercises who refused to wear the same, but could not prevent his graduation. Op. Atty. Gen., Mar. 12, 1932.

School district cannot maintain band to be used for municipal purposes or employ instructors for special classes in physical education, music, etc., during summer months and pay for them from school district fund. Op. Atty. Gen. (159b-10), Feb. 27, 1935.

Auxiliary fund cannot be used to pay treatment and hospitalization of students receiving injuries in school athletic events. Op. Atty. Gen. (159a-16), Apr. 10, 1935.

Where student activities are not under control of school board by vote of the people, students have privilege of determining for themselves who shall have custody of funds secured and how they shall be expended. Op. Atty. Gen. (707a-12), May 5, 1937.

If student loan fund donated to school district is kept with "school auxiliary fund" treasurer's bond will cover it, but if kept in a separate special fund, district cannot pay bond premium. Op. Atty. Gen. (159a-14), May 13, 1938.

School board cannot assume jurisdiction over funds of parent-teacher association. Op. Atty. Gen., (161b-16), June 14, 1938.

**2818-1. Certain independent school districts may acquire athletic fields.**—In any independent school district of this state now or hereafter having an assessed valuation in excess of Sixteen Million (\$16,000,000.00) Dollars, and having within its limits a city of the fourth class, if five or more freeholders shall petition for the calling of a special election to vote upon the question of the district's acquiring a site for an athletic field or a building for physical education purposes or the erection of buildings for such purposes or the purchase of existing buildings suitable therefor, the board shall call such election in accordance with General Statutes 1923, Section 2794. In the event that such proposition is carried at such election by a majority vote of those voting upon the question, the school board shall proceed to acquire such site or buildings or to acquire such site and erect such buildings thereon, and make the necessary tax levies therefor within the limits now provided by law. In the event that it is necessary to issue the bonds of the district to finance such purchase or building, such bonds may be issued within the limits now permitted by law and the board shall adopt the necessary resolutions submitting the question of issuing such bonds all in accordance with the existing laws for the issuance of bonds by such district. (Act Apr. 26, 1929, c. 392.)

**2819. School board to purchase sites without vote of people, etc.**

Board may condemn land without vote of people where site is less than one block. Op. Atty. Gen. (6221-4), Apr. 27, 1935.

Words "site and grounds for public school building" are sufficiently broad to include land acquired for a recreation field. Op. Atty. Gen. (6221-12), Mar. 9, 1938.

**2822. Discontinuance of schools in certain districts—Transportation of pupils.**—(1) The school board of any district, when it deems it advisable, may provide for the instruction of its pupils in an adjoining or nearby district, and in such case may discontinue the schools of its own district or of any grades or departments in said schools, and provide for the free transportation of the pupils of its own district to the school in an adjoining or nearby district.

(2) The transportation of pupils as required by this act shall conform to the rules and regulations of the state board of education.

(3) The teachers shall keep the registers separately for the pupils from such district discontinuing its schools, and shall return the registers and make separate records to the clerk of such district and to the county superintendent, of the number and names of pupils, with their attendance, and such district shall retain its organization and shall be entitled to public money, including the special state aid granted to ungraded elementary schools, under such rules as may be fixed by the state board of education, except that state apportionment for nonresident pupils en-

rolled in the high school department shall go to the districts in which the high school is located. Such aid shall be paid from the appropriation made for common schools. (As amended Apr. 10, 1939, c. 184, §1.)

A district which has closed its schools and made provisions for instruction of its pupils in an adjoining district is not entitled to receive the special aid provided by §3031. Op. Atty. Gen., Apr. 24, 1930.

Where a district has discontinued its school and sends its pupils to another independent district, the latter district may charge more tuition than it does for pupils from other districts. Op. Atty. Gen., Jan. 15, 1931.

A school board which makes arrangements for the education of pupils of the district in an adjoining district after school house is destroyed may terminate such arrangement in its discretion. Op. Atty. Gen., Dec. 23, 1931.

Common school district could transport pupils to independent school district which has high school though separated from such district by two common school districts. Op. Atty. Gen., Sept. 7, 1933.

Furnishing of transportation for pupils is discretionary with school board. Op. Atty. Gen., Nov. 1, 1933.

Special school district in South St. Paul has authority to expend public moneys for transportation of pupils. Op. Atty. Gen., Feb. 1, 1934.

School district which has discontinued all schools in its district and is paying tuition at school out of district where pupils are attending, is not liable to parents of pupils or value or cost of transportation. Op. Atty. Gen. (166a-6), June 6, 1934.

District may close its high school, transport its pupils to a neighboring district, without vote of electors. Op. Atty. Gen. (161b-2), May 5, 1937.

Where school board closes school, children are entitled to free transportation to adjoining district. Op. Atty. Gen. (161b-15), Sept. 27, 1937.

Where consolidated district discontinues high school, it must transport pupils to neighboring district, but a district which does not have a high school may, but need not, transport pupils. Op. Atty. Gen. (166a-10), Oct. 1, 1937.

A closed school transporting all of its pupils to a parochial school could not receive special state aid, but is entitled to that aid where it retains its organization, and transports part of its students to a public school. Op. Atty. Gen. (168), August 17, 1939.

**2822-½. Amending act effective July 1, 1939.**—This act shall take effect and be in force from and after July 1, 1939. (Act Apr. 10, 1939, c. 184, §2.)

**2822-1. Transportation of pupils.**—That any school district transporting pupils of the district may transport pupils residing outside of the district but attending school within the district upon such pupils presenting themselves within the district on one of the regular routes traveled in the transportation of the pupils of the district. (Act. Mar. 9, 1929, c. 68.)

Statute does not authorize school district to transport without charge non-resident pupils who present themselves within district on regular transportation route. Op. Atty. Gen., Aug. 10, 1932.

School boards of districts providing transportation for high school pupils from their districts to nearby accredited high school have no authority to accept pupils on their busses who are not residents of the districts providing funds for operating the busses. Op. Atty. Gen. (166a-8), Nov. 9, 1934.

**2822-2. Transportation of pupils to junior college.** [Repealed.]

Repealed Apr. 15, 1939, c. 281, §7.

Consisted of Act Apr. 20, 1931, c. 247.

**2822-3. Transportation and board of crippled children.**—The State Board of Education, at its discretion and under such rules as it may adopt, may assist school districts, or the County Board of Education for unorganized territory in any county, in providing for the transportation or board of such crippled children of school age as are unable to walk to school with the exercise of normal effort but are able to carry the regular course of study. To this end the State Board may grant to such school districts not to exceed \$150.00 annually for each such pupil transported or boarded: Provided, that the state board may grant such aid to the district of residence when a crippled child is transported to, or boarded at, a special class, and provided that the total expenditure under this act shall not exceed the sum of \$40,000.00 for any one year. (Act Apr. 21, 1931, c. 280, §1; Apr. 29, 1935, c. 336.)

Amendment by Laws 1935, c. 336, changed the section only insofar as crippled children attending special classes are concerned. Op. Atty. Gen. (840a-4), Jan. 15, 1936.

**2822-4. Effective July 1, 1931.**—This act shall take effect and be in force from and after July 1, 1931. (Act Apr. 21, 1931, c. 280, §2.)

**2823. Admission of non-resident pupils to schools.**—The child or children of any person in this state not resident within the limits of any incorporated city or village of this state, and residing more than two miles by the nearest traveled road from the schoolhouse in the district where such child or children reside, are hereby authorized to attend school at a school or schoolhouse in an adjoining district nearer to such residence than the said schoolhouse in the said district where such child or children reside, upon such reasonable terms as shall be fixed by the school board of such adjoining district, upon application of the parents or guardian of such child or children. The school board of the child's resident district shall pay such tuition to the school board of the adjoining district in which the child is attending. In case the school board of the child's resident district is not satisfied or cannot comply with the terms and conditions fixed and determined by the school board of such adjoining district, and shall apply to the Commissioner of Education for that purpose, the Commissioner of Education shall give such notice of such application to the clerk of the school board of such adjoining district as shall be determined by such Commissioner of Education and shall after such notice, decide such application and fix such terms and conditions for the attendance of such child or children in such adjoining district as shall be just and reasonable, and thereupon such child or children may attend such school in such adjoining district upon compliance with the terms fixed by such Commissioner of Education, the same in other respects as if resident in the district where such schoolhouse is situated. Provided, that nothing herein contained shall be construed as repealing, amending or modifying the provisions of section 1321, Revised Laws of 1905, as amended by Chapter 445, of the General Laws of Minnesota, 1907 [§2816]. (As amended Apr. 19, 1937, c. 302, §1.)

School boards are without authority to send transportation busses outside their districts and pay expenses incident thereto. Op. Atty. Gen., Oct. 10, 1933.

Board cannot pay tuition in another state. Op. Atty. Gen. (180d), Jan. 17, 1938.

Mandatory duty to pay tuition cannot be defeated by technical failure to follow procedure. Op. Atty. Gen. (180g), June 30, 1938.

Transportation of pupils does not relieve board from paying tuition. Op. Atty. Gen. (166a), Sept. 12, 1938.

Board cannot transport pupils to other district school to attend grades and departments maintained by it. Id.

"Nearest traveled road", should be construed as "nearest traveled public road" as distinguished from private road. Op. Atty. Gen. (180d), May 23, 1939.

Where schools of two adjoining districts are substantially same distance from pupil's residence, pupil may select school he wishes to attend. Id.

"Nearest traveled road" is computed by beginning at dwelling, thence along route normally taken in order to reach highway, and thence along highway to school house. Op. Atty. Gen. (166a-10), June 2, 1939.

**2823-1. Instruction of pupils in other districts.**

This section does not give any authority to furnish transportation, the matter being regulated by §2816 and §2822. Op. Atty. Gen. (166a-3), March 24, 1939.

**2823-3. Tuition.**—That any tuition charged by the district so attended shall be paid by the school district in which such person resides: provided, however, that such tuition shall not be more than such district charges non-resident pupils residing in such state if any such tuition is charged, and if no tuition is charged for non-resident pupils of said state, then such tuition shall not exceed the sum of \$10.00 per month. Provided further, that the person so attending high school in another state shall continue to be treated as a pupil of the district of his residence in apportionment of the current school fund and the payment of state aid. Provided further that the resident district may be reimbursed from state funds for the tuition

paid in accredited high school of another state where the pupil has the scholastic qualifications to be entitled to non-resident high school aid in Minnesota, but such reimbursement shall not exceed the rate of tuition paid for non-residents in Minnesota, or the actual amount of tuition paid by the district should the rate be less than the Minnesota rate. Such reimbursement shall be made only when properly certified on forms provided by the Commissioner of Education. ('27, c. 135, §2; Apr. 1, 1933, c. 144.)

Dependent children placed in homes in school districts are entitled to tuition and transportation from those districts. Op. Atty. Gen. (169g), Oct. 28, 1937.

**2823-3a. Competition between districts for enrollment of pupils.**—The State Department of Education shall formulate such rules and regulations as may be necessary to the end that there shall be no competition between school districts for the enrollment of students. (Act Apr. 22, 1939, c. 437, §8.)

**2823-4. Distribution of unexpended school funds in certain districts.**—The school board of any common school district in this state, wherein the schools of such district have not been maintained for a period of not less than five years and which district has unexpended funds accumulated from the proceeds of the one mill tax levy provided for in Mason's Minnesota Statutes of 1927, Section 3012, in excess of five hundred dollars, may, in its discretion, deliver all or any part of such funds to the treasurer of the county in which such district is situated. The funds so delivered to the county treasurer shall be paid by the treasurer to the owners of the real estate situated in such district in the proportion that the amount of the said tax collected from such real estate bears to the amount to be so distributed. It shall be the duty of the auditor of the county in which such district is situated to determine the proportionate share to be paid to each owner of real estate in such district and to furnish the county treasurer with a statement thereof. (Apr. 17, 1937, c. 265, §1.)

**2823-5. Same—refunds to state treasurer.**—Whenever the school board of any such district has delivered and turned over to the county treasurer the proceeds of the one mill tax, as provided in section 1 of this act, then such school board shall refund all or any part of unexpended funds in its treasury received by such district as its proportionate share of the income tax funds provided for by Laws of 1933, Chapter 405 [§2394-57] and laws amendatory thereof to the treasurer of the state of Minnesota, which funds when so refunded shall be placed in the Income Tax School Fund and disbursed in the same manner as other monies in said fund are disbursed. (Apr. 17, 1937, c. 265, §2.)

**2824. Additional powers of boards in independent districts.**

Funds received by school district from federal government may be considered as reimbursement for taxes lost by reason of federal ownership of lands in district. Op. Atty. Gen. (159a-19), Apr. 26, 1937.

Where student activities are not under control of school board as provided for by §2817 and 2818, high school athletic association in independent district may purchase land and donate it to the district. Op. Atty. Gen. (707a-12), May 5, 1937.

(4). Whether failure of board member to attend meeting constitutes failure of duties is question of fact. Op. Atty. Gen. (161a-21), June 30, 1937.

Attorney general cannot express an opinion as to whether facts constitute cause for removal. Op. Atty. Gen., Feb. 15, 1933.

Before removing an officer, board should call a meeting for that purpose and clerk should give written notice to offending member. Op. Atty. Gen., Feb. 15, 1933.

Grounds for removal of board member raises question of fact. Op. Atty. Gen. (161a-21), May 18, 1934.

A treasurer who is so ill that he cannot sign checks may be removed. Op. Atty. Gen. (451a-20), Nov. 29, 1937.

**2825. Special duties of boards in common school districts.**

School board may issue warrants against levy made. Op. Atty. Gen. (159B-2), April 24, 1939.

**2826. Special duties of boards in independent districts.**

Common school district with more than 10 townships is not limited to 30 mills levy for school maintenance, but is limited to 8 mills rate for building and equipment. Op. Atty. Gen. (519m), Oct. 10, 1935.

Section 3014-6 does not apply to capital outlay, and does not prevent board from levying an additional tax on agricultural land and district for purpose of obtaining funds to pay for capital outlay, and it may do so without first securing consent of voters in district. Op. Atty. Gen. (519m), Nov. 29, 1937.

**2832. Duties of clerk.**—The clerk shall keep in books provided for that purpose a record of all meetings of the district and the board. He shall, within three days after the meeting, notify all persons elected upon any school board or as officers of any district of their election, and, on or before July 10 in each year, make and transmit to the county superintendent a certified report, showing:

1. The condition and value of school property.
2. The receipts and disbursements in detail, and such other financial matters as may be called for by the state commissioner of education.
3. The annual arrangement of terms of school, and the grading, if any, thereof.
4. The names and postoffice addresses of all trustees and other officers.
5. Such other items of information as may be called for by the state commissioner of education.

He shall enter in his record book copies of all his reports and of the teachers' term reports, as they appear in the registers, and of the proceedings of any meeting as furnished him by the clerk pro tem., and shall keep an itemized account of all the expenses of the district; and in common districts he shall report to the county superintendent the time of commencement of each term at least two weeks in advance. He shall furnish to the county auditor or auditors of the proper county or counties, on or before October 10 of each year, an attested copy of his record, showing the amount of money voted by the district or the board for school purposes; shall draw and sign all orders upon the treasurer for the payment of money for bills allowed by the board for salaries of officers or for teachers' wages, to be countersigned by the chairman. Such orders shall state the consideration, payee, and fund, and the clerk shall take a receipt therefor. Teachers' wages shall have preference in the order in which they become due, and no money applicable for teachers' wages from the current school fund shall be used for any other purpose, nor shall teachers' wages be paid from any fund except that raised or apportioned for that purpose. (As amended Mar. 17, 1939, c. 62, §7.)

Sec. 9 of Act Mar. 17, 1939, cited, repeals inconsistent acts.

Op. Atty. Gen. (187a-6), April 18, 1939; note under §2793.

It would not be legal to make out a warrant to a bank covering expenditures of a period of two weeks or a month, and deposit money in bank to credit of school board and disburse it by check for expenses, even though bills and expenditures to be paid have all been approved by the board. Op. Atty. Gen. (159c-4, 159c-6), Feb. 21, 1935.

Record entered by clerk of school district in record book as record of a meeting, and not notes taken by clerk during meeting, are official records of meeting. Op. Atty. Gen. (162f), Nov. 15, 1935.

Chairman must sign valid order if in proper form. Op. Atty. Gen. (90c-8), Mar. 23, 1937.

Commissioner of education may fix June 30 as cut-off date for report provided for in this section. Op. Atty. Gen. (162c), April 12, 1937.

**2833. Duties of treasurer of school districts.**—The treasurer shall receive and be responsible for all moneys of the district, and shall disburse the same on orders signed by the clerk and countersigned by the chairman, or other vouchers authorized by law. Each order shall state the fund on which it is drawn, the name of the payee, and the nature of the claim for which such order is issued. He shall keep an account of each fund, and of all receipts and disbursements, showing the source of all such receipts and the nature and purpose of such disbursements, and within three

days preceding the annual meeting shall file with the clerk a detailed financial statement of the district, showing all receipts and disbursements, and the nature of the same, the moneys on hand and the purposes to which the same are applicable, the credits of the district, and its outstanding liabilities, and the nature thereof. Such report, together with his vouchers, shall be examined by the board, and, if found correct, approved by resolution, entered in the records. If incomplete or inaccurate, a further or amended report may be required by the board. Such report, when complete, shall be laid before the annual meeting, to be in like manner approved. He shall make such further reports as may from time to time be called for by the board, and shall perform all duties usually incumbent on such officer. Every order drawn for the payment of teachers' wages, and for any other lawful purpose, after having been presented to the treasurer for payment, and not paid for want of funds, shall be endorsed by the treasurer by putting on the back thereof the words, "Not paid for want of funds," giving the date of indorsement and signed by the treasurer. A record of such presentment, non-payment and indorsement, shall be made by the treasurer. Every such order shall bear interest at the rate of 6 per cent per annum from the date of such presentment, and shall be paid in the order in which it is so presented and registered out of the first money received by the treasurer applicable to its payment (until the treasurer serves). The treasurer shall serve a written notice upon the payee or his assignee, personally, or by mail, (that) when he is prepared to pay such order; such notice may be directed to the payee or his assignee at the address given in writing by such payee or assignee to such treasurer, at any time prior to the service of such notice; no order shall draw any interest if such address is not given when the same is unknown to the treasurer, and no order shall draw any interest after the service of such notice. (R. L. '05, §1327; '07, c. 445, §2; G. S. '13, §2760; Apr. 17, 1931, c. 187.)

School districts coinciding with first class cities, may execute facsimile order upon treasurer for payment of allowed claims. Laws 1939, c. 95.

177M479, 225NW444; note under §2834. Where treasurer deposited school funds to his credit in a bank of which he was an officer, and orders were presented to and paid by the bank and indorsed, "Not paid for want of funds," and the bank sold them and the money was used by it in carrying on its business, the liability of the school district was not discharged when the payees of the orders received their money. 171M376, 214NW258.

It is a breach of plain legal duty for a school district treasurer to make a payment on a warrant not presented to him for such payment and a payment without such presentation to a former holder of a warrant held not to be payment of the warrant and assignee may recover notwithstanding. 173M383, 217NW366.

Const., Art. 9, §12, is not self-executing and what are "suitable laws" is a legislative question. 174M286, 219NW163.

Where retiring school district treasurer gave his check on bank to new treasurer and they went to bank, and bank merely changed the name of the depositor and returned the check, the transaction was in substance the same as if the old treasurer had given cash to the new treasurer and the new one was liable for all that he received. 178M199, 226NW514.

Fact that two members of school board failed to require treasurer to present with his annual reports warrants claimed to have been paid as vouchers held not to estop district or prevent it from asserting the right to set-off of a deposit in an insolvent bank to such warrants. First Nat. Bank of Windom v. C., 184M635, 240NW662. See Dun. Dig. 3211.

School district warrants or orders become due when presented to the district treasurer for payment. First Nat. Bank of Windom v. C., 184M635, 240NW662. See Dun. Dig. 8674b.

The holder of a warrant is not entitled to have the same split into two or more warrants, since but one order should be issued for every single bill. Op. Atty. Gen., Mar. 3, 1930.

School treasurer must give notice to holders of warrants or orders "not paid for want of funds" when money becomes available in order to terminate running of interest, but if address of holder is not known, interest ceases as soon as money becomes available. Op. Atty. Gen., Apr. 1, 1931.

This section as amended is applicable to school orders outstanding at the time it became effective. Op. Atty. Gen., Oct. 5, 1931.

Op. Atty. Gen., Apr. 13, 1933; note under §2836.

School treasurer having reasonable grounds for believing warrants are drawn in payment of improper charges may withhold payment pending investigation. Op. Atty. Gen., June 30, 1933.

Outstanding teachers' warrants are not payable out of current special fund for teachers' wages. Op. Atty. Gen., Aug. 22, 1933.

School board cannot set up special fund for payment of bus driver's wages. Id.

It is permissible for school treasurer to leave money in hands of county treasurer with his consent and thus obtain advantage of collateral posted with county. Op. Atty. Gen., Aug. 23, 1933.

New treasurer should accept books and assets of district without any accounting from old treasurer for money lost by reason of bank failure. Op. Atty. Gen., Sept. 30, 1933.

School warrants bear 6% interest from date of presentation to treasurer and refusal to pay for want of funds. Op. Atty. Gen., Nov. 1, 1933.

Board cannot write single warrant against general fund in payment of all bills and obligations passed at a meeting and pay bills by check on bank, even though warrant shows all items and payees. Op. Atty. Gen. (159c-12), Mar. 11, 1935.

State aid must be applied to outstanding warrants. Op. Atty. Gen. (163b), Nov. 1, 1938.

Annual report is to be made at end of fiscal year, regardless of laws 1939, c. 62. Op. Atty. Gen. (451a-19), April 19, 1939.

Warrants may be issued only where there is money on hand for the payment thereof, or where taxes have been levied and are in process of collection which, when collected, will be available for the purpose of paying such warrants, and should not be used for a substitute method of financing, nor to swell district bank deposit for purpose of meeting demands of a WPA grant. Op. Atty. Gen. (159c-6), June 29, 1939.

Rate of interest on warrants is 6%, and there is no maximum and no minimum fixed by law. Id.

Section is limited to sending a pupil to a school, which is in operation, closer than school in his district, and cannot apply to a closed school, and home district cannot be required to pay tuition to any other district under this section, even though parents furnish transportation. Op. Atty. Gen. (180a), July 6, 1939.

#### 2834. Treasurers' bonds—New or additional bonds.

174M286, 219NW163; note under §2833.

American Surety Co. v. Independent School Dist. (CCA 8), 53F(2d)178; note under §2807. Certiorari denied 52 SCR200.

Surety on school treasurer's bond was not liable for loss of amount deposited by the treasurer in a bank which was a depository de facto. 175M346, 221NW424.

Sureties of treasurer of school district, who was also cashier of a bank, which became a de facto depository and failed, were liable for the loss. School Dist. No. 1 v. Alton, 173M428, 217NW496, and 175M346, 221NW424, distinguished. 177M479, 225NW444.

Unpaid nonnegotiable school district warrants wrongfully issued by district treasurer to which district apparently has a good defense or right of set-off do not constitute a present liability as against surety on treasurer's official bond. County Board of Education v. F., 191M9, 252NW668. See Dun. Dig. 8678.

Surety on official bond is liable for interest only from date of notice of breach thereof or demand made thereon. Id. See Dun. Dig. 4884, 8019.

Payment to school district by a judgment debtor should be applied first to interest on judgment debt, then to principal, as regards liability of surety on treasurer's bond. Id. See Dun. Dig. 4885, 8019, 8678.

Chairman of school board may be compelled by mandamus to endorse name on bond of treasurer, if in proper form. Op. Atty. Gen., Feb. 14, 1933.

Amount of bond shall be equal to estimated amount treasurer will have under his control at any one time. Op. Atty. Gen., Aug. 23, 1933.

Limitations commenced to run as against principal and sureties on school treasurer's bond from time of expiration of term of office during which closing of bank occurred. Op. Atty. Gen., Sept. 30, 1933.

Bond of school district treasurer should run to the state. Op. Atty. Gen., Nov. 23, 1933.

Where money has been lost by school treasurer, a taxpayer desiring to have action brought on treasurer's bond should make demand on school board as a prerequisite to bringing suit himself. Op. Atty. Gen., (159a-21), Apr. 3, 1934.

Respective bonds of a treasurer covered only moneys deposited during terms of bonds. Id.

Board cannot reduce treasurer's bond below highest amount in his hands at any one time during his entire term. Op. Atty. Gen. (768n), May 9, 1936.

A vacancy existed in office of treasurer in common school district where he filed his acceptance and oath, but failed to furnish a bond, claiming that clerk stated that she would apply for a surety bond for him. Op. Atty. Gen., (451a-23), August 10, 1939.

**2836. Depository of funds in common and independent school districts.**—The governing board, by whatever name known, of the several common, independent and special school districts in this state may in their discretion, select and designate as a depository or depositories for school district moneys, any national or state bank, or banks, for a period not exceeding three years on the execution by such bank or banks of a sufficient bond to the school district in double the sum deposited, except in cases where the bond furnished is that of a surety company authorized to do business in the state of Minnesota, and in such cases the amount of bond shall be equal to the estimated sum to be deposited, to be approved by the board and filed in the office of the county auditor of the county wherein said school district may be situated, and thereupon may require the treasurer to deposit all or any part of the school district's money in such bank or banks, provided that such designation may be made in an amount not exceeding \$1,500 in common school districts and not exceeding \$3,000 in independent school or consolidated districts without the execution of any bond. Such designation shall be in writing and shall set forth all the terms and conditions upon which the deposits are made, be signed by the chairman and clerk or president and clerk as the case may be, and filed with the clerk. That thereupon such bank or banks shall become a legal depository or depositories for school district moneys, and thereafter the school district treasurer shall deposit such school district moneys therein as he shall be required from time to time to deposit by such school district governing board. ('07, c. 133, §1; '09, c. 332, §1; G. S. '13, §2763; '27, c. 118; Mar. 21, 1929, c. 76.)

175M346, 221NW424.

174M286, 219NW163; note under §2833.

Op. Atty. Gen., Mar. 5, 1929; note under §1973-1.

Bank acting on designation by giving bond and accepting deposits cannot assert that it is not the legal depository or that conditions imposed by the school officers were not authorized by law. Richfield Nat. Bank v. American Surety Co. (CCA8), 39F(2d)387.

A school treasurer is absolutely liable for funds coming into his hands, except where deposit is in a legally designated depository. 173M428, 217NW496.

Surety had right to contract in reference to the exception to rule of absolute liability and to limited contract of indemnity in order not to be responsible for loss or failure or other acts of the depository. 173M428, 217NW496.

When the funds are deposited in a bank of which the treasurer, being a member of the school board, is also an officer and stockholder, the exception to the general rule is inoperative. 173M428, 217NW496.

A motion of school board directing treasurer to deposit funds in a certain bank was not written designation required, and bank, which failed to file bond, never became a legal depository and on failure of the bank the treasurer remained liable for the funds. School Dist. No. 20 v. G., 173M317, 227NW50.

Parol evidence was inadmissible to vary terms of bank's depository bond. 181M537, 233NW296. See Dun. Dig. 3397.

Sureties on depository bond held not entitled to consider school treasurer as agent for school district in making assurances as to liability of the sureties. 181M537, 233NW296. See Dun. Dig. 2701, 8672.

Bondsmen were liable notwithstanding school district, without authority, made time deposits and took certificates of deposit. School Dist. No. 75 v. F., 182M381, 234NW594.

The evidence is not sufficient to sustain a finding that Liberty bonds deposited with the defendant bank, a designated depository of the plaintiff school district, were a substitute or in lieu of a bond executed with individual sureties, or that the taking of the Liberty bonds discharged such bond, or that another bank was designated as a depository; and the trial court was right in so directing the jury. School Dist. No. 75 v. F., 182M381, 234NW594. See Dun. Dig. 2701.

Bondsmen of depository for school district, designated without any specifications as to time, were liable to school district where bank was taken over for liquidation three years and two days after designation. School Dist. No. 75 v. F., 182M381, 234NW594.

Closing of bank was a default and no demand was necessary. School Dist. No. 75 v. F., 182M381, 234NW594. See Dun. Dig. 2702.

Where bank knew that funds deposited by treasurer of common school district belonged to district and it was agreed that money should be withdrawn on checks signed by treasurer in his name with designation "Treas." and bank permitted funds to be withdrawn by

checks signed in treasurer's name individually for purpose other than school district purposes, corporate surety of treasurer which paid school district amount of misappropriation can recover amount from bank. *Watson v. M.*, 190M374, 251NW906. See *Dun. Dig.* 783, n. 44.

School district may not designate bank located outside state. *Op. Atty. Gen.*, June 8, 1929.

Bank designated as a depository for an amount in excess of \$3,000 must furnish a bond for the full amount for which it is designated as a depository. *Op. Atty. Gen.*, Nov. 7, 1929.

A special high school fund containing monies belonging to high school activities under jurisdiction of board of education are not secured by collateral securities given by depository to the school district treasurer as security for "school district money." *Op. Atty. Gen.*, Apr. 13, 1933.

Collateral placed to secure deposits of school district in national bank is not security for an account entitled "Bemidji High School" wherein income from athletics and other activities is deposited. *Op. Atty. Gen.*, Apr. 13, 1933.

A school district may invest its funds in liberty loan bonds. *Op. Atty. Gen.*, May 3, 1933.

Collateral is to be approved by school board. *Op. Atty. Gen.*, Aug. 23, 1933.

In absence of designation of depository, school board cannot control keeping of school funds. *Id.*

Amount allowed by statutes to be deposited by school treasurer without bond is not to be added to amount of deposit protected by federal deposit insurance. *Op. Atty. Gen.*, Mar. 19, 1934.

Independent school district may deposit up to \$5,000 in depository, protected by federal insurance, without collateral. *Op. Atty. Gen.* (159a-9), Mar. 18, 1935.

A loan and savings association may not be designated as depository. *Op. Atty. Gen.* (159a-9), Feb. 6, 1939.

**2836-1. School boards may accept property in settlement of claims.**—Whenever any school district in this state now has or asserts any claim or judgment against any sureties on the bonds of any depository of its funds for the failure of any such depository to account for or pay over any such funds, and the school board or other governing body of said district shall determine that said claim or judgment or some part thereof is not collectible in cash, then any such school board or governing body may by resolution determine to accept and receive, in complete or partial satisfaction or settlement of any such claim or judgment, lands or interests therein within this state, and may acquire the same for and in the name of such district either by deed or deeds of conveyance from the owners, or as purchaser at execution sale or sales under any such judgment. (Act Apr. 20, 1931, c. 227, §1.)

**2836-2. Title to be held by district.**—Title to lands or interests so acquired shall be held by said district in lieu of its moneys not accounted for or paid over as aforesaid, and the same and each tract or portion thereof shall be sold by such district as soon as and wherever there may be realized therefrom the fair value thereof as determined by such school board or governing body. Any such sale may be authorized by resolution of such school board of governing body, and may be made for cash, or for part cash and the deferred balance secured by contract for deed or purchase money mortgage, on such terms as said board of governing body may approve. Conveyances, contracts or other instruments evidencing any such sale shall be executed, by the president or other presiding officer and the clerk or secretary of said board or governing body. Lands so acquired and held for resale as aforesaid shall be deemed public lands used for exclusively public purposes, and as such shall be exempt from taxation. (Act Apr. 20, 1931, c. 227, §2.)

**2837. Exemption of treasurer.**

173M428, 217NW496; note under §2836.  
174M286, 219NW163; note under §2833.  
177M479, 225NW444; note under §2834.  
School Dist. No. 20 v. G., 178M317, 227NW50; note under §2836.

Surety on school treasurer's bond was not liable for loss of amount deposited by the treasurer in a bank which was a depository de facto. 175M346, 221NW424.

Both school treasurer and surety on his personal bond are liable for funds lost in closing of bank not properly designated as depository. *Op. Atty. Gen.*, Feb. 8, 1934.

Treasurer of school district who was also cashier and stockholder of bank was not protected from liability by designation of the bank for deposits made in bank where

it had not paid taxes on its stock. *Op. Atty. Gen.* (159a-21), Apr. 3, 1934.

Designation of depository by school district in accordance with opinion of attorney general was lawful as respected liability of treasurer notwithstanding later opinion of attorney general that such a designation would not be legal. *Op. Atty. Gen.* (159a-21), Apr. 3, 1934.

**2838. Interest on deposits.**

Whether interest is payable on checking accounts depends on depository agreement. *Op. Atty. Gen.* Mar. 26, 1934.

Where school district has certificates of deposit and bonds have been placed with district as collateral, interest is regulated by certificates of deposit and not on bonds placed as collateral. *Id.*

**2839-1. School treasurers may be reimbursed in certain cases.**—That where any school treasurer has or shall hereafter reimburse the district for loss of funds of the district on deposit in any bank which has or may become insolvent, such district may reimburse said treasurer for moneys so paid when a majority of the electors voting thereon at an annual or special meeting vote so to do, providing the notice of such annual or special meeting shall specify that such matter will be considered at such meeting. (Act Mar. 9, 1929, c. 67.)

The statute of limitation of actions affects the remedy, not the right. If it had run it could be waived as a defense. 181M523, 233NW802. See *Dun. Dig.* 5661(83).

Voters may discharge obligation of school treasurer to pay funds lost in closed bank. *Op. Atty. Gen.*, Feb. 26, 1934.

**2839-2. Treasurer of school districts not to be responsible for losses in certain cases.**—That if the treasurer of any common or independent school district shall present to the governing board of such district in session a written request for the designation of a depository for the funds of the district, and such board shall refuse or shall fail to designate one or more depositories within 30 days after the presentation of such request, such treasurer may deposit the funds of said district in a bank or banks of his own selection in an amount not exceeding \$1,500.00 in any one bank, if a common school district, or not exceeding \$3,000.00 in any one bank, if an independent school district. Such treasurer shall not thereafter be liable for the loss of any such funds through the insolvency or default of any such bank in the absence of negligence on his part in the selection of such bank or banks. (Act Mar. 27, 1931, c. 90.)

Amount allowed by statutes to be deposited by school treasurer without bond is not to be added to amount of deposit protected by federal deposit insurance. *Op. Atty. Gen.*, Mar. 19, 1934.

Independent school district may deposit up to \$5,000 in depository, protected by federal insurance, without collateral. *Op. Atty. Gen.* (159a-9), Mar. 18, 1935.

**2840. Duties of chairman—Compensation.**

Salary of chairman may be determined at annual meeting without notice specifying that such action will be taken. *Op. Atty. Gen.*, Aug. 2, 1933.

**2842. Compensation of clerks of common districts.**

Upon proper notice, voters at annual meeting may fix compensation of clerk both for past year and following year. *Op. Atty. Gen.*, July 31, 1933.

Clerk's compensation cannot be increased at annual meeting unless notice of meeting specifies that such action will be taken. *Op. Atty. Gen.*, Aug. 2, 1933.

**2843. Compensation of treasurers of common districts.**

Voters at annual meeting have no authority to fix treasurer's salaries for succeeding year. *Op. Atty. Gen.*, July 31, 1933.

Salary of treasurer may be determined at annual meeting without notice of meeting specifying that such action will be taken. *Op. Atty. Gen.*, Aug. 2, 1933.

Electors could not, at school meeting, legally vote to pay treasurer salary for past years during which he had served without compensation. *Op. Atty. Gen.*, Aug. 21, 1933.

Court cannot fix and pay salary of treasurer for past years. *Op. Atty. Gen.* (451a-9), Jan. 5, 1937.

Treasurer who resigned during school year may be paid pro rata, but only after his report has been accepted and allowed by the board, and after next annual meeting has fixed and allowed payment. *Op. Atty. Gen.* (451a-9), July 28, 1939.

**2843-1. Salaries of school officers in certain districts.**—That in all Common School Districts of this

state, having both a population of not less than 1,400 inhabitants and an assessed valuation of not less than \$3,000,000, the salary of the chairman is fixed at \$50.00 per month and the salaries of the clerk and treasurer at \$35.00 per month each. (Act Apr. 9, 1931, c. 122, §1.)

**2843-2. Board shall report population.**—The population reported to the county auditor by the board of such Common School District and accepted by him shall be the population herein referred to, and the valuation shall be that fixed by the previous year's assessment. (Act Apr. 9, 1931, c. 122, §2.)

**2843-3. Inconsistent acts repealed.**—All acts and parts inconsistent with the provisions hereof are hereby repealed. (Act Apr. 9, 1931, c. 122, §3.)

**2844. Compensation of officers of independent districts.**—The clerk, or secretary, treasurer and superintendent of independent and special districts shall receive such compensation as may be fixed by the board. No officer or member of any school board shall receive pay as such, except as provided in this chapter. (R. L. '05, §1334; G. S. '13, §2771; Apr. 11, 1929, c. 151.)

City recorder of South St. Paul is entitled to compensation for services rendered as clerk of board of education. Op. Atty. Gen., Aug. 26, 1931.

Treasurer of independent school district is not entitled to mileage incurred while making bank deposits though there are no banks in the district, and it is necessary that he journey outside of the district to a bank designated by the board as depository. Op. Atty. Gen., Apr. 8, 1933.

Treasurer of school district is not entitled to mileage. Op. Atty. Gen., Apr. 8, 1933.

Retiring clerk is entitled to pro rata share of year's clerk salary. Op. Atty. Gen. (768d), Aug. 31, 1935.

Members of board of education of Minneapolis cannot vote salaries for themselves. Op. Atty. Gen. (161b-10), Oct. 11, 1935.

Court cannot fix and pay salary of treasurer for past years. Op. Atty. Gen. (451a-9), Jan. 5, 1937.

#### 2846. Contracts in districts.

Laws 1913, c. 244, relating to advertisement for bids before letting contracts, does not apply to the school district in Mankato established by Special Laws 1878, c. 156. 175M30, 220NW164.

Judgment against district, restraining performance of a contract, illegal for want of previous authorization by the voters, is not a bar to a suit by one of the contracting parties to recover for the reasonable value of the benefits received by the district. 175M201, 220NW606.

A member of a school board in making contracts for district where bids are not required, if he participates in payment of more money than the subject matter is reasonably worth, is liable. *Tritchler v. B.*, 185M414, 241NW578.

A member of a school board who votes to make a contract for the district in violation of a statute requiring an advertised call for bids therefore and who participates in the expenditure of money pursuant to such contract, is legally liable to the district for the resulting loss, which is determined by deducting the reasonable cost from the amount actually expended. *Tritchler v. B.*, 185M414, 241NW578. See Dun. Dig. 7998, 8676.

Does not apply to personal services such as those of architects in furnishing preliminary sketches, plans and specifications for a school building and superintendence during construction. *Krohnberg v. F.*, 187M73, 244NW 329. See Dun. Dig. 2287a.

Does not apply to engineer laying out plans for heating, plumbing and other mechanical equipment. *Krohnberg v. F.*, 187M73, 244NW329.

Superintendent of construction is personal representative of school district and not within statute. *Krohnberg v. F.*, 187M73, 244NW329.

Not necessary to advertise for bids before placing fire insurance on school property. Op. Atty. Gen., Dec. 17, 1929.

School district may employ accountant to audit books and affairs. Op. Atty. Gen., Dec. 9, 1929.

It is not legal to have either exterior or interior of a building painted costing in excess of \$500 without calling for bids. Op. Atty. Gen., Sept. 30, 1932.

It is legal to repair lockers which are patented with parts from original dealers at cost in excess of \$500 without calling for bids, if such repairs can only be had from dealer who furnished original lockers. Id.

It is not legal to install new light fixtures in one building or replace old with new costing in excess of \$500 without calling for bids. Id.

It is not legal to purchase school furniture or permanent equipment in one order from one dealer in excess of \$500 without calling for bids. Id.

It is not legal to purchase school supplies, janitor or athletic supplies in one order from one dealer in excess of \$500 without calling for bids. Id.

A school district may purchase copyrighted text or library books in one order from one dealer in excess of \$500 without calling for bids. Id.

It is not legal to repair or construct projects on school grounds, such as sidewalks, improving athletic field, etc., costing in excess of \$500 without calling for bids. Id.

Where outside concerns can underbid local dealers, it is not legal to place orders through local dealers if equipment or supplies exceed sum of \$500 without calling for bids. Id.

It is not legal to break up invoices or bills into two or more to evade requirement of calling for bids. Id.

It is legal to have a school building repaired at a cost exceeding \$500 without calling for bids only where building has been injured and public interest would suffer by delay. Id.

School district cannot pay its share of registration under combined registration system under §393-19 without a call for bids where its share is in excess of \$500, unless articles purchased are copyrighted or patented and can only be purchased from one concern. Op. Atty. Gen. (185a-5), Apr. 12, 1934.

School district having private sewer from school house may by contract permit a creamery to connect up with the sewer if there is adequate compensation and school sewerage is not impeded. Op. Atty. Gen. (161b-11), May 8, 1934.

It is not necessary to advertise for bids for construction of an addition to a school house costing less than \$500. Op. Atty. Gen. (707a-12), Aug. 23, 1934.

It is not necessary to call for bids before hiring bus drivers for transportation of pupils. Op. Atty. Gen. (707a-12), Aug. 1, 1934.

A school board may enter into contract for transportation of school children without calling for bids. Op. Atty. Gen. (707a-12), Aug. 30, 1934.

Board of education of city of Rochester school district organization under Special Laws 1891, c. 43, subchapter 10, has the powers of a board of an independent school district with respect to contracts. Op. Atty. Gen. (159h-14), Dec. 3, 1935.

There was no necessity for receiving new bids because question of making addition to high school was submitted to voters after bids were received. Op. Atty. Gen. (707a-12), Jan. 28, 1938.

District cannot enter into sale agreement for hire and purchase of coal stoker. Op. Atty. Gen. (90c-4), Sept. 24, 1936.

If it is desired to extend time for opening bids there must be a readvertising for bids. Op. Atty. Gen. (707a-12), Feb. 24, 1937.

Where student activities are not under control of school board by vote of the people, students have privilege of determining for themselves who shall have custody of funds secured and how they shall be expended. Op. Atty. Gen. (707a-12), May 5, 1937.

School district should not accept any bid where there is collusion between bidders, and collusion is more than a mere agreement to charge same price for certain articles. Op. Atty. Gen. (707a-5), Aug. 25, 1937.

Where bid for school building was accepted and contract executed, but certain items were left out because of lack of funds to complete project and school was accepted, original contractor could not be permitted to supply omitted items without readvertising for bids, though original bid specified amount to be charged for such items. Op. Atty. Gen. (707a-12), Sept. 2, 1937.

District planning to purchase paint only so long as WPA labor is available may purchase paint in small quantities without advertising for bids though total amount to be purchased may be in excess of \$500. Op. Atty. Gen. (707a-12), Dec. 20, 1937.

School board has authority to adjust and settle an anticipated breach of a building contract if settlement is fair, reasonable, in good faith, and school district will substantially benefit thereby. Op. Atty. Gen. (161b-11), Apr. 27, 1938.

Clerk of school district may be employed to do legal work for district, not being member of board. Op. Atty. Gen. (162c), Dec. 5, 1938.

Where bids were received in the alternative and only part of work was let under contract, and work was done, and federal government increased its allotment, there was no necessity for readvertising for bids if contractor was willing to perform under alternative provisions of contract. Op. Atty. Gen. (707a-12), May 19, 1939.

School board expecting to purchase \$1500 worth of gasoline per year cannot enter into a so called "commercial-consumer contract" contract which would bind it for the year. Op. Atty. Gen. (707a-12), June 14, 1939.

Though clerk's salary set at July meeting may not be changed during the year, district may pay him additional compensation for overseeing a PWA project if put in a separate itemized bill. Op. Atty. Gen. (162B), June 20, 1939.

Laws 1935, c. 135, gives school board broad powers in making all contracts necessary in furtherance of PWA projects. Op. Atty. Gen. (707a-12), June 23, 1939.

Requirements of this section may be dispensed with in repair and replacement of a school building struck by a tornado, where compliance would prevent occupancy

at beginning of school year. Op. Atty. Gen. (707a-12), July 10, 1939.

Contract for bus transportation made by a school board with husband of one of its members is illegal. Op. Atty. Gen. (90c-6), July 14, 1939.

Publication calling for bids must be in same paper for two weekly publications, and must allow a full week after last publication before time for accepting bids. Op. Atty. Gen. (707a-9), July 17, 1939.

It was unnecessary to advertise for bids on a wood contract involving \$180, or upon a bus contract. Op. Atty. Gen. (166a-2(d)), August 21, 1939.

**2847. How let, etc.**

*Tritchler v. B.*, 185M414, 241NW578; note under §2846. Where two or three identical bids are submitted, school board may divide contract for coal equally among bidders in absence of collusion between bidders. Op. Atty. Gen., Sept. 15, 1932.

Board may establish minimum wage scale in contract for buildings. Op. Atty. Gen. (159h-14), Dec. 3, 1935.

District may return bidder's deposit if honest mistake is made in submitting bid. Op. Atty. Gen. (622j-6), May 4, 1937.

It is mandatory that contract for purchase of school buses be let to "lowest responsible bidder", but school board may take into consideration consumption of gas and oil and record of repairs as between two different makes. Op. Atty. Gen. (707a-12), June 19, 1939.

Evidence of accepting highest bids on letting of bus contract has some bearing but would not be conclusive, as board has a right to use its discretion and may be able to give some reason for accepting highest bid. Op. Atty. Gen. (166a-2(d)), August 21, 1939.

Bus driver's failure to give a surety bond as required by contract would be ground for setting the contract aside, although he might be permitted to make good by filing bond any time before trial of an action to set aside the contract. *Id.*

**2848. Opinion of attorney general.**

Practical construction by opinion of Attorney General. 171M142, 214NW18.

Aside from its effect as practical construction where a statute is involved and whatever protection it may afford a school officer acting pursuant thereto, opinion of attorney general on school district matters does not have effect of law. *Lindquist v. A.*, 196M233, 265NW54. See Dun, Dig. 8845.

**2849. Hours for opening and closing polls.**

See §401-1.

**2849-1. School districts may build residences for use of teachers.**—That common school districts, when authorized by a two-thirds majority of all the electors voting at said election, are hereby empowered to erect, purchase, or acquire a dwelling house for the use of its teacher or teachers; provided, however, that the proposition shall be submitted only at a meeting or election the notice of which stated that such proposition would be considered or submitted thereat. (Act Apr. 1, 1931, c. 109.)

State board of investment may purchase bonds of common school district to pay cost of constructing "teacherage". Op. Atty. Gen. (159a-5), July 15, 1938.

**2849-2. Claims to be itemized and verified.**—No account, claim or demand against any school district for any property or services shall be audited or allowed by the board or officer authorized by law to audit and allow the same until it is reduced to writing, in items, and verified by the person claiming the same, or his agent, to the effect that such account, claim, or demand is just and true; that the money therein charged was actually paid for the purposes therein stated; that the property therein charged was actually delivered or used for the purposes therein stated, and was of the value therein charged, and that the services therein charged were actually rendered, and either that the same were of the value therein charged, or, if official, for which fees are prescribed by law, then that the fees charged therefor are such as are allowed by law; and in all cases that no part of such account, claim, or demand has been paid. But the provisions of this section shall not apply to any claim or demand for salaries of school teachers or employees or payments due bus drivers on contracts. (Act Apr. 24, 1935, c. 263, §1.)

**2849-3. Verification.**—The verification required by section 1 may be made before any officer authorized by law to administer oaths, or before any member of the board to which the account, claim, or demand

shall be presented for audit, who may administer the proper oath in such cases. In case any such account, claim, or demand shall be made or presented by an administrator or executor on behalf of the estate of a deceased person, he shall not be required to verify the same, but may prove it otherwise to the satisfaction of the board. (Act Apr. 24, 1935, c. 263, §2).

Sec. 3 of Act Apr. 24, 1935, cited, provides that the act shall take effect from its passage.

Superintendent of schools may take acknowledgment. Op. Atty. Gen. (786k), Jan. 10, 1938.

**2849-4. School Boards may become members of County School Officer's Association.**—The school board of any school district of this state may become a member of the County School Officer's Association of said county and shall appoint one or all of its members to attend the annual meeting thereof. (Mar. 23, 1937, c. 80, §1.)

**2849-5. Same—Annual dues.**—The amount of the annual membership dues in such association shall not exceed two dollars, which amount shall be paid as other expenses of the district are paid. (Mar. 23, 1937, c. 80, §2.)

**UNORGANIZED TERRITORY**

**2850. County board of education for unorganized territory created.**

Unorganized territory in each county is school district within meaning of Mason's Stats., §2394-57. Op. Atty. Gen. (631i), June 6, 1934.

**2852. Officers—Clerical help.**

County treasurer's bond covers duties of treasurer as treasurer of county board of education. Op. Atty. Gen., May 9, 1929.

**2853. Compensation of officers of school boards.**

Act Apr. 10, 1933, c. 166, §§4, 10, provide that in counties having 76 to 80 congressional townships and assessed valuation of \$3,000,000 to \$5,000,000, the treasurer of unorganized school district shall receive \$100 per annum, and clerk of such district \$800 per annum and not over \$600 per annum for clerk hire, all fees and revenue to be paid into the county treasury.

"Schools" means schools where instruction is given, and not buildings kept for possible future use. *County Board of Education v. F.*, 186M554, 244NW56.

Not unconstitutional as special legislation. *County Board of Education v. F.*, 186M554, 244NW56.

A deputy sheriff cannot serve as clerk of a school board and receive pay for both positions. Op. Atty. Gen., July 30, 1931.

It is not legal to pay clerk and treasurer at end of their term, since there can be no accurate basis for determining compensation until financial statement first Monday in August. Op. Atty. Gen. (768d-4), April 6, 1939.

Where there is a change of officers during school year, each officer is entitled to compensation based upon disbursements made during his incumbency, with proper adjustments if total amount exceeds maximum. *Id.*

Personal representatives of a deceased officer are entitled to receive compensation due. *Id.*

Since laws 1933, c. 166, fixing salaries of county superintendents of certain schools, fails to provide for any clerk hire, county superintendent may not proceed with a petition under laws 1939, c. 319, for additional clerk hire. Op. Atty. Gen. (399c), June 14, 1939.

County superintendent may collect back salary as clerk of unorganized territory in amount of one per cent of all moneys expended by county board of education of such territory, and only limitations would be general statute of limitations on civil claims, which would bar recovery on any claim over six years old. Op. Atty. Gen. (162B), June 28, 1939.

**2855. Duties of clerk.**

An unorganized school district is required to print financial statement by §2855, but is not controlled by any provision as to independent school districts, and charge is limited to general provision for legal notices under §10939-1, which would be 90 cents per folio. Op. Atty. Gen. (277e), August 17, 1939.

**2858. Powers and duties.**

County board may employ public accountant to audit books and affairs. Op. Atty. Gen., Dec. 9, 1929.

The board has power to sue, and the county cannot maintain action against members of the board to recover the excess of compensation paid to themselves, and if the board refuses to sue action may be maintained by a taxpayer. Op. Atty. Gen., Apr. 8, 1930.

Board cannot sell lands in unorganized territory without vote of electors. Op. Atty. Gen. (622i-7), Oct. 6, 1937.

**2863. Dissolution of common or independent districts—Petition or resolution—Effect.**

Conditions mentioned in proviso must be co-existent before county board may automatically dissolve district. Op. Atty. Gen., June 2, 1932.

When district is dissolved, it becomes unorganized territory, and need not be consolidated with an existing district immediately upon its dissolution. Op. Atty. Gen. (166f-7), Aug. 4, 1938.

**2865a. Old districts dissolved—Disposition of property.**

Money belonging to dissolved district at time of its dissolution is credited to account of unorganized district to be used for purpose of paying debts of dissolved district insofar as possible. Op. Atty. Gen., Feb. 8, 1934.

**2866. Outstanding obligations of dissolved districts.**—All incurred and outstanding obligations of any district so discontinued and vacated shall be and remain a charge upon the property formerly within said district to the same effect as if said district had not been discontinued, and the county auditor shall each year levy against all of the taxable property within the limits of said former school district a sufficient levy, not to exceed the maximum provided by law, for the cancellation and liquidation of such outstanding indebtedness, such levy to be made year after year until said entire indebtedness is cancelled and extinguished. And the amount levied by the county board of education upon all taxable property in unorganized territory shall be levied upon the property within the limits of said former school district in addition to the amount so levied by said auditor and in the same proportion that it is levied upon the taxable property in said county outside of organized school districts; provided, that in any county of this state now or hereafter having an assessed valuation of more than \$200,000,000, exclusive of money and credits, and an area of over 5,000 square miles, the county board of education by unanimous vote, with the written opinion of the county attorney, that such claim is a legal outstanding obligation of the territory formerly included in any dissolved school district, may audit, allow and pay any such incurred outstanding obligations of any dissolved school district within its territory except outstanding bonded indebtedness of such dissolved school district out of the funds of said county board of education, in the same manner as though said indebtedness had been originally incurred by said county board of education. ('21, c. 328, §18; '25, c. 287, §1; Feb. 15, 1933, c. 29, §1.)

Op. Atty. Gen. (531i), May 9, 1934; note under §2394-57. Where school districts were dissolved and made part of unorganized territory of county, county board of education could not use money received from March apportionment of personal property tax money toward payment of obligations of dissolved districts. Op. Atty. Gen., Apr. 6, 1932.

Where an independent school district has been dissolved and attached to unorganized territory, governing board for which has taken over assets, leaving liquidation of debts to be taken care of by county auditor from future taxes levied and collected, any tax levied for payment of bonds must be applied to that payment, but if money was derived from levy for general purposes, it should be applied toward payment of oldest outstanding obligations. Op. Atty. Gen. (159c-9), Nov. 13, 1934.

**2866-½. Application.**—This act shall not apply to or authorize the payment of any claim or claims that may be involved in any action now pending in any court of this state. (Act Feb. 15, 1933, c. 29, §2.)

Sec. 3 provides that the act shall take effect on its passage.

**2867. Unorganized territory may issue bonds—purposes—terms—interest—sale—notice—hearing.**

The board of education of any unorganized territory in the state is hereby authorized and fully empowered by unanimous vote of such board to issue and sell bonds of such unorganized territory for the purpose of providing school sites and school buildings, and teacherages, for paying any judgment lawfully rendered against them or for refunding outstanding bonds or floating indebtedness, in such amounts and at such periods as the board may decide; said bonds to be payable in such amounts and at such times, not

exceeding twenty years, as the board may determine, with interest thereon not to exceed six per cent (6%) per annum, which bonds shall be signed by the chairman and the treasurer of said board and countersigned by the clerk thereof; provided that the total bonded indebtedness of such unorganized territory shall at no time exceed seven and one-half per cent (7½%) of its assessed valuation. Any bonds issued hereunder shall be sold conformable to the provisions of Section 1856, General Statutes 1913. Provided that in any county of this state now or hereafter having unorganized territory with an assessed valuation of all taxable real and personal property, including money and credits of more than \$2,250,000, and having at any time an area of more than 3,500 square miles, and in any county in this state having a population according to the 1930 federal census of not more than 16,000 nor less than 15,000, and having not more than 77 nor less than 75 full and fractional congressional townships, and having not more than 2,105 nor less than 2,103 square miles in land area, the board of education of such unorganized territory shall have authority, and is hereby empowered, by the unanimous vote of such board, to issue and sell the bonds of such unorganized territory as above provided, for the purpose of providing school sites and school buildings, funding or refunding any floating indebtedness or bonds now or hereafter existing as authorized by the provisions of this section, not exceeding fifteen per cent (15%) of the assessed valuation of said unorganized territory, and not exceeding \$350,000 in the aggregate of such bonds, the sale of said bonds to be conformable to the provisions of Section 1943, Mason's Minnesota Statutes for 1927, or by contracting with the United States Government for the purchase of said bonds without calling for bids therefor. Provided that no bonds shall be authorized or sold under the provisions of this Act, unless notice shall have first been given to the electors of such unorganized school district setting forth the proposal to issue such bonds, the amount thereof, the rate of interest, the maturity dates thereof, and the purpose for which the proceeds of such bonds will be used; and also a description of the project or projects to be undertaken and completed, the estimated cost of each and the estimated total cost, which notice shall be in writing, and signed by the members of the County Board of Education, and addressed to the electors of such district, and shall specify the date, time, and place of meeting of the County Board of Education when such proposal shall be considered, and published in one issue of three legal newspapers of general circulation in said district. Said notice shall require any electors having objections, to appear and show cause, if any, why such bonds should not be authorized and sold. The County Board of Education at the time and place mentioned in said notice shall hear all objections and thereafter shall decide whether such bonds shall be authorized and sold. ('21, c. 328, §19; Apr. 21, 1933, c. 431, §1; Jan. 5, 1934, Ex. Ses., c. 45, §1; Apr. 17, 1937, c. 259, §1.)

Laws 1935, c. 181. Bond issues legalized.

Op. Atty. Gen. (531i), June 6, 1934; note under §2850.

There can be no declaratory judgment as to constitutionality of bonds where both parties seek the same decree. County Board v. B., 192M512, 257NW92.

Section is not violative of Const. Art. 4, §33. County Board v. B., 193M525, 259NW67. See Dun. Dig. 1679, 1681.

Power conferred by this section to pay judgments impliedly authorizes the board to sue and be sued. Op. Atty. Gen., Apr. 8, 1930.

This act is constitutional. Op. Atty. Gen. (159a-5), July 17, 1934.

Exceptions to this section created by Laws 1937, c. 259, applies to unorganized territory in Cass County. Op. Atty. Gen. (159a-5), May 20, 1937.

**2867-1. Repeal—popular vote—federal aid projects.**—All Acts and parts of Acts inconsistent with the provisions of this Act are hereby repealed in so far, and only in so far, as necessary to give effect to this Act; providing, however, that nothing in this Act shall be construed to permit the issuance and sale of bonds for any purpose whatsoever without a prior

vote of the electors except upon the projects for which application has been made in writing to the Public Works Administration or to any other agency of the United States Government, and which application shall have been filed with such agency on or before January 1, 1934. (Act Apr. 21, 1933, c. 431, §2; June 5, 1934, Ex. Ses., c. 45, §2.)

County Board v. B., 193M525, 259NW67; note under §2867.

This section is constitutional. Op. Atty. Gen. (86a-8), June 14, 1934.

**2870-2. County Board of Education may issue refunding bonds in certain cases.**—That the county board of education for unorganized territory, by unanimous vote of the members thereof, may issue bonds for the purpose of refunding any bonds issued by an organized school district which has been dissolved and its territory reverted to unorganized territory, which said refunding bonds shall be chargeable against the territory that was chargeable with the payment of the bonds so refunded. The power to issue such bonds shall remain in said county board of education notwithstanding said dissolved territory or a part thereof shall have again become organized territory. Such refunding bonds shall not run for a period shorter than five years nor longer than twenty years. The first refunding bond shall be due in not more than six years from the date of its issuance and shall be for not less than one-fifteenth of the total bond issue in question nor more than one-fifth thereof, and each subsequent bond shall be for a like amount and shall be payable one year from the maturity date of the bond to be paid the preceding year. The county auditor shall extend a tax against all the taxable property within the territory chargeable in the first instance with the payment of the bonds so refunded sufficient to pay the interest on such refunding bonds and any installment of principal that may be due in the following year. Such tax for the first year shall be fifty per cent in excess of the amount to be due the succeeding year, and thereafter each yearly levy shall be in such amount in excess, not exceeding fifty per cent, of the amount to be due the succeeding year, as the auditor may deem necessary. The county treasurer, upon the collection of such tax, shall apply the proceeds thereof to the payment of such interest or installment of principal, and shall file with the county auditor receipts therefor, together with the cancelled bonds so taken up. The state board of investment may invest the funds under its control in any refunding bonds so issued under the provisions of this Act. (Act Apr. 9, 1931, c. 140; Mar. 16, 1933, c. 80; Apr. 23, 1937, c. 374, §1.)

Sec. 2 of Act Apr. 23, 1937, cited, provides that the Act shall take effect from its passage.

Act Apr. 26, 1937, c. 450, provides that in counties having 200 to 202 townships, and in which the federal government has purchased 50% or more of the school lands in an unorganized school district, the bonded debt shall be charged to the entire unorganized district.

### CONDUCT OF SCHOOLS

#### 2871. General control of schools.

City charter provisions must be in harmony with legislative policy of state. State v. Erickson, 190M216, 251NW519. See Dun. Dig. 6539.

Teacher of common school district who gives entertainment to secure money to purchase chair, dictionary or books for school, need not turn money over to school board, in absence of specific agreement. Op. Atty. Gen., Jan. 4, 1933.

**2883-1. Leif Erickson day.**—The ninth day of October is hereby designated as Leif Erikson Day and when it does not fall upon a school day the school day nearest such date is designated as Leif Erikson Day. On such day one half hour may be devoted in the schools to instruction and appropriate exercises relative to and in commemoration of the life and history of Leif Erikson and the principles and ideals he fostered. (Act Apr. 8, 1931, c. 120.)

**2883-2. Columbus Day established.**—The twelfth day of October is hereby designated as Columbus Day and when it does not fall upon a school day the school

day nearest such date is designated as Columbus Day. On such day one half hour may be devoted in the schools to instruction and appropriate exercises relative to and in commemoration of the life and history of Columbus and the principles and ideals he fostered. (Act Apr. 14, 1931, c. 175.)

**2883-3. School safety patrols authorized.**—In the exercise of authorized control and supervision over pupils attending schools and other educational institutions, both public and private, in this state, the governing board or other directing authority of any such school or institution is empowered to authorize the organization and supervision of school safety patrols for the purpose of influencing and encouraging other pupils to refrain from crossing public highways at points other than regular crossings, and for the purpose of directing pupils when and where to cross highways. (Act Feb. 11, 1933, c. 23, §1.)

**2883-4. Who may be appointed.**—Unless the parents or guardian of a pupil shall object in writing to the school authorities to the appointment of a child or ward on such a school safety patrol, it shall be lawful for any pupil over ten years of age, to be appointed and designated as a member thereof. (Act Feb. 11, 1933, c. 23, §2.)

**2883-5. Liability not to attach.**—No liability shall attach either to the school, educational institution, governing board, directing authority, or any individual director, trustee, superintendent, principal, teacher or other school authority by virtue of the organization, maintenance or operation of such a school safety patrol because of injuries sustained by any pupil, whether a member of the patrol or otherwise by reason of the operation and maintenance thereof. (Act Feb. 11, 1933, c. 23, §3.)

**2883-6. Instruction as to effect of alcohol on human system.**—That the State Department of Education be authorized and directed to prepare a course of instruction relating to the effects of alcohol upon the human system, upon character, and upon society. Such course of instruction shall be used in all public schools of the State. (Act Jan. 5, 1934, Ex. Ses., c. 43, §1.)

**2883-7. Same—effective date.**—This act shall be in force from and after August 1, 1934. (Act Jan. 5, 1934, Ex. Ses., c. 43, §2.)

**2883-8. System of savings for pupils—limitation of Act.**—This act shall apply to all school districts in the State of Minnesota having a population of more than 10,000 and less than 50,000 inhabitants and having an assessed valuation of taxable property exclusive of monies and credits of more than \$50,000,000.00. (Apr. 8, 1937, c. 179, §1.)

**2883-9. Same—powers of board.**—The Board of Education of such school districts, for the promotion of thrift among its pupils is hereby empowered to set up a system of school savings, and accept deposits from the pupils of the school district and for such purposes may make such arrangements with its officials, employees, and teachers and with its depository banks and formulate such rules and regulations as may be necessary to establish and manage such system of school savings. Money so deposited by pupils in such school Savings Bank shall be deposited by the Treasurer of such Board in the Depository bank or banks of such district within 48 hours after the receipt of the same and the Depository bank or banks shall give bond to the school district conditioned to repay all sums deposited therein upon proper demand therefor or may deposit collateral in lieu of bond covering such deposits in like manner, and in such amounts as bonds or collateral in lieu of bonds are required by school depositories. Such funds so deposited by the pupils of the district in such School Bank may be invested by the School Treasurer under the direction of the Board only in the cer-

tificates of indebtedness of such school district itself. The treasurer of such school district shall be required to give bond to the school district conditioned to repay all sums deposited in such school bank, said bond to be in such amount as the Board of Education may require, and the Board is authorized to pay the premium of such bond. (Apr. 8, 1937, c. 179, §2.)

**2883-10. Same—act effective regardless of change in population or valuation.**—This act shall be in force and effect from and after the date of its passage and when once a district comes within the terms of such act it shall continue to be under the terms thereof regardless of any change in population or valuation. (Apr. 8, 1937, c. 179, §3.)

#### TEACHERS—EXAMINATIONS AND CERTIFICATES

##### 2900. [Repealed].

Repealed by Act Apr. 26, 1929, c. 388, §14, post, §2900-14.

Board of education has authority to require teachers to submit to skin tests. Op. Atty. Gen., May 19, 1933.

Since "substitute" teachers must be "qualified," they may be "regular" teachers within meaning of tenure act. McSherry v. C., 202M102, 277NW541. See Dun. Dig. 8686.

**2900-1. Definitions.**—"Teachers," within the meaning of this act, shall mean and include any and all persons employed in a public school to give instruction or supervision of teaching. (Act Apr. 26, 1929, c. 388, §1.)

**2900-2. Qualifications of a teacher.**—A qualified teacher is one holding a certificate from the State Board of Education, as hereinafter provided, to perform the particular service for which he is employed in a public school. Contracts for teaching or supervision of teaching can be made only with qualified teachers. (Act Apr. 26, 1929, c. 388, §2.)

Substitute teacher must have teacher's certificate and may not be a board member. Op. Atty. Gen. (161b-14), Mar. 28, 1935.

Hiring of unqualified teacher does not deprive school of its public nature, but does deprive school of right to apportionment aid while such teacher is employed. Op. Atty. Gen. (8b), Oct. 6, 1937.

**2900-3. Only State Board of Education to issue certificates.**—The authority to certificate teachers shall be vested solely in the State Board of Education, and such certificates shall be issued to such persons as the board shall find to be physically competent and morally fit to teach and to have the qualifications and training herein prescribed. (Act Apr. 26, 1929, c. 388, §3.)

Certificates should be issued in married name rather than in maiden name. Op. Atty. Gen. (172h), Oct. 21, 1935.

**2900-4. Classification of teacher's certificates.**—There shall be three classes of teacher certificates:

1. Elementary School Certificate.
2. High School Certificate.
3. Junior College Certificate.

(a) The Junior College Certificate shall qualify any holder thereof to teach in junior college such subjects or in such subject fields as are thereon specified. It shall be based on such training and experience as may be required by the State Board of Education. (Apr. 26, 1929, c. 388, §4; Apr. 21, 1937, c. 340, §1.)

**2900-5. Elementary School Certificate.**—The Elementary School Certificate shall indicate the division or grades of the elementary field for which the holder has been trained. For the purpose of this act, "elementary field" shall include the first eight grades.

There shall be four kinds of Elementary School Certificates:

- Elementary School Advanced Certificate
- Elementary School Standard Certificate
- Elementary School Limited Certificate
- Elementary School Special Certificate

(a) The Elementary School Advanced Certificate shall qualify any holder thereof to teach in any elementary school, or, when so designated on the certificate, in any junior high school, and shall be issued

to any person who holds a diploma of a Minnesota State Teachers College, or the College of Education of the University of Minnesota, showing that such holder has completed the four year course in Elementary Education of such college.

(b) The Elementary School Standard Certificate shall qualify any holder thereof to teach in any elementary school, and shall be issued to any person who holds a diploma of a Minnesota State Teachers College, showing that such holder has completed the two year course in Elementary Education of such college.

(c) The Elementary School Limited Certificate shall qualify any holder thereof to teach in ungraded elementary schools only, and may be issued to any person who has completed a one year course of professional training approved by and in an institution designated by the State Board of Education to give such training.

(d) The Elementary School Special Certificate shall qualify any holder thereof to teach Kindergarten-Primary, Music, Fine Arts, Industrial Arts or Physical Education, or such other special subject as the needs of the school may, from time to time, require in any elementary school, and shall be issued to any person who holds a diploma of a Minnesota State Teachers College, or the College of Education of the University of Minnesota, showing that such holder has completed its standard course in the special subject or subjects as to which he applies for a certificate to teach, and may also be issued to any person who has completed an essentially equivalent course in an institution accredited and approved by the State Board of Education for training teachers in such special subjects.

An Elementary School Special Certificate, which shall qualify any holder thereof to teach defective children in any elementary school, may be issued by the State Board of Education, in its discretion, to any qualified elementary teacher, upon satisfactory showing to such board that the applicant is possessed of such other qualifications for such teaching as the State Board of Education may, from time to time, prescribe. (Act Apr. 26, 1929, c. 388, §5; Jan. 15, 1936, Ex. Ses., c. 26, §1.)

The commissioner of education is not authorized to issue a certificate to teach in Minnesota to any person trained in another state unless that person is the holder of a diploma or a degree evidencing a completion of at least a two-year course in elementary education. Op. Atty. Gen., July 29, 1931.

(d).

Amended. Laws 1935-36, Ex. Sess., c. 26, §1.

**2900-5a. Validation of certificates issued.**—Any such Elementary School Special Certificate heretofore issued by the State Board of Education qualifying the holder thereof to teach Kindergarten-Primary is hereby validated in the same manner as if issued by said Board subsequent to the passage of this amendment. (Jan. 15, 1936, Ex. Ses., c. 26, §2.)

**2900-6. High School Certificate.**—There shall be two kinds of High School Certificates: High School General Certificate and High School Special Certificate, and as to each kind there shall be the Standard Certificate and the Advanced Certificate.

(a) The High School Standard General Certificate shall indicate the academic field or fields and the class or classes of high schools (junior or senior) for which the holder has been especially trained.

The High School Standard General Certificate shall qualify any holder thereof to teach academic subjects in junior high schools, senior high schools, four year high schools and junior-senior high school organizations. Provided that the holder of a High School Standard General Certificate shall be qualified to teach in the seventh and eighth grades of an eight year elementary school. Such certificate shall be issued to any person holding the degree of the College of Education of the University of Minnesota, or of a Minnesota State Teachers College, granted by virtue of the completion of a course, balanced as to academic and professional content, and designated by such college for the training of high school teachers.

The High School Standard General Certificate may be issued to any person holding the degree of an accredited liberal arts college or university in Minnesota, together with such professional training as shall be required by the State Board of Education.

(b) The High School Standard Special Certificate shall qualify any person to teach in the special fields of Agriculture, Home Training, Industrial Arts, Commercial Subjects, Physical Education, Music or Fine Arts, or such other special field as the needs of the schools may, from time to time, require and to act as school librarian. It shall show in which one or ones of the special fields aforesaid the holder is authorized to teach and shall qualify him to teach in such special fields in any high school or elementary school. Such certificate may also indicate other high school subjects in which the holder has had training equivalent to that required in the academic field and shall qualify him to teach the same. Such certificates shall be issued to any person holding the degree of the College of Education of the University of Minnesota or of a Minnesota State Teachers College, granted by virtue of the completion of its course in the special field as to which he applies for a certificate to teach.

The High School Standard Special Certificate may be issued to any person holding the degree of a liberal arts college of this state, accredited and approved by the State Board of Education, granted by virtue of the completion of its course for the training of high school teachers in the special field as to which he applies for certificate to teach, provided that the course leading to such degree shall meet the requirements of the State Board of Education in such field.

The High School Standard Special Certificate may be issued to any person holding a diploma or degree of a technical training institution of this state, granted by virtue of the completion of a course therein which said board shall find to be substantially equivalent, with respect to such special subject or subjects, to the course of said College of Education for training of teachers therein, provided that such institution shall be accredited and approved by said board.

Provided that the State Board of Education shall have authority to issue special certificates to vocational teachers who present such qualifications of training and experience as meet the requirements of the Federal Board of Vocational Education or the special needs of the several vocational fields. (As amended Apr. 29, 1935, c. 330.)

(c) Any person who has the preparation and training herein prescribed entitling him to receive a High School Standard General Certificate or a High School Standard Special Certificate, and who in addition, has completed one year of graduate work of a kind and character accepted by the State Board of Education may be given a High School Advanced Certificate, either general or special, as may be appropriate to his training. Such High School Advanced Certificate shall qualify the holder thereof to teach the same subjects and in the same institutions which and in which the holder of a corresponding standard certificate is authorized to teach and in Junior Colleges. (Act Apr. 26, 1929, c. 388, §6.)

A degree of a professional college such as college of law, college of medicine, college of engineering, or college of dentistry may not be accepted for high school standard general certificate. Op. Atty. Gen., May 26, 1933.

G. S. 1913, §2872, did not give state board of education any right to limit rights of a teacher under his or her certificate, and it would be unwise to make a requirement for classification as a recognized high school on basis of type of certificate held by teachers. Op. Atty. Gen. (172B), Jan. 31, 1939.

Holder of a high school special standard certificate, on the basis of a major in music, to which has been added a recognized minor in English, is qualified to teach English in high schools, but department of education is not authorized to limit such teaching of English to less than half of school day. Op. Atty. Gen. (172B), April 11, 1939.

State board has right to issue special teacher's certificates to graduates of College of Education, University

of Minnesota, whether majoring or minoring in such course. Op. Atty. Gen. (172B), June 21, 1939.

State board may prescribe reasonable qualifications for recreation directors and instructors, and may require that they hold a teacher's certificate and such additional qualifications as board may prescribe. Id.

**2900-7. Administration and Supervision.**—A person shall be qualified to be a principal or supervisor of or in any school when he shall hold a certificate qualifying him to teach in such school and in addition shall have such other qualifications with reference to special training and experience as the board may, from time to time, prescribe; provided that any person who is qualified to be principal of any high school is thereby qualified to be principal of any elementary school.

A person shall be qualified to be superintendent of schools in any school district when he shall hold a High School General Certificate and in addition shall have such other qualifications with reference to special training and experience as the board may, from time to time, prescribe.

When any person shall establish his qualifications to be a principal, supervisor or superintendent, as aforesaid, to the satisfaction of the board, such board may certify him as being qualified to be such principal, supervisor or superintendent, as the case may be. Contracts with principals, supervisors or superintendents shall not be valid unless they shall be qualified, as herein provided. (Act Apr. 26, 1929, c. 388, §7.)

**2900-8. Applicants trained in other states.**—Wherever in this Act a certificate to teach is authorized to be issued to any holder of a diploma or a degree of a Minnesota State Teachers College, or of the College of Education of the University of Minnesota, or of a liberal arts college, or a technical training institution, such certificate may also, in the discretion of the State Board of Education, be issued to any holder of a diploma or a degree of a teacher training institution of equivalent rank and standing of any other state, granted by virtue of the completion of a course in teacher training essentially equivalent in content to that required by such Minnesota State Teachers College or the College of Education of the University of Minnesota or a liberal arts college in Minnesota or a technical training institution, as preliminary to the granting of a diploma or a degree of the same rank and class. (Act Apr. 26, 1929, c. 388, §8.)

**2900-9. Duration and Renewal of Certificates.**—All certificates, except as herein provided, shall bear the date of issue and shall expire two years from July first nearest such date, and may be renewed for periods of not more than five years upon satisfactory evidence produced to the board of successful teaching in the public schools of the state for at least twelve (12) months during the period covered by the certificate.

If the holder of a five year certificate shall present to the board satisfactory evidence that he has actually and successfully taught in the public schools of the state for not less than five years, the board may issue to him a permanent certificate of the same class and kind as his five year certificate, which shall be valid unless and until suspended or revoked; provided, however, that the permanent certificate may be issued only to a teacher actually employed in the public schools of the state, or who has been so employed at any time during the two year period immediately preceding the date of application, and provided further that no permanent certificate shall be issued to a teacher who holds only an Elementary School Limited Certificate. Any person who applies for the issuance or renewal of a teacher's certificate and who possesses the training prescribed in this act, but who has not, at any time during the five year period immediately preceding, been employed in public school teaching service, may be required to furnish evidence of appropriate training in an accred-

ed teacher training institution within such period, but not in excess of twelve weeks work.

An Elementary School Limited Certificate shall bear the date of issue and shall expire two years from July first nearest such date, and may be renewed for periods of not more than five years, under conditions prescribed by the State Board of Education. (Act Apr. 26, 1929, c. 388, §9.)

**2900-10. Fees for Teachers' Certificates.**—For the issuance, renewal or extension of a certificate to teach, each applicant for such certificate shall pay a fee. For each Elementary School Limited Certificate or renewal thereof the fee shall be fifty cents. For each permanent certificate the fee shall be five dollars. For all others, the fee shall be one dollar for each certificate or renewal thereof. Such fees shall be paid to the State Commissioner of Education, who shall deposit them with the State Treasurer, as provided by law, and report each month to the State Auditor the amount of fees collected for each kind of certificate. The State Auditor shall credit all such fees to the Teacher's Institute, Training School and Examination Fund, and the same may be disbursed and used for the purposes for which such fund is provided.

Fees for the renewal or extension of certificates in force at the date of approval of this act shall be as provided in Sec. 2932, General Statutes of Minnesota 1923. (Act Apr. 26, 1929, c. 388, §10.)

Department of Education issuing special teachers' certificates to graduates of the University College of Education is required to make customary charge for certificate. Op. Atty. Gen. (172B), June 21, 1939.

**2900-11. Suspension or Revocation of Certificates.**—The State Board of Education may, on the written complaint of the school board employing a teacher, or of the superintendent of the county where such teacher is employed, or of the State Commissioner of Education, which complaint shall specify generally the nature and character of the charges, suspend or revoke such teacher's certificate or license to teach, issued under this act or in force on the date of its approval, for any of the following causes:

- a. Immoral character or conduct.
- b. Failure, without justifiable cause, to teach for the term of his contract.
- c. Gross inefficiency or wilful neglect of duty.
- d. Affliction with active tuberculosis or some other communicable disease, while suffering from such disability.

The Secretary of the State Board of Education shall within five days after the filing of the complaint serve a copy thereof upon the teacher in person or by registered mail addressed to such teacher at his last known address, and such teacher shall, within ten days after the service of such copy upon him, file with the State Board of Education his answer to the charges specified. The Secretary of said board shall thereupon fix in writing a time for a hearing upon said complaint, and serve a copy thereof on said teacher. Such hearing shall be conducted by said board, or by the Commissioner or Deputy Commissioner, as the rules of the board may provide, unless the complaint is filed by the Commissioner, in which case it shall be conducted by the board or a member thereof designated by the board. The hearing shall be held in the office of the board unless the teacher at the time of filing his answer shall file therewith a written demand that the hearing be held in the county seat of the county wherein he is employed, in which case it shall be held at such county seat. Such hearing shall be either private or public, as the teacher may elect, and the teacher shall have the right to appear in person and by counsel and to produce evidence thereat. All witnesses shall be sworn before testifying, and the official conducting such hearing is hereby authorized to administer the oath prescribed by law for witnesses in judicial proceedings. A record in writing shall be made of said proceedings and of all evidence produced thereat, and shall be forth-

with filed with the board upon the conclusion of such hearing. A copy thereof shall be furnished to such teacher upon his request. Upon concluding such hearing, if conducted by the board, or the filing of such report, if conducted by the Commissioner, Deputy Commissioner, or member of the board, the board shall consider the same and make its decision within thirty days from the date of such hearing. In case of suspension or revocation, the order of the board shall fix the date at which suspension or revocation becomes effective, and in case of suspension, the duration thereof, and notice thereof shall forthwith be given in writing to the teacher and to the school board by which he is employed.

The action of the board shall be final and all orders of suspension or revocation shall be included in the certificate records of the Department of Education. (Act Apr. 26, 1929, c. 388, §11.)

Removal from public office in Minnesota. 20MinnLaw Rev721.

**2900-12. Outstanding Certificates Not Impaired.**—No provision of this act shall affect or impair the validity of certificates or licenses to teach in force at the date of approval of this act, or the rights and privileges of the holders by virtue thereof, save that any such certificate or license may be suspended or revoked for any of the causes and by the procedure specified in Section 11 [§2900-11] of this act, and provided, also that a certificate in force at date of approval of this act may be exchanged, without fee, at the option of the holder, for a certificate which, under this act, shall give to the holder the same qualifications and rights which he had under and by virtue of such certificate. (Act Apr. 26, 1929, c. 388, §12.)

**2900-13. Administrative Regulations.**—The State Board of Education shall have power, from time to time, to make and enforce such rules and regulations consistent with this act, as may be appropriate for the administration and enforcement thereof. (Act Apr. 26, 1929, c. 388, §13.)

**2900-14. Repeal of Present Laws.**—Sections 2900, 2907, 2908, 2909, 2910, 2911, 2915, 2916, 2917, 2918, 2919, 2920, 2921, 2922, 2923, 2924, 2925, 2926, 2927, 2932, 2933, 2934, 2935, and 3058 of the General Statutes of Minnesota, 1923, Chapter 141, General Laws of 1925, and Chapter 160, General Laws of 1927, and all acts and parts of acts inconsistent herewith are repealed, but nothing herein contained shall be deemed to affect, modify or repeal Chapter 36, General Laws of 1927 [§§2935-1 to 2935-14], or any part thereof. (Act Apr. 26, 1929, c. 388, §14.)

**2900-15.** This act shall take effect and be in force from and after its passage and approval, except that Sections 2907, 2908, 2909, 2910, 2915, 2918 and 2932 aforesaid shall continue in force until September 1, 1929. (Act Apr. 26, 1929, c. 388, §15.)

**2903. Hiring of teachers—contracts—termination—“teacher” defined.**—School boards shall hire teachers at meetings called for that purpose. No teacher related by blood or marriage, within the fourth degree, computed by the civil law, to a trustee shall be employed, except by a unanimous vote of the full board. The employment shall be by written contract, signed by the teacher, and in common districts, by at least two of the trustees; in special and independent districts, by the chairman and clerk. Such contract shall specify the wages per year, and shall remain in full force and effect except as modified by mutual consent of the school board and the teacher until terminated by a majority vote of the full membership of the school board or by the written resignation of the teacher before April 1st. Such termination shall take effect at the close of the school year in which the contract is terminated in the manner aforesaid. Provided, further, that such contract may be terminated at any time by mutual consent of the school board and the teacher, and provided further that this act

shall not affect the powers of a school board to discharge a teacher for cause under and pursuant to Mason's Minnesota Statutes of 1927, Section 2815. Also that nothing herein shall be construed as preventing a teacher from recovering the value of his or her services from any school district, where such services were heretofore rendered by such teacher pursuant to oral agreement with the governing body of such school district. A superintendent, principal, supervisor, and classroom teacher and any other professional employee required to hold a certificate from the State Department of Education shall be deemed to be a "teacher" within the meaning of this act. (As amended Apr. 5, 1937, c. 161, §1.)

Sec. 3 of Act Apr. 5, 1937, cited, provides "all acts or parts of acts inconsistent herewith are hereby repealed."

Mandatory provision requiring written contract does not apply to teacher entitled to benefit of Tenure Act (Mason's Stats. §§2935-1 to 2935-14). 177M422, 227NW 351.

Teacher's contract, held entire for period covered, and where she was unable to commence her services at the beginning of the school year and for over five weeks thereafter the school district was relieved from the contract of employment. 181M309, 232NW329. See Dun. Dig. 1727, 8686.

Where all members of common school district board were present at special meeting, employment of school teacher was valid though notice of meeting was irregular and insufficient. Hlavka v. C., 192M169, 255NW820. See Dun. Dig. 8675, 8686.

Appointment of one as school teacher by superintendent could be ratified by board of education. Hosford v. B., 201M1, 275NW81. See Dun. Dig. 8686.

Requirement that a teacher's contract be in writing does not apply to a teacher entitled to benefit of tenure act. *Id.*

Recovery of damages for breach of a contract of employment must be limited to amount established by findings of fact plus that admitted, if any, by pleadings. Hosford v. B., 203M138, 280NW859. See Dun. Dig. 8688b.

The yearly salaries of permanent teachers in public schools of city of St. Paul for calendar year may not be fixed in such amounts as to exceed budget item appropriated therefor under provisions of city's charter, and no recovery can be had on theory of quasi contract for services performed after exhaustion of appropriation. Doyle v. C., 204M538, 284NW291. See Dun. Dig. 8686.

One married to the daughter of a member of a school board may not be elected as a principal without the unanimous vote of the board. *Op. Atty. Gen.*, Apr. 9, 1931.

Teacher's contracts in common school districts may be executed by signatures of two trustees. *Op. Atty. Gen.*, May 16, 1932.

Where chairman of board of special or independent school district refuses to sign teachers' contracts, member of board cannot authorize some other member to sign as chairman, but only remedy is mandamus. *Op. Atty. Gen.*, May 16, 1932.

Cousin of deceased wife of member of school board cannot be employed without unanimous vote of full board. *Op. Atty. Gen.*, May 16, 1933.

Applicant for position as teacher who is first cousin of deceased wife of member of school board may be employed without unanimous vote of full board where such member has remarried. *Op. Atty. Gen.*, July 17, 1933.

If chairman refuses to perform ministerial duty to sign contract, teachers may bring mandamus and also recover any damages sustained. *Op. Atty. Gen.*, July 29, 1933.

Teacher cannot waive her legal right to workmen's compensation in her contract of employment. *Op. Atty. Gen.*, Mar. 19, 1934.

A school board of six members may not elect a teacher by a vote of 3 members when other 3 members remain silent. *Op. Atty. Gen.*, Apr. 2, 1934.

Teachers' contracts cannot legally provide for salary increase by mutual consent. *Op. Atty. Gen.* (172c-5), Apr. 13, 1934.

Where a board member's first cousin is married to the applicant's sister, the board member is not related to the applicant. *Op. Atty. Gen.* (172a), July 2, 1934.

Where a board member's brother is married to a sister of the applicant's mother, the board member is not related to the applicant. *Id.*

A teacher whose uncle is a brother-in-law to the chairman of the board is not a relative within the fourth degree. *Id.*

Electors of a school district have no power to fix length of school term, and length of term depends on contract entered into by teacher and school board, regardless of action of electors at meeting. *Op. Atty. Gen.* (161b-14), Nov. 26, 1934.

A husband is related by marriage to all blood relatives of his wife and in like manner wife is related by marriage to all blood relatives of husband, but relations and blood relations of wife are not related to each other by marriage. *Op. Atty. Gen.* (172a), Apr. 4, 1935.

Spouse of a second cousin of a teacher is not related to teacher within the fourth degree. *Id.*

Whether election of teacher and principal is valid held a question of fact upon which attorney general cannot pass. *Op. Atty. Gen.* (166h-4), Aug. 21, 1936.

Contract with teacher may provide for payment of salary in twelve monthly installments instead of nine. *Op. Atty. Gen.* (172c-5), Nov. 6, 1936.

Where teacher was married but kept her marriage secret, and two weeks later received contract signed in her maiden name, validity of contract would depend upon provisions of contract. *Op. Atty. Gen.* (707b-10), Mar. 10, 1937.

Act is only applicable to written contract entered into on or after Apr. 6, 1937, and not to teachers who have been elected to a position prior to that date without receiving written contract. *Op. Atty. Gen.* (172c), Apr. 10, 1937.

Words "before April 1st" referred to termination of contract by board as well as to resignation of teacher. *Op. Atty. Gen.* (172c-4), Apr. 16, 1937.

Teacher's contract is not binding on parties until formally signed by both teacher and authorized members of school board, and date of contract is date of final execution, and not date appearing on contract. *Op. Atty. Gen.* (172c-2), June 1, 1937.

Clause in teacher's contract providing for termination at any time upon 30 days' notice is invalid. *Op. Atty. Gen.* (172c-5), July 7, 1937.

Clause requiring deposit by teacher as assurance that she will comply with contract by returning to teach does not give teacher power of release of contract without consent of school board. *Op. Atty. Gen.* (172c-5), Aug. 13, 1937.

Full board means all of board members elected. *Op. Atty. Gen.* (161a), Aug. 25, 1937.

If vacancy in board was created by removal of district contract signed by two remaining members would be void, and same would be true if signed by two members and also member disqualified by removal. *Id.*

Board may require teacher to deposit \$50 cash or a bond to be forfeited as liquidated damages if teacher resigns before middle of school term, but cannot deduct that amount of money from last year's salary to be held under contract without consent of teacher. *Op. Atty. Gen.* (172c-2), Oct. 5, 1937.

Clause in teacher's contract providing for damages if teacher violates contract is enforceable if based on amount of damages that might reasonably be sustained. *Op. Atty. Gen.* (172c-2), Oct. 5, 1937.

Marriage restrictions can be inserted in teacher's contract, but modification of salaries cannot be. *Op. Atty. Gen.* (172c-3), Dec. 10, 1937.

Teacher's contract may be modified by attaching sticker. *Op. Atty. Gen.* (172c-5), Jan. 12, 1938.

Illness of teacher rendering her unable to teach does not automatically cancel contract, in absence of specific provisions in contract, but contract must be terminated by majority vote of full membership of school or by written resignation of teacher before April 1, or for cause. *Op. Atty. Gen.* (172c), Mar. 21, 1938.

Failure of teacher to comply with a standing resolution of board of education requiring certain attendance at an institution of higher learning each four years constitutes a violation of contract and cause for dismissal. *Op. Atty. Gen.* (172c-2), May 4, 1938.

Notice to a teacher given prior to April 1, that "her services would be terminated at end of the current school year with the understanding that in the event that her work is satisfactory remainder of the school term her services will be retained next year" legally terminated the contract and teacher is at liberty to apply for a new position. *Op. Atty. Gen.* (172c-1), June 1, 1938.

There is no forbidden relationship where board member is husband of half sister of mother of wife of candidate for teaching position. *Op. Atty. Gen.* (172a), Aug. 10, 1938.

Teacher's contract is not terminated by closing of school, but school board may make a reasonable settlement of contractual rights. *Op. Atty. Gen.* (172c), Aug. 11, 1938.

Where qualifications of high school principal were questioned and board before April 1, terminated contract to become effective at end of school year, with understanding that contract would be renewed if he could qualify for principal under North Central requirements, but if he could not qualify he would be given a contract for a teaching position, school board was under no obligation to give a contract for a teaching position where there was no vacancy. *Op. Atty. Gen.* (161b-14), Aug. 17, 1938.

If teacher's contract is terminated for cause during school, teacher must be given a hearing and an opportunity of refuting preferred charges. *Op. Atty. Gen.* (161b-14), Aug. 24, 1938.

Where contract with teacher was terminated by school board on March 31, 1938, and on May 28, 1938, a new contract was entered into with the same teacher for four months at a certain monthly salary, that contract must be considered as a continuing contract for an entire year. *Op. Atty. Gen.* (172c), Sept. 15, 1938.

Independent school district may pay expenses of superintendent incurred in hiring teacher. *Op. Atty. Gen.* (399i), Oct. 27, 1938.

Teacher's contract may be terminated before April 1st by majority vote of board without cause. *Op. Atty. Gen.* (172c-5), Dec. 16, 1938.

Board need not give cause if contract is terminated by majority vote before April 1, and though a majority of full membership is necessary, entire membership need not be present. Op. Atty. Gen. (172c-1), March 2, 1939.

Teacher discharged for cause is entitled to hearing. Id. Negative vote on motion to retain superintendent for following year, terminated employment of superintendent at end of school year. Op. Atty. Gen. (768K-1), April 20, 1939.

Although §2807 provides that board may elect a superintendent for a term not to exceed one year, superintendents of cities outside of three cities of the first class come under terms of §2903 so that their contracts are automatically renewed for one year unless board takes action prior to April 1. Id.

An informal ballot taken to ascertain sentiment of school board as to reelecting a superintendent, can be made a formal ballot by a subsequent motion. Op. Atty. Gen. (768K), May 3, 1939.

Teachers' salaries are a matter of contract between school board and teachers, and board is subject only to limitation that expenditures for salaries shall not exceed anticipated tax collection. Op. Atty. Gen. (174), June 2, 1939.

One related by marriage to a trustee and chosen as junior high school principal by unanimous vote of the board could not be advanced to high school principal without unanimous vote. Op. Atty. Gen. (172a), June 5, 1939.

Letter to teacher "No contract for any teacher in the district shall be renewed until after present Legislature decides on funds to be appropriated for state aid" could have been construed as notice that teacher was not rehired for coming year, but a second paragraph of letter "the present teachers shall be retained providing the school district is financially able to hire three teachers for the next term" constituted a rehiring on certain conditions. Op. Atty. Gen. (172c), July 20, 1939.

Negative vote on motion to re-elect superintendent did not terminate contract. Op. Atty. Gen. (768K-1), August 12, 1939.

**2903-½. Same—application of Act.**—This act shall not apply to any existing contract and shall not apply to any school district in a city of the first class. (Apr. 5, 1937, c. 161, §2.)

**2903-1. Summer schools—Teachers' contracts.**—The school board of any independent school district may employ teachers and contract with them for a period of one year, and in order to encourage further preparation and education of such a teacher may stipulate in such contract the amount he or she may receive, conditioned upon attending such summer school. Contracts which have heretofore been made stipulating for such provisions are hereby legalized. (Act Apr. 25, 1935, c. 296.)

#### 2906. Instruction in morals, etc.

No constitutional provision is infringed by the practice whereby each school room is provided with a copy of King James' version of the Bible from which the teacher is required to read, without note or comment, extracts from the Old Testament, selected by the superintendent; pupils who do not desire to listen thereto being permitted to retire while such extracts are read. 171M142, 214NW 18.

#### 2907 to 2911. [Repealed.]

Repealed by Act Apr. 26, 1929, c. 388, §14, effective Apr. 26, 1929, as to §2911, and Sept. 1, 1929, as to §§2907-2910. See ante, §§2900-14, 2900-15.

#### 2915 to 2927. [Repealed.]

Repealed by Act Apr. 26, 1929, c. 388, §14, effective Sept. 1, 1929, as to §§2915, 2918, and Apr. 26, 1929, as to remaining sections. See ante, §§2900-14, 2900-15.

#### Annotations under 2926.

G. S. 1923, §§2926, 2927, relating to revocation and suspension of teachers' certificates, does not by implication repeal section 2815, subd. 5, providing that the board may discharge a teacher for cause. Edie v. S., 183M522, 237 NW177.

#### Annotations under 2927.

Qualified teacher employed subject to rules of board against marriage was not entitled to teach against board's wishes where she married prior to commencement of term. Backie v. C., 186M38, 242NW389.

School board of consolidated district may establish policy relative to employment of unmarried teachers to exclusion of married teachers. Backie v. C., 186M38, 242 NW389.

School board of consolidated district may make rules and regulations governing selection and removal of teachers. Backie v. C., 186M38, 242NW389. See Dun. Dig. 8686.

#### 2931-1 to 2931-3. [Repealed.]

Repealed by Act Apr. 26, 1929, c. 388, §14, ante, §2900-14.

#### 2932 to 2935. [Repealed.]

Repealed by Act Apr. 26, 1929, c. 388, §14, effective Sept. 1, 1929, as to §2932, and Apr. 26, 1929, as to remaining sections. See ante, §§2900-14, 2900-15.

#### Annotations under §2935.

Teachers' tenure laws as vesting contractual status. 1938WisLawRev495.

### TEACHERS—EMPLOYMENT IN FIRST CLASS CITIES

#### 2935-1. Teacher defined.

This act, constituting §§2935-1 to 2935-14, saved from repeal by Act Apr. 26, 1929, c. 388, §14, ante, §2900-14.

Mandatory provisions of Mason's Stats., §2903, requiring teacher to have written contract, does not apply to teacher entitled to benefit of this act. 178M422, 227NW 351.

Act applied to teacher notified prior to passage of act of reapportionment for ensuing year. 178M422, 227NW351.

A salary schedule adopted by board of education of Duluth prior to enactment of the Teacher's Tenure Act does not determine the yearly salary to be paid its teachers after such act went into effect. The power of defendant to contract for the yearly salary of teachers is limited to the funds it is authorized to provide for conducting the schools for the same period. Teachers are charged with knowledge of extent of its power to contract. Sutton v. B., 197M125, 266NW447. See Dun. Dig. 8672.

One orally employed and put to work in a teaching job which continued through entire school year, without replacing any teacher, was a "teacher," though designated as a "substitute." Hosford v. B., 201M1, 275NW81. See Dun. Dig. 8686.

Act is based upon public policy of protecting educational interests of state, not upon a policy of granting special privileges to teachers as a class or as individuals, and should not be strictly construed as against a teacher, but should be construed liberally to effect general purpose of act. McSherry v. C., 202M102, 277NW541. See Dun. Dig. 8686.

What is casual employment as distinguished from regular is to be determined with principal reference to scope and purpose of hiring rather than with sole regard to duration and regularity of service, and where there is a continuing engagement to serve at such times as particular and essential service may be needed, employment is not casual but regular. Id.

The yearly salaries of permanent teachers in public schools of city of St. Paul for calendar year may not be fixed in such amounts as to exceed budget item appropriated therefor under provisions of city's charter, and no recovery can be had on theory of quasi contract for services performed after exhaustion of appropriation. Doyle v. C., 204M558, 284NW291. See Dun. Dig. 8686.

Oral hygienist, a graduate dental nurse, is not a teacher within act. Op. Atty. Gen., Mar. 10, 1933.

Act does not deprive school board in cities of first class of power to fix teachers' salaries. Op. Atty. Gen., Sept. 6, 1933.

Teachers in evening schools or adult education department of city schools come within terms of tenure law. Op. Atty. Gen. (172), July 20, 1939.

Teachers' tenure legislation. 37Mich LawRev430.

#### 2935-4. Probationary period—Discharge or demotion.

Written contracts are not necessary with teachers who are reemployed after teaching three-year probationary period, but school boards may require such contracts. Op. Atty. Gen., June 2, 1933.

Refusal to sign written contract by teacher terminates membership in Duluth teachers' retirement association. Op. Atty. Gen., Nov. 24, 1933.

Tenure law applies to part time teachers who teach a substantial period of time and whose employment is substantially continuous and regular for a period of three years, including teachers in evening schools and adult education department. Op. Atty. Gen. (172), July 20, 1939.

#### 2935-5. Period of service after probationary period, etc.

A resignation by a teacher at end of her probationary period, given without any intention of terminating her employment as a teacher and upon a promise of re-employment, is not effective as a resignation and does not defeat teacher's right to tenure upon re-employment. Hosford v. B., 201M1, 275NW81. See Dun. Dig. 7989.

When a teacher has been re-employed after completion of probationary period, no written contract is necessary to entitle her to protection from wrongful discharge. Id. See Dun. Dig. 8686.

School board's recognition of plaintiff as a school teacher by receiving her services, paying for same, and listing her in manual as a regular teacher, held ratification of superintendent's act in re-employing her. Id.

Evidence held to sustain finding that plaintiff was "re-employed" after completion of probationary period. Id.

A hearing must be given to a teacher, whether she requests one or not, before she can be demoted or discharged. Op. Atty. Gen., Mar. 20, 1934.

This act takes precedence over St. Paul City Charter, §109-a, and a teacher cannot be removed because she was not a resident of city at time of employment. Op. Atty. Gen. (172), Sept. 14, 1934.

Tenure acquired by a substitute teacher is that of a substitute and not that of a regular teacher. Op. Atty. Gen. (172), Nov. 23, 1938.

**2935-6. Grounds for discharge or demotion.**

Teacher cannot be discharged for leave of absence necessitated by maternity. Op. Atty. Gen. (172d), Sept. 24, 1934.

Where class room teacher is promoted to position of principal, tenure right as to promotion becomes effective immediately in new position. Op. Atty. Gen. (172), Dec. 24, 1935.

Old age alone is not a cause for discharge, and although there may be a reduction based on an age classification, such classification must be reasonable and not for sole purpose of compelling teacher to resign. Op. Atty. Gen. (172d), Sept. 27, 1937.

**2935-7. Hearing of charges against teacher.**

There can be no demotion of a teacher under teachers' tenure act, without a hearing; but that does not prevent a teacher from asking for and accepting a demotion. Hosford v. B., 203M138, 280NW859. See Dun. Dig. 8688b.

**2935-12. Suspension of teachers pending hearing on charges—Salary.**

Charges must be filed before teacher can be suspended. Op. Atty. Gen., Mar. 20, 1934.

**TEACHERS' RETIREMENT FUND**

**2936-2950. [Repealed.]**

Repealed Apr. 25, 1931, c. 406, §15, post, §2950-15, except as provided in the repealing act.

Sections 2939, 2940 are amended by Act Apr. 11, 1929, c. 163, §1, but it would seem that the amendatory act is repealed by the repeal of the amended act by Laws 1931, c. 406, §15, set forth, post, as §2950-15. The latter act reenacts the subject matter of the former laws.

Member of state teachers' insurance and retirement fund, who was eligible for retirement on August 1, 1931, may be retired by the board as constituted by Laws 1913, c. 406, and receive the annuity provided for by the old law. Op. Atty. Gen., Sept. 14, 1931.

Members of teachers' retirement fund created by Laws 1915, c. 199, who have ceased to teach in schools to which act applied and who are retired prior to enactment of Laws 1931, c. 406, and before drawing annuities resume teaching in cities of first class may not transfer accounts to new fund and thereafter withdraw interest on the old fund. Op. Atty. Gen., June 8, 1933.

Where voluntary member of fund retired in June, 1922, on basis of 22 years' service and thereafter in that year received annuity payment after he had entered into a contract to teach in public schools for ensuing year but continued to make payments into fund and completing maximum of 25 years, his estate on his death was entitled to ¼ of amount actually paid in by him less the amount of the annuity payment, which must have been paid through mistake. Op. Atty. Gen., July 1, 1933.

**Annotations under 2944.**

Teacher at North Dakota university cannot receive annuity. Op. Atty. Gen. (175a), Mar. 6, 1935.

**Annotations under 2945.**

Members who have withdrawn funds under Laws 1915, c. 199, cannot refund moneys drawn with interest under Laws 1937, c. 112; members may pay interest on arrears to passage of Laws 1937, c. 112; payments from 1931 to date cannot be credited on arrears previous to 1931. Op. Atty. Gen. (175r), June 7, 1937.

**2950-1. Definitions.**—Unless the context indicates a different meaning, the following words and terms shall, wherever used in this act, have the meaning set after the same, viz.:

1. The word "teacher" shall include any person who has rendered, is rendering, or shall hereafter render service as a teacher, supervisor, principal, superintendent, or librarian in the public schools of the state, located outside of the corporate limits of the cities of the first class, in the state teachers' colleges, or in any charitable institution supported in whole or in part by public funds, or who has been engaged, is engaged, or shall hereafter be engaged in educational administration in connection with the state public school system, including the state teachers' colleges but excluding the state university, whether the position be a public office or an employment, not including, however, members of any general governing or managing board or body connected with such system, or the officers of common, independent, special, or county school districts.

2. The word "teaching" shall mean and include the service performed by any person coming within the definition "teacher" as hereinbefore set forth.

3. The term "fund" shall mean the Teachers' Retirement Fund, hereinafter referred to.

4. The term "member of fund" shall mean every teacher who shall join and contribute to the Teachers' Retirement Fund as hereinafter provided.

5. The term "board" shall mean and refer to the Board of Trustees of the Teachers' Retirement Fund.

6. The feminine gender shall mean and include the masculine gender, and vice versa.

7. Wherever the plural of any of the above words or terms is used in this act, the plural shall have the same meaning as the singular as hereinbefore defined. (Act Apr. 25, 1931, c. 406, §1.)

A teacher who had qualified herself for annuity before August 1, 1931, under the old act, has a vested right to retirement under old law and should be granted retirement under new law. Op. Atty. Gen., May 16, 1933.

All persons entering employment of state department of education since July 1, 1929, must become members of either the Teachers' Retirement Fund or the State Employees' Retirement Association, and such employees as would come within the terms of both bodies must become members of both. Op. Atty. Gen. (175p), Oct. 8, 1935.

Agricultural schools under direct control of board of regents of university are excluded. Op. Atty. Gen. (175p), Mar. 16, 1938.

Penal institutions are not within definition of section. Op. Atty. Gen. (175p), June 6, 1939.

Superintendent of State School and Colony for Feeble-Minded at Faribault is not eligible for membership in teacher's retirement fund, his supervision of education being merely nominal. Id.

**2950-2. Teachers' retirement fund.**—For the purpose of improving educational service, better compensating teachers, making the occupation of teaching in this state more attractive to qualified persons encouraging savings and rewarding faithful and continued service, there is hereby established and created a fund to be known as the "Teachers' Retirement Fund." Said fund shall be derived from the following sources:

First: From payments made by teachers who become members of said fund, as herein provided, which payments and the accumulated interest thereon shall be designated as "teachers' savings."

Second: From donations, gifts, legacies, devices and bequests made to or for the benefit of said fund.

Third: From all interest derived from the investment or earnings of the moneys belonging to said fund.

Fourth: From the transfer to it of the assets of the present Teachers' Insurance and Retirement Fund as hereinafter provided.

Fifth: From moneys contributed by the state as hereinafter provided. (Act Apr. 25, 1931, c. 406, §2.)

**2950-3. Board of trustees created.**—The management of the fund shall be vested in a board of five trustees, to be known as the board of trustees of the Teachers' Retirement Fund. Said board shall be composed of the following persons. The commissioner of education, the state auditor, the commissioner of insurance, and two members of the fund who shall be elected by the members of the fund at the time and place of their annual meeting, hereinafter provided for. At the first election of said members of the fund one trustee shall be elected to serve for one year and one for two years. Thereafter the terms of said elective members shall begin on the first Monday in January next succeeding their election. Vacancies in the case of said elective members shall be filled by appointment by the remainder of the board, the appointee to serve until the members of the fund have elected a trustee to serve for the unexpired term caused by such vacancy. No person shall be appointed by the board or elected by the members of the fund as a trustee who is not a member of the fund in good standing at the time of such appointment or election.

Said board shall annually elect one of its members as president, shall elect a secretary and fix his salary, who shall serve during the pleasure of the board and be the executive officer of said board with such duties as the board shall prescribe. The board shall employ all other clerks and employes necessary to properly administer said fund. One half of the cost and expense of administering the provisions of this act shall be paid by the fund and the balance thereof by the state.

The state treasurer shall be ex-officio treasurer of said fund and his general bond to the state shall cover any liabilities for his acts as treasurer of said fund. He shall receive all moneys payable to said fund and pay out the same only on warrants issued by the state auditor, upon vouchers signed by the president and secretary of the board. Said treasurer shall give receipts for all moneys received by him for said fund, shall keep a full, correct and separate account of the financial transactions connected therewith, and shall make an annual report to the board at its annual meeting of the receipts and disbursements and other financial transactions connected with said fund.

All members of said board shall serve without compensation, but shall receive necessary expenses while attending all meetings of said board, to be paid out of said fund.

The board hereby created shall meet on the first Monday in January, 1932, or as soon thereafter as practicable, at a time and place to be fixed by the commissioner of education, for the purpose of organizing, electing a secretary and adopting by-laws, rules and regulations as hereinafter provided. Thereafter the board shall meet regularly at its office at such times as it shall determine. Special meetings may be held at any time at the call of the president of the board or of any three members thereof.

The first fiscal year of the fund hereby created shall begin on January 1st, 1932, and end on June 30, 1932. Thereafter the fiscal year of the fund shall begin on the first day of July of each year and end on the 30th day of June of the following year.

A suitable office, with suitable furniture and office supplies, shall be provided by the state, through the proper officer for the use of said board and its secretary. (Act Apr. 25, 1931, c. 406, §3.)

Where legislature failed to provide for payment of furniture and equipment, board could pay therefrom from contingency reserve fund. Op. Atty. Gen. (175), Nov. 2, 1937.

**2950-4. Powers of board.**—Said board shall have and is hereby granted power to frame by-laws for its own government and for the management of said fund, not inconsistent with the laws of the state, and to modify them at pleasure; to adopt, alter and enforce reasonable rules and regulations, not inconsistent with the laws of the state, for the administration and management of said fund, for the payment and collection of payments from members and for the payment of withdrawals and benefits; to pass upon and allow or disallow all applications for membership in the fund, and for credit for teaching service; to pass upon and allow or disallow all claims for withdrawals, pensions or benefits payable from said fund; to provide for the payment out of said fund of all necessary expenses for the administration thereof and of all claims for withdrawals, pensions or benefits allowed.

In passing upon all applications and claims said board may summon, swear, hear and examine witnesses, and in the case of claims for disability benefits, may require the claimant to submit to a medical examination by a physician of the board's choice, at the expense of the claimant, as a condition precedent to the passing on said claim, and in the case of all applications and claims, may conduct investigations necessary to determine the validity and merit of the same.

The board may sue or be sued in the name of the board of trustees of the Teachers' Retirement Fund, and in all actions brought by or against it said board shall be represented by the attorney general.

It shall be the duty of said board from time to time to certify to the State Board of Investment for investment as much of the funds in its hands as shall not be needed for current purposes. The State Board of Investment shall thereupon invest the sum so certified in such securities as are now or may hereafter be duly authorized legal investments for savings banks and trust companies, and all such securities so purchased shall be deposited with the state treasurer; but in case of necessity such securities shall be sold by said State Board of Investment upon request of said board in order to raise money for current purposes. All interest from said investment shall be credited to the fund and shall be used for current purposes, except as hereinafter provided.

The board shall keep a record of the receipts and disbursements of said fund and a separate account with each member of said fund. It shall determine annually the net annual interest earnings of said fund by deducting the expenses of said fund from the gross interest earnings. Five per cent of the net annual interest earnings shall annually be set aside as a contingency reserve until said contingency reserve equals five per cent of the assets of the fund. The contingency reserve so created shall be disbursed only by specific direction of the board. The remaining portion of the net annual interest earnings shall be apportioned and credited to the separate accounts of the members of the fund in proportion to the total amount to their credit therein.

The board shall present annually to the members of the fund at its annual meeting a report of the condition of said fund for the last preceding fiscal year, which shall include a statement of the receipts and disbursements of said fund, a list of the securities in which said fund is invested, and such other information as may be necessary or desirable.

One copy of said report shall be filed in the office of the commissioner of education, one with the governor, and other copies filed or distributed as the board may determine. Said report shall also be published in the biennial report of the commissioner of education. (Act Apr. 25, 1931, c. 406, §4.)

State board of investment has no power to sell or accept payments before maturity of bonds held in teacher's retirement, public employee's retirement and state employee's retirement fund without a request of retirement board. Op. Atty. Gen. (928b-5), May 11, 1937.

**2950-5. Members of fund.**—Members of the fund shall include all teachers who render any teaching service, as herein defined, after August 1, 1931, in any of the schools or institutions to which this act applies, except:

1. Those who at the time of rendering such service have not attained the age of twenty-five years, but any such teacher who renders any teaching service after September first after attaining such age shall automatically become a member, and, providing further, that any such teacher who has not attained such age shall be admitted as a member upon written application to the board.

Any member of the fund, who rendered teaching service before attaining the age of twenty-five years and who has not received credit therefor, may upon written application receive credit for such service and may pay into the fund five per cent of the annual salary received during such service, with interest at four per cent per annum from the time of rendering such service.

2. Those who have rendered teaching service prior to August 1, 1931, in any of the schools or institutions to which this act applies, but any such teacher shall be admitted as a member upon written application to the board made within two years after ren-

dering the first teaching service subsequent to August 1, 1931. (Act Apr. 25, 1931, c. 406, §5.)

**2950-6. Payments by members.**—Each member of the fund shall pay into the fund a sum equivalent to five per cent of her annual salary, no payment, however, to exceed \$100.00 per year, payable in the manner and at the times hereinafter provided. Said payments shall be credited to the account of the teacher paying the same.

It is hereby made the duty of each person, officer, board of education or managing body required by law to draw the warrants or orders for payment of salaries to teachers to deduct and withhold from each month's salary due to every teacher who is a member of the fund the amount which such teacher is required to pay into said fund, as herein provided, and at the time of such deduction a statement showing the amount thereof shall be furnished to such teacher.

Such officer, board of education or other managing body of each school district or institution shall, between the first and fifteenth day of January and between the fifteenth and thirtieth days of June of each year, forward to the treasurer of the county in which such school or institution is situated a statement, verified by the secretary or clerk thereof, showing the amount of money so retained from each teacher in accordance with the provisions of this act, and with said statement shall transmit the entire amount so retained to the treasurer of said county; and in case any school district is situated in more than one county the report and remittance shall be sent to the senior county. Such board of education or other managing body shall also, on or before the thirtieth day of June of each year, transmit to the county superintendent of schools a statement showing the name of each teacher, the number of months of school taught by her during the year for which the statement is made, the number of months which constitutes a school year in said district or institution, and such other information as the board may require. If no teacher in such public school or other institution comes under the provisions of this act, said report shall state such fact. Each of the foregoing reports shall be verified by the person making the same. Provided, however, that if the drawing of the warrant or order for the payment of any teacher's salary devolves upon any state officer or board, such officer or board shall make the reports herein required directly to the board of trustees and shall remit the money so deducted to the state treasurer.

Each county superintendent shall on or before the first day of September of each year report under oath to the board, giving an itemized summary of the statements received by him from the school boards and other managing bodies, including a statement of the total amount withheld from the salaries of teachers as shown by said reports.

Between the fifteenth and twenty-eighth days of February and between the fifteenth and thirtieth days of July of each year, the county treasurer of each county shall transmit to the state treasurer all moneys received from the board of education and other managing bodies of schools or institutions to which this act applies, pursuant to the provisions of this act, and shall certify under oath to the correctness of the amount so received and transmitted, and shall furnish such other information as the board shall require. The state treasurer shall credit all moneys received or withheld pursuant to the provisions of this act to the fund, and the reports and data received by him from the county treasurer shall be available for the board.

Any person wilfully failing to perform any of the duties imposed upon him by this section shall be guilty of a misdemeanor.

The state treasurer, the several county treasurers, and the treasurers of the various school districts and institutions to which this act applies shall be officially

liable for the receipt, handling and disbursement of all moneys coming into their hands, belonging to said fund, and the sureties on the official bonds of each of said treasurers shall be liable for such moneys the same as for all other moneys belonging to the school funds of this state. (Act Apr. 25, 1931, c. 406, §6.)

Teachers employed by state must make payments into teachers' retirement fund based upon regular salary, notwithstanding it has been temporarily reduced by act of legislature. Op. Atty. Gen., Nov. 25, 1933.

**2950-7. Funds of former association transferred to new fund.**—All moneys, property and securities to the credit of or payable to the Teachers' Insurance and Retirement Fund created by virtue of Chapter 199, Laws 1915 [Mason's Minn. Stats., 1927, §§2936 to 2950], on December 31st, 1931, shall be, and the same hereby are transferred and appropriated to the Teachers' Retirement Fund hereby created on January 1st, 1932; and the board of trustees of said Teachers' Retirement Fund, hereby created, shall keep a separate account of said moneys, property and securities so transferred and appropriated, and of moneys hereafter paid into the same, until said Teachers' Insurance and Retirement Fund is liquidated, as herein provided.

Teachers who are members of the Teachers' Insurance and Retirement Fund, as created by Laws 1915, Chapter 199, who do not become members of the Teachers' Retirement Fund, as herein provided, shall upon written application to the board made after January 1, 1932, and not later than January 1, 1934, each be paid in cash an amount equal to the sums of money which they have theretofore paid into said Teachers' Insurance and Retirement Fund.

Teachers whose accounts are so transferred to the new fund shall have the right to pay into such fund and receive similar credit therefor at the time paid any additional sum, either in cash or in installments, which payment or payments so made together with the amount which the teacher has previously paid shall not be in excess of five per cent of the teacher's average yearly salary for the five years of service immediately preceding multiplied by the number of years of previous service for which the teacher has been given credit. Provided, that in the case of any teacher who has rendered more than fifteen years of service there shall be assigned to the teacher's credit from state funds, as a part of such teacher's savings for each year of service beyond fifteen, five per cent of the total additional amount that such teacher has a right to pay as hereinbefore provided, not, however, exceeding the amount paid by such teacher under such right, and in no event more than fifty per cent of the total additional amount which may be paid. The amount so assigned from state funds shall reduce to the extent thereof the total amount which the teacher may pay in addition to the funds transferred. Any moneys so contributed by the state shall be used only to purchase an annuity as hereinafter provided, and may not be withdrawn in cash as a part of the teacher's savings.

Teachers who in January 1, 1932, are then drawing annuities shall be members of the Teachers' Retirement Fund, hereby created, and shall receive in full satisfaction of all rights under Chapter 199, Laws 1915, an annuity equal to the annuity being paid to her or to which she would be entitled under said Chapter 199 on the basis of pro-rating by the board in effect on the 31st day of December, 1931.

Teachers who are members of the Teachers' Insurance and Retirement Fund, including annuitants, and who become members of the Teachers' Retirement Fund, hereby created, shall each have credited to her account in the records of the Teachers' Retirement Fund, as of January 1, 1932, an amount equal to the sums of money, which they have theretofore paid into said Teachers' Insurance and Retirement Fund. After provision has been made for all obligations against said Teachers' Insurance and

Retirement Fund, as may be determined by the board in accordance with the terms of this act, the balance remaining in such fund shall be apportioned to the accounts of the members of the Teachers' Retirement Fund who were members of the Teachers' Insurance and Retirement Fund, including annuitants, on the basis of the amounts which they have paid, together with the time such payments shall have been in the fund; provided that not more than four per cent compound interest shall be credited to active members of the Teachers' Retirement Fund. Any surplus remaining shall be apportioned to the accounts of the then annuitants, to be used in the payment of annuities to be paid as hereinbefore provided. Any further funds which may be needed to pay the annuities payable to such annuitants as hereinbefore provided shall be paid from state funds as hereinafter specified. (Apr. 25, 1931, c. 406, §7.)

(a) Any teacher who was not a member of the Teachers' Insurance and Retirement Fund, as created by Chapter 199, Laws 1915 [§§2936 to 2950], but who rendered teaching service prior to August 1, 1931, in any public school or institution to which this act applies, and who has become a member of the Fund hereby created, shall have the right to pay into the Fund hereby created, and receive credit therefor as of the time paid, such sums as such teacher would have paid as assessments, had such teacher been a member of said fund as created by Chapter 199, Laws of 1915 [§§2936 to 2950] together with simple interest on the same at the rate of six per cent from the time the service was rendered until paid, and such additional sum or sums as such teacher may elect to pay, the aggregate of which assessments, interest and additional sum or sums shall not exceed, however, five per cent of such teacher's average yearly salary for the five years of service immediately preceding the school year 1931-1932 or the first thereof but not more than \$100.00 per year multiplied by the number of years of such prior service. Members of the Teachers' Retirement Fund as created by Chapter 406, Laws 1931 [§§2950-1 to 2950-16] shall also have the right to pay assessments, interest and additional sums as provided for in this section for service rendered prior to August 1, 1931, in schools or institutions in Minnesota to which said Chapter 406 applies. Provided, that in the case of any such teacher who has rendered more than fifteen years of such prior service there shall be assigned to such teacher's credit from state funds, if in the judgment of the Teachers' Retirement Fund Board adequate funds are available, as a part of such teacher's savings, for each year of service beyond fifteen, five per cent of the total additional amount that such teacher has a right to pay as hereinbefore provided, not, however, exceeding the amount paid by such teacher under such right, and in no event more than 50 per cent of the total additional amount which may be paid. The amount so assigned from state funds shall reduce to the extent thereof the total amount which the teacher may pay under the right as aforesaid. Any money so contributed by the state shall be used only to purchase an annuity as hereinafter provided, and may not be withdrawn in cash as a part of such teacher's savings. (Added Mar. 25, 1937, c. 112, §1.)

Sec. 2 of Act Mar. 25, 1937, cited, provides that the Act shall take effect from its passage.

Op. Atty. Gen., June 8, 1933; note under §2945.

Application by non-members of old teachers' retirement fund for refund must be made on or before Jan. 1, 1934. Op. Atty. Gen., Nov. 20, 1933.

Interest on payments into old fund should be credited as of January 1, 1932, and become a part of the balance due as "teachers' savings" even though the amount could not be definitely determined until liquidation of old fund after January 1, 1934. Op. Atty. Gen. (175), May 2, 1934.

A teacher who rendered service previous to August 1, 1931, and makes application within two years after rendering the first teaching service after that date, is permitted to become a member of the new fund, and their accounts in the old fund may be transferred to the new. Op. Atty. Gen. (175m), Mar. 9, 1935.

Teacher is entitled to annuity under old fund from the date she first applied for retirement, at which time her application was rejected because of an erroneous interpretation of the law. Op. Atty. Gen. (175a), July 20, 1935.

One who terminated teaching service in 1925 could not obtain money paid into old fund on application made after January 1, 1934, though she had been assured by secretary of old fund that she could leave her money in fund indefinitely. Op. Atty. Gen. (175j), Sept. 11, 1936.

Members who have withdrawn funds under Laws 1915, c. 199, cannot refund moneys drawn with interest under Laws 1937, c. 112; members may pay interest on arrears to passage of Laws 1937, c. 112; payments from 1931 to date cannot be credited on arrears previous to 1931. Op. Atty. Gen. (175r), June 7, 1937.

Tentative interest credit is to be used as additional annuity and should be paid to teacher's estate as such. Op. Atty. Gen. (175a), June 16, 1938.

(a).

Full interest should be credited to teacher's account. Op. Atty. Gen. (175d), Dec. 17, 1938.

#### 2950-8. Teachers from other states or other schools.

—Teachers from other states or from public schools of this state to which this act does not apply who become members of the fund may be given credit for such previous teaching service by the board, and, after having acquired credit for 15 years of teaching service in schools or institutions to which this act applies, such teachers may then pay into the fund an amount equal to five per cent of the average yearly salary, not exceeding \$2000.00, received during the five years immediately before making such payments, multiplied by the number of years of previous teaching service for which credit is given, together with interest thereon at the rate of four per cent per annum from the time of rendering such previous service.

The board shall provide in its rules and regulations the method and means for reinstatement as members of the fund of teachers who have withdrawn therefrom and who afterwards re-enter teaching service.

In computing the time of service of a teacher, the length of a legal school year in the district or institution where such service was rendered shall constitute a year under this act, provided such year is not less than the legal minimum school year of this state. No person shall be allowed credit for more than one year of teaching service for any calendar year. If a teacher teaches for only a fractional part of any year, credit shall be given for such fractional part of the year as the term of service rendered bears to the legal school year in such district or institution, but in no case shall the legal year be less than the minimum school year of this state. (Act Apr. 25, 1931, c. 406, §8.)

Credit for out of state teaching is limited to services rendered prior to joining Minnesota fund. Op. Atty. Gen. (175o), May 25, 1935.

2950-9. May withdraw fund when.—When any teacher who is a member of this fund shall cease to render teaching service, as herein defined, in any school or institution to which this act applies, all moneys to the credit of such teacher as teacher's savings, shall, upon written application to the board, be paid to such teacher in cash. In case of the death of a member, before an annuity shall have been drawn, the amount to her credit as teacher's savings shall be payable to any beneficiary or beneficiaries designated in writing and filed with the board, and, if no beneficiary or beneficiaries be so designated, to her estate.

A teacher ceasing to render teaching service as in the preceding section provided, who shall have at said time to her credit 30 years or more of teaching service or has at such time attained the age of fifty-five years, may, in lieu of said cash payment, use the moneys to her credit as teachers' savings as follows:

1. To purchase from the fund a life annuity in such an amount as the teacher's age, the amount to her credit as teachers' savings and the mortality and interest tables in use by the board shall permit; or

2. To purchase from the fund an annuity for a term of fifteen, twenty or twenty-five years, in such an amount as the teacher's age, the amount to her credit as teachers' savings and the mortality and interest tables in use by said fund will permit.

If such teacher shall elect to purchase a life or term annuity, as hereinbefore provided, the state shall at the time of the payment of such annuity pay to said teacher an amount equivalent to such annuity, to be paid from state funds hereinafter provided; provided, however, that in case of a term annuity such payments by the state shall not continue after the death of such teacher. Provided further that the amount of the annuities so paid by the state shall not exceed in amount the term or life annuities which such annuitant could purchase with the moneys to her credit as teachers' savings for the first thirty-five years of teaching service, if she has a teaching service credit in excess of thirty-five years.

Annuities to be paid under the provisions hereof shall be payable quarterly on the first days of January, April, July, and October.

If, during the fifteenth or any subsequent year of teaching service, any member of the fund shall become totally disabled and the board shall determine that such member is permanently disqualified to render teaching service, as herein provided, such member shall, on written application to the board, be paid the amount to her credit as teachers' savings, or may use said amount to purchase from the fund a life or term annuity as above provided. If such teacher shall elect to purchase a life or term annuity, as hereinbefore provided, the state shall at the time of the payment of such annuity pay to said teacher an amount equivalent to such annuity, to be paid from the state funds hereinafter provided; provided, however, that in case of a term annuity such payments by the state shall not continue after the death of such teacher.

Every teacher retired under said total disability provision shall, if required by the board, submit to an annual physical examination by a physician designated by the board, who shall report his findings to the board, and the board's decision as to the teacher's continued total disability and right to further benefits under said total disability provision shall be final.

A teacher who receives total disability benefits, as hereinbefore provided, shall have the amount of said benefits, exclusive of the payments made from state funds, charged against the amount credit to her account as teachers' savings. (Act Apr. 25, 1931, c. 406, §9.)

Members who have withdrawn funds under Laws 1915, c. 199, cannot refund moneys drawn with interest under Laws 1937, c. 112; members may pay interest on arrears to passage of Laws 1937, c. 112; payments from 1931 to date cannot be credited on arrears previous to 1931. Op. Atty. Gen. (175r), June 7, 1937.

Teacher who has ceased to teach and is drawing annuity may teach in other schools and continue to receive annuity payments. Op. Atty. Gen. (175a), March 16, 1939.

**2950-10. Rights not assignable.**—The right of a teacher to avail herself of the benefits of this act is a personal right only and shall not be assignable. All moneys to the credit of a teacher's account in the fund, or any moneys payable to her from the fund shall belong to the State of Minnesota until actually paid to the teacher, or her beneficiary, pursuant to the provisions of this act. Any assignment or attempted assignment of a teacher's interest in said fund or of a beneficiary's interest therein by a teacher, or her beneficiary, shall be null and void and the same shall be exempt from garnishment or levy under attachment or execution. Any beneficiary designated by a teacher under the terms of this act may be changed or revoked by the teacher at her pleasure in such manner as the board may prescribe. In case a designated beneficiary dies before the teacher designating him dies and a new beneficiary is not designat-

ed, the teacher's estate shall be the beneficiary. (Act Apr. 25, 1931, c. 406, §10.)

**2950-11. Teachers to elect members of board.**—At the time and place of the next annual meeting of the Minnesota Education Association, or its delegate assembly, those teachers who are members of the present Teachers' Insurance and Retirement Fund and who have theretofore filed application in writing with the commissioner of education to become members of the Teachers' Retirement Fund, hereby created, shall meet at the call of the commissioner of education for the purpose of electing two members of the board of trustees of the fund, hereby created, and annually thereafter at the time and place of the annual meeting of the Minnesota Education Association, or its delegate assembly, the members of said fund shall also meet at a time and place to be designated by the commissioner of education for the purpose of electing one or more members of said board of trustees, as hereinbefore provided, hearing the annual report of said board, and of transacting any other business that may properly come before them. (Act Apr. 25, 1931, c. 406, §11.)

Members cannot vote by proxy. Op. Atty. Gen. (175d), Nov. 1, 1937.

**2950-12. Board to certify to state auditor.**—The board shall from time to time determine the amount of money necessary and presently needed to meet the state's obligations as in this act provided, and shall certify the amount so determined to the state auditor. In so certifying, the board shall certify separately the amount required to pay annuities to annuitants whose accredited teaching service was rendered for and in behalf of the state at large, together with the amount necessary to meet any operating cost for which the state is liable, and the amount required to pay annuities to annuitants whose accredited teaching service was rendered for and in behalf of the schools and institutions located outside of the cities of the first class. In case any annuitant has rendered accredited teaching service in part for the state at large and in part for the schools and institutions located outside of said cities of the first class, the amount certified for the payment of her annuity shall be pro-rated on the basis of the respective amounts contributed by such annuitant to her teachers' savings while rendering such respective teaching service.

The auditor is hereby directed to include in each annual state tax levy the amount or amounts so certified and not included in a previous levy, which amount or amounts are hereby annually levied against the taxable property of the state as herein further provided; provided, however, that the levy against the taxable property outside of cities of the first class shall not in any year exceed the sum of \$250,000. In certifying the rate to the several county auditors, the state auditor shall certify, subject to the maximum levy hereinbefore prescribed, the amount required for annuities for teaching service rendered for the state at large, together with the amount required for the state's share of operating costs, against all the taxable property of the state, and shall certify the amount required for annuities for teaching services rendered for the schools and institutions outside of cities of the first class against all of the taxable property located outside of said cities. The proceeds of the tax levies so made are hereby appropriated for the payment of the certificates provided for in the following section. (Act Apr. 25, 1931, c. 406, §12; Apr. 27, 1935, c. 301.)

*Editorial note.*—Act Apr. 20, 1939, c. 338, provides for levy for 1939 and 1940. It is omitted as temporary.

**2950-13. Auditor may sell tax anticipation certificates.**—The auditor, upon receiving from the board any certificate or certificates as in the preceding section provided is hereby authorized and directed, in anticipation of the taxes levied or to be levied as in the preceding section provided, to issue and sell cer-

tificates of indebtedness of the state in the aggregate amount of such certificate or certificates, not, however, exceeding the amount which will be produced by the maximum levy hereinbefore authorized, such certificates of indebtedness to be numbered serially and to be of such denominations and to bear such rate of interest, not exceeding five per cent per annum, as the auditor shall determine, and to mature at such date as the auditor shall fix, not later, however, than the thirty-first day of December of the year following the next annual tax levy made after the date of issue. The interest on such certificates of indebtedness shall be payable with the principal thereof, and both principal and interest shall be payable exclusively from the proceeds of tax levies made as provided in the preceding section. Said certificates shall be in such form and upon such terms and conditions, not inconsistent with the terms of this act, as the state auditor shall determine, shall be signed by the governor and attested by the state auditor, and shall be 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 fund, or any other trust fund of the State of Minnesota, and shall be deemed "authorized securities" within the provisions of section 7714, General Statutes 1923, and laws amendatory thereof and supplemental thereto.

The proceeds of the sale of certificate of indebtedness shall be used for the payment of the state's obligations under this act, provided, that if said proceeds in any year shall be insufficient to pay said obligations in full the amount available for the payment of annuities shall be prorated thereto. (Act Apr. 25, 1931, c. 406, §13.)

**2950-14. Application.**—This act shall not apply to any city of the first class of this state, except as provided in Section 1 [§2950-1] hereof. (Act Apr. 25, 1931, c. 406, §14.)

**2950-15. Law repealed.**—Chapter 199, Laws of 1915, as amended by Laws 1925, Chapter 404, Section 1 [Mason's Minn. Stats., 1927, §§2936 to 2950], is hereby repealed, except as hereinbefore provided; provided, that the present board of trustees of the Teachers' Insurance and Retirement Fund shall continue to serve and function as now provided by law until the board of trustees of the Teachers' Retirement Fund, hereby created, assumes its duties as herein provided. (Act Apr. 25, 1931, c. 406, §15.)

**2950-16. Effective August 1, 1931.**—This act shall take effect and be in force from and after August 1st, 1931, except as hereinbefore provided. (Act Apr. 25, 1931, c. 406, §16.)

**2953-1. County superintendents eligible to membership in retirement fund.**—That all county superintendents of schools now in office or who shall hereafter be elected or appointed thereto, and all former county superintendents of schools who have heretofore contributed to the Teachers' Insurance and Retirement Fund, as created by Chapter 199, Laws of 1915 [§§2936 to 2950-16], if otherwise eligible, are hereby made eligible to membership in said fund and shall be admitted to membership therein upon written application to the board of trustees of the Teachers' Insurance and Retirement Fund or to its secretary, and shall thereafter be subject to all of the provisions of said act and of all acts amendatory thereof. (Act Apr. 13, 1931, c. 146, §1.)

**2953-2. To receive credits for payments.**—All such superintendents or former superintendents of schools who have heretofore contributed to said Teachers' Insurance and Retirement Fund and who become members thereof as hereinbefore provided shall receive the same credit for payments made and for service rendered as if they had been members of said fund during the time of such payments. Any super-

intendent or former superintendent who has heretofore received or would be entitled to receive, if he had been eligible to membership in the fund, an annuity shall be paid such annuity from the fund as he would have been entitled to had he been a member during all the time he contributed. (Act Apr. 13, 1931, c. 146, §2.)

**2953-3. Board of trustees may refund payment.**—The board of trustees of said Teachers' Insurance and Retirement Fund shall refund to each county superintendent and each former superintendent of schools who has contributed to said fund and who does not become a member thereof as herein provided the amount of money so contributed, upon application therefor by such superintendent provided that such application shall be made on or before January 1, 1933. (Act Apr. 13, 1931, c. 146, §3.)

**2953-4. Payment into fund may be deducted from salaries.**—It is hereby made the duty of the county officials required by law to draw the warrants for the payment of the salaries of such county superintendents of schools to deduct and withhold from each month's salary due to each such superintendent the amount which such superintendent is required to pay into said Teachers' Insurance and Retirement Fund as herein specified, and the county treasurer shall remit the amount so withheld to the state treasurer at the time and in the manner of remitting moneys belonging to said fund received from boards of education or other managing bodies of school districts or other educational institutions, and shall report to the board of trustees of said fund the name of the county superintendent from whose salary such deductions were made and the amount of such deductions. (Act Apr. 13, 1931, c. 146, §4.)

#### STATE BOARD OF EDUCATION

##### 2958. State board of education.

**Explanatory note.**—The Attorney General has ruled that G. S. 1913, §2873, was not superseded by this act (§§2958 to 2972).

G. S. §2873, reads as follows:

"The superintendent of education shall prepare a uniform system of records for public schools; require reports from county and other superintendents and principals of schools, teachers, school officers, and the chief officers of public and other educational institutions, to give such facts as he may deem of public value. He shall establish and carry into effect a uniform system of accounting by public school officers, and he shall have authority to supervise and examine the accounts and other records of all public schools. ('13, c. 550, §5)."

Minneapolis home rule charter, c. 13, §4, held not to apply to a school building and hence the board of education is not required to submit the location and design of the building to the planning commission for approval. 181M576, 233NW834. See Dun, Dig. 6525, 6728, 8656.

City charter provisions must be in harmony with legislative policy of state. State v. Erickson, 190M216, 251 NW519. See Dun, Dig. 6539.

##### 2960. Organization and rules.

G. S. 1913, §2872, did not give state board of education any right to limit rights of a teacher under his or her certificate, and it would be unwise to make a requirement for classification as a recognized high school on basis of type of certificate held by teachers. Op. Atty. Gen. (172B), Jan. 31, 1939.

##### 2962. State commissioner of education.

Minneapolis home rule charter, c. 13, §4, held not to apply to a school building and hence the board of education is not required to submit the location and design of the building to the planning commission for approval. 181M576, 233NW834. See Dun, Dig. 6524, 6768, 8656.

Where office of commissioner of education becomes vacant, an appointment to fill the vacancy for the unexpired portion of the term should be made and a new commissioner should not be elected for six years. Op. Atty. Gen. (359a-20), July 28, 1934.

Division of rehabilitation and reeducation is not part of department of education but is under control of board of education acting, not as board of education, but as state board for vocational education, and commissioner of education has no powers over the division of rehabilitation and reeducation. Op. Atty. Gen. (397), Jan. 3, 1935.

State board of education need not make appointment from nominees presented by commissioner of education. Op. Atty. Gen. (161b-4), Sept. 10, 1937.

**2962-1. Expenses.**—The superintendent [commissioner] and other persons appointed by him shall receive their necessary expenses for traveling and other incidental expenses incurred in connection with their official duties, to be paid from the contingent fund or from other appropriations made for such purposes. ('13, c. 550, §3.)

**Editorial note.**—Laws 1913, c. 550, was omitted from G. S. 1923 and Mason's Minn. St. 1927, on the assumption that it was superseded by Laws 1919, c. 334. In view of §2963, post, and in view of the amendment of §6 of the omitted act by Laws 1939, c. 172, whatever powers were conferred on the commissioner of education by the 1913 act, which are not expressly negated by the 1919 act, are still in effect. What seems to be these surviving powers are inserted as §§2962-1 to 2962-5. Section 7 of the 1913 act provides that the office of superintendent of public instruction is abolished and his powers are transferred to the superintendent of education created by that act. Section 8 repeals §§1373 to 1377 of the Revised Laws of 1905 and all inconsistent acts.

**2962-2. Powers and duties of superintendent [commissioner]—Biennial report.**—Besides exercising general supervision over public schools and public education agencies in the state, the superintendent [commissioner] of education shall prescribe rules for the several classes of public schools receiving special state aid. He shall classify and standardize rural and other public schools and prepare for them outlines and suggestive courses of study. He shall, under the laws prescribed therefor, issue all certificates to those employed as teachers and supervisors in public schools.

For the purpose of considering matters affecting the interests of public education, he shall, upon notice, meet the several county and city superintendents and school principals at such times and places in the state as he shall deem most convenient and beneficial. On or before December 1 of each even-numbered year, he shall prepare and submit to the legislature, through the governor, a report containing:

1. An abstract of the reports of the several county superintendents showing such facts and giving such information as the said superintendent may require relative to public schools, including enrollment, attendance, and classification of pupils in public schools.
2. A statement of the condition of public schools and of public and other institutions of learning reporting to him.
3. The amount of moneys received and expended each year for public schools and public education, specifying the amount received from each source and the amount expended for each purpose.
4. The number, kind, and name of public schools of each class receiving state aid, and the estimated amount of aid for the ensuing two years, together with such facts relating to these schools as will show their progress and work. ('13, c. 550, §4.)

**2962-3. Uniform system of records and accounting—Reports.**—The superintendent [commissioner] of education shall prepare a uniform system of records for public schools, require reports from county and other superintendents and principals of schools, teachers, school officers, and the chief officers of public and other educational institutions, to give such facts as he may deem of public value. He shall establish and carry into effect a uniform system of accounting by public school officers, and he shall have authority to supervise and examine the accounts and other records of all public schools. ('13, c. 550, §5.)

**2962-4. State Board of Education to provide plans and specifications for school buildings.**—The State Board of Education shall prescribe rules and examine all plans and specifications for the erection, enlargement and change of school buildings, which plans and specifications shall first be submitted to the state board of education for the approval before contract is let, and no new school buildings shall be erected or any building enlarged or changed until the plans and specifications have been submitted to and have been approved by the state board of education. The

state board of education shall include in such rules those made from time to time by the state board of health, relative to sanitary standards for toilets, water supply and disposal of sewage in public school buildings. In all other respects the authority to make rules for public school buildings shall be vested in the state board of education, which board shall have power to prepare and furnish to local school boards plans and specifications for school buildings of two classrooms or less. Under such rules and procedure as the state board of education shall prescribe, it may condemn school buildings and sites which are unfit or unsafe for use as such. ('13, c. 550, §6; Apr. 8, 1939, c. 172, §1.)

**2962-5. Blanks for school use.**—He [The commissioner] shall prepare and distribute, through the county superintendents, school registers, blanks for all reports required by this title, record books for district treasurers and clerks, and any other blanks necessary for school business. (1378.)

**2963. Functions, powers and duties.**

Duties prescribed in general statutes of 1913, §§2873 and 2877, are part of duties of present board of education. Op. Atty. Gen. (397), May 5, 1937.

#### CITY SUPERINTENDENTS

**2982-1. Term of Superintendent of Schools in certain districts.**—In every independent or special school district within the limits of a city of the first class, the territorial limits of which school district coincide with the limits of such city, the board of education or other governing body is hereby authorized to enter into a term contract with its superintendent of schools for such time as it is deemed expedient, not to exceed a term of three years; provided, however, that this act shall not apply in any city of the first class where the city charter of such city provides for a definite term for such superintendent of schools. (Act Mar. 17, 1939, c. 61.)

#### VOCATIONAL EDUCATION

**2988. State board of vocational education.**  
The State Board of Education may accept and expend donations offered for purposes in harmony with the statutes. Op. Atty. Gen., Sept. 16, 1931.  
State department of education has authority to lend money for living expenses to selected individual person eligible for reeducation and to charge interest thereon. Op. Atty. Gen., July 7, 1933.

**2984. Appointment and salaries of employees.**  
Division of rehabilitation and reeducation is not part of department of education but is under control of board of education acting, not as board of education, but as state board for vocational education, and commissioner of education has no powers over the division of rehabilitation and reeducation. Op. Atty. Gen. (397), Jan. 3, 1935.

#### HIGH SCHOOLS

**2989. Composition.**  
High schools may request state examinations from State Board of Education in May. Laws 1939, c. 162.

**2991-1. Optional state examinations for high school subjects.**—Upon request of any Superintendent of any public or private school teaching High School courses in the State, the State Board of Education shall furnish a form for State examinations in each High School subject during the month of May of each year; provided that such request shall be in writing and delivered to the Commissioner of Education before January first of such year. (Act Apr. 8, 1939, c. 162.)

The title of Act Apr. 8, 1939, cited, reads: "An act to provide optional state examinations for high school subjects."

Duties of board stated. Op. Atty. Gen. (160), May 22, 1939.

**2991-2. High school areas for transportation of pupils.**—To facilitate and control the transportation of non-resident high school pupils, the state board of education may divide the state into high school areas, each such area containing at least one classified public high school and such school districts and parts of districts as may conveniently be served by such

high schools; provided, however, that a school district shall, upon a vote of its governing board in favor thereof, be assigned to the area of any adjoining or nearby district containing a classified public high school, if the latter, by vote of its governing board, is willing to have such district assigned to its area; provided, however, that the voters of a district set into a high school area by the governing board of their district, may, if they so desire, call a special election to decide which high school area they desire to join, and provided, further, that if such pupils are not transported to the nearest high school, the aid shall be limited to the amount which would be paid if they were transported to such high school. The state board of education shall formulate such rules and regulations as may be necessary for establishing such high school areas and for transporting non-resident pupils. The state board of education may appoint local advisory committees to assist in establishing such high school areas and in carrying out the rules and regulations pertaining to such areas and the transportation of non-resident pupils; but such rules or regulations shall not prevent or deny to any parent the right to transport, or to provide for the transportation of his children, at his own expense, to the high school of any district willing to receive them. Any school district dissatisfied with the areas recommended by the advisory committee or established by the State Board of Education shall have the right of a hearing before the advisory committee and the State Board of Education. (Act Apr. 22, 1939, c. 437, §8.)

#### JUNIOR COLLEGES

**2992-1. Creation of junior college—Election—Cooperation of several districts.**—(a) The school board of any independent or special school district may make application to the state board of education to establish and maintain a department of junior college work, to consist of not more than two years' work beyond the twelfth year of the public school curriculum. Such application shall contain such data as the state board of education may require.

(b) Upon receipt of such application the state board of education shall make a careful survey of the need, ability and facilities of such school district to establish and maintain a junior college.

(c) If the state board of education approves such application the school board of such district shall submit the question of the establishment of such junior college to the voters at a general or special election, preceded by notice stating that such proposition if to be there acted upon.

(d) If the establishment of a junior college is authorized by a two-thirds vote of the electors voting thereon the school board of such school district shall take the necessary steps to establish and maintain such junior college.

(e) Two or more school districts may cooperate in the establishment and maintenance of a junior college under the procedure as indicated for the establishment and maintenance of a junior college in a single district; provided, however, that the application submitted to the state board of education shall include a statement of the procedure adopted by the school boards of the districts concerned for the establishment and maintenance of such junior college and; provided, further, that the proposition as approved by the state board of education, be authorized by a two-thirds vote of the electors in each district voting thereon.

(f) Two or more school districts may cooperate in the maintenance of a junior college already established, or established pursuant to this act, under the procedure as indicated in the preceding section: provided, however, that the proposition may be approved by the school board of the district in which such junior college is located and need not be referred to the electorate of such district. (As amended Apr. 15, 1939, c. 281, §1.)

Act relating to transportation of pupils to a junior college of a nearby district. Laws 1931, c. 247, ante, §2822-2. A school board may not legally employ instructors to give instruction in college subjects in district where a junior college has not been established under §2992-1 to §2992-6. Op. Atty. Gen. (161b-10), June 29, 1934.

In absence of specific authorization, an independent school district may not lease for a junior college a building outside the district. Op. Atty. Gen. (161b-2), May 5, 1937.

Act requires school board to make application to state board of education before submitting question to voters, and no effect can be given to a favorable vote in an election held May 16, 1939, without such application having been made. Op. Atty. Gen. (160f), August 10, 1939.

**2992-2. Proceedings legalized, discontinuance of college or cooperation with other districts.**—(a) Where a junior college has been heretofore established and is now being maintained in any independent or special school district the same is hereby legalized and made effective as fully as if established under and pursuant to the provisions hereof.

(b) Any school district maintaining a junior college may discontinue such junior college at the close of any school year by a majority vote of all members of the school board in such district, provided such action is taken before April 1 of that school year. Any school district cooperating with one or more school districts in the maintenance of a junior college may discontinue such cooperative arrangement at the close of any school year by a majority vote of all members of the school board in such district, provided such action is taken before March 1 of that school year. (As amended Apr. 15, 1939, c. 281, §2.)

**2992-3. State Board of Education to supervise.**—The state board of education shall have the same supervision, control and powers over any such junior college when established hereunder as it now has over other departments of the public school system of the state. (As amended Apr. 15, 1939, c. 281, §3.)

**2992-4. To use existing buildings and equipment.**—Any school board in a district maintaining a junior college or cooperating with one or more school boards of other school districts in the maintenance of a junior college shall have authority to make use of any existing buildings, or equipment, or may provide any necessary building or buildings, or equipment, for the establishment and maintenance of any such junior college. (As amended Apr. 15, 1939, c. 281, §4.)

**Editorial note.**—This section, prior to amendment in 1939, related to tuition, a subject which is treated in 2992-5 of the amendatory act.

**2992-5. To fix rate of tuition.**—The school board or school boards having control of any such junior college, on or before August 15 in each year, shall determine and fix the rate of tuition, if any, required to be paid by pupils attending such department, which tuition shall be paid by the pupils attending such junior college, or by the school districts in which such pupils are legal residents. (As amended Apr. 15, 1939, c. 281, §4.)

**Editorial note.**—This section, as it appears in Mason's Minn. Stat. of 1927, dealt with Laws 1927, c. 268, §1, relating to the establishment of junior colleges in cities of the first class. The amendment of 1939 supersedes Laws 1927, c. 268, and substitutes for it the above provision relating to tuition.

Board may determine rate of tuition, or may decide to charge no tuition, but same rate must be charged residents and non-residents. Op. Atty. Gen., June 22, 1932.

**2992-6. May furnish transportation or room and board.**—The school board of any school district may provide transportation for students residing in such district who are attending a junior college. When it is not feasible to transport students to a junior college the school board in any school district may pay for board and room of such students attending a junior college. (As amended Apr. 15, 1939, c. 281, §6.)

**Editorial note.**—Sec. 7 of Act Apr. 15, 1939, cited, repeals §2823-2 and all other laws in conflict.

What is said in the note under §2992-5 is applicable to this section, the provision substituted having reference to transportation of, or room and board for, pupils.

**SCHOOL FUNDS**

**2993. Apportionment of public school funds.**—The State Board of Education to apportion current school fund. The State Board of Education shall apportion the available current school and endowment funds among the counties on the first Monday of March and of October in each year, in proportion to the number of scholars of school age entitled to apportionment therein. But no district shall be entitled to any portion of said fund that has not had at least eight months of school term, within the year, conducted pursuant to the provisions of this chapter. (R. L. '05, §1397; G. S. '13, §2895; '21, c. 467, §16; Apr. 24, 1935, c. 290, §1.)

Students enrolled in high school teacher training schools are to be counted as scholars in the apportionment of the current school fund. Op. Atty. Gen., July 25, 1931.

Apportionment cannot be made on basis of per capita in cities of first class. Op. Atty. Gen. (8b), Jan. 5, 1937.

An outline of municipal bond procedure in Minnesota. 20MinnLawRev583.

**2994. Payment of school apportionment.**—Upon receiving a copy of such apportionment, the state auditor shall draw his warrants on the state treasury, payable to the several counties, for the amount due each county. There is hereby annually appropriated from the current school fund the amount of such apportionments. (R. L. '05, 1398; G. S. '13, §2896; '19, c. 412, Apr. 24, 1931, c. 312, §1.)

**2995. County auditor to make apportionment.**—The county auditor, upon receiving the warrant from the state, shall forthwith apportion the amount thereof to the various school districts entitled thereto, and shall at the time of making the March and November tax settlements of each year apportion to the several school districts the amount received from liquor licenses, fines, estrays, and other sources belonging to the general school fund, upon the same basis provided for the state apportionment, and such money shall be used only for the payment of teachers' wages; but no district shall receive any part of the money received from liquor licenses unless all sums paid for such licenses in such district are apportioned to the county school fund, and no district shall receive in any year from the apportioned fund, exclusive of special state aid, a greater amount than that appropriated by such district from its special and local one mill tax for that year, unless such district has levied for such year the maximum amount allowed by law for school purposes. The auditor shall include in such apportionment all amounts received from special state aid to schools—not theretofore apportioned. (R. L. '05, §1399; G. S. '13, §2897; '19, c. 412, §2; Apr. 24, 1931, c. 312, §2.)

At time of apportionment county auditor should notify each school district of the amount apportioned to it, but has some discretion as to the time and manner of making the payment. Op. Atty. Gen., Oct. 6, 1931.

County auditor is not to deduct amount due state on state loans before making distribution to school district. Op. Atty. Gen. (531L), Nov. 13, 1934.

**2997-1. School district warrants where school funds deposited in closed banks.**

Treasurer is required to endorse warrants "not paid for want of funds" when money is in bank closed under order for national banking holiday. Op. Atty. Gen., May 23, 1933.

**2997-2. Funds from national forest to be used for school purposes in some cases.**—The board of county commissioners of any county may, in its discretion, place the moneys, or any part thereof, received by such county from the federal government for and on account of any national forest lands situated therein into a special fund to be disbursed and paid over to any school district now or hereafter maintaining and operating any school wholly or partly within an area now or hereafter constituting a part of any auxiliary or state forest. Such action shall be taken by said board by resolution duly adopted by it, which resolution shall specify the terms and conditions under

which said money shall be so paid over and disbursed to any school district or districts. (Act Apr. 25, 1931, c. 383.)

**PENALTIES**

**3002. Drawing illegal order.**

This section is applicable to board of education of Duluth. Op. Atty. Gen. (161b-10), Dec. 3, 1934.

**3006. Dealing in school supplies.**

Criminal prosecution does not lie against a teacher selling merchandise to pupils, as any liability under this section could only be enforced by civil action. Op. Atty. Gen. (494a), Nov. 27, 1935.

**3009. Basement room defined.**

See §1630-4(12).

**SCHOOL TAXES**

**3013. Limitation of tax levy in certain school districts.**—In common districts the tax rate shall not exceed ten mills for the purchase of school sites and the erection and equipment of school houses; but in such districts in which such ten mill tax will not produce \$600.00, a greater tax may be levied for school sites and buildings, not to exceed 30 mills on the dollar, nor \$600.00 in amount. In independent districts no tax in excess of eight mills on the dollar shall be levied for the purposes of school sites and the erection of school houses. In special districts, such amounts may be levied as may be allowed by special law at the same time when the revised laws take effect. (As amended Apr. 13, 1939, c. 229.)

Rate of taxation of agricultural lands for school maintenance in independent districts. Laws 1933, c. 356.

Levy made by a school district within county was duly made, even though record thereof made by school board lacked formality. State v. Keyes, 188M79, 246NW547. See Dun. Dig. 8656b.

This section is not a limitation upon a district school tax of independent districts to which §3014-6 is applicable. Op. Atty. Gen. (426b-7), Apr. 13, 1934.

Under Laws 1921, c. 332 and 357, Duluth School District having levied less than 30 mills for school operating purposes, was not entitled to participate in apportionment of proceeds of special school tax levied under Laws 1921, c. 357, §2, though such school district levied special taxes for such other purposes as building fund; fund for interest and retiring bonds, fund of teachers' retirement fund association, etc., amounting in all to 35 mills. Op. Atty. Gen. (519m) Jan. 8, 1935.

Common school district with more than 10 townships is not limited to 30 mills levy for school maintenance, but is limited to 8 mills rate for building and equipment. Op. Atty. Gen. (519m), Oct. 10, 1935.

Effect of amendment by Laws 1939, c. 229, is that there is no limitation on levy for maintenance in common school district, legislature intending to place common schools on equal terms with independent districts in this respect. Op. Atty. Gen. (519m), July 14, 1939.

An outline of municipal bond procedure in Minnesota. 20MinnLawRev583.

**3014. Tax levies for various funds in school districts over 50,000.**

This section applied to special school district of Duluth but has been superseded by Laws 1921, c. 332. Board of Education v. B., 192M367, 256NW894. See Dun. Dig. 8669.

A school district may set up a sinking fund in anticipation of building expenses to be incurred at some future date, either by transferring money from general fund, which is not necessary to pay warrants, or by levy of special tax. Op. Atty. Gen. (159a-17), Oct. 8, 1935.

**3014-6. Limitation of tax rate in school districts.**

—The rate of taxation of agricultural lands for school maintenance in any school district of the state maintaining a graded elementary or high school, and also in unorganized territory shall not exceed by more than 10% the average rate for school maintenance on similar lands in common school districts of the same county provided such county has 20 or more common school districts nor shall such rate exceed one-half the rate for school maintenance on non-agricultural lands in the same school district or unorganized territory in counties having less than 20 common school districts; Provided, that if the special state aids are not paid in full during any given year, an additional levy equal to the deficiency in such special state aids payable to such school district or unorganized territory may be levied, and such levy

shall be uniform on all property subject to taxation in such school district or unorganized territory; and provided further that this act shall not apply to any school district receiving aid under the provisions of Chapter 143, Laws of 1931 [§§3036-17 to 3036-19]. (Act Apr. 21, 1933, c. 356, §1; Dec. 31, 1933, Ex. Sess., c. 37; Jan. 9, 1934, Ex. Sess., c. 66; Apr. 24, 1935, c. 289.)

The title and enacting part of Act Jan. 9, 1934, purports to amend "Laws of 1933, chapter 356, section 1, as amended by Special Session Laws 1933, chapter —."

School districts granted rights and privileges of consolidated school districts are exempted from operation of this act. Op. Atty. Gen., July 5, 1933.

Average rate for school maintenance on similar lands in common school districts of same county is rate on such lands for same year for which agriculture lands of an independent district are taxed. Op. Atty. Gen., July 17, 1933.

This act is constitutional. Id.

Act is not applicable to special school districts. Id.

"Agricultural lands" means lands used for agricultural purpose and which, before passage of act, were assessed at 33 1/3% of their true and full value. Id.

Act is not applicable to 1932 taxes. Op. Atty. Gen., Aug. 1, 1933.

Where half of tract in school district is within limits of incorporated city, that which lies within city is taxable for school maintenance at rate not to exceed average rate for school maintenance on similar lands in common school districts in same county. Op. Atty. Gen., Oct. 4, 1933.

Mankato school district is a special school district and not independent district within this act. Op. Atty. Gen., Oct. 31, 1933.

"School maintenance" does not include interest on bonds. Op. Atty. Gen., Nov. 21, 1933.

"Agricultural lands" means lands which are used for agricultural purposes and which, before passage of act, were assessed at 33 1/3% of true and full value pursuant to §1933. Op. Atty. Gen., Nov. 28, 1933.

Consolidated district valuations or rates are not included with common schools. Op. Atty. Gen., Nov. 28, 1933.

To determine average mill levy for maintenance in common school districts, total levy in dollars should be divided by total assessed valuation, common districts to be reduced to a single unit as if these districts together constitute a single district. Op. Atty. Gen., Nov. 28, 1933.

Only amounts for maintenance or general running expenses should be included and county one-mill tax and levies for debt service for any other special purpose should not be included. Op. Atty. Gen., Nov. 28, 1933.

School rates for towns or villages in independent districts containing agricultural lands should be determined by determining amount of tax moneys to be paid by agricultural lands under average for county on such lands, subtract this amount from total to be raised in district and remainder would be amount to be raised from village property, and this remainder divided by taxable property of village would give mill rate for village for school purposes. Op. Atty. Gen., Nov. 28, 1933.

Wells school district, if meeting the requirements of Laws 1915, c. 238, §2, at the time it went into effect, is a consolidated school district within meaning of this act. Op. Atty. Gen., Nov. 28, 1933.

In order to determine levy for school maintenance within meaning of §3030 of any independent school district to which Laws 1933, c. 356, is applicable, commissioner of education should divide total amount levied for school maintenance purposes in school district by total assessed valuation of district and if levy thus arrived at exceeds 20 mills, then such additional state aid should be allowed to school district. Op. Atty. Gen., Feb. 2, 1934.

Special Session, Laws 1933-34, c. 66, is not applicable to 1933 taxes. Op. Atty. Gen., Feb. 7, 1934.

Amendments at 1933 Special Session are not applicable to 1933 taxes. Op. Atty. Gen., Feb. 8, 1934.

School board may not reduce amount of levy after taxes have been levied and extended nor can county board and tax commission grant a blanket reduction on assessed valuation of land located in a village. Op. Atty. Gen., Feb. 28, 1934.

Levy on non-agricultural lands established by school board and reported to county auditor to be reported by him to state department of education should be used as a basis for determining whether additional state aid should be paid to independent district. Op. Atty. Gen., May 22, 1934.

Common school districts mentioned in §2803-1 are not thereby made independent school districts within meaning of §3014-6. Op. Atty. Gen. (161b-11), Apr. 6, 1934.

Section 3013 is not a limitation upon the district school tax of independent districts to which this section is applicable. Op. Atty. Gen. (426b-7), Apr. 13, 1934.

Amounts levied by independent school districts to pay debts for building school house are not affected by this act, as amended. Op. Atty. Gen. (426b-7), July 26, 1934.

This section as amended by Laws 1935, c. 289, applies to special school districts, including the Albert Lea School District created by Special Laws 1881, c. 145. Op. Atty. Gen. (426b-7), June 6, 1935.

"Agricultural lands" means lands which are used for agricultural purposes and which before passage of this act were assessed at 33 1/3% of their true and full value. Op. Atty. Gen. (168d), July 22, 1935.

"Agricultural lands" included swamp lands, submarginal lands, cutover lands, and other lands not suitable for farming, where they were assessed at 33 1/3% of their true and full value before passage of this act. Id.

Fact that land is platted or unplatted is but one factor in determining whether it may or may not be classed as agricultural lands. Id.

In making a levy to cover deficiency in state aid, a district may take into consideration tax delinquency and make levy sufficient to yield an amount estimated to be equal to the deficiency. Id.

Amendment by Laws 1935, c. 289, repeals and supercedes any part of prior laws inconsistent with it. Op. Atty. Gen. (425b-4), Sept. 14, 1935.

Limitation of tax rate is not applicable to personal property on agricultural lands. Op. Atty. Gen. (519m), Sept. 20, 1935.

Application of 10 mills tax provided for in Laws 1919, c. 271, was not affected in any way by Laws 1935, c. 289, §1. Op. Atty. Gen. (519m), Oct. 10, 1935.

Laws 1935, c. 289, §1, was intended to amend not only Laws 1933, c. 356, §1, but also all intermediate acts enacted during 1933-1934 special session which amended such chapter 356. Op. Atty. Gen. (519m), Oct. 21, 1935.

County auditor before levying tax must first determine tax rate which would be required to raise sum needed for school maintenance upon all of the property in the school district, and if the rate so determined is not in excess of average rate for school maintenance on agricultural lands in common school district in the county, all the property should be so levied, but if the rate would be more than 10% in excess of average rate for common school maintenance on agricultural lands, the maximum rate should be assessed against agricultural lands separately, and the remainder would be assessed against other property. Op. Atty. Gen. (519m), Nov. 9, 1935.

Where school district has agricultural lands in two counties, average rate of taxation on agricultural lands in common school districts of each county should be determined separately, and rate of taxation for school maintenance cannot exceed by more than 10% average rate for school maintenance in common school district. Id.

Levies made in the year 1935 on account of deficiency in state aid must be based on deficiency in special state aid payable for year ending June 30, 1935. Id.

A levy for "capital outlay" should not be included under heading "levies for debt service," if the levy is not made to raise money to pay bonded indebtedness. Op. Atty. Gen. (519m), Dec. 29, 1935.

Term "agricultural lands" means lands which are used for agricultural purposes and which before passage of Laws 1933, c. 359, were assessed at 33 1/3% of their true and full value pursuant to §1933. Op. Atty. Gen. (426a), Mar. 4, 1937.

Section does not apply to capital outlay, and does not prevent board from levying an additional tax on agricultural land and district for purpose of obtaining funds to pay for capital outlay, and it may do so without first securing consent of voters in district, in view of section 2826. Op. Atty. Gen. (519m), Nov. 29, 1937.

Section was never intended to apply to Minneapolis school district, and that district may not make a special tax levy above limitations in an amount equal to deficiency in state aid, any right it may have for additional levies being under §3014-7. Op. Atty. Gen. (519m), June 16, 1939.

**3014-7. Additional taxes may be levied in certain cities.**—In every independent school district within the limits of a city of the first class operating under a home-rule charter, which does not fix the amounts which may be expended for school purposes, there may be levied, and the Board of Education, or other school board therein, is hereby authorized to and may levy annually, independently of and in addition to all other sums for school purposes now authorized by law to be levied, the following additional amounts of taxes for the following named school purposes:

(1) An amount equal to six mills on each dollar of the taxable property of the district for the purchase of sites for school houses and to defray the expenses incurred, or to be incurred, in building, re-building, remodeling, repairing and furnishing school houses and installing heating, ventilating and plumbing plants in the same and equipping the same with libraries, apparatus and other school furniture.

(2) An amount equal to three-fourths of one mill on each dollar of the taxable property of the district for the support and maintenance of evening and summer schools for elementary and high school grades.

(3) An amount equal to one-half of one mill on each dollar of the taxable property of the district in

1921, 1922 and 1923 for the purpose of paying and discharging existing indebtedness arising from the maintenance and operation of the schools in such district.

(4) An amount equal to one-fourth of one mill on each dollar of the taxable property of the district for educational work among immigrants, candidates for naturalization and removal of illiteracy.

Provided that the total annual levy of taxes for school purposes in any such district, exclusive of the state and county school taxes therein, and exclusive of all levies authorized for the purposes mentioned in paragraphs 1, 2, 3, and 4 hereof, and exclusive of the levies authorized for interest and sinking fund purposes and for Teachers Retirement Fund Association purposes, and for the purposes mentioned in Chapter 166 of the General Laws for 1917, shall not exceed twenty mills on each dollar of the taxable property of the district, except that when the amount of a twenty mill levy upon each dollar of the taxable property of the district, plus an amount equal to the total income available for current operating expenses estimated that will be received in the fiscal period exclusive of apportionments on the district tax levy, exclusive of anticipated receipts from delinquent taxes, and exclusive of any receipts from federal funds, is not in any year equal to one hundred (\$100) dollars for each student in kindergarten through Junior College, both inclusive, but excluding post-graduate high school and night school students, based on the average number belonging in the previous school year, then there may be levied an amount, which, when added to an amount equal to the estimated income available for current operating expenses, exclusive of apportionments on the district levy, exclusive of anticipated receipts from delinquent taxes, and exclusive of any receipts from Federal funds, will equal one hundred (\$100) dollars for each student in kindergarten through Junior College (both inclusive but excluding post-graduate high school and night school students) based on the average number belonging in the previous school year. ('21, c. 332; Mar. 23, 1937, c. 85, §1.)

Sec. 2 of Act Mar. 23, 1937, cited, provides that the Act shall take effect from its passage.

This act is constitutional. Board of Education v. B., 192 M367, 256NW394. See Dun. Dig. 8669.

This act supersedes Mason's Stats., §3014, and applies to the special school district in city of Duluth created by Sp. Laws 1891, c. 312. Id. See Dun. Dig. 8669.

**3014-8. Debt limit increased in certain school districts.**—That whenever the properties of any School District in this state, is made up to the extent of at least sixty per cent in value of property which is exempt from local taxation, because taxes thereon are paid into the State Treasury, under the provisions of the Gross Earnings Tax Law, then such district shall have authority to incur and be subject to a net indebtedness of not more than forty per cent of its assessed value. (Act Feb. 28, 1939, c. 35, §1.)

**3014-9. Purposes of debt.**—That no School District as herein defined, shall have authority to incur or be subject to a net debt as herein defined, except for the purposes of purchase of land for school purposes and erecting or enlarging necessary school buildings to properly provide for the educational facilities of the district. (Act Feb. 28, 1939, c. 35, §2.)

**3014-10. Existing laws to govern.**—That all obligations issued under the terms of this Act, shall be issued pursuant to the existing laws now in force. (Act Feb. 28, 1939, c. 35, §3.)

Sec. 4 of Act Feb. 28, 1939, cited, provides that the act shall take effect from its passage.

#### LIBRARIES

##### **3015. Schools may provide libraries.**

City charter provisions must be in harmony with legislative policy of state. State v. Erickson, 190M216, 251NW 519. See Dun. Dig. 6539.

**3017. Tax levy for library purposes.**—In cities and villages of less than two thousand people, not levying a tax for public library purposes, the school board may maintain a public library for the use of all residents of the district, and provide ample and suitable rooms for its use in the school buildings and in any independent school district embracing any such village, where a library building has been erected with funds donated for library purposes the school district may levy an annual tax of not more than three mills, the proceeds of which tax shall be used for the support and maintenance of said library and shall be known as the library fund.

Upon a library being so established in any such school district whose library building has been erected with funds acquired by gift or donation, the school board is empowered to appoint a library board of nine members of which each member of the school board shall be a member ex officio.

In any such school district by gift or donation, the school board is empowered to appoint a library board of nine members of which each member of the school board shall be a member ex officio. The remaining members of such library board shall be appointed by the school board, one of which remaining members shall hold office for one year, one for two years and one for three years, from the first Saturday of September following their appointment, the term of office of each being specified in such appointment; annually thereafter such school board shall appoint a member of the library board for the term of three years and until his successor shall qualify. Such school board may remove any member so appointed for misconduct or neglect. Vacancies in such board shall be filled by appointment for the unexpired term. Members of such board shall receive no compensation for their services as such.

Immediately after appointment such board shall organize by electing one of its members as president and one as secretary and from time to time it may appoint such other officers and employes as it deems necessary. The secretary before entering upon his duties shall give bond to the school district in an amount fixed by the library board conditioned for the faithful discharge of his official duties. The library board shall adopt such by-laws and regulations for the government of the library and reading room and for the conduct of its business as may be expedient and conformable to law. It shall have exclusive control of the expenditures of all money collected for or placed to the credit of the library funds, and of the rooms and buildings provided for library purposes. All moneys received for such library fund shall be kept in the treasury of the school district credited to the library fund and be paid out only upon itemized vouchers approved by the library board. The library board may fix the compensation of employes and remove any of them at pleasure.

All books or other property given, granted, conveyed, donated, devised or bequeathed to or purchased by such library shall vest in and be held in the name of such school district. Every library and reading room established hereunder shall be free to the use of the inhabitants of the school district, subject to such reasonable regulations as the directors may adopt.

When so established, no such library shall be abandoned without a 2/3 majority vote of the electors cast at any annual or special school meeting called for the purpose.

When so established, in cases where the building has been erected with funds so donated, no such library shall be abandoned without a 2/3 majority vote of the electors cast at any annual or special school meeting called for the purpose. ('21, c. 397, §3; Apr. 16, 1929, c. 210.)

Village cannot contract with school district for establishment and maintenance of public library under supervision of school district, but village may place library

books in school library and retain title. Op. Atty. Gen. (476a-6), Feb. 19, 1936.

### 3020. School and village libraries may combine.

Member of school board cannot be employed jointly by district and municipality as librarian, but may be employed by the municipality after service has been contracted for, in view of §10305. Op. Atty. Gen., Sept. 9, 1929.

School board of Hopkins may contract with the County of Hennepin for the furnishing of library service by the latter. Op. Atty. Gen., Apr. 10, 1931.

Village cannot contract with school district for establishment and maintenance of public library, under supervision of school district, but village may place library books in school library and retain title. Op. Atty. Gen. (476a-6), Feb. 19, 1936.

## STATE AID

**3021-11. Annual appropriation in aid of common schools.**—There is hereby annually appropriated from the revenue fund of this state ~~fifty thousand (\$50,000.00) dollars~~ in aid of the common schools of this state, available, the first annual appropriation, on or before May first, 1911, and each succeeding annual appropriation, on or before April first, of each succeeding year. ('11, c. 341, §1.)

This section and sections 3021-12, 3021-13 and 3021-14 were omitted from the Compiled Laws 1923 presumably on the theory that they were repealed by §48, 49 Mason's Minn. St. 1927. But §3021-12 was amended by the legislature at the 1935-36 Special Session, thus indicating that Laws 1911, c. 341, from which the sections are taken, is to be considered as subsisting law.

**3021-12. Same—how distributed.**—The amount so appropriated shall be annually divided among and distributed to the several counties of this state for the use and benefit of and in aid of the common schools thereof, and the county treasurer of each county receiving such aid, shall redivide and redistribute the same to and to the use and benefit of the common school of his county in proportion to the acreage of lands owned by this state in each respective school district situated therein; provided, however, that in calculating the acreage of unsold state lands in any county, lands which have heretofore been or hereafter may be leased by the state for mineral purposes, shall not be included in the calculation; and provided, further, that the amount received by any school district in any year shall not exceed the equivalent of five cents per acre for each and every acre of state owned lands situated within such school district after excluding such leased lands. Provided, that no school shall receive under the terms of this act, in any one year, an amount in excess of \$15.00 per pupil enrolled. ('11, c. 341, §2; Jan. 21, 1936, Ex. Ses., c. 61, §2.)

**3021-13. Same—not to be used for sites or buildings.**—No part of the money hereby appropriated shall be available for or be used for the purchase of any school site or the erection of any school building. ('11, c. 341, §3.)

**3021-14. Same—duty of state auditor—plats of unsold state lands.**—It shall be the duty of the state auditor to supply to the several county auditors of this state, plats with checkings thereon indicating the location and the description of all unsold lands situated within the organized townships of his county. ('11, c. 341, §4.)

### 3022. State aid to schools.

Laws 1935, c. 323. Aid to certain school districts. Omitted as temporary.

Act Apr. 24, 1937, c. 425, grants aid to extent of loss by exemption from taxation during years 1935, 1936.

Federal aid to education may be accepted if authorized. Laws 1939, c. 206.

Moneys received under Laws 1931, c. 410, may be used for any lawful school purpose, such as the payment of judgments against the district. Op. Atty. Gen., Oct. 9, 1931.

There is no authority in law for any apportionment of state school funds or special state aid to a teachers' college. Op. Atty. Gen. (8-b), Jan. 26, 1935.

State aid must be applied to outstanding warrants. Op. Atty. Gen. (168b), Nov. 1, 1938.

Distribution of aid to schools is subject to Laws 1939, c. 431, Art. II, §16(f), permitting commissioner of administration to withhold funds when collections are

insufficient, subject to certain priorities by specific statutes. Op. Atty. Gen. (640a), August 9, 1939.

A closed school transporting all of its pupils to a parochial school could not receive special state aid, but is entitled to that aid where it retains its organization, and transports part of its students to a public school. Op. Atty. Gen. (168), August 17, 1939.

A new high school in a new high school area must first qualify as a classified high school pursuant to rules and regulations of state board of education, or students in district dealing with such high school would lose their state aid for tuition and transportation. Op. Atty. Gen. (170-c), August 31, 1939.

**3023. Districts must have school eight months to be entitled to apportionment.**—The endowment fund shall be distributed semi-annually by the State Board of Education to school districts whose schools have been in session at least eight months, in proportion to the number of scholars of school age who shall have been in average daily attendance during the preceding year, such number to be determined by dividing the aggregate daily attendance in a school district by the total number of days in the school year of that district. ('21, c. 467, §2; '23, c. 322, §1; Apr. 24, 1935, c. 290, §2.)

State board of education has authority only days that schools are actually in session in a given school district in determining average daily attendance, and need not count days on which a school is closed for legal holidays, teachers' conventions, epidemics, or very stormy weather. Op. Atty. Gen. (168d), July 22, 1935.

School districts having terms of only seven months during school year 1934-1935 are entitled to share in apportionment of endowment fund in October, 1935, and March, 1936, if they vote an eight months' school term. Id.

**3026. Classification and definitions.**—For the purpose of this act all public schools shall be classified under the following heads:

**Classification.** (1) Graded Elementary Schools, (2) Ungraded Elementary Schools, (3) Four-Year High Schools, (4) High School Departments, (5) Junior High Schools, (6) Senior High Schools, (7) Consolidated Schools and (8) Six-Year High Schools. ('21, c. 467, §5; '25, c. 282; Apr. 18, 1935, c. 214.)

**Definitions.** (1) A graded elementary school shall be a school giving instruction in the first six years of the public school course and employing at least three teachers devoting their entire time to elementary school work, or a school giving instruction in the first eight years of the public school course, and employing at least four teachers devoting their entire time to elementary school work. In each such school one teacher may be designated as principal. (As amended Apr. 18, 1935, c. 214.)

(2) An ungraded elementary school shall be a school giving instruction in the elementary course and employing one or more teachers, but not having the rank of a graded elementary school.

(3) A four-year high school shall be a school giving one or more four-year courses beyond the eight-year elementary course, and which shall employ a superintendent, a high school principal and one or more high school teachers. (As amended Apr. 15, 1929, c. 190, §1.)

(4) A high school department shall be a school giving instruction in high school subjects beyond the eight-year elementary course. Such high school department shall employ two or more qualified high school teachers to give instruction in such high school subjects, one of whom may be the superintendent of the high school department and the elementary school associated therewith. (As amended Apr. 15, 1929, c. 190, §2.)

(5) A junior high school shall be a school having a separate organization and employing a principal and two or more teachers giving instruction in the seventh, eighth and ninth years of the twelve-year public school course. (As amended Apr. 15, 1929, c. 190, §3.)

(6) A senior high school shall be a school having a separate organization and employing a principal and two or more high school teachers giving instruction in the tenth, eleventh and twelfth years of the

twelve-year public school course. It shall be located in a school district which maintains a junior high school and which employs a superintendent for the entire system of public schools in such school district. (As amended Apr. 15, 1929, c. 190, §4.)

(7) A consolidated school shall be any school located in a school district organized by law as a consolidated school district. Such consolidated schools shall also be classified under one of the six preceding headings of this section.

(8) A six-year high school shall be a school employing a superintendent, a high school principal, and two or more high school teachers giving instruction in years seven to twelve inclusive of the public school course. (Added by Act-Apr. 18, 1935, c. 214.)

Graded elementary schools may employ 4 teachers, some of whom do part time work as high school teachers. Op. Atty. Gen., June 30, 1933.

(2). Hiring of unqualified teacher does not deprive school of its public nature, but does deprive school of right to apportionment aid while such teacher is employed. Op. Atty. Gen. (8b), Oct. 6, 1937.

### 3027. Purposes of special state aid.

Supplemental aid may not be paid to a district for educational facilities furnished to pupils who are non-residents of the state. Op. Atty. Gen., Oct. 12, 1931.

**3028. State aid for equalizing educational opportunities.**—(1) For transportation or board of resident pupils in consolidated school districts, the state shall reimburse such districts at rates to be determined by the State Board of Education, provided that no consolidated school district shall receive annually more than an average of thirty-six dollars (\$36) per pupil transported or boarded.

(2) All the provisions of this act relating to state aid to consolidated school districts shall be equally applicable to the unorganized territory of any county, to county school districts, and also to all school districts of ten or more townships.

(3) School districts may use their transportation equipment for the transportation of nonresident pupils upon permission from the State Board of Education; and no special state aid shall be paid for any nonresident pupil transported or boarded illegally or contrary to the standards established by the State Board of Education. The State Department of Education shall formulate such rules and regulations as may be necessary to the end that there shall be no competition between school districts for the enrollment of students.

(4) For the tuition of non-resident high school pupils, the state shall pay to the school district furnishing such high school instruction at the rate of seven dollars (\$7.00) per school month, or major fraction thereof, for each such non-resident pupil, for not to exceed ten (10) months in any school year, provided, (1) that high school instruction shall mean instruction for pupils who have completed the eight years of the elementary course; (2) that such tuition shall be paid by the state only in so far as any pupil's residence district does not give high school instruction, but this provision shall not apply to non-resident high school pupils residing in unorganized territory, in ten or more township school districts, or in county school districts; and (3) that the state apportionment for any such non-resident high school pupils shall be paid to the school district in which such non-resident pupils attend a high school.

(5) Any school district or unorganized territory may receive aid for the purchase of library books not to exceed one-half the amount expended or fifty cents (\$.50) per pupil in average daily attendance during the preceding year for five hundred (500) pupils, nor to exceed one-fourth the amount expended or twenty-five cents (\$.25) per additional pupil in average daily attendance during the preceding year in such school district or unorganized territory.

(6) For assisting in providing for the school attendance of isolated pupils, the State Board of Education, at its discretion and under such rules as it

may adopt, may assist school districts or the county board of education for unorganized territory in any county, in providing for the transportation or board of such children of school age as reside beyond reasonable walking distance from the nearest public school. To this end, the State Board may grant to such school districts not to exceed fifty dollars (\$50) annually for each such pupil transported or boarded. ('21, c. 467, §7; '23, c. 266, §1; Apr. 13, 1933, c. 224; Apr. 17, 1935, c. 209; Apr. 24, 1935, c. 288, §2; July 16, 1937, Sp. Ses., c. 78, §1.)

Sec. 10 of Act Apr. 24, 1935, cited, provides that the act shall take effect Sept. 1, 1935.

Sec. 4 of Act July 16, 1937, cited, provides that the act shall take effect from its passage.

Op. Atty. Gen. (519m), Oct. 10, 1935; note under §3030. State is liable for tuition of high school pupils residing in county district organized under Laws 1929, c. 9, where they attend high school in another county, though the former maintains a high school. Op. Atty. Gen., Dec. 9, 1929.

Student living on the Ft. Snelling reservation and attending high school in St. Paul may not be included for state tuition aid under this section. Op. Atty. Gen., Feb. 10, 1930.

Tuition aid can be granted for wards of state public school attending Owatonna high school. Op. Atty. Gen. (180), Apr. 19, 1937.

Amendment by Laws 1935, c. 209, was not repealed by Laws 1937, Ex. Sess., c. 78, and is still in effect, as affecting aid to state schools of agriculture for each eligible pupil. Op. Atty. Gen. (168), Sept. 15, 1937.

(2). Laws 1935, c. 382, is a law complete in itself and it does not amend this section, and is not affected by Laws 1935, c. 288. Op. Atty. Gen. (168), June 28, 1935.

(3). State board may establish areas and withhold special state aid for pupils transported contrary to regulations. Op. Atty. Gen. (161b-15), Oct. 22, 1937.

School district not maintaining high school is entitled to aid where it transports pupils at its own expense to a district other than that to which its area is assigned by county districting committee. Op. Atty. Gen. (161b-15), Oct. 10, 1938.

Board of education cannot regulate where parents pay for transportation, and railroad and warehouse commission has no jurisdiction over such school buses. Id.

(4). Payment of state aid to pupils in state agricultural schools under laws 1935, c. 209, have been and will be valid until legislature changes law. Op. Atty. Gen. (168a), March 30, 1939.

**3028-1. State aid for transportation of non-resident pupils.**—No special state aid shall be paid for any non-resident pupil transported or boarded illegally or contrary to the standards established by the State Board of Education. (Act Apr. 22, 1939, c. 437, §8.)

**3029. State aid to assist in establishing minimum standards.**—(1) For each graded elementary school of eight school years with a school year of at least nine months, the state shall pay a school district four hundred dollars (\$400) annually.

(2) For each graded elementary school of six school years with a school year of at least nine months, the state shall pay a school district three hundred dollars (\$300) annually.

(3) For each ungraded elementary school with a school year of at least eight months, the state shall pay a school district one hundred dollars (\$100) for each first grade teacher employed; for each ungraded elementary school with a school year of at least nine months, the state shall pay a school district one hundred twenty-five dollars (\$125) for each first grade teacher employed; provided that the total of such aid for an ungraded elementary school with a school year of eight months shall in no case exceed two hundred dollars (\$200) and for a school year of nine months two hundred fifty dollars (\$250); and provided further that such classification aid, when added to the funds received by a school district as apportionment together with the equivalent of a five mill tax for maintenance shall not exceed the total maintenance cost of the schools in such district.

(4) For each four-year high school with a school year of at least nine months, the state shall pay a school district five hundred dollars (\$500) annually.

(5) For each high school department with a school year of at least nine months, the state shall

pay a school district three hundred dollars (\$300) annually.

(6) For each junior high school with a school year of at least nine months, the state shall pay a school district three hundred dollars (\$300) annually.

(7) For each senior high school with a school year of at least nine months, the state shall pay a school district three hundred dollars (\$300) annually.

(8) For each six-year high school with a school year of at least nine months, the state shall pay a school district six hundred dollars (\$600) annually. ('21, c. 467, §8; '23, c. 332, §1; '25, c. 412 (1 to 6); Apr. 24, 1935, c. 288, §3; July 16, 1937, Sp. Ses., c. 78, §2.)

Sec. 10 of Act Apr. 24, 1935, cited, provides that the act shall take effect Sept. 1, 1935.

Sec. 4 of Act July 16, 1937, cited, provides that the act shall take effect from its passage.

Op. Atty. Gen. (519m), Oct. 10, 1935; note under §3030.

**3030. Additional state aid to certain schools.**—School districts which receive aid under the provisions of this section shall be limited to those whose tax levy for maintenance only is thirty (30) mills or more except in the case of agricultural lands on which the maximum rate of taxation for school maintenance is limited by the Laws of 1933, Chapter 356, as amended by the Laws of 1935, Chapter 289 [§3014-6]. To any school district in which the proceeds of a tax levy of thirty (30) mills or the maximum legal rate on the district's assessed valuation together with all funds received from the state as apportionment or special state aid, except transportation aid, does not equal sixty dollars (\$60) for each resident pupil in average daily attendance in an elementary school, and one hundred dollars (\$100) for each resident high school pupil and each nonresident high school pupil for whom the state pays tuition, in average daily attendance in a classified high school, the state shall pay as supplemental aid, as soon after August first of each year as practicable, an amount which, together with the proceeds of a thirty (30) mill tax or the maximum legal rate, and all money received from the state as apportionment or special state aid, except transportation aid, will equal sixty dollars (\$60) for each resident pupil in average daily attendance in an elementary school and one hundred dollars (\$100) for each resident high school pupil and each nonresident high school pupil for whom the state pays tuition in average daily attendance in a classified high school. In any school district or unorganized territory in which the proceeds of a tax of thirty (30) mills or the maximum legal rate together with all funds received from the state as apportionment or special state aid, except transportation aid, does not equal one thousand dollars (\$1000) per classroom unit the State Board of Education may, at its discretion, grant sufficient additional supplemental aid to bring the total funds available for school maintenance equivalent to one thousand dollars (\$1000) for each classroom unit. Provided, that (1) the supplemental aid paid under this section when added to all other funds received from the state as apportionment or special state aid and to the proceeds of a thirty (30) mill tax or the legal maximum tax for maintenance shall not exceed the total maintenance cost of the schools in any school district nor such maximum figure per classroom unit as may be determined by the State Board of Education; (2) the term "proceeds" as used in this section shall include all funds collected during the preceding twelve (12) month period ending October thirty-first from taxes levied for school maintenance up to thirty (30) mills in 1935 and subsequent years; (3) if a school district qualifies for supplemental aid under this section but such district's tax rate for school maintenance during the preceding years was less than thirty (30) mills, the proceeds of the tax for school maintenance in each district shall be based on what a thirty (30) mill tax or the maximum legal rate on agricultural lands would have produced if levied and shall be in proportion to the

actual amount collected under the mill rate levied by such district for such previous years; and (4) any school district receiving aid under the provisions of Chapter 143, Laws of 1931 [§§3036-17 to 3036-19], shall receive, in addition to such aid, supplemental aid which shall not be less per pupil in average daily attendance than such district has been granted on the average since the year 1931. ('21, c. 467, §9; '23, c. 330, §1; Apr. 24, 1935, c. 288, §4; July 16, 1937, Sp. Ses., c. 78, §3.)

Sec. 4 of Act July 16, 1937, cited, provides that the act shall take effect from its passage.

Sec. 10 of Act Apr. 24, 1935, cited, provides that the act shall take effect Sept. 1, 1935.

State aid to certain school districts. Laws 1939, c. 376.

Students enrolled in high school teacher training departments are to be counted as pupils in computing the supplemental aid to which a district may be entitled under this section. Op. Atty. Gen., July 25, 1931.

This section is predicated on assessed valuation of district and Laws 1933, c. 356, ante §3014-6, while limiting maximum tax levy on agricultural land in independent districts does not change assessed valuation. Op. Atty. Gen., Nov. 28, 1933.

In order to determine levy for school maintenance within meaning of §3030 of any independent school district to which Laws 1933, c. 356, is applicable, commissioner of education should divide total amount levied for school maintenance purposes in school district by total assessed valuation of district and if levy thus arrived at exceeds 20 mills, then such additional state aid should be allowed to school district. Op. Atty. Gen., Feb. 2, 1934.

Levy on non-agricultural lands established by school board and reported to county auditor to be reported by him to state department of education should be used as a basis for determining whether additional state aid should be paid to independent district. Op. Atty. Gen., May 22, 1934.

In determining supplementary aid, state board of education has authority to exclude from number of pupils counted all those enrolled in kindergarten or spring primary classes and high school graduates enrolled for post-graduate high school work. Op. Atty. Gen. (168d), July 22, 1935.

Regular high school graduates enrolled in high school teacher training department are not to be counted. Id.

If regular levy upon agricultural lands for school maintenance in a district maintaining a high school is fifteen mills but district levies ten mills additional to cover deficiencies in state aid, the regular 15 mill levy should be used in determining supplemental aid, and the 25 mills. Id.

Limitations in proviso should be applied after prorating provided for in §3030-9. Id.

Actual amount collected and not entire amount levied should be considered as "proceeds" with respect to limitation of 30 mills tax. Id.

Expenditures illegally made for transporting pupils are not to be counted as part of maintenance costs in determining supplemental aid. Id.

Expenditures lawfully made for transportation of high school pupils to an accredited high school in another district are to be included in maintenance costs. Id.

Proceeds of 10 mill tax under Laws 1919, c. 271, are not to be considered in arriving at special state aid. Op. Atty. Gen. (519m), Oct. 10, 1935.

School district qualified for supplemental aid where 30 mill levy together with funds received from state exceeded \$60 for each resident elementary pupil and \$100 for each resident high school pupil, but because of tax delinquency proceeds of tax levy, and other aid, do not equal \$60 or \$100. Op. Atty. Gen. (168), Dec. 14, 1935.

Special aid for teacher's training is to be considered in determining supplemental aid. Op. Atty. Gen. (168), Dec. 27, 1935.

Delinquent taxes levied before 1935 but paid after 1935 cannot be included as "proceeds," but delinquent taxes levied in 1935 but paid in 1937 should be included. Op. Atty. Gen. (426a-2), Nov. 25, 1936.

Building aid must be included when determining amount of supplemental aid due district. Op. Atty. Gen. (168a), Mar. 18, 1937.

Funds received by school district from federal government may be considered as reimbursement for taxes lost by reason of federal ownership of lands in district. Op. Atty. Gen. (159a-19), Apr. 26, 1937.

Money received by school districts from federal government in lieu of taxes which municipalities would have received if government had not taken over land is to be considered as receipts from local taxes in computing supplemental aid. Op. Atty. Gen. (168d), June 29, 1937.

In case of mistake aid may be granted though tax rate is less than 30 mills. Op. Atty. Gen. (519m), Mar. 28, 1938.

Donations by Executive Council cannot be construed as apportionment or special state aid. Op. Atty. Gen. (168c), Dec. 7, 1938.

Where sum voted for taxes for a school district would require a levy of 134.8 mills, but county auditor in making computation made an error and levied only 13.48 mills, the district is entitled to supplemental school aid

conditioned upon a levy for ensuing year of 30 mills plus difference between 13.48 mills and 30 mills. Op. Atty. Gen. (519m), June 7, 1939.

### 3031. State aid for special classes in public schools.

—(1) For established undertakings, state aid shall be granted to school districts on the basis of the number of special teachers employed, enrollment in classes and type of work done, and all under such rules as may be established by the State Board of Education. In school districts maintaining junior and senior high schools, such state aid shall be granted for either a junior or a senior high school, but not for both.

(a) For agriculture state aid to any school district for each school within the district maintaining such work shall not exceed five hundred dollars (\$500).

(b) For general industrial training state aid to any school district for each school within the district maintaining such work shall not exceed four hundred dollars (\$400).

(c) For home training state aid to any school district for each school within the district maintaining such work shall not exceed four hundred dollars (\$400).

(d) For commercial training state aid to any school district for each school within the district maintaining such work shall not exceed four hundred dollars (\$400).

(e) For special classes for defectives. Under such rules as the State Board of Education may establish, the state shall pay annually to any school district for the education of defective children the following amounts:

(a) For deaf children, two hundred fifty dollars (\$250) for each such child, who is enrolled in a day school and who is a resident of a district maintaining such school, and four hundred dollars (\$400) for each child who is a non-resident of the district maintaining such school and whose resident district does not maintain such school; the additional one hundred and fifty dollars (\$150) to be paid for board and room of such non-resident child.

(b) For blind children, three hundred dollars (\$300) for each such child.

(c) For subnormal children one hundred dollars (\$100) for each such child.

(d) For children with defective speech, not to exceed fifteen hundred dollars (\$1500) for each teacher engaged exclusively in this work.

(e) For crippled children, two hundred fifty dollars (\$250) for each such child.

(2) For educational work not yet generally established.

(a) For stimulating progress and achievement in ungraded elementary schools, the State Board of Education shall adopt standards for a superior ungraded school. Such standards shall be based upon the length of the school term, qualification of teachers, regular school attendance and a curriculum adapted to present day needs, including health work. School districts meeting these standards shall receive, in addition to all other state aid, not to exceed fifty dollars (\$50) for each such school maintained.

(b) For evening schools for persons over sixteen years of age and not in attendance upon regular day schools, the state shall pay to any school district maintaining such schools in accordance with requirements established by the State Board of Education, one-half the salaries of all teachers who teach in such evening schools; and districts maintaining such evening schools shall also be entitled to state apportionment for all pupils of school age upon the same basis as that provided by law for day school pupils. ('21, c. 467, §10; '23, c. 331, §1; '23, c. 382, §1; Apr. 24, 1935, c. 288, §5.)

Act Apr. 10, 1939, c. 181, makes an appropriation.

Sec. 10 of Act Apr. 24, 1935, cited, provides that the act shall take effect Sept. 1, 1935.

Act Apr. 22, 1937, c. 345, makes an appropriation for crippled children's special summer schools.

Op. Atty. Gen. (519m), Oct. 10, 1935; note under §3030. A school district which has closed its school and provided for the instruction of its pupils in an adjoining district is not entitled to special aid provided for by this section. Op. Atty. Gen., April 24, 1930.

(1) (e).

Appropriation for summer schools for crippled children. Laws 1939, c. 181.

### 3032. Teacher training in high schools.

Students enrolled in high school teacher training departments are to be counted as pupils in computing the supplemental aid to which a district may be entitled under §3030. Op. Atty. Gen., July 25, 1931.

Rules must be reasonable and must be limited to method of conducting teacher training department, qualification of teachers, curriculum to be taught and similar subjects, but board has no power to enact arbitrary rules determining number of teacher training departments that can be established and arbitrarily refuse to approve of establishment of a department if standards set are complied with, and if teacher training departments established meet standards adopted by board, they are entitled to aid notwithstanding refusal of state board to approve. Op. Atty. Gen. (160), Mar. 19, 1938.

### 3034. Payment of state aid.

Special fund for payment of teachers' salaries for current year may be set up by unorganized district and allotment for state aid, or any part thereof, may be placed in such fund. Op. Atty. Gen., Sept. 5, 1938.

### 3036-1. Additional state aid for certain schools—Amount.

Where an appropriation is insufficient to pay in full the aid authorized by this section and §3036-17, the same rate of pro-rating should be applied to the amounts due under both acts. Op. Atty. Gen., Aug. 28, 1931.

Term "pupil" is confined to persons between 5 and 21. Op. Atty. Gen. (168), Sept. 3, 1935.

### 3036-6. [Repealed.]

Repealed Apr. 24, 1935, c. 288, §6, effective Sept. 1, 1935. This act has no application to laws enacted after its passage and does not govern prorating of appropriations under Laws 1935, c. 382, §6, item 2. Op. Atty. Gen. (168a), June 25, 1935.

Laws 1935, c. 288, §6, repealing this section is valid though this section was not referred to in title of act. Op. Atty. Gen. (168d), July 22, 1935.

3036-7. Teachers training and tuition.—State aid for teacher training in high schools and state aid for the tuition of non-resident high school pupils shall be distributed and paid in the amounts now provided in Chapter 467, Laws 1921 [§§3022 to 3036], provided, however, that the aid for any such teacher training department shall not exceed fifteen hundred dollars (\$1500) annually, and provided further that aid for transportation of crippled children shall be paid as provided by Laws 1931, Chapter 280 [§§ 2822-3, 2822-4]. ('27, c. 396, §2; Apr. 24, 1935, c. 288, §7.)

Sec. 10 of Act Apr. 24, 1935, cited, provides that the act shall take effect Sept. 1, 1935.

Laws 1935, c. 288, §7, amending this section, is valid, though this section was not referred to in this title. Op. Atty. Gen. (168d), July 22, 1935.

### 3036-8. Transfer of funds to meet appropriation.—

If the amount appropriated for the payment of said special state aids shall be insufficient in any year to pay the same as herein provided in full, the state auditor shall transfer from the Current School Fund an amount sufficient, together with the amount so appropriated for said year, to pay said special state aids as herein provided in full. Provided, however, that not more than \$500,000 shall be so transferred from the Current School Fund in any one year. ('27, c. 396, §3; Apr. 24, 1935, c. 288, §8.)

Sec. 10 of Act Apr. 24, 1935, cited, provides that the act shall take effect Sept. 1, 1935.

Laws 1935, c. 288, §8, amending this section, is valid, though this section is not referred to in this title. Op. Atty. Gen. (168d), July 22, 1935.

Distribution of aid to schools is subject to Laws 1939, c. 431, Art. II, §16(f), permitting commissioner of administration to withhold funds when collections are insufficient, subject to certain priorities by specific statutes. Op. Atty. Gen. (640a), August 9, 1939.

### 3036-9. Prorating, appropriation—Exception.—

If the amount appropriated and the amount transferred, as provided in Section 8 hereof [§3036-8], shall be insufficient in any year to pay said special state aids

as herein provided in full, the same shall be equally prorated among the school districts entitled to receive such aids, and the pro rata amounts so received shall be accepted as payment in full of all obligations of the state to pay said aids for such year; provided, however, that this shall not apply to aids listed in Section 7 hereof [§3028]. ('27, c. 396, §4; Act Apr. 24, 1935, c. 288, §8.)

Sec. 10 of Act Apr. 24, 1935, cited, provides that the act shall take effect Sept. 1, 1935.

Laws 1935, c. 288, §8, amending this section, is valid, though this section is not referred to in this title. Op. Atty. Gen. (168d), July 22, 1935.

Distribution of aid to schools is subject to Laws 1939, c. 431, Art. 11, §16(f), permitting commissioner of administration to withhold funds when collections are insufficient, subject to certain priorities by specific statutes. Op. Atty. Gen. (640a), August 9, 1939.

**3036-10. Special school aid in certain school districts.**—Whenever in any school district the state since January 1, 1924, has acquired or may hereafter acquire title to real property by foreclosure of rural credits mortgages or in entire or partial discharge of any such mortgage, such school district shall be entitled to receive from the state, in addition to all other state aid, such an amount annually as would be produced by a tax at the rate for local school purposes for the last preceding year upon the valuation of such property in said district so held by the state as fixed by the last assessment thereof. (Act Apr. 20, 1929, c. 265, §1.)

Unconstitutional because of attempt to divert interest received from rural credit loans to the aid of school districts. 182M565, 235NW380. See Dun. Dig. 3848.

County cannot make an appropriation to pay the expenses of an association in maintaining an action to determine the validity of this act. Op. Atty. Gen., Jan. 4, 1930.

**3036-11. County Auditor to certify.**—The county auditor of any county or counties in which any school district entitled to aid hereunder is situated shall, on or before June 1, 1929, and on or before May 1, of each year thereafter, certify to the state board of education a statement of the facts entitling such district to aid hereunder. Such certificate in addition to any other information required by such board shall contain a statement of the following facts:

(a) A list of the lands in such district to which the state has acquired title as hereinbefore set forth with the date title was so acquired.

(b) The valuation of each tract of such land according to the last assessed valuation thereof.

(c) The rate of the last annual tax levy in mills for local school purposes in said district. (Act Apr. 20, 1929, c. 265, §2.)

**3036-12. Department of Rural Credits to check information.**—Upon the request of the state board of education the information called for in such certificate shall be checked and certified by the department of rural credits. (Act Apr. 20, 1929, c. 265, §3.)

**3036-13. State Board of Education to determine aid.**—On or before July 15, 1929, and on or before July 1 of each year thereafter, the state board of education shall determine whether or not such school district is entitled to aid under the provisions of this act and the amount thereof and shall certify to the department of rural credit such determination. Said department shall thereupon as soon as practicable cause said amount to be paid to the school district out of the Rural Credit Expense Fund in the same manner as other expenses of said department are paid, and so much of said fund as may be necessary is hereby appropriated for the purposes of this act, not exceeding \$40,000 annually. In the event that the total amount due to school districts hereunder in any fiscal year as certified by the state board of education shall exceed the amount available therefor, such amount available shall be pro-rated among such school districts. (Act Apr. 20, 1929, c. 265, §4.)

**3036-14. Payments to begin July 1, 1929.**—The first payments of aid hereunder shall be made during the fiscal year beginning July 1, 1929. All lands, title to which was acquired by the state in the manner hereinbefore provided prior to January 7, 1929, and upon which the 1928 taxes shall not have been paid shall be included in calculating the amount of aid to which such district is entitled hereunder for the fiscal year beginning July 1, 1929. In subsequent years lands, title to which was acquired by the state prior to the first Monday of January preceding the beginning of such fiscal year, and upon which taxes for the preceding year shall not have been paid shall be included in such calculation. (Act Apr. 20, 1929, c. 265, §5.)

**3036-15. When title is acquired.**—For the purposes of this act in the event of foreclosure of mortgages by the state title is acquired upon the expiration of the period allowed by law for redemption by the mortgagor or any lien claimant who has served notice of intention to redeem as provided by law. (Act Apr. 20, 1929, c. 265, §6.)

**3036-16. Payment to discharge taxes against lands.**—Payment of aid hereunder shall discharge to that extent any taxes which may have been levied against such land for local school purposes for such district for the year ending on December 31 preceding the beginning of the fiscal year for which such aid is paid, and no land upon which the local school taxes for such year have been paid shall be included in calculating the aid to which any such school district shall be entitled hereunder. (Act Apr. 20, 1929, c. 265, §7.)

Laws 1931, c. 38, validates payments of state aid to independent school districts of ten or more townships, where such district would have been entitled to such payment if it had been a common school district.

**3036-17. Certain school districts to receive state aid.**—Any county school district organized under Laws 1929, chapter 9, in which the full value of all property which is exempt from local taxation because taxes thereon are paid into the state treasury under the provisions of the gross earnings tax laws exceeds the taxable value of all other non-exempt real and personal property, exclusive of moneys and credits, shall be entitled to receive from the state treasury in addition to all other state aid or relief, such an amount annually as would be produced by computing a tax of one-fourth of the current tax rate for county school district purposes upon the full value of such property which is exempt from local taxation because of the provisions of the gross earnings tax laws. Provided, that no county school district receiving relief hereunder shall be entitled to receive any aid under Laws 1921, chapter 271 [§§3036-1 to 3036-3]. Provided further, that the amount which any county school district shall receive under this act shall not exceed \$15.00 per pupil enrolled therein. (Act Apr. 13, 1931, c. 143, §1.)

Where an appropriation is insufficient to pay in full the aid authorized by §3036-1 and this section the same rate of pro-rating should be applied to the amounts due under both acts. Op. Atty. Gen., Aug. 28, 1931.

**3036-18. Must apply to department of education.**—Any such county school district desiring to take advantage of this act shall apply in writing therefor to the Department of Education, and such application shall contain the following facts:

(a) The valuation of the property in said county school district not subject to local taxation because the same is subject to taxation under the gross earnings tax law. Railroad valuation shall cover all railroad property located in said county school district except rolling stock, main tracks, and fills or bridges supporting the same.

(b) The value of all real and personal property, exclusive of moneys and credits, within any such county school district, subject to local taxation.

(c) The rate of taxation in mills for county school district purposes for the current and next preceding year.

(d) The total amount spent for all school purposes by any such county school district for the last preceding year, and an estimate of the expenses for the county school district purpose for the current year.

The information called for in paragraph (a) shall be ascertained and certified, upon the request of any such county school district, by the railroad and warehouse commission; and the information called for in paragraphs (b) and (c) shall be certified by the county auditor of the county in which such county school district is situated; and the information called for in paragraph (d) shall be certified by the clerk of the county school district. (Act Apr. 13, 1931, c. 143, §2.)

**3036-19. Department of education to fix amount.**—The Department of Education shall immediately consider said matter and determine whether or not any such school district is entitled to aid under the provisions of this act, and if it finds that any such school district is entitled to such aid, it shall determine the amount to which such county school district is entitled within the limitations of this act, and shall certify said amount to the State Auditor, who shall draw a warrant upon the State Treasurer in favor of any such county school district for the amount to which it is so entitled and deliver the same to said county school district, taking proper voucher or receipt therefor. (Act Apr. 13, 1931, c. 143, §3.)

Act Apr. 25, 1931, c. 410, makes an appropriation for aid to school districts to cover deficiencies in revenue for the years 1928, 1929 and 1930 arising from exemption of property from taxation. It is omitted as temporary.

Act Apr. 22, 1933, c. 406, makes an appropriation for aid to school districts to cover deficiencies in revenue for the years 1931 and 1932 arising from exemption of property from taxation. It is omitted as temporary.

Moneys received under this act may be used for any lawful school purpose, such as the payment of judgment against the district. Op. Atty. Gen., Oct. 9, 1931.

**3036-20. Competition between districts for enrollment of students.**—The State Department of Education shall formulate such rules and regulations as may be necessary to the end that there shall be no competition between school districts for the enrollment of students. (July 22, 1937, Sp. Ses., c. 81, §6.)

Transportation aid for year is limited to \$150,000. Op. Atty. Gen. (161b-15), Mar. 1, 1938.

#### STATE ACCEPTANCE FEDERAL AID

**3037. Appropriation.**—There shall be appropriated biennially a sum of not less than the amount to which the state of Minnesota is entitled under sections 3 and 4 of an act of congress of the United States, approved February 23, 1917, and acts amendatory thereto, relating to the promotion of vocational education and for appropriations to the states for instruction in agriculture, trade and industrial education, home economics and distributive education, and for the training of teachers of vocational subjects. (As amended Apr. 5, 1939, c. 145, §1.)

Sec. 11 of Act Apr. 5, 1939, cited, provides that the act shall take effect from its passage.

**3038. Reimbursement of school districts and other agencies; state aid.**—Whenever any school district shall have established a vocational school, department, or classes in accordance with the rules and regulations established by the state board for vocational education and the plan for vocational education adopted by that board and approved by the federal board for vocational education or other federal agency to which its functions are assigned, the state board for vocational education shall reimburse such school district for its expenditures for salaries of vocational teachers from federal funds and may supplement such federal funds with such state aid as it may deem desirable under such rules as it may adopt, provided, however that the total reimbursement from federal

and state funds combined shall in no case exceed three fourths of the salaries and necessary travel expenses of such vocational teachers, and provided further that in the event of such funds not being sufficient to make such reimbursement in full, the state board for vocational education shall prorate the respective amounts available to the various districts entitled to receive reimbursement. In like manner the state board for vocational education shall have power to reimburse other governmental agencies for expenditures for salaries and necessary travel expenses of vocational teachers from federal funds available to an amount not to exceed one half of such salaries and necessary travel expenses provided such governmental agencies conduct such classes under public supervision or control in accordance with plans approved by said board. (As amended Apr. 5, 1939, c. 145, §2.)

**3039. Reimbursement of teachers' training schools—Limitation on use of federal funds.**—The state board for vocational education shall reimburse institutions selected by it to train teachers of vocational subjects to an amount of not to exceed one-half of the expenditures made for such training by said institutions, provided that no federal funds may be applied directly or indirectly to the purchase, erection, preservation or repair of any building or buildings or equipment, or for the purchase or rental of lands or for the support of any religious or privately owned school or college. (As amended Apr. 5, 1939, c. 145, §3.)

**3040. Appointment of officials and assistants.**—The state board for vocational education shall have authority to appoint such officials or assistants as may be necessary to administer the federal act and Sections 3037 to 3047, inclusive, Mason's Minnesota Statutes of 1927, and acts amendatory thereto, to fix the salaries of such persons appointed, and to make expenditures from the state funds appropriated for the salaries and necessary expenses of such officials and assistants, or to use a portion of such funds in matching federal funds available for the same purpose. (As amended Apr. 5, 1939, c. 145, §4.)

**3041. Certain provisions of an act for promoting vocational education, etc., by Congress accepted.**—The provisions of the act of congress of the United States entitled "an Act to provide for the promotion of vocational education; to provide co-operation with the states in the promotion of such education in agriculture and in the trades and industries; to provide co-operation with the States in the preparation of teachers of vocational subjects; and to appropriate money and regulate its expenditures," and approved February 23, 1917, and acts amendatory thereto, be and the same are hereby accepted, and the benefits of all funds appropriated under the provisions of such acts are hereby accepted as provided in such acts. (As amended Apr. 5, 1939, c. 145, §5.)

Division of rehabilitation and reeducation is not part of department of education but is under control of board of education acting, not as board of education, but as state board for vocational education, and commissioner of education has no powers over the division of rehabilitation and reeducation. Op. Atty. Gen. (397), Jan. 3, 1935.

**3042. State board of education designated as state board called for in congressional act.**—The state board of education as established by chapter 334, laws of 1919 and acts amendatory thereto, is hereby designated the state board for vocational education as provided in such acts, and is charged with the duty and responsibility of co-operating with the federal board for vocational education or other federal agency in the administration of such acts and is given all power necessary to such cooperation. The state board for vocational education is authorized to make such expenditures as it may deem necessary to carry out the provisions hereof from moneys available for the purposes of this act. (As amended Apr. 5, 1939, c. 145, §6.)

**3043. State treasurer appointed custodian of funds.**—The state treasurer is appointed custodian of all funds for vocational education, as provided in such acts, and is charged with the duty and responsibility of receiving and providing for the proper custody and proper disbursement of moneys paid to the state from the appropriations made under the provisions of such acts. (As amended Apr. 5, 1939, c. 145, §7.)

**3044. What districts and teachers' training schools entitled to federal moneys.**—Any school district or any other governmental agency designated by the state board for vocational education which maintains a vocational school, department, or class shall be entitled to Federal moneys under such acts for the salaries and necessary travel expenses of teachers of agriculture, trade and industrial education, home economics, and distributive education by meeting the requirements fixed by the state board for vocational education and approved by the federal board for vocational education or other federal agency to which its functions are assigned. Teacher training schools and departments shall be entitled to federal moneys for the preparation of teachers of agriculture, trade and industrial education, home economics and distributive education by meeting the requirements fixed by the state board for vocational education and approved by the federal board for vocational education or other federal agency to which its functions are assigned, for the preparation of such teachers. (As amended Apr. 5, 1939, c. 145, §8.)

Board of Education cannot enter into contract with Board of Public Welfare for nurse training in a public hospital. Op. Atty. Gen. (905f), Jan. 7, 1938.

State fire marshal's office is a governmental agency that would qualify if it should conduct classes for training of firemen. Op. Atty. Gen. (197), June 10, 1939.

**3045. How disbursements shall be made.**—All disbursements of federal moneys for the benefit of such teachers training schools or departments shall be made on the requisition of the state board for vocational education by the state treasurer to the legally constituted authorities having custody of the moneys of such training schools or departments. All disbursements of federal and state moneys for the benefit of such vocational schools, departments, or classes shall be made on the requisition of the state board for vocational education by the state treasurer to the treasurers legally qualified to receive and disburse the funds for the school districts or governmental agencies establishing and maintaining such schools, departments and classes as herein provided. (As amended Apr. 5, 1939, c. 145, §9.)

**3046. State treasurer to make report of receipts and disbursements.**—The state treasurer as custodian for vocational education funds shall make to the legislature at each biennial session a report of the receipts and disbursements of moneys received by him under the provisions of such acts and the state board for vocational education shall make to the legislature at each biennial session a report of its administration of such acts and the expenditure of money allotted to the state under the provisions of such acts. (As amended Apr. 5, 1939, c. 145, §10.)

**3047-1. Education of Indians.**—The State Board of Education is hereby authorized to enter into contracts with the United States Department of the Interior for the education of Indians in Minnesota, to receive grants of money from the Federal Government, and to disburse the same in accordance with the terms of the contract and such rules and standards as the said State Board of Education may establish. (Apr. 5, 1937, c. 139, §1.)

Sec. 2 of Act Apr. 5, 1937, cited, provides that the Act shall take effect from its passage.

**3047-2. Governor may accept federal aid.**—In the event that the Congress of the United States enact legislation providing educational assistance to the states for the purpose of (a) general improvement of public elementary and secondary schools, (b) im-

provement of school library service, (c) improvement of health, welfare, and recreational service in the public schools, (d) improvement of nursery schools and kindergartens, (e) improvement of services for handicapped pupils, (f) improvement of educational and vocational guidance activities, (g) improvement of vocational education, (h) improvement of rehabilitation and placement services, (i) improvement of technical and vocational institutes of secondary grade, (j) stimulation and improvement of part-time, civic, vocational, and general adult education and recreational activities conducted by school systems, (k) purchase of books and instructional materials, (l) transportation of pupils, (m) provision of scholarships, (n) improvement of teacher preparation, (o) construction of school buildings, (p) facilitating administration in state departments of education, (q) stimulating and facilitating adequate rural library service, (r) making provision for educational research, planning and demonstrations, or for one or any combination of the above purposes, at a time when the legislature is not in session, the governor shall have power to accept the provisions of such act or acts of the Congress of the United States, or to accept such parts or provisions as may be separately acceptable, by executive order, upon recommendation of the state board of education and pending further action by the legislature. (Act Apr. 12, 1939, c. 206, §1.)

**3047-3. State Board of Education to make plans.**—Pursuant to such acceptance, the state board of education shall have authority to make and secure approval for plans to carry out the purposes of the provisions accepted. (Act Apr. 12, 1939, c. 206, §2.)

**3047-4. State Treasurer to be custodian of funds.**—The state treasurer shall be the custodian for all funds received from the United States government on account of such acceptance, and he shall disburse such funds on requisition of the state board of education for purposes consistent with the acts of the Congress and in accordance with the provisions of this act and of the order of acceptance. (Act Apr. 12, 1939, c. 206, §3.)

**3047-5. Effective date.**—This act shall take effect and be in force from and after the legislative day preceding adjournment of the present session of the legislature. (Act Apr. 12, 1939, c. 206, §4.)

#### TRAINING OF TEACHERS

##### **3058. [Repealed].**

Repealed by Act Apr. 26, 1929, c. 388, §14, ante, §2900-14.

##### **3064. State Teachers Colleges.**

Act appropriating money for erecting, equipping and furnishing certain buildings at State Teachers' College at Moorhead. Laws 1931, c. 3.

**3069. Tuition in State Teachers Colleges.**—There shall be a charge for tuition to students, in State Teachers' Colleges. The Board shall fix rates of tuition for pupils in the model schools and the Board shall fix rates of tuition for students in State Teachers' Colleges within the minimums and maximums, following, to-wit:

Not less than \$5.00 nor more than \$15.00 during each of the first six quarters.

Not less than \$10.00 nor more than \$20.00 for each quarter thereafter.

A session in the summer school is to be regarded as a quarter within the meaning of this Act.

Non-resident students at the time of matriculating shall pay an additional tuition fee of \$5.00 per quarter. (R. L. '05, §1438; G. S. '13, §2969; Apr. 17, 1933, c. 294, §1.)

Fees must be paid in cash. Op. Atty. Gen., Nov. 23, 1933.

**3069-1. Same—effective date.**—This act shall take effect on September 1, 1933. (Act Apr. 17, 1933, c. 294, §2.)

**3070. Normal school board.**

Offices of director on board of state teachers' college and member of Duluth Board of Education are not incompatible. Op. Atty. Gen. (358f), Jan. 12, 1937.

Resident of Benton county is not eligible for position of director on state teachers' college board. Id.

Commissioner of education is entitled to vote as a member of the board. Op. Atty. Gen. (397), July 19, 1939.

**3071. Annual meeting and officers.**

Board cannot appoint executive secretary. Op. Atty. Gen. (9a-41), June 2, 1937.

**3072. Duties of board.**

Administrative authorities may permit students to make course selections which are not directly related to teaching, enabling them to get full credit for two years' work if they transfer to other colleges or the university. Op. Atty. Gen. (160l), Jan. 31, 1939.

**3073. Physical education in public schools.**—There shall be established and provided in all the public schools of this state, physical and health education, training and instruction of pupils of both sexes and every pupil attending any such school, in so far as he or she is physically fit and able to do so, shall take the course or courses therein as provided by this act. Suitable modified courses shall be provided for students physically or mentally unable or unfit to take the course or courses prescribed for normal pupils. Provided that nothing in this act shall be held or construed to require any pupil to undergo a physical or medical examination or treatment if the parent or legal guardian of the person of such pupil shall in writing notify the teacher or principal or other person in charge of such pupil that he objects to such physical or medical examination or treatment; provided that high school students in the junior and senior years need not take said course unless required by the local school authorities. ('23, c. 323, §1; 1931, c. 225, §1.)

**COMPULSORY EDUCATION****3080. Children must attend school—When excused.**

School board need not regard a certificate of illness signed either by a medical doctor, a chiropractor, or an osteopath, as sufficient evidence as to a child's bodily condition as regards excusing a pupil from attendance. Op. Atty. Gen., Feb. 4, 1932.

Subdivision 3 pertains to a different class of religious instruction than subdivision 4, the length of time may be devoted to religious training under subdivision 4 depending entirely upon facts of the case, while subdivision 3 relates to instruction not necessary under church law but merely instruction that is generally nature and not necessary for membership in the church, and in the latter case the school board may refuse to excuse child for any period. Op. Atty. Gen. (169o), Dec. 19, 1934.

Compulsory attendance law applies to public schools on Red Lake Indian Reservation, though expenses are paid by federal government, except where exclusive jurisdiction is vested in United States government. Op. Atty. Gen. (240o), March 7, 1939.

(3).

It is discretionary with school board to excuse a child for the full three hours, and it may excuse the child for less than three hours or refuse to excuse child for any period. Op. Atty. Gen. (169o), Oct. 31, 1934.

(4).

It is mandatory on part of school board to excuse pupils from school on such days as child attends upon instruction according to ordinances of church that child attends. Op. Atty. Gen. (169a), Feb. 19, 1935.

**3082. Children to be compelled to go to school.**

If parents neglect or refuse to comply with notice to send child to school, superintendent should then notify county attorney, whose duty it is to prosecute parents for misdemeanor. Op. Atty. Gen. (169b), Nov. 23, 1937.

**3083. Failure to send children to school, etc.—Penalty.**

Father refusing to send children to school unless he is paid \$30 per month for their transportation, school offering to pay him \$15 per month, may be prosecuted. Op. Atty. Gen. (169m), Nov. 14, 1936.

**3086. School census to be taken annually.**—A complete school census shall be taken in every school district annually between August 15 and September 15, of all children under 21 years of age, as of September 1, which census shall show the name and date of birth of each person required to be enumerated, and the name and address of his parent, guardian or other

person having charge, and such other data as the state board of education may require. The school census shall be taken by the clerk or the school board, or by some other person or persons appointed by the school board. Such person or persons taking such census shall make two extra copies thereof, shall certify to the school board the correctness of the enumeration and the information therein contained. The clerk shall retain the original in his office, send one copy to the principal teacher, principal or city superintendent of the school district, before the first day of school of each school year, or as soon as said census has been taken. The school board shall fix the compensation for this work. Each child shall be counted in only one district, being that in which the child resides on September 15, and it shall be the responsibility of the county superintendent of schools to see that each child shall be counted only once. (As amended Apr. 10, 1939, c. 189.)

In taking census, minors are to be counted at place of residence of parents. Op. Atty. Gen., June 10, 1933.

Whether adults including students and temporary employees should be counted in census in place where they are not living is a question of fact dependent upon intention to return. Id.

Wife leaving husband and going to another district should be counted in taking census of district at which husband resides. Id.

Section as amended by laws 1939, c. 189, applies to children under five years of age and to married persons between ages of 16 and 21. Op. Atty. Gen. (56B), June 24, 1939.

**ACTIONS AND JUDGMENTS****3098. Actions against districts.**

School district is not liable at common law for injuries to a pupil which result from the negligent operation of a bus used in the transportation of pupils at public expense. 173M5, 216NW533.

This section does not authorize suit against the school district to recover damages for personal injury caused by the negligence of its officers or its agents in the performance of its government functions. 177M446, 225NW292.

School district in maintaining school building exercises governmental function, and is not liable in damages for its negligence in failing to disinfect its school building with result that teacher became infected with tuberculosis, following 49M106, 51NW814; 173M5, 216NW533; 177M446, 225NW292; 177M454, 226NW449.

**STATE ART SOCIETY****3109-1. Right of exploration, etc., reserved to state.**

—The state of Minnesota preserves to itself the exclusive right and privilege of investigating, exploring, excavating and surveying, by and through the person or persons it may license for that purpose as herein-after provided, all aboriginal mounds and earthworks, ancient burial grounds, prehistoric ruins, fossil bone deposits, and all other archaeological and vertebrate paleontological features within the state of Minnesota, subject to the rights of the owners of any privately owned lands upon which the same may be situated, to use such lands for agricultural, domestic or industrial purposes; and the ownership of the state is hereby expressly declared in any and all articles, antiques, fossil remains, implements or material found or discovered by virtue of such investigating, exploring, excavating or surveying. (Act Apr. 12, 1939, c. 207, §1.)

**3109-2. Licenses for exploration.**—Any person or persons desiring to obtain a license for the purposes set forth in section 1 of this act shall present an application therefor to the archaeologist, who shall be appointed by the department of anthropology and archaeology of the University of Minnesota from among its staff and be attached to the department of the commissioner of conservation, describing the location where the investigating, exploring, excavating or surveying is to be done, and such other information as the archaeologist shall require, accompanied by an annual license fee of \$25.00 except said archaeologist or his duly authorized representative, who may receive a license without fee with the consent and approval of the commissioner of conservation. Thereupon the commissioner shall investigate the lo-

cation of such proposed work and if satisfied as to the location and as to the scientific fitness of the applicant to make archaeological and paleontological investigations, explorations or excavations, may issued a license to the applicant for that purpose. Each license shall expire at the end of the calendar year in which issued, but may be renewed for another calendar year or years in the discretion of the commissioner upon payment of said fee of \$25.00 per year. Any license may be revoked by the commissioner at any time upon being convinced that the explorations or excavations authorized by the permit or license are being conducted unlawfully or improperly. (Act Apr. 12, 1939, c. 207, §2.)

**3100-3. Fifty per cent to go to licensee.**—50 per cent of all articles, antiques, fossil remains, implements and material found or discovered by such investigations, explorations or excavations shall be and become the property of the licensee and the remaining 50 per cent shall remain the property of the state of Minnesota to be kept in or at such state buildings or institutions as the commissioner may prescribe. The division thereof shall be made by the commissioner and the licensee, and in case of dispute, the commissioner's decision shall govern and control such division. (Act Apr. 12, 1939, c. 207, §3.)

**3100-4. Who shall enforce act.**—It shall be the duty of the employees of the division of game and fish, the division of forestry and the division of lands and minerals of the department of conservation to assist the commissioner of conservation in carrying out and enforcing the provisions of this act. (Act Apr. 12, 1939, c. 207, §4.)

**3100-5. License fees paid into state treasury.**—All license fees collected under the provisions of this act shall be paid into the state treasury and credited to the department of conservation contingent fund and any expenses in connection with the administration and enforcement thereof shall be paid from the same fund upon the approval of the commissioner and auditor's warrant, but the expenses so paid shall in no case exceed the fees so collected. (Act Apr. 12, 1939, c. 207, §5.)

**3100-6. Violation a misdemeanor.**—Any person violating any of the provisions of this act shall be guilty of a misdemeanor. (Act Apr. 12, 1939, c. 207, §6.)

## UNIVERSITY

### 3110. Board of regents of university.

University of Minnesota approp. Laws 1939, c. 437. The board of regents, in the management of the University is constitutionally independent of all other executive authority, and Laws 1925, c. 426, is unconstitutional insofar as it attempts to subject the control of University finances to the commission of administration and finance, in view of Laws 1851, c. 3. 175M259, 220NW 951.

Board of Regents of the University may appropriate net earnings of the dormitory and pledge rentals and earnings to the payment of money advanced for dormitory construction and undertake that they shall be so applied, and may evidence its pledge by bonds. Fanning v. U., 183M222, 236NW217. See Dun. Dig. 8694.

The board may construct a dormitory without legislative authority. Fanning v. U., 183M222, 236NW217.

The Constitution vests the government of the University of Minnesota in the Board of Regents following State v. Chase, 175M259, 220NW951; and in the exercise of its granted powers of government, so long as it keeps within the limits of its grant, it is not subject to legislative or executive interference or judicial control at the suit of a taxpayer. Fanning v. U., 183M222, 236NW217. See Dun. Dig. 8694.

In the construction of a dormitory, the Board of Regents of the University may use earnings from its University press for work done outside of that done for the university, the earnings being incidental to its use for University purposes. Fanning v. U., 183M222, 236NW217. See Dun. Dig. 8694.

Rentals from buildings on University campus belonging to the University without an appropriation by the Legislature, and are subject to use in the construction of a dormitory, or may be used for other purposes as determined by the Board of Regents. Fanning v. U., 183M 222, 236NW217. See Dun. Dig. 8694.

In the exercise of its power of government the Board of Regents may construct a dormitory upon the University campus without legislative authority. Fanning v. U., 183M222, 236NW217. See Dun. Dig. 8694.

Laws 1923, c. 429, §1 (Mason's Minn. St. 1927, §3110), attempting to make three state officers ex officio regents, and to vest in governor power to appoint others, is unconstitutional. State v. Quinlivan, 198M65, 268NW858. See Dun. Dig. 8694.

Offices of city attorney and member of Board of Regents of state university are not incompatible. Op. Atty. Gen., Apr. 27, 1931.

Governor has authority to fill vacancies in board of regents which are not filled by the legislature prior to close of legislative session. Op. Atty. Gen., Mar. 30, 1933.

The university has authority to lease for as many years as it desires the experimental station at Albert Lea established by Laws 1911, c. 280, §10, and placed under the supervision of the university by Laws 1925, c. 238, and sought to be retransferred to grantor by Laws 1933, c. 202, pending a legislative act naming a grantee which may receive a deed. Op. Atty. Gen. (618c-13), July 1, 1935.

Members of board of regents are to be appointed by the governor and not the legislature. Op. Atty. Gen. (213f), July 8, 1935.

State university is exempt from payment of processing tax on hogs slaughtered by it in experiments and turned over to university hospital, federal relief students, university dormitories and dining halls and cafeterias on main and farm campuses. Op. Atty. Gen. (414c-6), July 26, 1935.

Legislature does not have power to require board of regents of university to grant free tuition to any class of students. Op. Atty. Gen. (618a-5), Nov. 13, 1936.

Legal title to University permanent trust fund land is vested in state subject to trust imposed thereon for use and benefit of University to be appropriated and applied as legislature may prescribe for use and support of the University, and in absence of legislation to that effect, department of conservation is without authority to transfer administration, sale, lease, demise, control or management of University trust fund lands to Board of Regents of the University. Op. Atty. Gen. (618c-2), Dec. 13, 1938.

Laws 1927, c. 442, §2.

The proceeds of rentals from buildings on the campus, not used for University purposes, assigned in a proviso of an appropriation bill to the maintenance and improvement of the campus, may be used in the construction of a dormitory. Fanning v. U., 183M222, 236NW217. See Dun. Dig. 8694.

### 3112. Officers—Meetings—Bonds.

The attempt to create the elective office of president of Board of Regents was unauthorized and without effect, and chancellor of University need not give a bond. Op. Atty. Gen., Dec. 21, 1931.

### 3128. Bulletins.

Laws 1933, c. 115, §§3200-1 to 3200-4, repeals all local and county option laws then in effect. Op. Atty. Gen., Dec. 8, 1933.

### 3129. Farmers' institutes.

Laws 1933, c. 115, §§3200-1 to 3200-4, repeals all local and county option laws then in effect. Op. Atty. Gen., Dec. 8, 1933.

### 3132. Department of agriculture.

Laws 1933, c. 115, §§3200-1 to 3200-4, repeals all local and county option laws then in effect. Op. Atty. Gen., Dec. 8, 1933.

### 3132-2. University may receive agricultural aid.

Whereas the Congress of the United States has passed an act approved by the President, May 22, 1928, entitled "An act to provide for the further development of agricultural extension work between the agricultural extension work between the colleges in the several states receiving the benefits of the act, entitled 'an act donating public lands to the several states and territories which may provide colleges for the benefit of agriculture and the mechanic arts,' approved July 2, 1862, and all acts supplementary thereto and the U. S. Department of Agriculture," and

Whereas it is provided in Section 1 of the Act aforesaid that the grants of moneys authorized by this Act shall be paid annually "to each state which shall by action of its Legislature assent to the provisions of this Act," therefore

Be It Resolved by the House of Representatives, the Senate concurring, of the Legislature of the State of Minnesota that assent be and is hereby given to the provisions and requirements of said Act, and that the University of Minnesota be and it is hereby

authorized and empowered to receive the grants of money appropriated under said Act, and to organize and conduct agricultural extension work which shall be carried on in connection with the College of Agriculture of the University of Minnesota in accordance with the terms and conditions expressed in the Act of Congress aforesaid. (Act Apr. 9, 1929, c. 140.)

### 3136. Department of pedagogy.

*Editorial note.*—Amendment by Laws 1937, c. 102, was a mistake, as there was no section 3136 in the 1936 supplement. The legislature evidently intended to amend §3161, which was later amended.

### 3139-1. [Repealed.]

Repealed by Act Mar. 30, 1933, c. 128, §1.

**3139-2. University building fund transferred to general revenue fund.**—All moneys now in the University building fund and all moneys that may be coming into said fund by virtue of levies heretofore made are hereby appropriated from said fund and credited to the general revenue fund, except as to outstanding certificates of indebtedness that may have been issued pursuant to the terms of said act and except as to outstanding contracts and obligations. (Act Mar. 30, 1933, c. 128, §2.)

Sec. 3 of Act Mar. 30, 1933, cited, provides that the act shall take effect from its passage.

**3139-3. University of Minnesota may bond employees.**—The Regents of the University of Minnesota shall have authority to indemnify the officers or employees of said University of Minnesota against liability arising out of the operation of motor vehicles or other equipment by them, while engaged in the performance of their duties as such public officials or employees, and to pay out of the public funds the premiums on the indemnity insurance policies insuring such governmental agency against such liability. The Regents of the University of Minnesota may defend any such officer or employe in the name and behalf of such officer or employe in any suit brought against him to enforce a claim, whether groundless or otherwise, arising out of the operation of a motor vehicle or other equipment by him while in the performance of his official duties, and may compromise and settle such claim or suit and may pay out of public funds, the amount of such settlement or compromise, or the amount of any judgment against such officer or employe based on any such claim, without first requiring such officer or employe to settle or pay any such claim. (Act Apr. 15, 1935, c. 173, §1.)

**3139-4. Regents may pay premiums.**—The Regents of the University of Minnesota may, in their discretion, pay the premiums on said indemnity insurance policies referred to in Section 1 hereof, insuring such officers or employes against liability for or injury to persons or property, within the limits of Section 1 hereof, and such payment of insurance premiums out of public funds shall in no way impose on said Regents of the University of Minnesota any liability whatever. (Act Apr. 15, 1935, c. 173, §2.)

**3139-5. Payments heretofore made validated.**—The payment of any insurance premiums heretofore made by the Regents of the University of Minnesota for such indemnity insurance mentioned herein is hereby approved and validated. (Act Apr. 15, 1935, c. 173, §3.)

Sec. 4 of Act Apr. 15, 1935, cited, provides that the act shall take effect from its passage.

**3139-6. Power of eminent domain.**—The Board of Regents of the University of Minnesota may use any money not specifically appropriated for other purposes for acquiring land by purchase or condemnation. In case it is desired to use the fund for the acquisition of land, the power of eminent domain may

be exercised either in accordance with General Statutes 1894, Sections 4085 to 4091, inclusive, or Revised Laws 1905, Chapter 41. (July 22, 1937, Sp. Ses., c. 81, §2.)

**3139-7. School for instruction in law enforcement.**—The University of Minnesota may establish and conduct a school for the instruction of persons in law enforcement, and the governing body of any political sub-division of this state may authorize the attendance upon such school of any law enforcement officer under its jurisdiction and may provide for the payment of the expenses of such person while in attendance at such school from the general funds of such political sub-division. To each person satisfactorily completing the prescribed course of instruction in the school so established shall be issued a certificate of graduation or diploma stating that the holder has graduated therefrom. (July 22, 1937, Sp. Ses., c. 81, §2.)

## MANAGEMENT OF STATE UNIVERSITY AND NORMAL SCHOOLS

**3146. Authority of board of control—New buildings.**

\$25,000 appropriated for Bemidji State Teachers College. Laws 1939, c. 56, app. March 7.

Published notice in newspaper in county is essential to validity of contract for labor and materials used in construction of a state teachers' college. Op. Atty. Gen. (980a-11), July 23, 1938.

There is no need for competitive bidding in purchase of certain materials for construction work on state teachers' college building in case of emergency where delay would result in irreparable damage to building by approaching cold weather. Op. Atty. Gen. (980a-11), Aug. 10, 1938.

## LOCAL AND SPECIAL LEGISLATION

Laws 1921, c. 77, are set forth, ante, as §§2802-16 to 2802-25.

Laws 1921, c. 332. Amended Mar. 23, 1937, c. 85.

Act Jan. 30, 1937, c. 6, §1, amends §1 of '21, c. 357, to apply to counties with assessed value exceeding \$200,000,000, and area of over 5,000 square miles.

Laws 1913, c. 445, providing that the voters of the district at their annual town meeting may fix the salaries of their school officers in ten-town school districts having less than thirty schools and a high school, is constitutional. 175M316, 221NW231.

Laws 1921, c. 332, supersedes Mason's Stats., §3014, and applies to school district in city of Duluth created by special act. Board of Education v. B., 192M367, 256 NW894. See Dun. Dig. 8669.

Under Laws 1921, c. 332, §1, par. 1, board of education of Duluth may make expenditures for library, including textbooks, magazines and instructional supplies, insofar as they comprise a part of school libraries, and equipment and furnishings of a more or less permanent character, but cannot under such paragraph levy taxes for fuel, water, light, power, janitor's supplies, telephone service and engineer's or janitor's salaries. Op. Atty. Gen. (519m), Oct. 10, 1934.

Board of education of Duluth may not contract any debts or incur any pecuniary liability for payment of either principal or interest of which during current or any subsequent years it shall be necessary to levy a rate of taxes higher than maximum prescribed by Laws 1921, c. 332, and Mason's Stats., §2062. Op. Atty. Gen. (161b-10), Dec. 3, 1934.

Under Laws 1921, cc. 332 and 357, Duluth School District having levied less than 30 mills for school operating purposes, was not entitled to participate in apportionment of proceeds of special school tax levied under Laws 1921, c. 357, §2, though such school district levied special taxes for such other purposes as building fund, fund for interest and retiring bonds, fund of teachers' retirement fund association, etc., amounting in all to 35 mills. Op. Atty. Gen. (519m), Jan. 8, 1935.

Under Laws 1923, c. 433, polling place must be in school building. Op. Atty. Gen. (187a-7), June 14, 1935.

Law 1915, c. 358, has no bearing on right of a school board to purchase land for playground purposes. Op. Atty. Gen. (622b), Dec. 6, 1937.

Under laws 1921, c. 357, §3, a school district would not be entitled to aid for seventh and eighth grade pupils sent to a school out of the district. Op. Atty. Gen. (168), Aug. 24, 1938.