

MAINE STATE LEGISLATURE

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REVISED STATUTES

OF THE

STATE OF MAINE

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VOLUME 1



THE MICHIE COMPANY
CHARLOTTESVILLE, VIRGINIA

Chapter 18.

Treasurer of State.

Cross References.—See Me. Const., Art. 5, Part Fourth, § 1, re election, duties, etc.; c. 92, §§ 31, 32, re warrants for assessment of state taxes.

Sec. 1. Treasurer of state; office; bond; salary; deputy.—The treasurer of state shall keep his office at the seat of government and give the bond required by the constitution to the state of Maine, with two or more surety companies authorized to transact business therein, as sureties, in the penal sum of not less than \$150,000. Provided that each surety company shall give bond for only a fractional part of the total penal sum and shall be held responsible for its proportional share of any loss.

The treasurer of state shall receive an annual salary of \$5,000; he shall receive no other fee, emolument or perquisite.

The chief clerk in the office of the treasurer of state shall be designated as "Deputy Treasurer of State." In the event of a vacancy in the office of treasurer of state or during the absence or disability of that officer, the deputy treasurer of state shall perform the duties of the office. When a vacancy occurs, he shall give bond to the state, with sureties, to the satisfaction of the governor and council, for the faithful discharge of his trust.

The treasurer of state shall receive for the use of the state:

For each certificate of securities deposited by a domestic insurance company under the provisions of sections 18 and 22 of chapter 60, \$5; and for each certificate granted by him upon change of such securities, \$5.

For services required of him in case of proceedings under the provisions of section 25 of chapter 60, 2% of the amount received and disbursed by him. (R. S. c. 15, § 1. 1947, c. 68. 1949, c. 401, § 1. 1951, c. 412, § 3.)

Cross reference.—See Me. Const., Art. 5, Part Fourth, § 2, re bond. **Cited in** *Mechanics' Bank v. Hallowell*, 52 Me. 545.

Sec. 2. Bond.—The condition of the treasurer's bond shall be for the faithful discharge of all the duties of his office and the fidelity of all persons by him entrusted with any of its concerns, and that during his continuance in office he will not engage in trade or commerce, or act as broker, agent or factor for any merchant or trader; and that he, or his executors, administrators or sureties, or their executors or administrators, shall render a just and true account of all his agents' and servants' doings and transactions in the office, to the legislature, or to such committee as it appoints, on the 1st day of each regular session of the legislature, previous to the choice of a new treasurer, and at any other time when required by the legislature or the governor and council; and that he will settle and adjust said account and faithfully deliver to his successor in office or to such person as the legislature appoints, all moneys, books, property and appurtenances of said office, in his, or any of his agents' possession, and pay over all balances found due on such adjustment. Such bond, when approved as the constitution prescribes, shall be lodged in the office of the state auditor. (R. S. c. 15, § 2.)

Purpose of bond.—The bond required is not so much for "the moneys" as for the faithful discharge of his duties in reference thereto. For the one it would be entirely inadequate, while for the other it might be amply sufficient. *Mechanics' Bank v. Hallowell*, 52 Me. 545.

In action of debt on treasurer's bond, the bond was deemed and treated as a "contract in a penal sum for performance of covenants and agreements," and a general pleading of acts and defaults which constituted the breach was held sufficient. *State v. Peck*, 58 Me. 123.

Sec. 3. Premiums on bonds paid by state.—The premiums necessarily

incurred and due and payable on account of any bond given by the treasurer of state, his deputy or by any employee in the treasury department of the state shall be paid out of the state treasury. (R. S. c. 15, § 3.)

Sec. 4. Governor and council may require a new bond.—When it appears to the governor and council that the treasurer's bond is not sufficient for the full security of the state, they shall make written demand upon him for a new bond; and if he neglects for 10 days thereafter to file such bond to their satisfaction, they shall remove him and declare the office vacant. (R. S. c. 15, § 24.)

Cited in *Cumberland County v. Pennell*,
69 Me. 357.

Sec. 5. Treasurer not to use or receive money from state treasury or credit.—The treasurer shall not in any way receive for his own use any interest, premium, gratuity or benefit by reason of any money belonging to the state, or of any loan obtained for the state or for keeping on hand or circulating the bills of any bank; but whatever is so received shall be accounted for to the state. He shall not loan or use in his own business, or for his own benefit, any such money, or permit any other person to do so, unless authorized by law, on pain of forfeiting a sum equal to the amount so used or loaned, to be recovered by indictment. (R. S. c. 15, § 4.)

Title to money deposited.—It is apparent from this section and §§ 14, 15 and 16 that "the moneys of the state" intrusted to its treasurer, while under his care and supervision, ever remain its moneys. *Me-*

chanics' Bank v. Hallowell, 52 Me. 545.

Quoted in part in *Mechanics' Bank v. Hallowell*, 52 Me. 545.

Cited in *Cumberland County v. Pennell*,
69 Me. 357.

Sec. 6. Attorney general to prosecute for violation of preceding section.—When the attorney general receives satisfactory information that the treasurer of state has violated any provision of the preceding section, he shall cause him to be indicted therefor and shall prosecute such indictment to final judgment. (R. S. c. 15, § 5.)

Cited in *Cumberland County v. Pennell*,
69 Me. 357.

Sec. 7. Governor and council may hear complaints against treasurer; may remove him and declare office vacant.— Upon written complaint of any person that the treasurer is insane or insolvent, or has absconded or concealed himself to avoid his creditors, or is absent from the state and neglecting his duties to the hazard of the trust reposed in him, or has violated any provision of section 5, or has failed faithfully to perform the duties of his office, the governor and council shall forthwith examine into the charges and if any of them is found true, they shall remove him and declare the office vacant. (R. S. c. 15, § 23.)

Cited in *Cumberland County v. Pennell*,
69 Me. 357.

Sec. 8. May appoint a commissioner to fill vacancy.—In case of a vacancy in the office of treasurer, the governor, with the advice and consent of the council, shall appoint a commissioner to perform the duties of the office during the residue of the term for which he was chosen, unless another is sooner elected by the legislature; and the person so appointed shall, before entering on the duties of his office, take and subscribe the oaths, and give bond with the same conditions as are required of the treasurer, to the acceptance of the governor and council. (R. S. c. 15, § 25.)

Sec. 9. Inventory for commissioner.—When such commissioner is appointed, the state auditor shall, as soon as practicable, after notice to the sure-

ties of the late treasurer or of the treasurer to be superseded, take a true account and inventory of all moneys, notes, books of account and other property belonging to the state which were in the hands of such treasurer or of any of his agents, and deliver it to such commissioner, he giving a receipt therefor, which shall be lodged in the office of the state auditor. (R. S. c. 15, § 26.)

Sec. 10. Payment of receipts into the treasury.—Any public officer or any person, firm, association or corporation paying money into the state treasury may make such payment by delivering to the treasurer of state a check, draft, certificate of deposit or money order drawn, indorsed and payable to the treasurer of state or his order, or may make such payment by delivering to the treasurer the proper amount of lawful currency. The treasurer shall keep a record of all drafts, checks, certificates of deposit, money orders and all cash received by him and upon receipt thereof shall forthwith cause the same to be placed to the credit of the state of Maine in some state depository. If any check, draft or certificate of deposit shall not be paid on presentation, the treasurer shall proceed to collect the amount thereof, with costs, from the person drawing same. The treasurer shall daily transmit to the state controller a statement of all receipts into the treasury, giving such details thereof as the controller may require.

The state government shall not be liable for any loss resulting from lack of diligence on the part of any depository in forwarding or failing to collect any draft, check or certificate of deposit, or for the loss of any such draft, check or certificate of deposit in the mails or otherwise. (R. S. c. 15, § 6.)

Sec. 11. Departmental collections. — Every department and agency of the state, whether located at the capitol or not, collecting or receiving public money, or money from any source whatsoever, belonging to or for the use of the state, or for the use of any state department or agency, shall pay the same immediately into the state treasury, without any deductions on account of salaries, fees, costs, charges, expenses, refunds, claims or demands of any description whatsoever; provided, however, that any department or agency may deposit such money to the credit of the state upon communicating with the treasurer of state and receiving from him instructions as to what state depository may be used for that purpose and in every such case, the depositor shall send to the treasurer of state a statement of the deposits certified by the bank receiving it; and provided further, that the provisions of this section shall not apply to county or town officers. (R. S. c. 15, § 7.)

Sec. 12. Records; collections.—It shall be the duty of the treasurer of state to receive and keep a record of all items of income accruing to the state not paid within 90 days, including taxes levied by the state, and all such items shall be promptly certified to the treasurer of state at the close of each month by the department, bureau, institution or agency of state government where such items of income originate or by which such taxes are assessed. He shall promptly collect all taxes and accounts due the state and certified to him as provided herein. In cases of neglect or refusal to pay he shall institute through the attorney general such court actions as may be necessary to enforce payment. The provisions of this section shall not apply to the Maine employment security commission, or to those taxes collected by the state tax assessor. (R. S. c. 15, § 8. 1945, c. 41, § 23. 1947, c. 79. 1951, c. 266, § 13.)

See c. 11, § 15, re federal funds; c. 37, § 197, re custodian of federal funds for vocational training.

Sec. 13. Payments to be withheld and applied on accounts. — If any town or county unreasonably neglects or refuses to pay an account for money due from it to or for the use of the state or for the use of any department or

agency, the treasurer of state may withhold from any funds due such town or county under the provisions of any laws of the state an amount sufficient to pay such account in whole or in part and to apply the amount thus withheld to such payment. Such application shall constitute payment by the state in the amount thus withheld and applied under the provisions of any laws of the state directing payment to such town or county of the funds so withheld and applied. It is expressly provided, however, that funds due to any town or county from the general highway fund shall only be so withheld and applied in payment of accounts due from such town or county to the state for improvement, construction and maintenance of highways and bridges, and for snow guards, snow removal and sanding as provided by statute. The method of collection provided by this section shall be in addition to and not exclusive of all other remedies afforded by law for proper enforcement of payment. No funds shall be withheld as hereinbefore provided if liability therefor is denied by proper officers of the town or county. (R. S. c. 15, § 9.)

Sec. 14. Money in depositories.—All state money in any depository of the state government shall stand on the books of said depository to the credit of the state but the treasurer shall not withdraw any of said money except upon the authority of the state controller. (R. S. c. 15, § 10.)

See notes to § 5.

Sec. 15. Deposit of state funds; limitations.—The treasurer may deposit the moneys, including trust funds of the state, in any of the banking institutions or trust companies or mutual savings banks organized under the laws of this state or in any national bank or banks located therein, or when there is money in the treasury which in his judgment is not needed to meet current obligations, he may, with the advice and consent of the governor and council, invest such amount as he deems advisable in bonds, notes, certificates of indebtedness or other obligations of the United States of America which mature not more than 1 year from the date of investment. The provisions of this section shall not prevent the deposit for safekeeping of such obligations of the United States of America in banks of this or any other state, with approval of the governor and council.

No sum exceeding an amount equal to 25% of the capital, surplus and undivided profits of any trust company or national bank or a sum exceeding an amount equal to 25% of the reserve fund and undivided profit account of a mutual savings bank shall be on deposit therein at any one time. The above restriction shall not apply to deposits subject to immediate withdrawal available to meet the payment of any bonded debts or interest or to pay current bills or expenses of the state. (R. S. c. 15, § 11. 1945, c 22.)

Cross reference.—See notes to § 5.

Cited in *Cumberland County v. Pennell*,
69 Me. 357.

Sec. 16. Monthly exhibits.—At the expiration of each month, the treasurer shall prepare an exhibit showing the banks and places in which moneys of the state have been kept or deposited during the preceding month, and the amount at the time of such exhibit, and file it in the office of the secretary of state, open to public inspection. (R. S. c. 15, § 12.)

Cross reference.—See notes to § 5.

Cited in *Cumberland County v. Pennell*,
69 Me. 357.

Sec. 17. Purchase of unmatured bonds of state. — Whenever, from time to time, in the judgment of the treasurer it may be done to the financial advantage of the state, he may, with the advice and consent of the governor and

council, purchase with any funds in the state treasury not otherwise appropriated and, when so purchased, may cancel any outstanding, unmatured bonds of the state. (R. S. c. 15, § 13.)

Sec. 18. Investment of permanent trust funds; exceptions; investments prorated.—The treasurer of state, with the approval of the commissioner of finance and administration, the bank commissioner and the attorney general, shall hereafter invest all permanent funds held in trust by the state in the legal obligations of the United States of America; the states of Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York and Pennsylvania; and the bonds of the several counties, cities and towns in the several states above-named which are the direct legal obligation of said counties, cities and towns; or may invest or deposit the same as provided in section 15; provided, however, that this section shall not apply to the fund of the employees' retirement system or the fund arising from the lands reserved for public uses.

The investments need not be segregated to the separate trust funds and the earnings of the investments shall be prorated according to the principal amounts of the several trusts; provided, however, that the identity of each separate trust fund shall be maintained. (R. S. c. 15, § 14. 1945, c. 87, § 1. 1949, c. 349, § 15. 1953, c. 265, § 6.)

See c. 64, § 14, re management of funds of employees' retirement system.

Sec. 19. Disposal of moneys and securities.—The treasurer of state, with the approval of the commissioner of finance and administration, the bank commissioner and the commissioner of education, shall invest and reinvest the principal of all funds derived or that may be derived from the sale and lease of lands reserved for public uses in accordance with the laws of the state governing the investment of funds of savings banks, as enumerated in subsections I to IX, inclusive, of section 42 of chapter 59. (1947, c. 55, § 1. 1953, c. 265, § 6.)

Sec. 20. Restoration of permanent trust funds. — The treasurer of state and the state controller are authorized to apply, in partial or full, restoration of losses sustained on impounded bank accounts of the "Permanent Trust Funds", from profits available from sale of capital assets of said trust funds in such amount and to each specific trust only in an amount equal to the capital gains of each specific trust, and no capital gains or securities held in any trust fund shall be applied on losses of any other trust fund excepting only when, as and if a common fund is created. (1949, c. 31, § 1.)

Sec. 21. "Reserve against future losses" account.—The treasurer of state and the state controller are authorized to set up an account "Reserve Against Future Losses" for each trust and in such amount as is available from capital gains on sale of assets owned by each specific trust after full restoration of impounded bank accounts from said capital gains, and no capital gains from any trust shall be used in setting up such an account for any other trust excepting only, when, as and if a common fund is created. (1949, c. 31, § 1.)

Sec. 22. Investment of sinking funds.—The treasurer, with the approval of the governor and the bank commissioner, shall from time to time as funds appropriated for any sinking fund established by law are received into the treasury, invest the same, with the income thereof as it accrues, in any bonds of Maine, of any other New England state or in the registered bonds of the United States; and as such bonds fall due and are paid, the proceeds thereof shall be reinvested in like manner. (R. S. c. 15, § 15. 1949, c. 129.)

Sec. 23. Register of investments and treasurer's report.—The treasurer shall keep a register of all investments made under the provisions of section 22, showing the date, amount and number of each bond, by whom issued and

the time when it will mature, and in his annual report to the governor and council, he shall include an exhibit of the condition of said sinking funds. (R. S. c. 15, § 16.)

Sec. 24. Form of unregistered bonds.—Unregistered bonds issued under the laws of the state shall bear the signature, or the facsimile of the signature, of the governor, and shall be signed by the treasurer of state and attested by the commissioner of finance and administration. The seal of the state may be a facsimile. (1953, c. 1; c. 265, § 6.)

Sec. 25. Registered bonds.—The treasurer may issue registered bonds, transferable by assignment, in pieces of not less than \$1,000, and of any multiple of 1,000, in exchange for, and in place of, any coupon bonds issued under the laws of this state, bearing the same rate of interest and maturing at the same time as the bonds which he may receive therefor in exchange; but the place of payment prescribed therein shall be the state treasury. Said bonds shall bear the facsimile of the signature of the governor and shall be signed by the treasurer and attested by the commissioner of finance and administration, with the seal of the state affixed. (R. S. c. 15, § 17. 1949, c. 155. 1953, c. 265, § 6.)

Sec. 26. Equivalent bond to be issued on assignment.—Upon due assignment of any such registered bond and delivery thereof to the treasurer, an equivalent bond or bonds, in form as aforesaid, shall be issued to the assignee in substitution therefor. (R. S. c. 15, § 18.)

Sec. 27. Cancellation and registry of old bonds.—All bonds thus received by the treasurer for exchange shall be canceled and retained in the office of the treasurer; and the state auditor, as well as the treasurer, shall keep a register of all such bonds, showing the serial number, date, interest, amount of each certificate, to whom originally issued and when payable; and also a like description of the new bonds issued in place thereof. (R. S. c. 15, § 19.)

Sec. 28. Cremation of old bonds.—The treasurer of state, in the presence of the commissioner of finance and administration and the state auditor, is authorized and empowered to cremate any state bonds and coupons which have matured and been paid, and have been held by the treasurer for a period of at least 5 years after such payment. A cremation certificate, signed under oath by the above-named state officers identifying the bonds destroyed, shall be filed in the office of the treasurer of state. (1949, c. 53. 1953, c. 265, § 6.)

Sec. 29. Signature of outgoing treasurer valid.—The facsimile signature of the treasurer of state who is leaving office shall be valid until new signature plates for the signing of checks have been obtained for his successor. (R. S. c. 15, § 20.)

Sec. 30. Temporary loans by state.—The treasurer of state is authorized, in any year in which he and the governor and council may deem the same necessary, to negotiate a temporary loan or loans in anticipation of and pending the receipt of taxes levied for such year, and of the proceeds of bonds authorized to be issued, as provided by section 14 of Article IX of the constitution of Maine. The treasurer of state and the governor and council are authorized and directed to pay such loan or loans during such year and, for the purpose of such loan and the payment thereof, there is appropriated for any year in which the treasurer of state and the governor and council may deem it necessary to borrow as aforesaid, the sum of \$2,000,000. The treasurer of state is further authorized, in any fiscal year in which the governor and council deem it necessary, to negotiate a temporary loan or loans for the use of the state highway commission for highway purposes. The said loan or loans shall not exceed 1/3 of the highway revenue received during the previous fiscal year and shall be repaid within the same

fiscal year out of revenue credited to the general highway fund during that fiscal year. (R. S. c. 15, § 22. 1951, c. 331.)

Sec. 31. Funds of examining boards.—All money received by the treasurer of state from the board of registration in medicine, the board of examiners of psychologists, the board of registration of nurses, the board of examiners of applicants for admission to the bar, the board of accountancy, the board of veterinary examiners, the board of osteopathic examination and registration, the board of examiners of funeral directors and embalmers, the state board of registration and examination in optometry, the board of dental examiners, the state board of registration for professional engineers, the state board of architects, the electricians' examining board, the state board of barbers and hairdressers, the examiners of podiatrists, the board of chiropractic examination and registration and the board of commissioners of pharmacy shall constitute a fund, which shall be a continuous carrying account for the payment of the compensation and expenses of the members, the expenses of the board and for executing the provisions of law relating to each board respectively, and so much thereof as may be required is appropriated for said purposes. The secretary of each board shall also be reimbursed for all expenditures for books, stationery, printing and other necessary expenses actually incurred in the discharge of his duties. All such payments shall be made from the respective funds held in the state treasury as aforesaid, after the approval of the state controller; but in no event shall such payments exceed the amounts received by the treasurer of state from the treasurer of each respective board, except that in the discretion of the chief justice of the supreme judicial court, and with his written approval, any excess in the compensation and expenses of members of the board of examiners of applicants for admission to the bar over the receipts of said board shall be paid and met by transfers of sufficient funds from the appropriations for the supreme judicial and superior courts. Any balance remaining to the credit of any board at the end of any year shall be carried forward to the next year.

Whenever there shall accumulate in the state treasury to the account of any board or commission charged with the duty of issuing licenses for the conduct of any profession, trade or business, sums of money in excess of the amount required properly to cover the expense of performing the duties imposed upon such board or commission in connection with the granting of such licenses and the supervision of persons licensed, said board or commission, with the approval of the governor and council, may suspend the payment or reduce the amount of any license fees fixed by statute for any renewal until in the opinion of such board or commission it shall be necessary to collect the full amount thus established by law. (R. S. c. 15, § 27. 1945, c. 356, § 2. 1949, c. 94, § 1. 1953, c. 243; c. 307, § 2.)

See c. 25, §§ 178-193, re plumbers' examining board; c. 25, §§ 195-205, re funeral directors and embalmers; c. 25, §§ 213-230, re board of barbers and hairdressers; c. 29, § 17, re employment security administration fund; c. 66, §§ 1-8, re board of registration in medicine; c. 67, §§ 1-10, re board of registration of psychologists; c. 68, §§ 1-9, re commissioners of pharmacy; c. 69, §§ 1-8, re board of registration of nurses; c. 71, §§ 1-13, re osteopathic examiners; c. 72, §§ 1-12, re chiropractic examiners; c. 73, §§ 1-27, re dental examiners; c. 74, §§ 1-12, re examiners of podiatrists; c. 75, §§ 1-3, re practice of any healing art or science; c. 76, §§ 1-13, re board of registration in

optometry; c. 77, §§ 1-7, re veterinary examiners; c. 80, §§ 1-10, re board of accountancy; c. 81, §§ 1-20, re board of architects; c. 82, §§ 1-15, re electricians examining board; c. 83, §§ 1-25, re examiners of professional engineers; c. 84, §§ 1-13, re real estate commission; c. 86, § 1 et seq., re harness racing commission; c. 87, § 1 et seq., re running horse racing commission; c. 88, §§ 1-12, re state boxing commission; c. 92, §§ 32, 70, 71, re warrants for state tax; c. 96, § 1, re national forest funds; c. 102, §§ 1-8, re emergency municipal finance board; c. 105, §§ 1-8, re board of examiners for admission to the bar.