

MAINE STATE LEGISLATURE

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REVISED STATUTES
OF THE
STATE OF MAINE
1954

1957 CUMULATIVE SUPPLEMENT

ANNOTATED

IN FIVE VOLUMES

VOLUME 1

**Place in Pocket of Corresponding
Volume of Main Set**

THE MICHIE COMPANY
CHARLOTTESVILLE, VIRGINIA
1957

to the last known business address. (1951, c. 250, § 1. 1953, c. 146, § 13. 1957, c. 79.)

Effect of amendment. — The 1957 amendment made the service applicable to certified mail.

Sec. 31. Dissolution of corporations prohibited until tax is paid.—No corporation organized under any law of this state shall be dissolved by the action of the stockholders or by the decree of any court until all taxes and interest and penalties imposed upon said corporation in accordance with the provisions of this chapter have been fully paid or the assessor finds that there are no funds from which payment can be made. No certificate of dissolution shall be issued by the secretary of state and no decree of dissolution shall be signed by any court, as the case may be, without a certificate of the assessor evidencing the payment by the corporation to be dissolved of all taxes, interest and penalties imposed in accordance with the provisions of this chapter, or evidencing a finding that there are no funds from which payment can be made. (1951, c. 250, § 1. 1953, c. 72, § 10. 1957, c. 77.)

Effect of amendment. — The 1957 amendment added the language “or the assessor finds * * *” at the end of the first sentence and added the language “or evidencing a finding that there are no funds * * *” at the end of the last sentence.

Sec. 32. Petition for reconsideration of assessment.

Cited in *Fortin v. Johnson*, 150 Me. 294, 110 A. (2d) 605.

Sec. 33. Appeal.

Provision for appeals is construed strictly.—Assessment appeals under the sales and use tax law are of statutory origin and must be construed strictly according to the statute. This appeal process is defined by statute and must be considered as giving no more authority than is expressed. *Morrill v. Johnson*, 152 Me. 150, 125 A. (2d) 663.

Jurisdiction is precisely and definitely granted to the superior court. The only method provided for the hearing of appeal is “before the court in term time or any justice thereof in vacation.” *Morrill v. Johnson*, 152 Me. 150, 125 A. (2d) 663.

And this section does not permit delegation of authority or a reference.—The legislature has seen fit to particularly grant jurisdiction in this type of appeal to the superior court without right of delegation of authority for any other method of determination. There is no interpretation of the specific directions as to hearing that permits of reference. *Morrill v. Johnson*, 152 Me. 150, 125 A. (2d) 663.

Reasons for appeal must be filed before reporting of case to law court.—The “reasons for appeal” required by this section must be filed prior to the reporting of a case to the law court since such “reasons” are essential to a determination of the legal questions involved. *Cumberland Amusement Corp. v. Johnson*, 150 Me. 304, 110 A. (2d) 610.

Whether jurisdiction depends upon the timely filing of “reasons for appeal” and “affidavit” under this section is not decided. *Cumberland Amusement Corp. v. Johnson*, 150 Me. 304, 110 A. (2d) 610.

Appeal from refusal of state tax assessor to rebate tax payments.—The superior court has no jurisdiction to entertain an appeal from a refusal of the state tax assessor to rebate tax payments made, and such jurisdiction does not arise from statutory provisions allowing appeals from decisions denying “reconsideration of assessments” under this section and § 32 of this chapter. *Fortin v. Johnson*, 150 Me. 294, 110 A. (2d) 605.

Chapter 18.

Treasurer of State.

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 2 or more surety companies authorized to transact business therein, as sureties, in the penal sum of not less than \$500,000. 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 \$6,750. He shall receive no other fee, emolument or perquisite.

(1955, c. 473, § 3. 1957, c. 349, § 1; c. 418, § 3.)

Effect of amendments.—The 1955 amendment increased the annual salary of the treasurer of state from \$5,000 to \$6,000.

The first 1957 amendment increased the minimum penal sum of the bond from \$150,000 to \$500,000 in the first sentence of the section, deleted the words "provided that" which formerly appeared at the beginning of the second sentence of the first paragraph, and carried an ap-

propriation for the fiscal year ending in 1959. The second 1957 amendment, effective July 1, 1957, increased the salary of the treasurer of state from \$6,000 to \$6,750 in the second paragraph and carried appropriations for the fiscal years ending in 1958 and 1959.

As only the first and second paragraphs were changed by the amendments, the rest of the section is not set out.

Sec. 2. Bond.—The condition of the treasurer's bond shall be for the faithful discharge of all the duties of his office, 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. 1955, c. 481, § 2.)

Effect of amendment.—The 1955 amendment deleted the words "and the fidelity of all persons by him entrusted with any

of its concerns" following the word "office" where it first appears in this section.

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. When there are excess moneys in the treasury, belonging to the general fund, highway fund or special revenue funds, which are not needed to meet the obligations due within 90 days, he may, with the concurrence of the state controller or the commissioner of finance and administration and with the consent of the governor and council, invest such amounts in bonds, notes, certificates of indebtedness or other obligations of the United States of America which mature not more than 24 months from the date of investment. Interest earned on such investments of highway fund moneys shall be credited to the highway fund. Interest earned on investments of the other 2 funds shall be credited to the general fund of the state. The provisions of this section shall not prevent the deposit for safekeeping or custodial care of the securities of the several funds of the state in banks or safe deposit companies in this state or any other state, nor the deposit of such state funds as may be required by the terms of custodial contracts or agreements as may be hereafter negotiated in accordance with the laws of this state. All custodial con-

tracts and agreements shall be subject to the approval of the governor and the executive council.

(1955, cc. 214, 315; c. 419, § 1. 1957, c. 320.)

Effect of amendments.—The first and second 1955 amendments made changes in the former first sentence of this section. The third 1955 amendment rewrote the former second sentence to appear as the present fifth and sixth sentences. The 1957 amendment rewrote the former first sentence to appear as the present first four sentences. As only the first paragraph was changed by the amendments, the second paragraph is not set out.

Sec. 18. Investment of permanent trust funds; exceptions; investments prorated; custody and servicing of securities.

The treasurer of state, with the approval of the commissioner of finance and administration, the bank commissioner and the attorney general, shall have the power to enter into contracts or agreements with any national bank, trust company or safe deposit company located in New England or New York City for custodial care and servicing of the negotiable securities belonging to the permanent trust funds of this state. Such services shall consist of the safekeeping of said negotiable securities in vaults of the bank or safe deposit company, preparation of coupons for collection, the actual collection of such coupons, periodical checks of the portfolio deposited for safekeeping to determine all calls for redemption, in whole or in part, of any bonds owned by such funds, and any other fiscal service which is normally covered in a custodial contract or agreement.

The treasurer of state is hereby empowered to arrange for the payment for such trust funds, or by an agreement for a compensating deposit balance with the bank in question, in lieu of such cash payment, or by some combination of both methods of payment. The contracting bank shall give assurance of proper internal safeguards, which are usual to such contracts, and shall furnish insurance protection satisfactory to both parties.

The treasurer of state shall be empowered to withdraw or deposit securities from or with the custodian as circumstances may require, all withdrawal orders or delivery instructions to bear the approval in writing of the bank commissioner and that of either or both the attorney general and the commissioner of finance and administration.

All contracts and agreements entered into between the treasurer of state and the custodian banks and safe deposit companies for the safekeeping or custodial care of the negotiable securities of the permanent trust funds of the state shall have the approval of the governor and the executive council. (R. S. c. 15, § 14. 1945, c. 87, § 1. 1949, c. 349, § 15. 1953, c. 265, § 6. 1955, c. 419, § 2.)

Effect of amendment.—The 1955 amendment added the above four paragraphs at the end of this section. As the rest of the section was not changed, only the paragraphs added by the amendment are set out.

Sec. 19. Disposal of moneys and securities; custody and servicing of 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, and paragraph A of subsection XII of section 19-I of chapter 59.

The treasurer of state, with the approval of the commissioner of finance and administration, the bank commissioner and the commissioner of education, shall have the power to enter into a contract or agreement with any national bank, trust company or safe deposit company located in New England or New York City for custodial care and servicing of the negotiable securities belonging to any trust fund created from funds derived or that may be derived from the sale and lease of lands reserved for public uses. Such services shall consist of the safekeeping of

said negotiable securities in the vaults of the bank or safe deposit company, preparation of coupons for collection, the actual collection of such coupons, periodical checks of the portfolio deposited for safekeeping to determine all calls for redemption, in whole or in part, of any bonds owned by such funds, and any other fiscal service which is normally covered in a custodial contract or agreement.

The treasurer of state is hereby empowered to arrange for the payment for such services, either by cash payments to be charged pro rata to the income of such trust funds, or by an agreement for a compensating deposit balance with the bank in question, in lieu of such cash payment, or by some combination of both methods of payment. The contracting bank shall give assurance of proper internal safeguards which are usual to such contracts, and shall furnish insurance protection satisfactory to both parties.

The treasurer of state shall be empowered to withdraw or deposit securities from or with the custodian as circumstances may require, all withdrawal orders or delivery instructions to bear the approval in writing of the bank commissioner and that of either or both the commissioner of education and the commissioner of finance and administration.

All contracts and agreements entered into between the treasurer of state and custodian banks and safe deposit companies selected for the safekeeping or custodial care of the negotiable securities referred to in this section shall have the approval of the governor and the executive council. (1947, c. 55, § 1. 1953, c. 265, § 6. 1955, c. 419, § 3. 1957, c. 397, § 13.)

Effect of amendments. — The 1955 section 19-I of chapter 59" for "section amendment added the last four paragraphs. The 1957 amendment substituted "and paragraph A of subsection XII of 42 of chapter 59" at the end of the first paragraph.

Sec. 22. Investment of sinking funds; custody and servicing of securities.

The treasurer of state, with the approval of the governor and the bank commissioner, shall have the power to enter into a contract or agreement with any national bank, trust company or safe deposit company located in New England or New York City for custodial care and the servicing of the negotiable securities belonging to any sinking fund of the state. Such services shall consist of the safekeeping of said negotiable securities in the vaults of the bank or safe deposit company, preparation of coupons for collection, the actual collection of such coupons, periodical checks of the portfolio deposited for safekeeping to determine all calls for redemption, in whole or in part, of any bonds owned by such funds, and any other fiscal service which is normally covered in a custodial contract or agreement.

The treasurer of state is hereby empowered to arrange for the payment for such services, either by cash payments to be charged pro rata to the income of such sinking funds, or by an agreement for a compensating deposit balance with the bank in question, in lieu of such cash payment, or by some combination of both methods of payment. The contracting bank shall give assurance of proper internal safeguards which are usual to such contracts, and shall furnish insurance protection satisfactory to both parties.

The treasurer of state shall be empowered to withdraw or deposit securities from or with the custodian as circumstances may require, all withdrawal orders or delivery instructions to bear the approval in writing of the bank commissioner and that of either or both the governor and the commissioner of finance and administration.

All contracts and agreements entered into between the treasurer of state and custodian banks and safe deposit companies selected for the safekeeping or custodial care of the negotiable securities referred to in this section shall have the ap-

proval of the governor and the executive council. (R. S. c. 15, § 15. 1949, c. 129. 1955, c. 419, § 4.)

Effect of amendment.—The 1955 amendment added the above four paragraphs at the end of this section. As the rest of the section was not changed, only the paragraphs added by the amendment are set out.

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 the date of maturity. 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. 1957, c. 11.)

Effect of amendment. — The 1957 amendment inserted “the date of maturity” in lieu of the words “such payment” at the end of the first sentence.

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 in physical therapy, 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 oil burnermen's licensing 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. (1955, c. 271, § 2; c. 352, § 2. 1957, c. 397, § 14.)

Effect of amendments. — The first 1955 amendment inserted the words “the board of examiners in physical therapy” near the beginning of the first sentence, and the second 1955 amendment, which did not refer to the first amendment and did not incorporate the change made by it, inserted the words “the oil burnermen's licensing board” near the middle of the first sentence. Both amendments have been given effect in the first paragraph of the section as set out above.

The 1957 amendment reenacted the first sentence as changed by the two 1955 amendments.

As the second paragraph was not changed by the amendments, it is not set out.