

MAINE STATE LEGISLATURE

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REVISED STATUTES
OF THE
STATE OF MAINE
1954

1963 CUMULATIVE SUPPLEMENT

ANNOTATED

IN FIVE VOLUMES

VOLUME 1

Discard Previous Supplement

THE MICHIE COMPANY
CHARLOTTESVILLE, VIRGINIA
1963

therefor as provided by section 28, or shall have knowingly filed a false report; or has omitted to pay any tax required of him by this chapter when the same shall be shown to be due on a report filed by the taxpayer, or admitted to be due by the taxpayer, or shall have been determined to be due and such determination shall have become final under this chapter. The existence of other civil or criminal remedies shall be no defense to this proceeding.

The complaint shall be deemed adequate as to form if it sets forth the name and the address of the defendant as stated in his last return filed with the tax assessor, or, if no such return was filed, the address, if any, known to the tax assessor; the breach of the law or ruling or rule or regulation committed by the defendant; the tax assessor's prayer for relief. The paragraphs of the complaint shall be numbered. The complaint need not be verified.

The complaint may be presented to the superior court in any county where the defendant has a regular place of business, or, if he have no regular place, then in Kennebec county. The court shall forthwith fix a time and place for hearing and cause notice thereof to be given the defendant. The defendant shall serve upon the state tax assessor a copy of his answer to the complaint at least 3 days before the day of hearing. The answer shall be paragraphed and numbered to conform with the numbering of the paragraphs in the complaint so far as may be. Any allegation of fact in the complaint which is not denied shall be taken as true.

Jurisdiction is granted to the superior court to hear and determine such matters, and to enter and change such orders and decrees from time to time as the nature of the case may require and, if necessary, to appoint a receiver. From any final decree of the superior court, an appeal lies to the law court. Said appeal shall be heard by the law court in the same manner as in other actions. (1953, c. 72, § 11. 1959, c. 317, § 7. 1961, c. 417, § 26.)

Effect of amendments.—The 1959 amendment rewrote this section.

The 1961 amendment deleted "any justice of" preceding "the superior court" in the first sentence of the third paragraph, substituted "The court" for "Such justice" at the beginning of the second sentence of the third paragraph, deleted "the justices of" preceding "the superior court" in the first sentence of the fourth paragraph and substituted "the superior court" for "such justice" in the second sentence of the fourth paragraph.

Effective date and applicability of Pub.

lic Laws 1959, c. 317.—Section 420, chapter 317, Public Laws 1959, provides as follows: "This act shall become effective December 1, 1959. It shall apply to all actions brought after December 1, 1959 and also to all further proceedings in actions at law or suits in equity then pending, except to the extent that in the opinion of the court the application of this act in a particular action pending on December 1, 1959 would not be feasible or would work injustice, in which event the laws in effect prior to December 1, 1959 would prevail."

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 \$8,500. He shall receive no other fee, emolument or perquisite.

(1955, c. 473, § 3. 1957, c. 349, § 1; c. 418, § 3. 1959, c. 361, § 3. 1963, c. 396, § 1.)

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 appropriation 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.

The 1959 amendment increased the salary of the treasurer from \$6,750 to \$7,500 in the second paragraph and carried appropriations for the fiscal years ending June 30, 1960 and 1961.

The 1963 amendment increased his salary from \$7,500 to \$8,500 and carried appropriations for the fiscal years ending June 30, 1964 and 1965.

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

Effective date. — P. L. 1959, c. 361, amending this section, provided in section 14 thereof as follows: "The provisions of this act shall become effective for the week ending August 22, 1959."

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. 7. Governor and council may hear complaints against treasurer of state; may remove him and declare office vacant.—Upon written complaint of any person that the treasurer of state is mentally ill 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. 1961, c. 417, § 27.)

Effect of amendment.—The 1961 amendment added "of state" after "treasurer"

and substituted "mentally ill" for "insane" near the beginning of the 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 state treasury which are not needed to meet obligations, 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 moneys shall be credited to the respective funds, except that interest earned on investments of special revenue 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 contracts 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. 1959, c. 336.)

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 fourth and fifth sentences. The 1957 amendment divided the former first sentence into four sentences.

The 1959 amendment rewrote the second, third and former fourth sentences of this section, combining the third and former fourth sentences in one sentence. 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 42 of chapter 59" at the end of the first paragraph. "and paragraph A of subsection XII of

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 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 bonds of the United States. As such bonds fall due and are paid, the proceeds thereof shall be reinvested in like manner.

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 approval of the governor and the executive council. (R. S. c. 15, § 15. 1949, c. 129. 1955, c. 419, § 4. 1959, c. 52.)

Effect of amendments. — The 1955 amendment added the last four paragraphs at the end of this section.

The 1959 amendment divided the first paragraph into two sentences, added "of

state" following "The treasurer" at the beginning of the section and deleted "registered" preceding "bonds of the United States" at the end of the present first sentence of the first paragraph.

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 matu-

rity" 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 state board of nursing, 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, state board of hairdressers, the examiners of podiatrists, the board of chiropractic examination and registration and the board of commissioners of the profession 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; c. 429, § 23. 1959, c. 303, § 3. 1961, c. 359, § 5.)

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.

This section was amended twice by the 1957 legislature. P. L. 1957, c. 397, § 4 re-enacted the first sentence as changed by the two 1955 amendments. Section 23 of c. 429 added the words “of the profession” after the word “commissioners” and be-

fore the word “of” in the first sentence of the first paragraph.

The 1959 amendment substituted the words “state board of nursing” for the words “board of registration of nurses” near the beginning of the first sentence of the first paragraph.

The 1961 amendment substituted “state board of barbers, state board of hairdressers” for “state board of barbers and hairdressers” in the first sentence of the first paragraph.

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

Effective date. — P. L. 1957, c. 429, amending this section, became effective on its approval, October 31, 1957.

Chapter 19.

Department of Audit.

Sec. 1. State auditor; salary.—The state auditor shall be the head of the department of audit as heretofore established. He shall be a certified public accountant or shall have had satisfactory experience as an auditor of public accounts. He shall be elected by the legislature by a joint ballot of the senators and representatives in convention and shall hold office for a term of 4 years or until his successor is elected and qualified. He shall exercise such powers and perform such duties as are set forth in the subsequent sections of this chapter. In case the office of state auditor shall become vacant during a period when the legislature is not in session the appointment of a person to fill such vacancy shall be made immediately by the president of the senate or if that office be vacant, by the speaker of the house, said person to hold office until such time as the legislature shall meet in regular or special session, and either confirm the appointment of said person or choose another person to fill the office during the unexpired term. He shall receive an annual salary of \$11,000. (R. S. c. 16, § 1. 1947, c. 405. 1951, c. 412, § 4. 1955, c. 473, § 4. 1957, c. 418, § 4. 1959, c. 361, § 4. 1963, c. 396, § 2.)

Effect of amendments. — The 1955 amendment increased the annual salary of the state auditor from \$7,000 to \$8,000.

The 1957 amendment, effective July 1, 1957, increased his annual salary from \$8,000 to \$9,000 and carried appropriations for fiscal years ending in 1958 and 1959.

The 1959 amendment increased the salary of the auditor from \$9,000 to \$10,000 and carried appropriations for the fiscal

years ending June 30, 1960 and 1961.

The 1963 amendment increased his salary from \$10,000 to \$11,000 and carried appropriations for the fiscal years ending June 30, 1964 and 1965.

Effective date. — P. L. 1959, c. 361, amending this section, provided in section 14 thereof as follows: “The provisions of this act shall become effective for the week ending August 22, 1959.”

Sec. 3. General powers and duties.

III. To install uniform accounting systems and perform audits for cities, towns and villages as required by sections 24 to 26, inclusive, of chapter 90-A.

IV. Accounting systems for clerks of courts, etc. To install uniform accounting systems and perform post-audits for the clerks of superior courts and probation officers, the expenses of such audits to be paid as follows: 50% by the