

DEPOSITORIES OF PUBLIC FUNDS.

CHAPTER 48.

[H. B. No. 4.]

STATE BOARD OF AUDITORS.

AN ACT Entitled "An Act Creating the Office of the State Board of Auditors, and Prescribing the Duties Thereof."

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. MEMBERSHIP OF BOARD.] There is hereby created a Board of Auditors for the State of North Dakota, which Board shall consist of the Secretary of State, the State Auditor and the Attorney General, whose duty it shall be to examine and audit the accounts, books and vouchers of the State Treasurer, and to account and ascertain the kind, description and amount of funds in the treasury of the State or belonging thereto, at least twice in each year, without previous notice to the Treasurer, and make report thereof, and of their acts and doings in the premises, to the Governor, and also to witness and attest the transfer and delivery of accounts, books, vouchers and funds by any outgoing Treasurer to his successor in office, and report the same to the Governor.

§ 2. STATE DEPOSITORIES.] All the funds of said State shall be deposited by the Treasurer in one or more designated National or State banks in the State, on or before the first day of each month, in the name of the State; such bank or banks shall be designated by the said Board of Auditors in conjunction with the Governor, after advertising in one or more newspapers published in the State, for at least thirty days, for proposals and receiving proposals, stating what security would be given to the State for such funds so deposited and what interest on monthly balances of the amount deposited, upon condition that said funds with accrued interest shall be held subject to draft and payment at all times on demand; *Provided*, That the amount deposited in any bank shall not exceed the assessed capital stock of said bank, and that said bank or banks shall pay the State at least 3 per cent. interest and not more than 4 per cent.

§ 3. BOND.] Before any National or State bank shall be designated as such depository, such bank shall deposit with the State Treasurer a bond payable to the State of North Dakota, and signed by not less than seven freeholders of the State as sureties, which bond shall be approved by the Governor and the State Board of Auditors, and shall be in such amount as said Board shall direct,

in a sum not less than double the amount of funds deposited in such bank at any one time.

§ 4. TREASURER EXEMPT FROM LIABILITY.] Whenever any portion of the funds of the State is deposited in any National or State banks in the manner provided in this act, such State Treasurer and the sureties on his bond shall be exempt from all liabilities thereon by reason of the loss of any such deposited funds from failure, bankruptcy or any other act of such bank to the extent and amount of such funds in the hands of such bank at the time of such failure or bankruptcy.

§ 5. REPEAL.] Any act or parts of acts in conflict with this act are hereby repealed.

Approved, March 13, 1893.

CHAPTER 49.

[H. B. No. 7.]

DEPOSITORIES OF COUNTY FUNDS.

AN ACT Providing for Proposals for Loaning County Funds and Defining the Duties of the County Auditor, Treasurer and County Commissioners, with Reference Thereto, and Repealing Chapter 20 of the Special Laws of Dakota Territory for the Year 1885.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. COUNTY DEPOSITORIES.] All funds of each and every county of this State shall be deposited by the county treasurer thereof as soon as received by him, in the name of the county of which he is an officer, in such bank or banks as shall have been designated as county depositories, in accordance with this act, as hereinafter provided.

§ 2. COMMISSIONERS TO DESIGNATE—WHEN.] It shall be the duty of the board of county commissioners of each and every county in this State, at its first regular meeting in January, 1895, and at its first regular meeting in January of each second year thereafter, to designate one or more National or State banks in their respective counties as county depositories, in which all the funds of said county shall be deposited.

§ 3. AUDITOR TO ADVERTISE—PROPOSALS.] The county auditor of each county shall advertise in one or more newspapers published in the county, for at least two weeks immediately prior to said above mentioned meetings, for sealed proposals for the deposit of the funds of said county, in accordance with this act. Said advertisement shall state the date until which proposals will be received, which date shall be the first day of the meeting at which the proposals are to be opened. Said proposals shall state in writing what rate of interest will be paid on the minimum de-

posit during the month, interest to be paid monthly, on condition that said funds, with accrued interest, shall be held subject to draft at all times on demand. Said proposals shall be enclosed in sealed envelopes, addressed to the county auditor, and marked "Proposals for Deposit of County Funds" and shall be by the county auditor filed in his office.

§ 4. ACCEPTANCE OF PROPOSALS—BOND—AMOUNT—SURETIES.] At the above mentioned meeting of said board of county commissioners said proposals shall be presented by the county auditor, and then, and not until then, opened by him in the presence of said board, which shall proceed to consider them, accepting the proposal of the bank or banks offering the highest rate of interest not inconsistent with this act, subject to the filing of a satisfactory bond, as hereinafter provided, the amount of which bond shall then and there be fixed by said board. Before any bank shall be designated as such depository it shall submit to the board of county commissioners for their approval a bond payable to such county, conditional on the safe keeping and repayment of any county funds deposited in said bank, which bond shall be signed by not less than five freeholders of the county in which said funds are deposited as sureties and shall be in such sum as the board shall have directed, but in no case to be less than double the probable amount of funds to be deposited in such bank. If at any time the amount of funds on deposit in any of said depositories shall exceed one-half the amount named in said bond, it shall be the duty of said board, at its next regular meeting thereafter to require from said depository an additional bond in a sum not less than twice the amount of said excess. Said bond or bonds shall be approved by said board and said approval be endorsed thereon in writing by the chairman of said board and by him deposited with the auditor of said county, and any bank whose bond shall have been approved shall be thereupon designated by said board as a county depository, and shall continue as such depository until such time as said board shall readvertise and redesignate in pursuance with this act; *Provided*, That if the board of county commissioners fail or refuse to approve any such bond, the same proceedings may be had as provided in Section 8, Chapter 5, Political Code; *Provided further*, That said sureties shall justify in the manner required by the statute on arrest and bail in a sum in the aggregate twice the amount of such bond.

§ 5. WHEN TWO OR MORE BIDDERS—SAME RATE.] When two or more banks in the same county proposing to become depositories offer the same rate of interest, it shall be the duty of the board of county commissioners to select impartially as many of said banks as depositories as offer ample security for such deposits, requiring from each of said banks, bonds of equal amount. In estimating the value of the security offered by any proposed depository the capital, surplus and general credit of the bank

offering the same shall be taken into consideration, as well as the bond proposed to be given.

§ 6. EQUAL BALANCES—TWO OR MORE DEPOSITORIES.] In cases where two or more banks are designated as depositories, the county treasurer shall as far as practicable, keep in each of the several depositories equal balances at all times; *Provided*, That in counties where two or more banks are designated as depositories, the amount deposited in any bank shall not exceed the assessed capital of said bank.

§ 7. MAXIMUM RATES—SUBJECT TO CHECK.] To further secure the safety of the county funds deposited under the provisions of this act, it is hereby made the duty of the board of county commissioners of any depositing county to satisfy themselves of the responsibility of the several banks proposing to act as depositories and no bank offering more than 3 per cent. per annum subject to check shall be designated a depository under the provisions of this act.

§ 8. MONTHLY STATEMENT BY DEPOSITORY.] Each depository designated under the provisions of this act shall furnish to the county auditor an itemized statement of the county's account with such depository on the first day of each month, duly verified by said bank, which statement shall be filed and carefully preserved in the office of said auditor. All sums of interest accruing on the funds deposited in any depository under the provisions of this act shall be credited to such deposit account on the first day of each month for the month previous thereto, and a statement of such interest shall be rendered by such depository to the county auditor on the first day of each month and the auditor shall charge the treasurer with the amount thereof and credit the same to the general fund of the county.

§ 9. VIOLAION—PENALTY.] No county treasurer shall deposit any of the funds of the county excepting in accordance with the provisions of this act under a penalty of \$500 for each deposit not in accordance herewith.

§ 10. CHECKS—HOW SIGNED.] All checks drawn upon the county depositories shall be signed by the county treasurer in the name of the county by himself as treasurer.

§ 11. GENERAL PROVISIONS.] It is hereby made the duty of the officers mentioned in this act and also of the board of county commissioners of the several counties of the State, to comply with all the provisions of this act; *Provided*, That in counties where only one bank is located the board of county commissioners shall designate such bank a depository without advertising for bids, if such bank agrees to pay interest at the rate of at least 3 per cent. per annum and fulfills all the requirements of Sections 4, 7 and 8 of this act. In counties where there is no bank located, or where no bank offers to comply with the requirements of this act, the board of county commissioners may, if in their judgment it is to the best interest of the county, designate some bank or banks out-

side of such counties as depositories, but such bank or banks must furnish bonds according to the provisions of this act.

§ 12. TREASURER EXEMPT FROM LIABILITY.] Whenever any portion of the funds of any county shall be deposited by any county treasurer in the manner as provided in this act, such treasurer and his sureties shall be exempt from all liability thereon by reason of loss of any such deposited funds from the failure, bankruptcy or any other acts of any such bank or banks to the extent and amount only of such funds in the hands of such bank or banks at the time of such failure or bankruptcy.

§ 13. MALFEASANCE.] Any officer violating any of the provisions of this act shall be deemed guilty of malfeasance in office.

§ 14. REPEAL.] All acts or parts of acts in conflict herewith are hereby repealed, and especially Chapter 20 of the Special Laws of Dakota Territory for the year 1885.

Approved, March 6, 1893.

DESCENT OF ESTATES.

CHAPTER 50.

[S. B. No. 39.]

RELATING TO SUCCESSION OF REAL AND PERSONAL PROPERTY.

AN ACT to Amend Section 778 of the Civil Code, Being Section 3401 of the Compiled Laws, Relating to the Succession of Real and Personal Property.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

[§ 1. AMENDMENT. That Section 3401 be amended so as to read as follows:]

§ 3401. SUCCESSION, INTESTATE ESTATES.] When any person having title to any estate not otherwise limited by marriage contract, dies without disposing of the estate by will, it is succeeded to and must be distributed, unless otherwise expressly provided in this Code and the Probate Code, subject to the payment of his debts, in the following manner:

1. If the decedent leave a surviving husband or wife, and only one child, or the lawful issue of one child, in equal shares to the surviving husband, or wife and child, or issue of such child. If the decedent leave a surviving husband or wife, and more than one child living, or one child living and the lawful issue of one or more deceased children, one-third to the surviving husband or wife,