

the Territory of Dakota, on the second Tuesdays of August and March, at which all issues of law or of facts not requiring the intervention of a jury, and all motions, may be tried and heard.

When to take effect.

SEC. 2. This act shall take effect and be in force from and after its passage and approval.

Approved, January 15, 1875.

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## EDUCATION.

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### CHAPTER 9.

#### THE CITY OF YANKTON.

AN ACT providing a board of education for the city of Yankton, Dakota Territory, and regulating the management of the public schools therein.

*Be it enacted by the Legislative Assembly of the Territory of Dakota :*

Establishment of board of education.

SECTION 1. That there be and there is hereby established a board of education for the city of Yankton, Dakota Territory.

Number of board.

SEC. 2. Said board shall consist of eight persons, two for each district of said city, as herein described. All that portion of said city east of Walnut street and south of Fourth street shall constitute the first district; all west of Walnut street and south of Fourth street shall constitute the second district; all north of Fourth street and west of Walnut street shall constitute the third district; all north of Fourth street and east of Walnut street shall constitute the fourth district:

Board to have power to alter districts.

*Provided however,* That said board shall have the power at any regular meeting held within two months immediately prior to any annual election, to change and alter such district, and to redistrict from time to time said city for such purposes.

SEC. 3. There shall be elected annually in said city, by the city council thereof, at a meeting of said council to be held for that purpose on the first Tuesday of May in each year, commencing on the first Tuesday of May, A. D. 1876, two members of said board, one for each alternate district, commencing with the first and third districts, then the next year from the second and fourth districts, and so alternating each year thereafter.

City council to elect members of board, when.

SEC. 4. For the purpose of determining the commencement and expiration of their term of office, and to enable the said city council to carry out the provisions of said section three, the persons hereinafter appointed members of said board shall, at the time of their organization, determine by lot who of them, respectively, shall hold for the long term, and who for the short term.

Duty of board to determine term of office.

SEC. 5. The persons hereinafter appointed shall hold their office according to such determination by lot and the provisions of section 3, for the terms of one, two, three and four years, respectively, from the first Tuesday of May, A. D. 1875, and until their successors are duly elected and qualified, and the persons hereafter elected shall hold their office for four years, and until their successors are elected and qualified. They shall each take and subscribe an oath to support the constitution of the United States and the organic act of this territory, and to honestly and faithfully discharge the duties of their office, and file the same with the city clerk.

Persons appointed to such board to hold office according to determination.

To take oath, form of.

SEC. 6. The city council of said city may at any time elect members of said board to fill the vacancies which may occur from any other cause than the expiration of the term of office of those elected, and the person thus elected shall serve out the unexpired term.

City council may fill vacancies.

SEC. 7. Any member of said board of education of said city may be removed from office for official misconduct by the city council of said city, by a vote of two-thirds of the members thereof, but a written copy of the charges preferred against said member shall be served upon him, and he shall be allowed an opportunity of refuting any such charges of misconduct, before removal.

Removal from office of member of board.

SEC. 8. The board of education shall be a corporate body in relation to all the powers and duties conferred upon them by this act, to be styled "The Board of Education of the

Board of education made a corporate body. Powers of.

City of Yankton," and as such shall have the power to sue and be sued, to contract and be contracted with, and shall possess all the powers usual and incident to bodies corporate, and as shall be herein given, and shall procure and keep a common seal. A majority of said board shall constitute a quorum. At each annual meeting of the board, on the third Tuesday of May, they shall elect one of their number president of the board, and whenever he shall be absent, a president *pro tempore* shall be appointed.

Quorum.

Shall elect president.

Members to receive no pay nor be interested in contracts.

SEC. 9. The members of the board shall receive no compensation, nor shall be interested directly or indirectly, in any contract for building, or for making any improvement or repairs provided for by this act. They shall have the care and custody of all the public property in said city pertaining to school purposes, and the general management and control of all school matters.

Annual and special meetings.

Manner of calling special meetings.

SEC. 10. The annual meeting of said board shall be held on the third Tuesday of May in each year. The board shall also meet for the transaction of business as often as once in each month, and may adjourn for any shorter term. Special meetings may be called by the president, or in case of his absence or inability to act, by any member of the board, as often as necessary, by giving a personal notice to each member of the board, or by causing a written or printed notice to be left at his last place of residence at least forty-eight hours before the hour for such special meeting.

Secretary of board—his duties.

SEC. 11. The said board shall appoint a secretary who shall hold his office during the pleasure of the board, and whose compensation shall be fixed by the board. The said secretary shall keep a record of the proceedings of the board, and perform such other duties as the board may prescribe. The said record, or a transcript thereof, certified by the secretary and attested by the seal of the board, shall be received in all courts as *prima facie* evidence of the facts therein set forth, and such records and all the books, accounts, vouchers and papers of said board shall at all times be subject to the inspection of the city council, or any committee thereof, or any tax payer of said city. For the purposes of economy, the said board, if they deem it advisable, may at any time until their annual meeting in 1878, appoint one of their own num-

ber secretary, in which event said secretary shall serve without compensation.

SEC. 12. The said board of education of said city shall have power, and it shall be their duty to levy and raise from time to time, by tax, such sums as may be determined by said board of education to be necessary and proper for any or all of the following purposes:

Board to levy and raise tax.

1. To purchase, exchange, lease or improve sites for school houses;

Purposes of tax.

2. To build, purchase, lease, enlarge, alter, improve and repair school houses and their outhouses and appurtenances;

3. To purchase, exchange, improve and repair school apparatus, books, furniture and appendages, but the powers herein granted shall not be deemed to authorize the furnishing with class or text books any scholar whose parents or guardians shall be able to furnish the same;

4. To procure fuel and defray the contingent expenses of the board, including the compensation of the secretary;

5. To pay teachers wages, after the application of public moneys, which may by law be appropriated and provided for that purpose.

SEC. 13. The tax so to be levied as aforesaid, and collected by virtue of this act, shall be collected in the same manner as other city taxes, except the first tax to enable the said board to operate until the taxes of 1875-6 can be made available, which shall be levied and collected as hereinafter provided:

How taxes collected.

and for that purpose the said board of education shall have power to levy and cause to be collected, such taxes as are herein authorized, and shall cause the rate for each purpose to be certified by the secretary to the city clerk in time to be added to and put upon the annual tax list of the city; and it shall be the duty of the city clerk to calculate and extend upon the annual assessment roll and tax list such tax so levied by said board, and such tax shall be collected as other city taxes are collected. And in case the city council shall fail to levy any

Relative to first tax.

tax for city purposes, or shall fail to cause an assessment roll or tax list to be made, as now or that may hereafter be provided by ordinance, the said board may cause an assessment roll and tax list to be made out by its secretary, and put into the hands of the city treasurer with a warrant for the collection of the same, under the hand of the president and seal of

When city council shall fail to levy tax.

the board, and attested by the secretary, and may cause the same to be collected in the same manner as other city taxes are collected, or as may, by a resolution of such board, be provided.

Amount of tax limited.

SEC. 14. The amount raised for teacher's wages and contingent expenses shall be only such as together with the public money coming to said city from the territorial and county fund, and other sources, shall be sufficient to maintain efficient and proper schools for the children in said city, nor shall the tax for the purchasing, leasing or improving sites, and the building, purchasing, leasing, enlarging, altering or repairing of school houses, exceed in any one year two cents on the dollar of valuation of the taxable property of said city, and the said board of education are authorized and directed, when necessary, to borrow in anticipation the amount of the taxes so to be raised, levied and collected as aforesaid.

Board may issue school bonds.

SEC. 15. The board of education of said city are authorized and empowered, and it shall be their duty, whenever the said board shall deem it necessary, in order to an efficient organization and establishment of schools in said city, and when the taxes authorized by this act shall not be sufficient, or shall be deemed by said board burdensome upon the tax payers of said city, from time to time to issue the bonds of said city, in denominations of not less than one hundred dollars, payable ten years after date, and bearing interest at the rate of ten per centum per annum, payable semi-annually, on the first days of January and July, and upon their face to show they are issued for school purposes, and cause the same to be sold and negotiated at not less than ninety cents on the dollar, and the money realized therefrom deposited with the city treasurer to the credit of the said board of education. And when any bonds shall be so negotiated, it shall be the duty of the said board of education of said city, to provide by tax for the payment of the principal and interest of said bonds: *Provided however*, That at no time shall the aggregate amount of bonds issued under the provisions of this act, exceed twenty thousand dollars.

City treasurer to be custodian of school moneys.

SEC. 16. All moneys to be raised pursuant to the provisions of this act, and all school moneys which shall, by law, be appropriated to or provided for said city, shall be paid over to the city treasurer of said city, and the county treasur-

er of Yankton county shall, from time to time, as he shall receive the county school funds, and at least once in each month on the first Monday thereof, pay over to said city treasurer the proportion thereof belonging to the said city, the same as though said city constituted one school district, and for that purpose said board shall have power to cause all needful steps to be taken, including census, reports, or other acts or things, to enable said board to receive the school moneys belonging to said city, as fully and completely as though said city formed one of the school districts of said Yankton county.

SEC. 17. The treasurer of said city shall give such bonds to such board of education in such sums and with such conditions and sureties as they shall from time to time require, in order to insure the safe keeping of the school funds, which shall be in addition to his other bonds, and the said treasurer and his sureties upon such bond, shall be accountable to the board for the school moneys that come into his hands, and in case of a failure of such treasurer to give such bonds when required thereto by such board, within ten days thereafter, such treasurer's office shall become vacant and the mayor and council of said city shall appoint another person in his place.

Treasurer to give bond.

Penalty for refusing.

SEC. 18. All moneys required to be raised by virtue of this act shall be paid in cash, or in the warrants hereinafter provided, drawn on the school funds only, and such moneys and all moneys received by said city for the use of the common schools therein, shall be deposited for safe keeping thereof with the treasurer of said city to the credit of the board of education, and shall be by him safely kept separate and apart from any other funds of said city, until drawn from said treasury as herein provided. The treasurer shall pay out the moneys authorized by this act, to be received by him, upon warrants drawn by the president, countersigned by the secretary and attested by the seal of said board of education.

Taxes to be paid in cash or school warrants.

Moneys, how paid out.

SEC. 19. The said board shall have power to and it shall be their duty:

Powers and duties of board of education.

1. To organize and establish such and so many schools in said city, as they shall deem requisite and expedient, and to change and discontinue the same;

To organize schools.

2. To purchase, sell, exchange and hire school houses and

To purchase property.

rooms, lots or sites for school houses, and to fence and improve them as they may deem proper;

To build and enlarge school houses.

3. Upon such lots and upon such sites as now are owned by school district number one, to build, enlarge, alter, improve and repair school houses, outhouses and appurtenances, as they may deem advisable;

To purchase apparatus.

4. To purchase, sell, exchange, improve and repair school apparatus, books for indigent pupils, furniture and appendages, and to provide fuel for the schools;

To have custody of school property.

5. To have the custody and safe keeping of the school houses, outhouses, books, furniture and appurtenances, and to see that the ordinances of the mayor and city council, in relation thereto, are observed;

To employ teachers.

6. To contract with, license and employ, all teachers in said schools, and at their pleasure to remove them;

To pay wages.

7. To pay the wages of such teachers out of the moneys appropriated and provided by law for the support of common schools in said city, so far as the same shall be sufficient, and the residue thereof from the money authorized to be raised by this act;

To defray contingent expenses.

8. To defray the necessary and contingent expenses of the board, including the compensation of the secretary;

To have management of schools.

9. To have in all respects the superintendence, supervision and management of the common schools of said city, and from time to time to adopt, alter, modify and repeal, as they may deem expedient, rules and regulations for their organization, grading, government and instruction, or the reception of pupils and their transfer from one school to another, and generally for their good order, prosperity and utility;

To make report to city council.

10. To prepare and report to the mayor and city council such ordinances and regulations as may be necessary and proper for the protection, safe keeping, care and preservation of school houses, lots and sites and appurtenances, and all the property belonging to the city connected with or appertaining to the schools, and to suggest proper penalties for the violation of such ordinances and regulations; and annually, on or before the first Monday in July of each year, to determine and certify to the city clerk of said city, the rate of taxation, in their opinion necessary and proper to be levied under the provisions of this act for the year commencing on

the first day of July thereafter, and also at any time to determine how many and what denomination of bonds shall issue and be sold to pay the extraordinary outlays required.

SEC. 20. Each member of said board shall visit all the public schools in said city at least twice in each year of his official term, and the said board shall provide that each of said schools shall be visited by a committee of three or more of their number at least once during each term.

Members of board to visit schools.

SEC. 21. The said board of education shall have power to allow the children of persons not resident in said city, to attend the schools of said city under the control and care of said board upon such terms as said board shall prescribe, fixing the tuition which shall be paid therefor.

Non-resident children to be admitted to schools of city.

SEC. 22. It shall be the duty of the board in all their expenditures and contracts, to have reference to the amount of moneys which shall be subject to their order during the current year, for the particular expenditures in question, and not to exceed that amount.

Board not to expend moneys in anticipation of succeeding year's taxes.

SEC. 23. The title of the school houses, sites, lots, furniture, books, apparatus and appurtenances, and all other property belonging to the school districts in said city of Yankton and all such property in this act mentioned shall be vested in the city of Yankton, for the use of schools, and the same while used or appropriated for school purposes, shall not be levied upon or sold by virtue of any warrant or execution or other process, nor be subject to any judgment lien, nor be subject to taxation for any purpose whatever, and the said city, in its corporate capacity, shall be able to take, hold and dispose of any real or personal estate, transferred to it by gift, grant, bequest or devise, for the use of the common schools of said city, whether the same be transferred in terms to said city by its proper style, or by designations, or to any person or persons or body, for the use of said schools.

Title to school property, how vested.

Exempt from taxation.

SEC. 24. Whenever any real property is purchased by said board, the transfer or grant and conveyance therefor shall be taken to the "city of Yankton for the use of schools," and whenever any sale is made by said board, it shall be so resolved, which resolution shall be spread upon the records of said board and the conveyance therefor shall be executed in the name of the city of Yankton, by the president of said

Grant to real property, how taken.

board, attested by the secretary of said board and under the seal thereof, and acknowledged by said president and secretary. And said president and secretary shall have full power and authority to execute conveyances upon such sale or exchange, with or without covenants of warranty on behalf of said city.

Officers of board may execute conveyance.

Time for annual report to city council.

SEC. 25. It shall be the duty of said board at least fifteen days before the annual election for members of said board in each year, to prepare and report to the mayor and city council, true and correct statements of the receipts and disbursements of moneys under and in pursuance of the provisions of this act, during the preceding year, which accounts shall be stated under appropriate heads:

What report to contain.

1. The moneys raised by the board under section 12 of this act.

2. The school moneys received by the treasurer of the city from the county treasurer.

3. The moneys received by the treasurer of the city under section 15 of this act.

4. All other moneys received by the city treasurer subject to the order of the board, specifying the sources from which they shall have been derived; and to these ends the city treasurer shall make report to said board when required and as required, of all school moneys received and disbursed by him.

5. The manner in which sums of money shall have been expended, specifying the amount under each head of expenditure, and the city council shall, at least one week before such election, cause the same to be published in all the newspapers of said city which will publish the same gratuitously.

Council shall pass certain ordinances required by said board.

SEC. 26. The mayor and city council of said city shall have the power and it shall be their duty to pass such ordinances and regulations as the said board of education may report as necessary for the protection, preservation, safe keeping, and care of the school houses, lots, sites, appurtenances and appendages, libraries, and all necessary property belonging to or connected with the schools of said city, and to impose proper penalties for the violation thereof, and all penalties shall be collected in the same manner that the penalties for the violation of the city ordinances are by law collected, and when collected shall be paid to the treasurer of the city, to

the credit of the said board of education, and shall be subject to their order as herein provided.

SEC. 27. All fines, penalties, and forfeitures, for the violation of any city ordinance of said city, and all fines, penalties and forfeitures for any criminal offense committed within said city, shall, when collected, be paid by the officers receiving the same, into the city treasury to the credit of said board of education, and subject to their order as other moneys raised pursuant to the provisions of this act.

Fines, etc., to be paid into school fund.

SEC. 28. It shall be the duty of the clerk of said city, immediately after the election of any person as a member of said board of education, personally or in writing to notify him of his election, and if any such person shall not within ten days after receiving such notice of his election, take and subscribe the oath as herein provided, and file the same with the said clerk, the city council may consider it as a refusal to serve, and proceed to fill the vacancy occasioned by such refusal. And the person so refusing shall forfeit and pay to the city treasurer, for the benefit of the schools of said city, a penalty of fifty dollars, which may be recovered in the name of said city in a civil action.

Clerk of city to notify person elected member of board.

Penalty for refusing to serve.

SEC. 29. That D. T. Bramble and F. M. Ziebach for the first district; F. J. Dewitt and J. R. Sanborn for the second district; Bartlett Tripp and Newton Edmunds for the third district, and Joseph Ward and E. P. Wilcox for the fourth district, of said city, are hereby appointed members of said board of education, and they shall, on or before the third Monday in January, A. D. 1875, qualify, by taking the oath herein prescribed, and if any shall neglect so to qualify by that time, the clerk shall notify the city council of such neglect, and a vacancy shall exist for each person so failing to qualify, and the mayor and council shall proceed to fill such vacancy or vacancies by the election of suitable and proper persons as provided herein, who shall hold their office as herein provided for such persons herein appointed, and the person or persons so failing to qualify shall forfeit and pay the penalty as prescribed in section 28, to be recovered in the manner therein prescribed.

Names of members of first board.

Duty of council in case of vacancy.

SEC. 30. The board so appointed or elected, shall meet on the first Tuesday of February, A. D. 1875, and shall organ-

When board to meet, organize and determine their terms of office.

ize and determine their length of term as provided in this act, and upon such organization shall at once assume the management and control of the public schools in said city, and the present school officers of the district or districts within said city shall turn over to them all moneys and other property belonging to such district; and from thence so much of such districts as are in the city of Yankton shall cease to exist, and all property belonging thereto shall vest in the city of Yankton for the use of schools, under the provisions of this act: *Provided however,* That the tax heretofore raised and voted therein, and not collected, so far as the same shall have been assessed upon the property of said city, shall be collected by the proper officers as though this act had not passed, and paid over to the city treasurer for the use of said board of education, and a proportionate amount of the debts and liabilities of said district shall be assumed and paid by said city through the said board of education, the same as though they had been incurred and contracted by said board, and to that end it shall be the duty of the officers of said school district to make full, true and accurate statements of the property, finances and condition of said district to said board immediately upon their organization, and the county superintendent of schools shall have the power to re-organize that part of the district outside of the city, and call a school meeting of the electors therein for that purpose.

Proviso.

Officers of old dist. to make statement.

Board to make estimate of expenses, and may levy tax.

Tax, how collected.

SEC. 31. As soon after their organization as practicable, the board herein appointed and provided for shall make a careful calculation and estimate of the amount of moneys necessary to be raised to place the schools, as soon as may be in an efficient condition, to be used until the taxes of 1875-76 can be made available, and it shall be their duty to levy and collect such amount upon the property in the city as appears upon the last assessment rolls of said city and such addition as they may cause to be made, to raise such amount, and to provide for the collection of the same before the first day of August, A. D. 1875, and for that the board shall cause a tax list to be made out by the secretary of the board, based upon the last assessment roll of said city, and adding thereto such other property in said city as is or may be liable to taxation, and shall place the same in the hands of the treasurer with a warrant for the collection of said tax, under

the hand of the president of the board and the seal thereof, and attested by the secretary, and thereupon the city treasurer shall proceed to levy and collect the said tax by distress and sale of personal property, and shall collect the same by the first day of June, A. D. 1875, and if any tax upon real property shall not be collected by the first day of June, A. D. 1875, he shall advertise the said real property, the tax upon which shall remain so delinquent, for sale, for the payment of said tax, for three successive weeks, in one of the newspapers published in said city, and shall proceed to sell the same on the second Monday of July, A. D. 1875, at the court room in said city, and shall adjourn the sale from day to day until all is sold, or until the first day of August, A. D. 1875, and if the same is not sold by that day, that part of the tax remaining uncollected shall be carried forward by him upon the next assessment roll and tax list and added to such taxes and collected as other taxes are collected; and the owner of such real property shall have the same length of time for the redemption of such real property, from such sale, as in case of other city taxes, and the title to the same shall be made in the same manner as in case of other city taxes, and for the collection of the taxes and the performance of any duty under the provisions of this act, the city treasurer and city clerk shall have and receive such compensation as the said board shall from time to time fix, to be paid out of the funds under the control of said board.

Duty of treasurer.

Compensation of clerk and treasurer.

SEC. 32. All acts and parts of acts inconsistent with this act are hereby repealed.

Conflicting acts repealed.

SEC. 33. This act shall take effect and be in force from and after its passage and approval: *Provided nevertheless*, That the school district officers of school district number one shall continue to act as such, and the said district shall continue its existence in law until the organization of said board of education as herein provided.

When to take effect.

Proviso.

Approved, January 6, 1875.