

CHAPTER 99.

COMMON SCHOOLS.

AN ACT supplemental and amendatory to "An act to establish common schools," approved, January 16, 1840.

Be it enacted by the Senate and House of Representatives [General Assembly] of the State of Iowa:

SECTION 1. School districts. That every school district formed under "An act to establish common schools," approved January 16, 1840, or may be hereafter formed under the provisions of this act, is, and the same is hereby declared to be, a body politic, know by their corporate name of directors of school district No.—, of township —, of — county; and the same may hold property, transfer the same, sue and be sued, and transact such other business as may be specified in this act.

SEC. 2. Annual election for inspectors—who may vote—place of election. That there shall be annually, an election on the first Tuesday of April, in each school district, for the purpose of choosing three directors, who shall hold their office until their successors are elected. Any person who is a permanent resident in said district, shall be eligible to vote at said elections. If any district fail to elect on said day, they may elect at any future day, due notice having been given. Said election shall be holden at the district school house; and if any district [128] have no such house, then at some suitable place which shall be designated in the notice.

SEC. 3. Duty of directors—duty of clerk. The directors have power, and it shall be their duty, to convene the district at their own instance, or at the written request of any three voters in the district, to appoint one of their body clerk and one a moderator. Said clerk shall keep a correct record of the proceedings of said directors, and make out and transmit their reports, and also a correct record of all the proceedings of said district when assembled. The moderator when present, shall preside at all the deliberations of the district meetings.

SEC. 4. Subjects for consideration—moneys, how raised. That when the district is so assembled, these may be proper subjects for consideration: Shall we now build a house, or shall we rent?—and if the district decide to build, where shall said house be situate, and what description of house?—shall we now have a school taught, and for what term?—whether they will appropriate any of the available funds, and what amount, at this term?—whether the teacher shall be employed by the month or by the scholar?—together with all other necessary matters pertaining to the welfare of their school. And all moneys necessary for the erecting and furnishing school houses, shall be raised by voluntary subscription.

SEC. 5. Duty of directors as to teachers, etc. That the directors shall employ a teacher, provide a suitable house and see that it is well supplied with books, fuel and stationery, assist the teacher in establishing and carrying out wholesome laws and regulations for said school, see that the teacher keeps an accurate list of all the time each pupil attends school and transmit the same to the township inspector, with every application for funds, together with all other matters which may strike them as relevant.

SEC. 6. List of persons—schools to be open. That said directors shall annually take a list of all the persons in their district between the ages of five and twenty-one years, and transmit the same to the township inspector, on the first day of September. And further, they shall see, that whenever it is voted by

the district to appropriate any of the public funds, that said school shall be open and free alike to all white persons in the district between the ages of five and twenty-one years, and to do generally such business as may be advantageous to the cause of education in their district.

SEC. 7. School inspector—to take an oath—to give bond. And be it further enacted, that at each annual township election, there shall be a school inspector elected, who shall hold his office for one year, and until his successor shall be elected: He shall within ten days after receiving his certificate of office, appear before the clerk, who shall be *ex officio* his clerk, and take an oath or affirmation, (as the case may be,) that he will faithfully perform the duties of said office to the best of his abilities; which oath shall be filed on the records [129] of said township clerk; and the said township inspector, before entering on the duties of his office, shall enter into bond with the trustees of the township, with securities, to be approved by them, sufficient to indemnify said township from any loss which might occur in case of malaction in office; which bond shall be filed in the office of the township clerk; and action may be taken on said bond at any time, in case of the non-fulfillment of conditions of said bond, and may be prosecuted by said trustees to final judgment, before any court having competent jurisdiction.

SEC. 8. Duty of inspector—election for directors. That it shall be the duty of the said township inspector to divide and form the township into suitable districts for schools, and to alter and change the same as he may deem advantageous; and that whenever he may form a district, he shall forthwith transmit the fact, with a certified description of the boundaries and number of said district, to some citizen of said district, who shall duly notify every voter in said district, by a personal notice of at least six days, that there will be an election held, designating the time and place of holding said election, for the purpose of organizing said district, by electing three directors for said school district.

SEC. 9. Annual report of inspector. That he shall report annually, on the first day of October, to the fund commissioner of his county, the number of persons in his township, (as shown by the reports of the directors of the several districts in his township,) between the ages of five and twenty-one years, together with an abstract of the numbers of all the scholars taught, and the aggregate number of days said pupils attended; also the aggregate cost of scholars so taught, what part was defrayed by voluntary subscription, and what amount by the public fund, and what amount, if any, of the public fund is yet in his hands.

SEC. 10. To apply for moneys—to apportion the same. That he shall apply for all moneys coming to his township from any persons for school purposes, and pay out the same according to the specifications of this act. He shall, within ten days after receiving any school money, proceed, in the presence of one or more trustees of the township, to apportion the same to the several districts the amount which each district may be entitled to—taking the number of persons reported as the basis of said dividend—which apportionment shall be entered on the records by the clerk.

SEC. 11. To pay over—proviso. That the township inspector shall pay over to each district the amount due said district whenever called for by the directors: provided, that no moneys shall be paid to any district which has not had a school taught three months in the year preceding such application; which must be also accompanied with a statement that said school was taught by a teacher who had a certificate of qualifications from said [130] inspector, and that said appropriation which is now applied for was voted by the district, and that all white persons alike were admitted to the benefits of said school, and that said school was taught in a comfortable house.

SEC. 12. Application for money. That all applications to the inspector for moneys from the directors must be accompanied with a statement from the teacher, setting forth the number of days each pupil attended school and the rate of tuition, and the amount now due him from the directors.

SEC. 13. To examine teachers—certificate—proviso. The township inspector shall examine all persons presenting themselves, touching their abilities to teach, both in regard to their education and their moral character, and if he find said persons qualified, he shall give a certificate to this purport, which certificate shall be valid for one year: provided, however, if the inspector should have good cause, he may countermand said certificate at any time, giving said teacher ten days notice thereof.

SEC. 14. To form districts from two townships. That when it may be deemed expedient to form a district from two or more adjoining townships, the inspectors, or a majority of them, may form the same, and attach it to whichever township they may see fit—consulting, however, the wish of the persons residing in said district, and the district when so numbered and attached, shall report accordingly; and further, the inspector may attach a family or families to certain districts out of their natural or geographical limits, when the same may be deemed necessary.

SEC. 15. To visit schools—vacancy of director. That it shall be the duty of the inspector to visit each school in his district at least once each year, and give such advice to directors, teachers and pupils, from time to time, as may appear to him necessary and proper; and whenever a vacancy may occur in the board of directors in any district he shall fill the same either by appointment or ordering an election, at his option.

SEC. 16. Vacancy of inspector—refusal to serve—fine. That whenever a vacancy shall occur in the office of township inspector by death, resignation, or any other cause, the township trustees shall fill the same by appointment until the next annual township election; and if any person so elected or appointed to the office either of inspector or director under the provisions of this act, shall refuse to serve, he shall forfeit and pay to the township five dollars; and if he refuse to pay, the township clerk shall proceed to collect the same by action of debt before any justice of the peace in said township.

SEC. 17. Compensation to clerk and inspector. That the township inspector and the clerk shall receive such compensation for their services as may be deemed by the township trustees right and equitable, to be audited and paid as other township officers.

SEC. 18. Refusing to pay over money. That if any officer under the provisions of this act shall [131] refuse to pay over any sums of money, or deliver up any papers of their office which may be in their hands, to their proper successors in office when so demanded, he shall be deemed guilty of a misdemeanor, and be answerable in action of debt before any court having competent jurisdiction, for such sum as may indemnify said township for all loss likely to obtain from such misdemeanor.

SEC. 19. Duty of county commissioners—as to taxes. And be it further enacted, that for the purpose of providing a fund for the support of common schools in the several counties of this state, it shall be the duty of the boards of commissioners of the several counties, at the time of levying the tax for county purposes, to levy a tax not less than one-half mill nor more than one mill on the dollar, on the assessed value of all real and personal property within their county.

SEC. 20. Duty of commissioners' clerk. That it shall be the duty of the several clerks of the board of commissioners, at the time of making out the assessment rolls, to append thereto a column, containing the amount of school tax levied, agreeably to the provisions of the nineteenth section of this act.

SEC. 21. Duty of county treasurer—statement of school tax. That it shall be the duty of the treasurer to collect this tax at the same time and manner as state and county taxes are collected, and shall be entitled to the same remedies to enforce collection of said tax, as allowed to the treasurer in the collection of other taxes, and to lay before the school fund commissioner of the county, on the twenty-fifth day of December in each year, a statement showing the amount of the school tax paid, the amount unpaid, and a complete list of the lands and property on which taxes for schools remain unpaid, together with the entire amount of moneys in his hands, (from whatever source accruing,) for school purposes, which shall be filed in his office.

SEC. 22. Money appropriated. That the money paid by persons as an equivalent for exemption from military duty, and the clear proceeds of all fines collected in the several counties for any breach of the penal laws, and all funds in the treasury arising from the sale of water crafts, lost goods, and estrays, be and the same are, hereby appropriated to the use of common schools within the county where they accrue.

SEC. 23. Duty of treasurer—compensation of treasurer and clerk. That it shall be the duty of said county treasurer to pay over to the fund commissioner of the county, on the fifteenth day of February annually, all sums of money which may be in his hands, appropriated for school purposes. And the board of county commissioners shall allow the treasurer one per cent. for collecting and paying out all moneys for schools, and their clerk a reasonable compensation for his services in making out the tax roll.

SEC. 24. Superintendent, election of. And be it further enacted, That at the next annual township election, and triennially thereafter, there shall be a superintendent [132] of public instruction elected, who shall hold his office for three years, and until his successor shall be duly elected and qualified; and said election to be conducted as in case of other state officers.

SEC. 25. To give bond—oath of office. That the person thus elected superintendent of public instruction shall, before he enters upon the duties of his office, give bond to the governor in the penalty of twenty-five thousand dollars, conditioned that he will honestly and faithfully account for and pay over, according to law, all moneys, or other things coming into his hands by virtue of his office, touching the school fund, with such securities as shall be approved by the governor, and filed in the office of the secretary of state. And further, he shall, before entering on the duties of his office, take and subscribe an oath that he will support the constitution of this state and of the United States, and that he will faithfully perform all the duties imposed upon him by law, touching the office of superintendent of public instruction; which oath shall also be filed in the office of the secretary of state.

SEC. 26. Where to keep office—to keep records. That it shall be his duty to keep an office at the seat of government, and to keep on file all papers, reports and public documents which may be transmitted to him from the school fund commissioners of the several counties in the state, each year separately, and hold the same in readiness to be exhibited to any committee of either house of the general assembly of this state, or to the governor, and shall keep a fair record of the proceedings in any matter touching the fund of public instruction.

SEC. 27. To pay out moneys. That he shall pay without delay all sums of money coming into his hands, the interest only of which can be used for the support of schools, into the hands of the fund commissioners; and shall from year to year adjust the sum at interest, dividing it equally among the several counties according to the number of persons in each county, reported by the fund commissioner, so as to place under the control of each fund commissioner

at as early a day as practicable, the amount as near as may be, to which his county is entitled, and thereby equalize the duties and responsibilities of the several commissioners.

SEC. 28. To adjust interest, etc. The superintendent of public schools [Instruction] shall carefully adjust the amount of interest accruing each year, apportioning to each commissioner the amount to be distributed in his county, which apportionment shall be according to the number of persons contained in the latest report from said commissioner.

SEC. 29. Duty as to permanent fund. That the superintendent shall, annually, on the first day of January, transmit to each school fund commissioner the amount of the proceeds of the permanent fund which were apportioned for distribution to his county, under the provisions of the twenty-eighth section of this act.

[133] **SEC. 30. Superintendent to transfer funds.** That when it shall appear by the annual apportionment that any fund commissioner has not in his hands the full amount due his county, the superintendent shall issue his warrant to said fund commissioner, authorizing him to draw on some particular fund commissioner who may have a surplus, for such amount as he may be deficit [in arrears].

SEC. 31. Duty as to school funds. That it shall be the duty of the superintendent to take a general oversight of all the schools formed under the provisions of a system of education for this state, and see that the system is as early as practicable put into operation, and cause it to be uniform in all its operations; to visit every county at least once during his term of office; to confer freely with the several township inspectors, and give such advice relative to schools as he may deem necessary; to deliver a public lecture to the teachers and people of each township on the subject of education, if deemed practicable, and to do generally such business as may be necessary for the promotion of public instruction.

SEC. 32. May appoint deputy. That the superintendent of public instruction have the power to appoint a deputy or clerk: provided, however, that he be accountable for the official acts of said deputy or clerk, and pay him out of his salary.

SEC. 33. To report. That the superintendent shall report to the legislature at each regular session, stating,

First—The whole amount of the school fund at interest.

Second—The annual proceeds of said fund.

Third—The amount annually appropriated for schools, and the source from which it accrued.

Fourth—The entire number of districts organized under this act.

Fifth—The number of persons between the ages of five and twenty-one years reported from said districts.

Sixth—The number of schools taught in the districts, and the number of scholars taught in all the said schools.

Seventh—the number of teachers employed, distinguishing between male and female, and the average pay received by the teachers, together with such other matters as may be required of him by law or joint resolution of the general assembly, or may appear to him relevant.

SEC. 34. That the superintendent shall furnish each fund commissioner with blanks, from time to time, suitable for their annual reports.

SEC. 35. Salary—expenses. That the superintendent of public instruction shall receive annually twelve hundred dollars, as a salary for the services re-

quired under the provisions of this act; and also all necessary contingent expenses for postage, books and stationery pertaining to his office, to be audited and paid as other state officers.

[134] **SEC. 36. Election of school fund commissioners—bond—oath.** Be it further enacted, that at the next annual township election, in every organized county in this state, there shall be elected a school fund commissioner for the county, who shall hold his office for two years, and until his successor is elected and qualified. The said fund commissioner, before entering on the duties of his office, shall execute a bond to the governor, in such sum and with such securities as shall be approved by the county commissioners—conditioned for the faithful performance of the duties of his office; and action may be taken on said bond at any time, in case of mal-action in office; also, he shall take and subscribe an oath or affirmation faithfully to discharge all the duties of his office according to law and the best of his abilities, which oath and bond shall be filed in the office of the county commissioners' clerk.

SEC. 37. Duty as to moneys. That the county fund commissioner, upon the reception of all sums of money—the interest only of which can be used for school purposes—shall proceed to loan the same on real estate securities, at a rate of interest not less than nine per cent. per annum—said interest payable annually at the office of said fund commissioner.

SEC. 38. Amount to be loaned—term. That no commissioner shall be allowed to loan to any one person or company a greater sum than five hundred dollars, nor shall the term of loans be less than one year, or longer than five years.

SEC. 39. To report. That the school fund commissioners of the several counties shall, annually, on the first day of November, report to the superintendent of public schools [instruction]:

1st. The number of persons in his county between the ages of five and twenty-one years.

2d. The number of districts in the several townships in his county.

3d. What length of time a school has been taught in each district.

4th. The aggregate number of all pupils taught in the several schools.

5th. The aggregate number of days said pupils have been taught.

6th. The average cost of tuition per term of three months.

7th. What part of the whole expense was defrayed by the public fund, and what by voluntary subscription.

8th. What amount of money he has appropriated to the support of schools, specifying the particular sources from which the amount accrued.

9th. What amount of the school fund at interest is under his control, and how vested; also, the amount, if any, on hand not yet appropriated, together with such other matters as may be required of him by the superintendent of public instruction.

SEC. 40. To apportion money. That the school fund commissioner shall, on the first day [135] of March, annually, call to his assistance two or more of the township inspectors of schools and proceed to apportion to the several townships all moneys then in his hands, according to the number of persons in the several townships, as shown by the last report of their inspector.

SEC. 41. To keep record. That the school fund commissioner shall keep a book in which the apportionment, as made out according to the provisions of the fortieth section of this act, shall be entered, and the fact, together with its correctness, certified by the two attending inspectors.

SEC. 42. To pay out moneys. That at any time after the said apportionment is made, or as soon thereafter as may be demanded, the fund commissioner shall proceed to pay out the true and just amount so apportioned to each

township; and when any township inspector receives the amount due his township, he shall receipt for the same, which receipt shall be filed on record.

SEC. 43. Compensation of commissioners—person contracting. That the county commissioners shall allow the school fund commissioner such compensation for the services required of him, in the discharge of his duties as school fund commissioner, as they shall deem reasonable, to be paid out of the school fund. And every person contracting with the fund commissioners for land shall pay into the school fund the sum of one dollar.

SEC. 44. Vacancy of commissioner. That if any vacancy shall occur in the office of the fund commissioner in any county by resignation, death, or otherwise, it shall be the duty of the county commissioners to fill such vacancy by appointment.

SEC. 45. Duty of secretary. That the secretary of state be instructed to have copies of this act, and all other acts pertaining to schools and school funds, passed by this present legislature, printed and distributed among the several fund commissioners, for the use of the several districts in their county.

SEC. 46. Repealing section. That all acts and parts of acts relating to schools, heretofore in force in this state, be, and hereby are, repealed.

SEC. 47. To take effect. This act to take effect and be in force from and after its publication.

Approved, January 24th, 1847.

[136] CHAPTER 100.

REVENUE.

AN ACT to provide for levying and collecting revenue for state and county purposes.

Be it enacted by the General Assembly of the State of Iowa:

SECITON 1. Sheriff to be assessor. That the sheriff of each county shall be *ex officio* assessor for his county.

SEC. 2. To give bond—oath. On or before the first Monday in March in each year the assessor shall give bond with two or more securities, to the acceptance of the board of county commissioners, and conditioned for the faithful and impartial performance of his duties according to law; which bond shall be deposited with the clerk of the board of commissioners, and by him preserved, and shall also file in the office of the said clerk an affidavit in the following form: "I _____ do solemnly swear that I will perform the duties of assessor of the county of _____ for the year _____ faithfully, diligently and truly, according to law; that I will spare no person for favor, affection, reward, or the hope thereof, and that I will wrong no person through hatred, prejudice or ill-will, and that I will do equal justice according to the best of my judgment, so help me God; and shall immediately enter upon the duties of his office.

SEC. 3. Clerk to prepare blanks. By the first Monday in March, the clerk of the board of commissioners of each county shall prepare for the use of the assessor, blank forms, sufficient for the assessment of the county.

SEC. 4. If sheriff neglects to qualify—election. If any sheriff shall neglect to qualify in the manner prescribed in the preceding section, his office as sheriff and assessor shall be deemed vacant, and it shall be the duty of the clerk of the board of commissioners to issue notices of an election for filling the vacancy.