§ 63-b. Action by attorney-general against usurper of office or franchise. 1. The attorney-general may maintain an action, upon his own information or upon the complaint of a private person, against a person who usurps, intrudes into, or unlawfully holds or exercises within the state a franchise or a public office, civil or military, or an office in a domestic corporation. The attorney-general may set forth in the complaint, in his discretion, the name of the person rightfully entitled to the office and facts showing his right thereto. Judgment may be rendered upon the right of the defendant and of the party so alleged to be entitled, or only upon the right of the defendant, as justice requires. Where two or more persons claim to be entitled to the same office or franchise, the attorney-general may bring the action against all to determine their respective rights thereto.

2. If the complaint sets forth the name of the person rightfully entitled to the office and the facts showing his right thereto, a provisional order to arrest the defendant may be granted by the court if the defendant by means of his usurpation or intrusion has received any fees or emoluments belonging to the office.

3. Where a defendant is adjudged to be guilty of usurping or intruding into or unlawfully holding or exercising an office, franchise or privilege, final judgment shall be rendered, ousting and excluding him therefrom, and in favor of the state or the relator, as the case requires, for the costs of the action. As a part of the final judgment in an action for usurping or intruding into or unlawfully holding or exercising an office, franchise or privilege, the court, in its discretion, also may award that the defendant, or, where there are two or more defendants, that one or more of them, pay to the state a fine not exceeding two thousand dollars. The judgment for the fine may be docketed and execution may be issued thereupon in favor of the state, as if it had been rendered in an action to recover the fine.

4. Where final judgment has been rendered upon the right and in favor of the person alleged in the complaint to be entitled to an office, he may recover, by action against the defendant, the damages which he has sustained in consequence of the defendant's usurpation, intrusion into,

unlawful holding or exercise of the office.