

service is excluded by section 268.04, subdivision 12, clause (6) (h) and (s).

*(u) Service performed as an agent or solicitor engaged or employed in the sale or purchase of real estate solely and exclusively upon a commission basis, to the extent only that such service is hereafter excluded under section 1607 of the Federal Internal Revenue Code.*

*The specific exclusions mentioned in subdivision 12, clause (6), of this section shall not be exclusive.*

Approved April 26, 1947.

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#### CHAPTER 575—H. F. No. 1574

[Coded as Section 125.091]

*An act relating to tax levies and financial affairs of certain school districts whose tax levy in the year 1947 exceeds \$40 per capita of the population of the district.*

Be it enacted by the Legislature of the State of Minnesota :

[125.091] **Additional powers of school board in certain districts.** Section 1. Subdivision 1. **Certain districts may sell emergency tax anticipation certificates.** Any school district whose tax levy in the year 1947 exceeds \$40 per capita of the population of the district according to the last state or Federal census, and in which the Board, by resolution adopted by a two-thirds vote, shall determine that the estimated receipts from all sources during the years 1948 or 1949 will be insufficient for the proper operation of the schools, may population of the district in the year 1948 and not exceeding issue emergency tax anticipation certificates in an amount not exceeding, in the aggregate, \$2.50 per capita of the population of the district in the year 1948 and not exceeding \$5.00 per capita of the population of the district in the year 1949; provided, if the population of such district is less than 2,500 it may issue such certificates in an amount equal to \$5.00 per capita in each of such years. Such certificates may be issued and sold from time to time to supply additional funds for the operation of the schools of the district in said years, and the district may expend the amounts received from the sale of such certificates

notwithstanding the provisions of any law limiting the expenditures of said district.

**Sec. 2. Subd. 2. Denominations; full faith and credit pledged.** Such certificates shall be issued in such denominations as the board may determine, shall bear interest at such rate as may be fixed by the board, not exceeding 4% per annum, and shall be sold for not less than par and accrued interest. They shall be due and payable at such times as may be fixed by the board, not later than December 31st of the second year following the year in which issued. The board may pledge the faith and credit of the district and the tax levies authorized hereunder for the payment of such certificates in full, and they shall be a first charge upon the levy so pledged. In the event that at the time of the issuance of any of such certificates the district shall have money in the hands of the treasurer levied for its operations in the following calendar or fiscal year, it may issue such certificates to the treasurer, in lieu of selling them as heretofore provided, in which event funds equal to the face value of such certificates may be transferred so as to be available for expenditures in the year of issuance. Certificates so issued to the treasurer shall be held by him, and may be sold under the direction of the board when necessary to replace the funds so advanced, and shall bear interest from the date of such sale.

**Sec. 3. Subd. 3. Tax levy.** At the time of making its general tax levy in the year 1949 the district may levy a tax in excess of any existing limitations in an amount sufficient for the payment of any such certificates issued in the year 1948 with interest thereon. At the time of making its general tax levy in the year 1950 the district may levy a tax in excess of any existing limitations in an amount sufficient for the payment of any such certificates issued in the year 1949 with interest thereon. Monies levied for such purpose shall be put into a special fund and shall be used for no other purpose than the payment of such certificates, and any balance in said fund after the payment thereof shall be applied towards the reduction of subsequent tax levies of the district. If certificates have been issued to the treasurer pursuant to the provisions hereof, instead of being sold, levies shall be made in accordance with the provisions of this section for the reimbursement of the monies transferred as hereinbefore provided.

**Sec. 4. Subd. 4. Prerequisite conditions for issuance of certificates.** Before issuing the first certificates in any year the board shall adopt a resolution fixing the budget of estimated receipts and expenditures of the district for said year, and

showing specifically the estimated total current expenditures and the estimated total non-instructional expenditures. No certificates shall be issued hereunder unless either (a) less than 35 per cent of the total expenditures of the district during said year under said budget will be expended for non-instructional costs, or (b) the board, in adopting such budget, shall have reduced the expenditures for non-instructional purposes to the lowest percentage of the total expenditures consistent with the proper operation of the schools of the district. Limitation of the expenditures for non-instructional costs during said year to the percentage of total current expenditures shown by said budget may be enforced by action in the district court at the suit of any taxpayer. The resolution fixing such budget and setting forth that the requirements of either clause (a) or clause (b) of this section have been complied with shall be published at least once in a legal newspaper published in said district, or if no legal newspaper is published in said district, in the county in which the district is located. No certificates shall be issued hereunder until more than thirty days subsequent to the date of such publication. Within such period any taxpayer may bring action to enjoin the issuance of such certificates upon the ground that the requirements of neither of said alternative clauses of this section have been complied with, and if the court shall find that such district has not complied with such requirements it shall enjoin the issuance of such certificates or the making of any expenditures in excess of those permitted by other laws applicable to such district until the requirements hereof have been complied with. The court may issue such temporary restraining orders and injunctions pending final determination of any such action as it may deem proper. In the absence of the issuance of any restraining order or injunction by the court within such thirty-day period, or upon the dismissal of any such restraining order or injunction, no defense may be interposed against such certificates of indebtedness in the hands of a holder thereof by reason of the provisions of this section.

Sec. 5. Subd. 5. Definitions. Within the meaning of this act: (a) the word "year" means calendar year unless a district keeps its accounts on a school or fiscal year basis, in which event such word shall mean the school or fiscal year ending in the calendar year specified; (b) the expression "total current expenditures" means the total expenditures of the district during a year for all purposes other than (1) bonds and interest thereon, and certificates of indebtedness authorized hereby and interest thereon, (2) improvements properly

chargeable as capital outlay, (3) transportation, (4) health service, and (5) that portion of the expenditures for special non-instructional activities which is recovered by charges or reimbursement collected therefor; (c) the expression "non-instructional costs" means all that part of total current expenditures which is not expended for instructional salaries, including teachers and superintendent, text and library books, instructional supplies, and other costs of instruction as defined by the State Department of Education.

Approved April 26, 1947.

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CHAPTER 576—H. F. No. 1582

[Not Coded]

*An act providing for the determination and payment of certain claims against the state arising out of the location, construction, reconstruction, improvement, and maintenance of the trunk highway system and appropriating money out of the trunk highway fund, or funds accredited thereto, from the highway patrol fines or other sources therefor.*

Be it enacted by the Legislature of the State of Minnesota:

**Section 1. Claimants may bring action against state.** Any of the persons, firms, or corporations hereinafter named, having submitted claims for damages to the Legislature prior to the passage of this act, or their heirs, representatives, successors, and assigns, may bring an action against the State upon such claim for damages alleged to have been caused by the location, construction, reconstruction, improvement and maintenance of the trunk highway system in the district court of any county wherein any part of the claim arose, subject to the conditions and limitations herein prescribed; provided that every such action shall be commenced within six months after the passage of this act.

**Sec. 2. Process to be served on attorney general.** The summons and complaint in every such action shall be served on the attorney general who shall defend the action.

**Sec. 3. To be heard as other civil actions.** All such actions shall be commenced, tried and determined as other civil actions and shall be subject to all applicable laws and rules. In the event a judgment is rendered against the state, the