1940 Supplement

To

Mason’s Minnesota Statutes

1927

(1927 to 1940)

(Superseding Mason’s 1931, 1934, 1936 and 1938 Supplements)

Containing the text of the acts of the 1929, 1931, 1933, 1935, 1937 and 1939 General Sessions, and the 1933-34, 1935-36, 1936 and 1937 Special Sessions of the Legislature, both new and amendatory, and notes showing repeals, together with annotations from the various courts, state and federal, and the opinions of the Attorney General, construing the constitution, statutes, charters and court rules of Minnesota together with digest of all common law decisions.

Edited by

William H. Mason

Assisted by

The Publisher’s Editorial Staff

MAISON PUBLISHING CO.
SAINT PAUL, MINNESOTA
1940
1109. Repealed by Act Apr. 21, 1933, c. 145, PL. 12, §1, ante §601-12, effective Aug. 1, 1939.


"Sec. 1. The clerk or recorder of any incorporated vil-

lages in this state may appoint under his hand and seal

by and with the consent of the village council, a deputy

for whose acts he shall be responsible, and whom he may

repeal at pleasure."

"Sec. 2. Such deputy shall before entering upon his

official duties, take the oath required by law oath of

office in the office of clerk, or recorder, or deputy of the
court of the district court of the proper county."

"Sec. 3. This section repeals provision in, Laws 1875, c. 139, §20, 9.

A village may employ an attorney who is not a resident of

the city, and there is no ten-day waiting period before village orders may be issued.


Mason's Stats. §1222, 1223, do not apply to claims against villages operating under this act, and there is no ten-day waiting period before village orders may be issued.


Mason's Stats. §1222, 1223, do not apply to claims against villages operating under this act, and there is no ten-day waiting period before village orders may be issued.


Where salaries of president and trustees were fixed under this act. Op. Atty. Gen., (4G9a-12), Nov. 12, 1936.

Although village council, unaware of Its authority to enter into an agreement with reference to salary has no application to villages operating under this act. Op. Atty. Gen., Dec. 22, 1933.


Where salaries of president and trustees were fixed pursuant to Mason's Stat., §1114, applies to villages operating under this act. Op. Atty. Gen., (476b-1), May 28, 1935.

A city may supply electricity to a nearby village with reference to salary has no application to villages operating under this act. Op. Atty. Gen., May 17, 1938.


Village council has no authority to fix compensation of treasurer serving under prior council, though such council has no compensation for such position. Op. Atty. Gen., Jan. 25, 1933.


Compensation of village assessor may be fixed by village council. Mason's Stat., §1114, that subdivision is not inadequate. Id.


This section in so far as it relates to holding an election, terms of offices, and filling of vacancy in village has been superseded by Laws 1929, c. 413, so far as latter is in conflict. Op. Atty. Gen. (475b-9), Apr. 29, 1939.

Village council, unaware of its authority to declare or to define a sewer purposes where owner claims overflow from sew-


Village council has power and authority to fix compensation of village assessors. Vesely v. V., 190M318.

251NW318. See Dun. Dig. 4575.


Village council has no power to remove one of its members, such as the recorder, proper procedure being appropriate to motion in district court. Op. Atty. Gen. (475), Mar. 26, 1936.

Village council has authority to purchase a building in the municipal water store to be used without waiving matter to electors. Op. Atty. Gen. (471m), June 5, 1936.
ity to permit another private owner on the same side of street to purchase a franchise where a franchise for a vi- 


Neither village council nor board of park commissioners may issue warrants where there is no money immediately available in the village treasury for their payment, unless it brings itself within Laws 1885, ch. 257. Op. Atty. Gen. (688c), June 27, 1938.


In case of dissolution of village, council may levy only tax from one-year term may not exceed one year and may not be fixed by ordinance before the term begins. Any further necessary amount may be added by county auditor. Op. Atty. Gen. (499a-4), Aug. 20, 1936.


42. Two dollar appeal fee applies only to civil actions and not to criminal appeals from court to district court. Op. Atty. Gen. (469a-6), Mar. 1, 1937. It is duty of one appealing from conviction of violation of city ordinance to proceed in same manner as from judgment from justices of the peace in civil actions and in manner provided in §1125 and it is his duty to serve notice of appeal upon city or its attorney and not upon county attorney. Op. Atty. Gen. (779a-5), Nov. 28, 1935.

43. No tax of the city may not deduct costs in dismissed cases from those collected in other cases, but should remit full amount and make a separate claim for any sum due him. Op. Atty. Gen. (399b-9), Jan. 13, 1938.

44. Village issued a bond with the village clerk instead of the clerk of court, under Laws 1934, c. 145. Id.


48. Village incorporated under this act, having a Water, Light, Power and Building Commission under §§1185 to 1188, may not levy any tax which it was not entitled to collect under the 1885 Act, rather than Mason's Stat., 1927, p. 101. If the village was not organized pursuant to Rev. Laws 1885, this section has no application to contracts of a water, power, light and building commission. Op. Atty. Gen. (469b-6), Apr. 24, 1939.


51. Statute prohibiting letting of contract where amount involved is more than a certain sum has no application to labor work. Op. Atty. Gen. (797d), Mar. 12, 1934.


§1117-1  CH. 9—VILLAGES AND CITIES

Village has no power to levy a special tax for fire equipment except as authorized by §4301-11. Id. Village may purchase property outside corporate limits for use as dumping grounds. Op. Atty. Gen. (469a-10), May 4, 1938. A village council has power to construct a village hall, to be used partly as village hall, and to elect and pay for the same. Id. A village council may sell land no longer needed without vote of electors. Op. Atty. Gen. (469a-15), Sept. 28, 1938.


1117-1. Villages may be incorporated within other villages. Whenever any village now or hereafter existing shall include 9,000 acres or more of land according to the United States government survey, and a portion of the land within such village has been or shall be improved by the construction of sidewalks, pavements, street curbs, street gutters and sewers, such portion so improved and land in such village adjacent or contiguous thereto, in all not exceeding 700 acres, and so conditioned as properly to be subjected to village government, if such area has a population of 500 or more, may become incorporated as a village separate and distinct from the existing village, provided the population of the remaining area shall not thereby be reduced below the limit fixed by law for the incorporation of a village. (Act Apr. 15, 1929, c. 184, §3.)


1117-2. Petition to County Board. 100 or more of the voters, residing within the territory authorized to become a village under this act, may petition the county board of the county in which the whole or larger part of said lands are situated to call an election for the determination of such proposed incorporation. They shall first cause to be taken a census of the resident population, and if such resident population be found to be 500 or more the petition aforesaid shall be presented within eight weeks thereafter. It shall set forth the boundaries of the territory proposed to be incorporated under this act, the quantity of land embraced therein, the number of actual residents therein, and the name of the proposed village. It shall be verified by the oaths of at least three of the petitioners declaring that such statement is true and accurately taken within the dates specified and that the statements made in the petition are true. (Act Apr. 15, 1929, c. 184, §2.)

1117-3. Notice of hearing—Posting—Publication—notice of election. Upon the filing of a petition complying with the provisions of Section 2 hereof, §1117-2, the county board shall cause to be posted, upon a copy thereof, with an notice attached fixing a time and place for holding such election, to be posted in three public places within the boundaries described and also three public places within 15 miles of the territory proposed to be incorporated under this act. The time shall be not less than 20 nor more than 30 days after such posting, and the place shall be the usual and customary place for holding elections within the already existing village. If there be a qualified newspaper published within said limits, there shall also be two weeks' published notice of such election. (Act Apr. 15, 1929, c. 184, §2A.)

1117-4. Judges of election—Ballots. The board shall appoint three inspectors, resident of said existing village, who shall act as judges of said election, and conduct the same, so far as practicable, in accordance with the laws regulating the election of town officers. Only voters residing within said existing village shall be entitled to vote. The ballot shall bear the words, "For Incorporation—Yes—No," with a square after each of the last two words, in one of which the voter shall make a cross to express his choice. The inspectors shall at once make and file with the county auditor a certificate declaring the time and place of holding said election, that they have canvassed the ballots cast thereat, and the number cast both for and against said proposition. The certificate shall be signed and verified by at least two of said inspectors to the effect that the statements thereof are true. (Act Apr. 15, 1929, c. 184, §2B.)

1117-5. County Auditor to certify to Secretary of State. The auditor shall attach said certificate to the original petition, with a copy of the resolution appointing said inspectors, and the original proof of the posting and also publication, if any, of the election notice, and file the whole, as one document, in his office. If the certificate show that the majority of the votes cast were in the affirmative, he shall forthwith make the transmit to the secretary of state a certified copy of said document so filed as a public record, and thereupon the incorporation shall be deemed complete. If territory in more than one county is embraced within such corporate limits, the auditor shall make and transmit to the auditor of each county in which such incorporated territory will be situated a certified copy of such document to be there filed as a public record, and thereupon the incorporation shall be deemed complete. If the vote be adverse, no subsequent petition shall be entertained within one year next after said election. (Act Apr. 15, 1929, c. 184, §2C.)

1117-6. Election of officers. Upon the filing of returns with the secretary of state the county board shall appoint three inspectors residing within the newly incorporated village and said inspectors of election shall give notice of a meeting of the resident voters for the organization of such village and the election of its officers, fixing therein the date and hour of the meeting, which shall be at least ten days, and not more than 20 days, thereafter. Such notice shall be posted and published in case of the original election. The voters present at the appointed hour and place, by a majority vote taken viva voce, shall appoint two judges and one clerk of the election, who shall take the oath, and be governed in the conduct of the election, so far as practicable, by the laws regulating the choice of town officers. They shall open the polls by proclamation, and receive all lawful votes offered by resident voters during a period of at least six hours, and until 7 o'clock P. M. They shall give to each officer chosen a certificate of his election, and such officers having qualified according to law, shall forthwith assume their official duties. All proper expenses of the incorporation, organization, and election shall be a charge upon said village. (Act Apr. 15, 1929, c. 184, §2D.)

1117-7. Villages to have all rights under general law. Villages incorporated under this act shall be vested with the rights, privileges and powers and subject to the duties as set forth under the general village law of this state for all time. Op. atty. Gen. (25, 1935, c. 134, §2, General Statutes 1933, as amended. The administration of the affairs of villages incorporated under this act shall be governed and controlled by said Sections 1117 to 1253, each inclusive, General Statutes 1933, as amended, so far as applicable. When
the context so requires the word "town" whenever used in said Sections 1117 to 1263, each inclusive, shall mean previously existing village. (Act Apr. 15, 1929, c. 184, §§.)

1117-8. Not to affect existing village.—The territory of an existing village remaining after the incorporation of a village under this act shall continue to be and remain a village municipal corporation with its rights, privileges, powers and duties unchanged by the incorporation of a village under this act. (Act Apr. 15, 1929, c. 184, §4.)

1117-9. Vacancies in certain cases.—In the event that an officer of an existing village resides within the territory incorporated under this act, the completion of the incorporation of a village under this act shall forthwith create a vacancy in the office held by the person who is a resident of the territory incorporated under this act. (Act Apr. 15, 1929, c. 184, §5.)

1117-10. Drawing of warrants unlawful in certain cases.—Whenever from and after January 1, 1930, the expense and obligations inured chargeable to any particular fund of such village in any calendar year are sufficient to absorb 85 per cent of the entire amount of the tax levy payable in that year, including such amount as may remain in the fund from the levy of any prior year or years, no officer, board or official body of such village shall have the power and no power shall exist to create any additional indebtedness (save as the remaining 15 per cent of said tax levy is collected) which shall be a charge against that particular fund, or shall be in any manner a valid claim against such village, but such additional indebtedness attempted to be created shall be a personal claim against the officer or members of the municipal board or body voting for or attempting to create the same; and in no event shall any officer, board or official body of such village have the power and no power shall exist to create any such fund. Such certificates shall be paid from the moneys on hand, and not earlier than October of each year, for the purpose only of paying and discharging such valid indebtedness (except bonds) and interest thereon, issue its bonds in the manner now provided by law, except that such bonds may be issued on a vote of the Council thereof, without a vote of the electors. (Act Apr. 23, 1929, c. 303, §1.)

Act is constitutional. 17EM242, 227NW202.

1117-11. Officers may not incur indebtedness.—Whenever from and after January 1, 1930, the expense and obligations inured chargeable to any particular fund of such village in any calendar year are sufficient to absorb 85 per cent of the entire amount of the tax levy payable in that year, including such amount as may remain in the fund from the levy of any prior year or years, no officer, board or official body of such village shall have the power and no power shall exist to create any such fund. Such certificates shall be paid from the moneys on hand, and not earlier than October of each year, for the purpose only of paying and discharging such valid indebtedness (except bonds) and interest thereon, issue its bonds in the manner now provided by law, except that such bonds may be issued on a vote of the Council thereof, without a vote of the electors. (Act Apr. 23, 1929, c. 303, §2.)

1117-12. May sell certificate of indebtedness.—At any time after the annual tax levy has been certified to the County Auditor, and not earlier than October 10th in any year, the governing body of such village may for the purpose of the succeeding year, by resolution, issue and sell as many certificates of indebtedness as may be needed in anticipation of the collection of taxes so levied for any fund named in said tax levy for the purpose of raising money for any such fund, but no certificates shall be issued for any of said separate funds exceeding 50 per cent of the amount named in said tax levy, as spread by the County Auditor, to be collected for the use and benefit of said fund. Such certificates shall be issued subject to an interest payable in any one year bears to the total amount of such certificates so issued, and the whole amount embraced in said tax levy for that particular purpose. They shall be numbered consecutively and be in the denominations of $100.00 or a multiple thereof and may have interest coupons attached and shall be otherwise of such form and terms and be made payable at such place as will best aid in their negotiation, and the proceeds of the sale of said fund and acknowledged as aforesaid on account of said fund, and the faith and credit of such village shall be irrevocably pledged for the redemption of the certificates so issued. Such certificates shall be paid from the money derived from the sale of said certificates for any year until all certificats were issued. The money derived from the sale of said certificates shall be credited to such fund or funds for the calendar year immediately succeeding the making of such levy, and shall not be used or spent until such succeeding year. No certificates for any year shall be issued until all certificates for prior years have been paid, nor shall any certificate be extended; provided that money derived from the sale of certificates for any one year may, if necessary, be used to redeem unpaid certificates issued in a prior year. (Act Apr. 23, 1929, c. 303, §§.)

1117-13. Certificates of indebtedness issued during the year 1934 cannot be indirectly paid from the sale of said certificates for any year until all certificates for the year 1933 have been paid. (Op. Atty. Gen. (59a-51), Feb. 26, 1935.)

1117-14. May issue bonds in certain cases.—If any such village prior to January 1st, 1929, has incurred by valid authority a valid indebtedness which may be included by any such village in its annual maximum tax levy for any fund or funds for the calendar year immediately succeeding the making of such levy, and shall not be used or spent until such succeeding year. No certificates for any year shall be issued until all certificates for prior years have been paid, nor shall any certificate be extended; provided that money derived from the sale of said certificates for any one year may, if necessary, be used to redeem unpaid certificates issued in a prior year. (Act Apr. 23, 1929, c. 303, §§.)

1117-15. Tax levy.—The Village Council of any village issuing bonds pursuant to the authority of this act shall, before the issuance thereof, by a resolution provide for a tax levy for the purpose only of paying and discharging such valid indebtedness (except bonds) and interest thereon, issue its bonds in the manner now provided by law, except that such bonds may be issued on a vote of the Council thereof, without a vote of the electors. (Act Apr. 23, 1929, c. 303, §§.)

1117-16. Limitation of tax levy.—The amount which may be included by any such village in its annual tax levy in each year hereafter made for the following purposes shall not exceed these limitations:
§1117-17 CH. 9—VILLAGES AND CITIES

(1) for general corporation purposes, 20 mills on the dollar of the taxable valuation of the village, less the amount hereinafter required to be set aside for the same year to pay principal and interest on bonds herein authorized; (2) for water and light and building commission purposes, 5 mills on the dollar of the taxable valuation of the village, less the amount hereinafter required to be set aside for the same year to pay principal and interest on bonds herein authorized; (3) for library purposes, 3 mills on the dollar of the taxable valuation of the village, less the amount hereinbefore required to be set aside for the same year to pay principal and interest on bonds herein authorized. (Act Apr. 23, 1929, c. 303, §7.)

1117-17. May not contract indebtedness. Whenever any department, board or commission of such village having the power to expend money which shall not have been provided by law with a special tax levy, such department, board or commission shall not during any year contract any indebtedness, or incur any pecuniary liability, which shall be in excess of the sum that may be allotted to its department for said year by the Village Council. The Village Council shall by resolution prior to February 1, each year, set aside for each such department, board or commission such sum as it deems necessary and adequate for the proper operation thereof. The amount to be so set aside by the Village Council for the Park Department shall be the amount that 8/10th of one mill will yield from the general corporation tax of the village, within the village, apportioned by law to the park department for library purposes, 3 mills on the dollar of the taxable valuation of said village. (Act Apr. 23, 1929, c. 303, §8.)

1117-18. Village recorder to keep record. The Village Recorder shall keep a record showing accurately the amount allotted to each board or governing body, or other village officer or employer, knowingly participating in, and authorizing any violation of this act shall be guilty of a misdemeanor punishable by a fine not exceeding $100.00 or by imprisonment in the county jail not exceeding three months for each offense, and every contract attempted to be entered into, or indebtedness or pecuniary liability attempted to be incurred, in violation of the provisions of this act shall be null and void in regard to any obligation thereby sought to be imposed upon the village, and no claim therefor shall be allowed by the village council nor any governing board; nor shall the village recorder or any other village officer or employee, knowingly participating in, or authorizing, and violation of this act shall be liable to the village or to any other person for any damages caused thereby and for the purpose of enforcing such liability without impairing any other remedy one forth of the salary of each such officer and employee which shall be withheld from him and applied towards reimbursing the village or any such other person for such damages until all claims by reason thereof have been fully paid. Each member of the village council of such village board present at a meeting of the board or council when any action is taken with reference to paying money or incurring indebtedness or entering into any contract shall be deemed to have participated and authorized the same unless he shall have caused his dissent therefrom to be entered upon the minutes of the meeting. (Act Apr. 23, 1929, c. 303, §10.)

1117-20. Members violating provisions may be suspended. Any member of the village council or governing board knowingly participating in or authorizing the violation of this act shall be liable to suspension from office. Any vacancy created thereby shall be filled according to law. (Act Apr. 23, 1929, c. 303, §11.)

1117-21. Last federal census to govern. For the purpose of this act, the last Federal census of population taken prior to the calendar year in which any levy may be made shall govern and shall be conclusive in determining hereunder the population of any such village. (Act Apr. 23, 1929, c. 303, §12.)

1117-22. Provision severable. When a village has one contract under the provisions of this act, it shall continue under its provisions, notwithstanding any subsequent change in assessed valuation or population. (Act Apr. 23, 1929, c. 303, §13.)

1117-23. Inconsistent acts repealed. If any section, part or provision hereof be found unconstitutional such determination shall not affect the validity of the remaining provisions of this act dependent thereon. (Act Apr. 23, 1929, c. 303, §14.)

1117-24. This act shall take effect and be in force from and after its passage and all acts and parts of acts inconsistent herewith are hereby repealed and declared of no effect in so far as they may be inconsistent with this act. (Act Apr. 23, 1929, c. 303, §15.)

1120. Extending boundaries. Upon annexation of territory from a township by a village, apportionment of indebtedness is wholly statutory, and legislature may provide for a division, or it may provide for no division at all, and remedy in any particular case is with legislature. Op. Atty. Gen. (440a). Mar. 25, 1927.

1120a. Territory may be detached from villages in certain cases. The owner or owners of any unplatted tract or tracts of land constituting a compact and contiguous tract of not less than 10 acres, situated within the corporate limits of any village in this state, occupied and used solely for agricultural purposes or the owner of any platted lands occupied and used solely for agricultural purposes, may apply to the county auditor of said county, or to any other county officer or employee, knowingly participating in, or authorizing, and violation of this act shall be liable to the county auditor of said county on behalf of such board, which said notice shall be filled with the Secretary of State in that particular case and with legislature. Op. Atty. Gen. (440a). June 26, 1927.


1120c. Members violating provisions may be suspended. Any member of the village council or governing board knowingly participating in or authorizing the violation of this act shall be liable to suspension from office. Any vacancy created thereby shall be filled according to law. (Act Apr. 23, 1929, c. 303, §10.)

1122. Provisions severable. When a village has one contract under the provisions of this act, it shall continue under its provisions, notwithstanding any subsequent change in assessed valuation or population. (Act Apr. 23, 1929, c. 303, §13.)

1123. Inconsistent acts repealed. If any section, part or provision hereof be found unconstitutional such determination shall not affect the validity of the remaining provisions of this act dependent thereon. (Act Apr. 23, 1929, c. 303, §14.)

1124. This act shall take effect and be in force from and after its passage and all acts and parts of acts inconsistent herewith are hereby repealed and declared of no effect in so far as they may be inconsistent with this act. (Act Apr. 23, 1929, c. 303, §15.)

252
said petition at the time and place so fixed, if the board of county commissioners shall find that said land is owned by the petitioner, or petitioners, and is used and improved for agricultural purposes and that the same may be so detached from said village without unreasonably affecting the symmetry of the settled portion thereof, and that the same is so conditioned as not properly to be subjected to village government or as not necessary for agricultural purposes and that the police powers or other powers or functions of such villages, such board of county commissioners shall make an order detaching such land from said village, and thereupon said tract or tracts of land shall be conveyed to the county auditor, and such area shall be a part of the township in which they were originally situated, or, if such township has ceased entirely to exist or has ceased to function as a town or township for a period of 15 years next preceding the passage of this Act, the land so detached shall become a part of the township adjoining thereto, and if such land join two or more townships, the county board shall decide to which of such adjoining townships such detached tract or tracts shall be attached, or the land so detached therefrom may be by such board of county commissioners formed into and established as a new township, the name of which new township shall be determined and designated by the board of county commissioners provided, however, that such new township shall have not less than 36 square miles of territory. If such village were organized prior to the town shall have not less than 36 square miles of territory.

This Act shall apply only to the following villages, namely:
1. Villages having a population of 350 or less persons and containing not more than 160 acres of land.
2. Villages having a population of more than 350 and less than 700 persons and containing more than 350 but not more than 640 acres of land.
3. Villages having a population of more than 700 persons and containing more than 640 acres of land.

Any party aggrieved may appeal from such order to the district court of the county upon the following grounds:
1. That the county board has no jurisdiction to act.
2. That it has exceeded its jurisdiction.
3. That its action is against the best interests of the territory affected.

Such appeal shall be taken by serving upon the county auditor within thirty days from the making of the order a notice of appeal, specifying the grounds thereof. The appellant shall also execute and deliver to the auditor a bond to the county in the sum of one hundred dollars, to be approved by the county auditor, conditioned for the payment of all costs taxed against the appellant on such appeal. Such further proceedings shall be had upon such appeal as upon other appeals from the county board.

The provisions of this Act relating to appeals shall not apply to any action or proceeding now pending involving the detachment of land from a certain village to another village, to any action or proceeding from ("09, c. 138, §1); "17, c. 477; "19, c. 421; "21, c. 451; "23, c. 177; Apr. 21, 1923, c. 423; Apr. 1, 1936, c. 90; Apr. 12, 1937, c. 195, §1; Apr. 14, 1939, c. 250.)

Detachment of land in certain cases in certain counties in certain cases. Laws 1933, c. 326.

Detachment of island in county of over 450,000 population from certain villages and attaching it to other villages and towns. Laws 1933, c. 411.

Sect. 2 of Laws 1905, c. 128, omitted from 1927 compilation and is amended by Laws 1935, c. 190, §11120¼a.

Statute makes severance from a municipality of agricultural lands located within a certain county, in the manner provided, in certain cases. Vaubel v. V. 194 M. 261, 261 N.W. 690. See Dun. Dig. 6521.

Petition from order of county board denying a petition to sever agricultural land from a village, trial in district court de novo within field of inquiry limited by statute. Id.


Twenty rod requirement has no application to unplatted lands of not less than 10 acres. Op. Att'y Gen. (1909, c. 49.), Dec. 18, 1933.

Subsection 3 refers to acreage of village at time of petition for detachment is presented to county board. Id.

Petition to detach land from village should not be denied because village will thereafter consist of less than 160 acres. Op. Atty. Gen. (1949, §2), March 2, 1933.

1120¼a. Tax levy on detached land.—Such separation from said village shall not release any such tract of land from liability on account of any outstanding indebtedness of such village existing at the time of its separation therefrom. The county auditor of the county in which such detached lands are situated shall apportion against such tract of land for a period of 15 years next preceding the passage of this act, the land so detached shall become a part of the township adjoining thereto, and if such land join two or more townships, the county board shall decide to which of such adjoining townships such detached tract or tracts shall be attached, or the land so detached therefrom may be by such board of county commissioners formed into and established as a new town, the name of which new town shall be determined and designated by the board of county commissioners provided, however, that such new town shall have not less than 36 square miles of territory. If such village were organized prior to the territory of which it has become a part, the taxes levied by the village upon the territory remaining with the village for the purpose of paying off such indebtedness. The county auditor may require the village clerk to certify to him statements of the amount of indebtedness outstanding at the time of such separation and such other information as may be necessary to enforce the liability for indebtedness herein provided. Such levies shall be made each year at a rate equal to the rate which is levied by the village upon the property remaining with the village for the purpose of paying off such indebtedness. The moneys raised from such levies, both upon territory within such village and upon the territory detached therefrom, shall be paid to the village to be held in a special fund available only for the purpose of paying off such indebtedness. (Laws 1905, c. 138, §2; Mar. 27, 1931, c. 95, §1.)

Agricultural land may be detached from village either under general law or under special acts under which village was organized. York Lime Co. v. V. 1919, M119, 244 N.W. 553. See Dun. Dig. 85a, 87.

This section is not repealed. The word "indebtedness" refers to outstanding orders as well as bonds, without distinction as to whether it is funded or floating. The apportionment is to be made by the county auditor. Op. Atty. Gen. Mar. 20, 1939.

1120¼b. Same—application.—This act shall apply where the detachment of such territory has taken place prior to the enactment hereof but where any portion of such indebtedness remains unpaid, as well as where proceedings for such separation have been hereafter taken. (Laws 1909, c. 138, §3; added Mar. 27, 1931, c. 95.)

1120¼c. Apportionment of taxes.—Whenever, pursuant to Laws 1935, Chapter 90 (§1120¼a), land shall have been heretofore or within six months after the passage of this act detached from any village by order of the board of county commissioners of the county in which such land is situated and such land shall have become a part of the township in which it was originally situated or has become a part of a township adjoining thereto, such board of county commissioners is hereby authorized to apportion between the village from which such land has been detached and the town of which it has become a part any taxes levied and assessed against such land prior to, and collected subsequent to the effective date of such detachment. (Jan. 18, 1935, Ex. Ses., c. 49.)

1120¼d. Rehearing in detachment proceedings.— Whenever, pursuant to proceedings had under Chapter 90, Laws of 1935, certain persons in the city of St. Paul filed from certain Minnesota Statutes of 1927, the county board of any county shall have undertaken within one year
prior to the passage of this Act to detach territory from a village and attach the same to an adjoining town and thereafter to set the same up as a separate town, a majority of the owners of land in such town so attempted to be established may petition the county board of such proceedings and a bond in the sum of $5,000, or such higher sum as the county board may require, to be deposited with the county auditor, for the use and benefit of persons who may be injured by such proceedings. The bond shall be conditioned to the payment of all sums which may be recovered by any person or persons by reason of such proceedings. 

1128. Apportionment of money and debt.

On separation of village is not charged with any part of the floating indebtedness of town, but is chargeable with support of paupers and the making of all improvements for the benefit of the village, even if the village be done, to the extent of the amount of the indebtedness. In all cases where bonds for road renovations were issued by a town before organization of a village, the bonds should be apportioned. Op. Atty. Gen., May 19, 1921.

1129. Joint property, etc.

When town is organized personal property such as fire equipment and road equipment remains the property of the town. Op. Atty. Gen., Nov. 22, 1920.


1130. Elections—Officers—Terms—Vacancies.

See §§1182-1 to 1182-3.

Repealed by Act Apr. 27, 1929, c. 413, 16, so far as inconsistent with repealing act, set forth, post, as §§1152-9 to 1152-15.


If the organization of the town be confirmed, the organization of the village of the town, and without vote of persons outside the town, a majority of the owners of land in such town may petition the county board of the town at their next meeting thereon. Section 3 of Act 1937, c. 52, §1. Sec. 2 of Act Apr. 5, 1937, cited, provides that the Act shall take effect from its passage.

1131. Detachment of unplatted lands from certain villages and attaching thereof to contiguous villages.


1132. Agreement—Petition—Submission to vote.


1133. Separate election and assessment district.

If village has not been separated from town, then the valuation of all property in the township, including the property in the village, is to be considered in determining the value of the property of the township. Op. Atty. Gen. Mar. 16, 1928.

Unless village has been separated from the town, a resident of the village is entitled to participate in the affairs of the town. Op. Atty. Gen. May 15, 1921.

If the more organization of the village does not of itself operate to separate the village from the town for election and assessment purposes and does not cause an apportionment of the debts or funds, Op. Atty. Gen., May 19, 1931.

The organization of village from town, all village officers who are not residents of the village are disqualified and any vacancies should be filled by the village council. Op. Atty. Gen. Feb. 16, 1932.

Section of separation of village from town is not effective until the said village at the time of the separation and the boundaries thereof, and may vacate the entire proceedings and order the territory to be reattached to the village.

The organization of the town be confirmed, the county board shall have power to apportion as between the village and the town all taxes levied and assessed prior to and collected subsequent to the order establishing the town, and if the town is not confirmed, it shall so order and fix the boundaries thereof, or it may vacate the entire proceedings and order the territory to be reattached to the village.

If the organization of the town be confirmed, the county board shall have power to apportion as between the village and the town all taxes levied and assessed prior to and collected subsequent to the order establishing the town, and if the town is not confirmed, it shall so order and fix the boundaries thereof, or it may vacate the entire proceedings and order the territory to be reattached to the village.


If the organization of the town be confirmed, the county board shall have power to apportion as between the village and the town all taxes levied and assessed prior to and collected subsequent to the order establishing the town, and if the town is not confirmed, it shall so order and fix the boundaries thereof, or it may vacate the entire proceedings and order the territory to be reattached to the village.


Where clerk permitted village constable to sign oath 8 days after election, clerk was without authority to stop bondmen from signing two months after election, oath being taken to fill vacancy. Op. Atty. Gen., Feb. 10, 1935.


There is no specific time limit within which village officers must qualify, but a vacancy occurs if they do not qualify within a reasonable time. Op. Atty. Gen. (471t), Jan. 7, 1936.

"Term of justice of peace is constitutionally limited to two years and he may not hold office until successor is chosen. Op. Atty. Gen. (268a-11), Jan. 31, 1936.

Residence was in village where house builder thought he was constructing his dwelling, and where he intended to vote, though boundary line between two villages was 1128. Apportionment of money and debt.

On separation of village in case there is not charged with any part of the floating indebtedness of town, but is chargeable with support of paupers and the making of all improvements for the benefit of the village, even if the village be done, to the extent of the amount of the indebtedness. In all cases where bonds for road renovations were issued by a town before organization of a village, the bonds should be apportioned. Op. Atty. Gen., May 19, 1921.

1129. Joint property, etc.

When town is organized personal property such as fire equipment and road equipment remains the property of the town. Op. Atty. Gen., Nov. 22, 1920.


1130. Elections—Officers—Terms—Vacancies.

See §§1182-1 to 1182-3.

Repealed by Act Apr. 27, 1929, c. 413, 16, so far as inconsistent with repealing act, set forth, post, as §§1152-9 to 1152-15.


If the organization of the town be confirmed, the county board shall have power to apportion as between the village and the town all taxes levied and assessed prior to and collected subsequent to the order establishing the town, and if the town is not confirmed, it shall so order and fix the boundaries thereof, or it may vacate the entire proceedings and order the territory to be reattached to the village.

If the organization of the town be confirmed, the county board shall have power to apportion as between the village and the town all taxes levied and assessed prior to and collected subsequent to the order establishing the town, and if the town is not confirmed, it shall so order and fix the boundaries thereof, or it may vacate the entire proceedings and order the territory to be reattached to the village.


If the organization of the town be confirmed, the county board shall have power to apportion as between the village and the town all taxes levied and assessed prior to and collected subsequent to the order establishing the town, and if the town is not confirmed, it shall so order and fix the boundaries thereof, or it may vacate the entire proceedings and order the territory to be reattached to the village.


Where clerk permitted village constable to sign oath 8 days after election, clerk was without authority to stop bondmen from signing two months after election, oath being taken to fill vacancy. Op. Atty. Gen., Feb. 10, 1935.


There is no specific time limit within which village officers must qualify, but a vacancy occurs if they do not qualify within a reasonable time. Op. Atty. Gen. (471t), Jan. 7, 1936.

"Term of justice of peace is constitutionally limited to two years and he may not hold office until successor is chosen. Op. Atty. Gen. (268a-11), Jan. 31, 1936.

Residence was in village where house builder thought he was constructing his dwelling, and where he intended to vote, though boundary line between two villages was 1128. Apportionment of money and debt.

On separation of village in case there is not charged with any part of the floating indebtedness of town, but is chargeable with support of paupers and the making of all improvements for the benefit of the village, even if the village be done, to the extent of the amount of the indebtedness. In all cases where bonds for road renovations were issued by a town before organization of a village, the bonds should be apportioned. Op. Atty. Gen., May 19, 1921.
Term of office of justice of the peace is for two years and does not extend until successor is elected and qualified. Op. Atty. Gen. (286a-11), April 12, 1929.

If vacancies in office may be filled for remainder of the year by the village council has been superseded by Laws 1935, c. 146, part 11, c. 2, §1, providing that council may fill by appointment remainder of term. Op. Atty. Gen., (4711), August 8, 1939.

1135. Hours for opening and closing polls in villages.
See §401-1.

1136. To 1137-15. [Repealed Apr. 21, 1929, c. 345, Pt. 32, §1, ante §601-12, effective Aug. 1, 1930.]

ANNUAL ELECTIONS AND VACANCIES


This section is mandatory upon all towns of over 5000 and controls as to time of filing for town offices. Op. Atty. Gen., Feb. 20, 1929.

Vacancies in office in town of Stuntz, having population of over 5000 persons, is governed by §1137 and not §1146-1.

1136. Offenses and penalties.

Reenacted as §60111(2)(c).

Vacancies in village or township offices may be elected under Australian ballot system. Section 1146 applies only to villages having a population of 5,000 or more and in other villages, candidates for office may file affidavits of candidacy in city of Chatham. Op. Atty. Gen. (359a-21), Apr. 19, 1938.

Filing by candidates for village or town offices.

Reenacted as §601-11(2)(c).


Section 1137 controls in all towns of over 5000 population. Filing fee which is paid to town clerk by candidates for office in village or town shall be deposited in vault of town clerk. Op. Atty. Gen., Feb. 26, 1934.

Filing fee which is paid to town clerk by candidate for office in town of Stuntz, having population of over 5000 persons, is governed by §1137 and not §1146-1.

Section 1146 applies only to villages having a population of 5,000 or more and in other villages candidates for office may file affidavits of candidacy 30 days before election pursuant to §1140. Op. Atty. Gen. (434b-4), Mar. 20, 1935.


Section 1146 applies only to villages having a population of 8,000 or more and in other villages candidates for office may file affidavits of candidacy 10 days before election pursuant to §1140. Op. Atty. Gen. (184f), Dec. 12, 1935.


Section 1146 applies only to villages having a population of 8,000 or more and in other villages candidates for office may file affidavits of candidacy 10 days before election pursuant to §1140. Op. Atty. Gen. (184f), Dec. 12, 1935.

1146. Affidavit of candidate.

Amended Apr. 16, 1921, c. 177.

A village or city clerk is not required to accept affidavits for office after the usual hour of closing, but may legally accept any filing any time up to midnight. Op. Atty. Gen., Dec. 10, 1931.

Section 1146 applies only to villages having a population of 8,000 or more and in other villages, candidates for office may file affidavits of candidacy 10 days before election pursuant to §1140. Op. Atty. Gen. (184f), Dec. 12, 1935.

1146. Polls open from S. A. M. to S. P. M.


Sections 1152-1 to 1152-9 were repealed by Act Apr. 27, 1929, c. 145, §2, as being superseded by the keeping of records in the office of the village clerk. Act Apr. 27, 1929, c. 145.


1147. Vacancies in village or town office.

Election of officers in certain villages—Terms—Vacancies.

Where village councilman resigns it is mandatory that the council appoint to fill the vacancy, and they have no power to call an election for that purpose. Op. Atty. Gen., Dec. 10, 1931.

Office of village treasurer and that of street commissioner are not incompatible in office, but they have no power to call an election for that purpose. Op. Atty. Gen., Apr. 5, 1922.

1147-4. Same—Date—Terms—Judges of Municipal courts.


Reenacted as §601-11(2)(e).


1152-10. Officers to be elected.
Consisted of Act Apr. 27, 1929, c. 145, §12, effective Aug. 1, 1930.


1152-11. Office and authority of village clerk.


1152-12. Persons who may file affidavits of candidacy.

Section 1136 applies only to villages having a population of 8,000 or more and in other villages candidates for office may file affidavits of candidacy 10 days before election pursuant to §1140. Op. Atty. Gen. (184f), Dec. 12, 1935.

1152-13. Persons who may file affidavits of candidacy.

Word "may" should be construed as if "shall." Op. Atty. Gen., Nov. 11, 1929.


Word "may" should be construed as if "shall." Op. Atty. Gen., Nov. 11, 1929.

Village clerk and president are entitled to vote as members of council. Op. Atty. Gen., May 6, 1933.

This act applies to villages incorporated under Laws 1885, c. 145, and "recorder" has been changed to "clerk." Op. Atty. Gen., May 27, 1933.


There should have been elected in December, 1929, in St. Louis Park, two village trustees to hold office for two years under the constitution and the constables to hold office for two years and until election and qualification of successors, and any vacancy in office must be filled by council and there can be no action on the part of the board discussed. Op. Atty. Gen., Dec. 31, 1935.
§ 1152-11

CH. 9—VILLAGES AND CITIES


It is mandatory on village council to appoint a new president to fill vacancy. Op. Att'y Gen. (471m), June 5, 1928.

Village trustee can run for office of village president without resigning as member of council, but if he is elected to that office a vacancy is automatically created with the concomitant right of the village council to fill by vote of the village council for remainder of term. Op. Att'y Gen. (471m), Jan. 13, 1937.

Where one elected to office of president of a village refuses to qualify within a reasonable time, a vacancy exists, and former officer does not hold over. Op. Att'y Gen. (471m), Jan. 13, 1937.

Any Village operating under the general law as well as those operating under Laws 1885, ch. 145, are to be governed by this Act. Insofar as it relates to elections, term of office, and qualifications of the officers of a Village.


This section so far as inconsistent supersedes Laws 1885, c. 145, §1 (c). Op. Att'y Gen. (4709). Nov. 9, 1927.

"Vary" is construed as "shall" and vacancies are to be filled for remainder of term rather than until next election, id.

This act applies to villages operating under Laws 1885, c. 145. Op. Att'y Gen. (471m), May 17, 1888.

Vacancy in office of president of council is to be filled by council, and any qualified voter is eligible for appointment. Id.

Village justice of the peace must be a resident of the village. (Act Apr. 1, 1929, c. 360-4) Nov. 10, 1938.

One appointed to replace a disqualified village trustee is entitled to serve entire unexpired term. Op. Att'y Gen. (471h), Nov. 18, 1938.

Vacancy in office of village assessor is to be filled by appointment of the remainder of term, and not until next village election. Op. Att'y Gen. (126-5), Nov. 25, 1931.


1152-11. Date of election.

Consisted of Act Apr. 27, 1929, c. 413, §3.

1152-12. Terms of office.

Consisted of Act Apr. 27, 1929, c. 413, §4; Apr. 10, 1939, c. 186.

Reenacted as 6501-111(2). There is no specific time limit within which village officers must qualify, and they may qualify at any time before Jan. 1, and within any reasonable time subsequent thereto. Op. Att'y Gen. (471h), Dec. 26, 1935.

Extension of term of recorder, held not to affect prior law as to annual fixing or condensation. Op. Att'y Gen., Nov. 13, 1931.


A village assessor elected in December, 1930, should hold office, but his successor should not have been elected at the December, 1931, election. Op. Att'y Gen. Nov. 20, 1931.

Where through oversight no village assessor was elected in Dec., 1930, the old assessor should hold over for the term until Dec. 30, 1930, and his successor should be elected at the Dec., 1932, election. Op. Att'y Gen. Nov. 30, 1931.


1152-13. Fiscal year to be calendar year.

Consisted of Act Apr. 27, 1929, c. 413, §5.

1152-14. Law repealed.

Consisted of Act Apr. 27, 1929, c. 413, §6.


Consisted of Act Apr. 27, 1929, c. 413, §7.

1152-16. Villages may provide for election districts.—That any Village organized and existing under Chapter 145 of the General Laws of Minnesota for 1885, and the amendments thereto [Mason's Minn. St. 1927, pp. 218 to 226], having a population of 10,000 or more, may, by adopting the provisions of this Act, at a special election called therefor, as hereinafter provided, divide such Village into six election districts, provide for the election of two Trustees in each such election district, the election of the President for two year terms, and the appointment of the Village Recorder by the Council. (Act Apr. 20, 1933, c. 343, §1.)

1152-l 7. Terms of officers.—That at the first annual Village election held after the adoption of the provisions of this Act in the manner hereinafter set forth the Village President shall be elected for a term of two years; one Trustee shall be elected in each district for a term of one year and one Trustee shall be elected in each district for a term of two years, and at each second annual election thereafter the President shall be elected for a term of two years, and at each second annual election thereafter one Trustee shall be elected in each district for a term of two years and a majority of the members of the Council shall constitute a quorum. (Act Apr. 20, 1933, c. 343, §2.)

1152-18. Salaries of officers.—The salaries of the President and Trustees shall be fixed by the Council and the President's salary shall not exceed Two Hundred ($200.00) Dollars per month and each Trustee's salary shall not exceed Fifty ($50.00) Dollars per month, and the Recorder shall be appointed by the Council and may be removed at any time by a majority vote of all members of the Council. The salary of the Recorder shall be determined and allowed by the Council. (Act Apr. 20, 1933, c. 343, §3.)

1152-19. Submission to vote of people.—Upon the filing of a petition for an election for the adoption of the provisions of this Act, signed by five per cent of the voters duly registered at the time of the preceding annual Village election, the Village council shall provide for the submission of the provisions of this Act to the voters at the next annual Village election, and if a majority of those voting on the question shall vote in favor of the adoption of the provisions of this Act, the Council shall declare the provisions adopted, provided, however, that if the provisions of this Act are not adopted at such election, the question may be submitted at a subsequent annual Village election in the manner provided herein for such elections. (Act Apr. 20, 1933, c. 343, §4.)

1152-20. Judges to appoint commission.—On the adoption of the provisions of this Act, the Judges of the District Court of the district in which such Village is located, shall, upon receiving due notice thereof, appoint a commission of fifteen freeholders of such Village which shall, within thirty days after their appointment, divide such Village into six election districts, each to contain not less than five hundred legal voters, all such districts to have approximately the same number of legal voters, as near as may be, and the certificate describing the election districts shall be signed and certified by said commissioners, or a majority of them, shall be forthwith filed with the Village Recorder. The Council shall provide sufficient voting precincts in each election district. (Act Apr. 20, 1933, c. 343, §5.)

1152-21. Officers to serve unexpired term.—On the adoption of the provisions of this Act the Village President and the Village Recorder may each serve the unexpired term to which he was elected, and each Trustee, now serving on said Village Council may serve as a Trustee at large. Citing his unexpired term at the rate of compensation as then received as by law provided. (Act Apr. 20, 1933, c. 343, §6.)

1152-22. Application of act.—This Act shall not be construed as abridging, restricting or in any other manner changing the powers of any such Village which is now organized and operating under Chapter 145 of the General Laws of 1885 or any other Acts supplementary thereto or amendatory thereof. (Act Apr. 20, 1933, c. 343, §7.)

1152-23. Village elections in certain villages.—Every Village in the State of Minnesota having a population of more than 10,000 and as assessed valuation in excess of $50,000,000.00 may adopt the provisions of this Act as hereinafter set forth. Any Village which may wish to avail itself of the provisions of the Act may do so by a resolution of its Village Council, expressly expressing the provisions hereof, which resolution shall be adopted by a majority vote of its Council. The adoption of such resolution shall be a con-
dion granted. After the adoption of such resolution, such village, its officers and electors shall be subject to the powers, duties and limitations as provided hereunder, if, within twenty days thereafter a petition be filed with the Village Recorder, signed by more than twenty-five per cent of the number of legally qualified or registered voters in said village voting at the last regular village election, demanding that a special election be called of the electors thereof to review the action of the Village Council and to determine whether such resolution shall be rescinded, a special election shall be called, pursuant to the laws of this state, to be held therein and at the time of the filing thereof, at which election the following proposition shall be submitted to the electors by a ballot:

"Shall the resolution of the Village Council of the Village of ............... , adopting the provisions of Chapter ........., Laws of Minnesota for 1935, be rescinded?"

Yes. No.

"Unless a majority of the electors voting on the proposition vote in favor of rescinding the changes, powers and limitations of this Act shall thenceforth control the village, its officers and electors." (Act Apr. 11, 1935, c. 162, §1.)

1152-21. To be first Tuesday after the first Monday in November.—The election in all such villages shall hereafter be held with the general election on the first Tuesday after the first Monday in November in each even numbered year. (Act Apr. 11, 1935, c. 162, §2.)

1152-25. Elections to be held in November, 1936.—The successor in office of all such village officers with term of office expiring on or before January 1, 1937, shall be elected at the election to be held on the first Tuesday after the first Monday in November, 1936, and the successor in office of all such village officers with term of office expiring subsequent to January 1, 1937, and on or before January 1, 1939, shall be elected at the election to be held on the first Tuesday after the first Monday in November, 1938. (Act Apr. 11, 1935, c. 162, §3.)

1152-26. Officials to take office on January 1, following election.—All officers elected after the passage of this act shall take office on the first day of January following their election and the officers of such village in office at the time of such election shall be as follows: one president or mayor for a two year term, one clerk or recorder for a two year term, three trustees for a four year term each, one municipal judge for a four year term, one treasurer for a two year term, and two constables for a two year term each. (Act Apr. 11, 1935, c. 162, §4.)

1152-27. Terms of certain officers extended.—All elective officers in such villages in office when this act takes effect shall hold their offices for the terms for which they were elected, and any elective officers whose terms would otherwise expire prior to January 1, 1937, shall continue to hold office until the end of December 31, 1936, and any elective officers whose terms would otherwise expire prior to January 1, 1938, shall continue to hold office until the end of December 31, 1937. (Act Apr. 11, 1935, c. 162, §5.)

1152-28. Polling places.—When such village and general elections are held at the same time the polling places in such village precincts shall be the same as those fixed for the general election and the same elected clerks and clerks of said village election shall serve as judges and clerks of said village election. In any such village, which has not been separated from the town for election purposes, the village shall be part of the third of the counties of said election. (Act Apr. 11, 1935, c. 162, §6.)

1152-29. General election laws to apply.—The election laws now in force in such villages pertaining to the conduct of village elections shall apply unless otherwise provided for in this act. (Act Apr. 11, 1935, c. 162, §7.)

1152-30. Inconsistent acts repealed.—All acts or parts of acts inconsistent herewith are hereby superseded and nullified, and are so far as necessary to give effect to the provisions of this act. (Act Apr. 11, 1935, c. 162, §8.)

Sec 5 of Act Apr. 11, 1935, cited, provides that the act shall take effect from its passage.


1163-1. Salaries of village officers in certain villages.—In all villages of this state, except those governed under a charter adopted pursuant to section 36, article 4, state constitution, the salaries of the president and trustees shall be in amounts according to the following classifications of villages, provided that the village council of any village shall have the authority to fix the salaries of its president and its trustees in a lesser amount for the term of office during which the members of such council are elected. The classification and salaries are as follows:

1. In villages having both a population of not less than 5,000 inhabitants and an assessed valuation of not less than $10,000,000, the salary of the president is fixed at $200.00 per month and the salary of each trustee at $150.00 per month. (As amended Apr. 15, 1939, c. 272, §1; Apr. 17, 1939, c. 300.)

2. In villages not included in any of the foregoing classifications, having both a population of not less than 1,500 inhabitants and an assessed valuation of not less than $3,000,000, or having a population of not less than 1,200 inhabitants and an assessed valuation of not less than $6,000,000, the salary of the president is fixed at $80.00 per month and the salary of each trustee at $50.00 per month. (As amended Mar. 9, 1931, c. 47, §1; Apr. 10, 1935, c. 272, §1; Apr. 17, 1939, c. 300.)

3. In villages, not included in any of the foregoing classifications, having both a population of not less than 2,500 inhabitants and an assessed valuation of not less than $1,500,000, or having a population of not less than 2,000 inhabitants and an assessed valuation of not less than $3,000,000, the salary of the president is fixed at $50.00 per month and the salary of each trustee at $35.00 per month. (As amended Apr. 15, 1939, c. 272, §1; Apr. 17, 1939, c. 300.)

4. In villages, not included in any of the foregoing classifications, having both a population of not less than 1,000 inhabitants and an assessed valuation of not less than $1,000,000, the salary of the president is fixed at $25.00 per month and the salary of each trustee at $15.00 per month. (As amended Apr. 25, 1931, c. 306, §1; Mar. 1, 1935, c. 36, §1; Apr. 11, 1935, c. 158; Feb. 14, 1939, c. 13, §1; Apr. 15, 1939, c. 272, §1; Apr. 17, 1939, c. 300.)

5. In villages, not included in any of the foregoing classifications, either having both a population of not less than 5,000 inhabitants and an assessed valuation of not less than $1,500,000, or having both a population of not less than 4,000 inhabitants and an assessed valuation of not less than $600,000, the salary of the president and each trustee is fixed at $100.00 per month; provided, further, that in villages having an assessed valuation exceeding $1,500,000 and not over $3,000,000, the salary of the president and each trustee shall remain $100.00 per month, and in villages having an assessed valuation exceeding $1,500,000 and not over $3,000,000, the salary of the president and each trustee shall remain $100.00 per month, and in villages having an assessed valuation exceeding $1,500,000 and over $3,000,000, the salary of the president and each trustee shall remain $100.00 per month, and in villages having an assessed valuation exceeding $1,500,000 and over $3,000,000, the salary of the president and each trustee shall remain $100.00 per month, and in villages having an assessed valuation exceeding $1,500,000 and over $3,000,000, the salary of the president and each trustee shall remain $100.00 per month.
amended Apr. 15, 1938, c. 272, §1; Apr. 17, 1939, c. 300.)

(6) In villages not included in any of the foregoing classifications, having both a population of less than 5,000 inhabitants and a total assessed valuation of less than $1,500,000 the president shall be entitled to receive as compensation for each day's service necessarily rendered or council meeting attended, the sum of $2.00 per day or meeting, but no more than $30.00 shall be paid in any one year to the president; and the trustee shall be entitled to receive as compensation for each day's service necessarily rendered or council meeting attended, the sum of $1.50 per day or meeting but no more than $20.00 shall be paid to each trustee in any one year in any such village. (As amended Jan. 24, 1938, Ex. Sen., c. 85; Apr. 15, 1936, c. 272, §1; Apr. 17, 1939, c. 300.)


Where salaries of village operating under Laws 1885, c. 145, are fixed pursuant to this subdivision, such salaries are still governed by this subdivision after amendment thereof. Op. Atty. Gen. (465a-13), Feb. 21, 1936.


Surety on official bond may not cancel bond during terms of office without consent of all parties concerned. Id. held to be void. City of Marshall v. 10., 295 N.W. 371. See Dun. Dir. 6712. 20MinnLawRev583.

Village is entitled to draw money from a bank on deposit in the town's account for the payment of interest and principal until its claim for deposit is paid in full, and until that time surety on treasurer's bond is not entitled to subro-}


1106. Assessors in villages separated from towns.


1107. To 1172 [Repealed Apr. 21, 1939, c. 845, Pt. 12, §1, Ante §601-122, effective Aug. 1, 1939.]
1175. **Financial statement by clerk.**

Laws of 1911, requiring village clerks to publish a detailed annual financial statement, applies to villages, such as Hopkins, which are still operating under Laws 1885, Chap. 151, §1. Section 1 of Law 1911 act did not revive Laws 1885, Chap. 74, §6. The law requires a complete list of outstanding unpaid warrants, and it is required to total the aggregate amount thereof. Op. Att'y Gen., Jan. 24, 1931.

Village officers failing to publish annual financial statement, as required by statute, may not be held in contempt of court. S. 9279, Op. Att'y Gen., Sept. 30, 1931.

In a suit by Miss Lake, Maple Plain and Deephaven, required by law to publish complete detailed annual financial statements. Op. Att'y Gen., Sept. 30, 1931.

Where number of payments have been made to same person for same purpose, it is not necessary to separate payment by a grouping is permitted. Op. Att'y Gen., Oct. 30, 1930.

1177. **Deputy of village constable.**


This section does not apply to villages operating under the 1905 village code, as section was derived in constructing the 1905 village code, and his acts are valid as those of a de facto officer and convictions before him are valid. Op. Atty Gen., Oct. 20, 1931.

Village attorney is required to prosecute all violations of village ordinance, and he is not required to prosecute violations of state laws or local ordinances. Op. Atty Gen., (266a-4), June 23, 1938.

1180. **Deputy of village constable.**

Power of council of village operating under 1885 act to fix salary of recorder yearly where his term has been extended to two years by Laws 1923, c. 413. Op. Att'y Gen., Jan. 16, 1938.

Clerk of village organized under the 1885 Laws receives no compensation, but his salary is determined each year in advance by the council, and such council may require the clerk to perform duties in connection with the reading of electric light meters, collecting money for lights, etc., and allow compensation therefor. Op. Atty Gen., Feb. 7, 1931.

It would not be proper and lawful to refuse to pay salary of village recorder because he fails to perform the duties of his office. Op. Att'y Gen., Oct. 20, 1931.

Clerk is authorized to withhold payment of salary of village clerk or an employee to partially reimburse it for failure of such persons to account for village funds. Op. Atty Gen., Aug. 22, 1932.


1179. **Constables—Duties—Compensation.**


City of International Falls by adoption of home rule charter now operates under the Idaho Const. op. cit., as regards justices of the peace abolished that office. Op. Atty Gen., (370a-4), Apr. 9, 1936.

No one but the state may question the jurisdiction of a village justice of the peace because he has filed his bond with the village, and his acts are valid as those of a de facto officer and convictions before him are valid. Op. Atty Gen., (370a-4), Oct. 4, 1934.

City of International Falls by adoption of home rule charter now operates under the Idaho Const. op. cit., as regards justices of the peace abolished that office. Op. Atty Gen., (370a-4), Apr. 9, 1936.


1182. **Justices—power—duties—fees.**


A village constable is an elective officer and is not responsible at pleasure of village council, and as local peace officer stands on same footing as sheriff except that jurisdiction is ordinarily limited to boundaries of village. Op. Atty Gen., (347a-6), May 29, 1934.

City of International Falls by adoption of home rule charter now operates under the Idaho Const. op. cit., as regards justices of the peace abolished that office. Op. Atty Gen., (370a-4), July 1, 1933.


No one but the state may question the jurisdiction of a village justice of the peace because he has filed his bond with the village, and his acts are valid as those of a de facto officer and convictions before him are valid. Op. Atty Gen., (370a-4).
§1186

CH. 9—VILLAGES AND CITIES

not in manner provided in §9129 and it is his duty to serve notice of appeal upon village or its attorney and not upon county attorney. Op. Atty. Gen. (724f-6), Nov. 26, 1935.


Act May 24, 1939, c. 476b-8, provides for leading an attorney to represent the people if village has funds on hand sufficient for that purpose or will have such funds when taxes already levied have been collected. Op. Atty. Gen. (790d-8), Mar. 18, 1939.


There is no immunity of a village marshal from arrest for false arrest and imprisonment, but may not pay for services of an attorney in defense of bondsman of police officer. Op. Atty. Gen. (746a-5), May 26, 1932.

District attorney is required to prosecute all violations of village ordinances before a justice of the peace, and is not obligated to prosecute violations of state laws or state kept, court, and such proceeding shall not be construed to bar proceedings in the court. Op. Atty. Gen. (476b-3), Apr. 24, 1939.

Where village voted bonds to erect village auditorium and fire hall, to be used partly as village hall, and discovered that $5,000 was insufficient, village council could issue warrants for the purpose of the building without a vote of the people if funds on hand sufficient for that purpose or will have such funds when taxes already have been collected. Op. Atty. Gen. (476b-8), Jan. 26, 1932.


In villages having more than 8,260 population and valuation of less than $1,000,000, who afford fire protection to other towns or villages, proceeding for purchase of fire equipment is legalized. Laws 1939, c. 179, §21. (1)


Salary of a policeman may be increased or decreased any time. Op. Atty. Gen. (476b-11), June 12, 1932.


(2.


(3.)

Municipality may be employed if absolutely necessary to assist attorney in preparation for tax litigation involving mining properties, but a mining engineer may not serve as permanent salaried. Op. Atty. Gen. (39a-4), August 30, 1932.

(4.)


County attorney is under no obligation to prosecute misdemeanor cause before justices of the peace except where duty is specifically imposed by law. Op. Atty. Gen. (151b), Aug. 23, 1937.

A mining engineer may be employed if absolutely necessary to assist attorney in preparation for tax litigation involving mining properties, but a mining engineer may not serve as permanent salaried. Op. Atty. Gen., Oct. 4, 1934.

Salary of a policeman may be increased or decreased any time. Op. Atty. Gen. (476b-11), June 12, 1932.


General authority of an officer to act for a village may be inferred from previous acts of similar character and so continued as to justify inference that village has knowledge of them and would not have permitted same if unauthorized. Thiesen v. M., 209M615, 271NW 617. See Dubuque v. Atlantic City, 159N 617, 620, citing 21A CP 33, 46.


No liability attaches to any member of council in executing contract where they acted in good faith in discharge of a governmental function. Id.


Sections 503 and 604 apply only to a town which has an area of 1 square mile and upon which there resides 1200 or more people when such platted portion is located in a city or a village. Op. Atty. Gen. (446c), May 10, 1935.

Village council was not authorized to contract for purchase of pump, as council did not purchase same under a conditional sales contract with installments to be paid by the village. Op. Atty. Gen. (797a-15), Dec. 27, 1935.

Village may have power to vote on resolution increasing obligations above $100.00. Op. Atty. Gen. (4760), June 5, 1936.

Surplus fund in general may be transferred or loaned to village fund, and although money in a special fund cannot be diverted from specific purpose for general purposes, council may row from one fund for use in another where there is no insufficient of funds in the latter fund and borrows from. Op. Atty. Gen. (475a-15), July 10, 1936.

If village has funds on hand sufficient for purpose, or will have such funds when taxes already levied have been collected, village warrants or orders may be issued in anticipation of collection of taxes for construction of a village community hall without an election, but if such funds are not available, it is necessary to submit to voters proposition of issuing bonds or certificates of indebtedness. Op. Atty. Gen. (475b-8), Aug. 13, 1937.


Council has right to adopt its own rules and regulation of meetings, but has right to insist that every person be seated a second motion while occupying chair. Op. Atty. Gen. (123b-1), June 6, 1931.


(1)
Villages cannot purchase fire apparatus on a conditional sales contract providing for payments extending beyond the period of one year, or beyond the term of office of the council. Op. Atty. Gen. (397b-10), Apr. 29, 1937.


It is governmental duty to furnish fire protection to property regardless of whether property or insurer thereof is in village limits. Village may pass ordinance governing kind of material to be used in construction of building, requiring plumbers, electricians, plasterers, and contractors to have license from village. Op. Atty. Gen., Jan. 22, 1937.

Village may pass ordinance governing kind of material to be used in construction of building, requiring plumbers, electricians, plasterers, and contractors to have license from village. Op. Atty. Gen. (477b-11), Jan. 22, 1937.


A village may pay salary to chief of volunteer fire department rather than payment for meetings and calls made. Id.


A village may regulate hawkers, peddlers, transient merchants and solicitors, but may not prohibit doing business by them within village, though it is probable that proper ordinances could be passed making it a nuisance to solicit orders upon private premises without invitation or consent of occupants. Op. Atty. Gen. (477b-21), Oct. 15, 1936.


A municipality may prescribe reasonable conditions as to time when, place and manner of soliciting for doing business by them within village, though it is probable that proper ordinances could be passed making it a nuisance to solicit orders upon private premises without invitation or consent of occupants. Op. Atty. Gen. (477b-21), Oct. 15, 1936.

A village may regulate hawkers, peddlers, transient merchants and solicitors, but may not prohibit doing business by them within village, though it is probable that proper ordinances could be passed making it a nuisance to solicit orders upon private premises without invitation or consent of occupants. Op. Atty. Gen. (477b-21), Oct. 15, 1936.

A village may regulate hawkers, peddlers, transient merchants and solicitors, but may not prohibit doing business by them within village, though it is probable that proper ordinances could be passed making it a nuisance to solicit orders upon private premises without invitation or consent of occupants. Op. Atty. Gen., Aug. 29, 1936.

A village may not license places for card playing, whiner to be paid in chips which will be taken in trade by the house. Op. Atty. Gen. (732e), March 21, 1933.

A village council cannot by resolution rescind facts showing that recorder is failing to perform the duties of his office and declare the office vacant. Op. Atty. Gen. (732e), March 21, 1933.

A non-resident veterinarian may be appointed as an inspector under a village local health board. Op. Atty. Gen. (732e), March 21, 1933.

Prohibiting the keeping of turkey ranches within a village is not the same with certificates of indebtedness, but if it issues bonds there must be vote of electors to pass or on proposed issue of bonds. Id.


Villages are not required to levy special assessments to pay cost of construction of fire hydrants issued under §1942 to pay cost by submitting question to a vote of electors. Op. Atty. Gen. (469b), Mar. 31, 1938.

A village ordinance that no building should be required to nonresidents to rent or own. A village may regulate water, bath room, and sewage or disposal system, violates equal protection clause of constitution. Op. Atty. Gen. (477b-10), Oct. 15, 1936.

(9)

Village ordinance prohibiting the keeping of dog kennels without reference to whether such kennels created a nuisance held invalid. License ordinance for dogs is not invalid because they are also assessed as personal property. Op. Atty. Gen. (477b-10), July 19, 1939.


(11)


(12)


(13)

Village council may adopt an ordinance prohibiting construction of buildings without securing a permit, but ordinance must prescribe conditions upon which property owner is entitled and not discriminatory. Op. Atty. Gen. (146d-11), Aug. 29, 1936.

General power granted to a municipality to lay out, open, and extend streets authorize by implication an extension of a street across a railroad right of way when such extension does not essentially impair it for its purpose, and the street may be extended. Village of Lamberton v. C., 196 Minn. 597, 265 N.W. 801. See Dun. & Brad. v. Minn., 101 Minn. 255, 114 N.W. 741.

A village may pass an ordinance governing kind of material to be used in construction of building, requiring plumbers, electricians, plasterers and contractors to have license from village. Op. Atty. Gen. (477b-10), April 19, 1933.

Village council may adopt an ordinance regulating location, size and use of buildings to be erected, and in order to ascertain whether any proposed building complies with provisions of law, require building permits to be obtained from council. Id.

Includes authority to dig well and council may adopt an ordinance regulating installation, maintenance or warran tax levy without any affirmative vote of electors. Op. Atty. Gen. (477b-10), June 12, 1933.

Borough of Belle Plaine may by ordinance reasonably prescribe location, size and use of a building for construction of filling station, but this would not include power to suppress advertising. Op. Atty. Gen. (477b-10), April 19, 1933.

Village council may pass an ordinance regulating location of fires and for regular attendance at meetings of fire department, subsequent to adoption by village council. Op. Atty. Gen. (683), June 12, 1933.

A village could not adopt an ordinance prohibiting construction of buildings without securing a permit, but ordinance must prescribe conditions upon which property owner is entitled and not discriminatory. Op. Atty. Gen. (146d-11), Aug. 31, 1936.

An ordinance prohibiting the use of village street for distribution of gasoline or other automotive service by means of pump, truck or oil tanker is a legislative question not subject to judicial review. Village of Lamberton v. C., 196 Minn. 597, 265 N.W. 801. See Dun. & Brad. v. Minn., 101 Minn. 255, 114 N.W. 741.

An ordinance prohibiting the use of village street for distribution of gasoline or other automotive service by means of pump, truck or oil tanker is a legislative question not subject to judicial review. Village of Lamberton v. C., 196 Minn. 597, 265 N.W. 801.
§1186-4. Same.—Who are public accountants.—For the purpose of this act public accountants are herein defined as any individual, firm, or corporation, who for a period of five years prior to the date of such employment, have been actively engaged exclusively in the practice of public accounting. (Apr. 14, 1937, c. 215, §2.)

1186-7. Same.—Limit of expenditures.—All expenditures for the purposes herein set forth shall be within the statutory limits upon tax levies in such village. (Apr. 14, 1937, c. 215, §2.)

1186-8. Village council transfers control and coordinate grounds.—The village council of any village of this state shall have power to regulate and control the laying out and establishment of cemetery grounds by any person, association or corporation within the corporate limits of such village. (Apr. 22, 1937, c. 214, §4.)


1188. Council to license public dance halls. Licensing public dance halls. A village may regulate hawkers, peddlers, transient merchants and solicitors, but may not prohibit doing business by them where it is probable that proper ordinances could be passed making it a nuisance to solicit or to patronize premises without invitation or consent of occupants. Op. Atty. Gen., (477b-21), Oct. 15, 1937.

1188a. Council to license public dance halls. Licensing public dance halls. A village may, if it chooses, license public dance halls on Sunday evenings and to the extent provided for in other laws, charge a fee not exceeding what is necessary to cover the reasonable cost of such license and to defray the expense thereof. (Act Mar. 7, 1933, c. 222, §3.)


1192. Tax for entertainment. Tax for entertainment. It shall be the duty of every village council to provide for the entertainment of its residents and visitors by providing for the maintenance of a public recreation department. (Act June 5, 1937.)

1192a. Village may establish charity bureau.—The village council of any village may, if it chooses, establish a charity bureau for the purpose of providing medical assistance in case of sickness or accident and in the event of old age, infirmity or indigence and for any other public charitable purposes by the payment of not more than one dollar per month to any indigent person. (Act June 5, 1937.)

1192b. Village may establish fund for education.—The village council of any village may, if it chooses, establish and maintain a fund for the education of any governmental unit or for the education of any child or children in any such governmental unit. (Act June 5, 1937.)

1192c. Village may establish fund for education.—The village council of any village may, if it chooses, establish and maintain a fund for the education of any governmental unit or for the education of any child or children in any such governmental unit. (Act June 5, 1937.)
ing and maintaining recreational facilities for the general welfare of the inhabitants of such village. (Act Mar. 7, 1933, c. 60, §2.)

1192-3. May establish bureau of information and publicity.—Such village council may establish and maintain a bureau of information and publicity for the purpose of furnishing tourists information and for outdoor advertising and for preparing, publishing and circulating information and facts concerning the recreational facilities and business and industrial conditions of the municipality. (Act Mar. 7, 1933, c. 60, §5.)

Village of Hibbing may establish and maintain a bureau of information in the offices and in conjunction with the Chamber of Commerce using the same secretary and stenographer, providing it does not pay salary or wages for their services. Ibid. 1936, ch. 14, §6.

Village information bureau has no authority to give the money to Minnesota Arrowhead Association, a semi-public association disseminating news and information pertaining to the Arrowhead country of which the village is a part. Id.

1192-4. May pay expenses from general fund of village.—The village council of such villages coming within the provisions of section 1 of the act are further authorized and empowered to pay from the general fund of such municipalities, the expenses incurred by the governing officers in the performance of their official duties, provided, however, that such village council shall authorize and pay for trips to meetings or conventions not in connection with specific municipal projects pending before the officer making the trip. (Act Mar. 7, 1933, c. 60, §4.)

1192-5. Limitations on expenditures.—All expenditures for the purposes herein set forth shall be within the statutory limits upon the levies in said village. (Act Mar. 7, 1933, c. 60, §5.)


Where all members of village council are present at a special meeting and take part therein, failure to give notice of meeting is immaterial. Op. Atty. Gen. (471e), Apr. 25, 1933.

As a general proposition time for holding regular meetings may be changed by action of council alone, but a meeting held at any other time than that fixed for a regular meeting is not valid. Case v. V., 287 N.W. 477; note under §1196.

1106. Ordinances, how enacted. Absent charter or statutory requirement, a resolution of the council for construction of a power plant need not be signed, attested and published. Davies v. V., 287 N.W. 479. See Dun. Dig. 693a.

A resolution or ordinance passed by council and the annual financial statement of the clerk must be published in a recognized newspaper of the village being enacted. Case v. V., 287 N.W. 479. See Dun. Dig. 693d.


1197. Publication—Effect. Dun. Dig. 6707a, note under §1198.


An ordinance may be enacted for purpose of numbering old village ordinances which may be obsolete or superceded and it is duteous to republish old ordinances. Op. Atty. Gen., Mar. 21, 1934.

1197-1. Publication of village proceedings. The councils of all villages may cause to be published once in a recognized newspaper published in such village the official proceedings of such village, and such publication shall be made as soon as may be, and not later than thirty (30) days after the meeting at which such proceedings were had (Apr. 26, 1937, c. 472, §1.)

Davies v. V., 287 N.W. 479. See Dun. Dig. 6707a, note under §1198.


1197-2. Same.—What are included in village proceedings.—The term “proceedings” as used in this act shall include a statement of all matters and resolutions passed by such council, and a brief itemized statement of claims allowed or disallowed giving the name of the claimant and the amount and general purpose of the claim.

Nothing in this act shall abrogate the publication of ordinances, rules and by-laws as now required by statute. (Apr. 26, 1937, c. 472, §2.)


1199. Contracts—Members of council excluded, when.—Bids.—No member of a village council shall be directly or indirectly interested in any contract made by such council, and every violation hereof shall be a misdemeanor: Provided, however, that any village council, otherwise having authority, may purchase merchandise or materials in which a member of such village council is interested by four-fifths vote of such council, when the consideration for such purchase of such merchandise or materials does not exceed $50.00 in any year. All contracts for the purchase of merchandise, materials or equipment for or in connection with construction of roads or bridges or repairs thereto which requires an expenditure of $100.00 or more, if not to be paid from road or poll tax, shall be let to the lowest responsible bidder, after public notice of the time and place of receiving bids. (R. L. '01, ch. 49, §12; G. S. '13, §127b; Apr. 29, 1935, c. 344, §1; Apr. 4, 1939, c. 139.)

See 5 of Act Apr. 29, 1936, cited, repeals inconsistent act.

Interest of officials in general in public contracts, see c. 243, §1.

Bid for equipment for municipal power plant was not vitiated by a condition therein that ouster proceedings would be instituted by the village within the immediate future, franchise of private utility being due to expire within a short time and bidders in any event having right to have competition removed. Interco Power Co. v. F., 1941 M110, 259 NW 469. See Dun. Dig. 6707a.

That matter of granting a certain franchise for electricity was under public discussion for some time before council acted did not excuse failure to call for bids. Casey v. C., 202 N.W. 250, 279 NW 23. See Dun. Dig. 6707.

A village should have called for bids before granting a proposed franchise for distribution and sale of electric current. Id. See Dun. Dig. 6707a.

A city accepting water from well for six years was liable for contract price, though contract was let without a call for bids and contained terms permitting ouster and the city Is liable for contract price, though contract was let without a call and purported to bind city to abandonment of a certain well. Chisholm Water Supply Co. v. C., 285 N.W. 895. See Dun. Dig. 6707a.

Bid is not required to submit for bids in purchasing automobile to be used on road work. See Dun. Dig. 6707a.

City is not required to advertise for bids in purchasing automobiles to be used on road work. See Dun. Dig. 6707a.

A village cannot lease personal property under a contract permitting it to pay $1 as the expiration of the lease and retain the property. Op. Atty. Gen., May 9, 1931.

It is illegal for members of village council, members of water and light commission, and street commissioners to purchase their coal through the village, even though the village is reimbursed in full for the cost. Op. Atty. Gen. Oct. 7, 1931.

A city council purchasing electrical energy may comply with this section and receive bids, but this is not necessary prerequisite to action in the use of electrical energy. Op. Atty. Gen. Oct. 7, 1931.


This section does not apply to village, such as Litchfield, that existed before 1891 and entered into contract with water, light, power and building commission, hav-


Licenses may be granted to councilman or clerk of a village necessary for performance of duties as member of council. (218g-10). Feb. 13, 1935.


Village may insure property in which member has no pecuniary interest and has no direct or indirect financial interest in the contract. Op. Atty. Gen. (517a), July 14, 1934.

Village council is not required to accept the lowest bidder in employing a village marshal. Id.

There is no charter or statutory provision requiring announcement of letting of the contract. Id.

Where amount involved is more than a certain sum have no application to day labor work. Op. Atty. Gen. (707d), Oct. 16, 1934.

An officer or a village official is not entitled to receive a per diem in connection with the council not to exceed the usual per diem in connection with the council.


The Village President may not receive a license to sell intoxicating liquors, except where water supply has become dangerously inadequate. Op. Atty. Gen. (517a), July 24, 1938.


A license is not a contract and an alderman of a city may receive a license to sell intoxicating liquors, except that he cannot sell his own application. Op. Atty. Gen. (218g), Feb. 15, 1935.


Village was not authorized to contract for purchase of pump without calling for bids, and council may not purchase with installments to be paid out of general village fund derived from taxation. Op. Atty. Gen. (707a-15), Dec. 27, 1938.


It is ground for removal of member of water, light, power and building commission that he sells supplies to the commission or purchases supplies from other members, but village council has no power to remove the officer, but must or may sell it. Op. Atty. Gen. (707b-6), Feb. 11, 1934.

There is no charter or statutory provision requiring that Lake City advertise for bids before purchasing personal property, such as a truck. Op. Atty. Gen. (59a-35), May 7, 1936.

This section originated as a part of General Village Act of 1855 and applies only to villages organized thereunder.

Real estate to be used for a particular purpose, such as a street, may be purchased without advertising for bids. Op. Atty. Gen. (469-12), Nov. 12, 1936.


An officer of a village or city may not inure property of municipality in which he represents as agent.

Employees of lumber company working on a salary basis and having no direct or indirect financial interest in company's business does not have the "interest" re-
1209. Benefit assessments—Cost of land, etc. 


1205. Street improvements—Assessments. 


If entire width of street is taken over as a state trunk highway, village is under no obligation to fill in cut where culvert is placed so that property owner can get access to highway, especially with no certificate given which states that it will necessitate extensive filling. Op. Atty. Gen., Apr. 27, 1931.


City council should not proceed with repair and building of street until section is complied with. Op. Atty. Gen., (359a-7), Sept. 12, 1939.

1214. Same—Assessments, how made. 

Act Apr. 13, 1939, c. 234, authorizes villages in Pope County to pay for county sewers previously constructed. Probably unconstitutional as local and special.

1215-1. Road taxes in villages—Assessment. 

All road taxes, except poll taxes, may be reduced to the amount in cash in any village in this state whenever a majority of the voters of such village voting by ballot on the question shall so determine. Such question shall not be voted upon unless a petition signed by at least ten voting taxpayers of said village certifying for the payment in cash of all road taxes, is filed with the clerk or recorder of such village ten days before the annual election in such village, in which case the clerk or recorder shall specify in the notice of such annual election that such question will be voted upon. If such question is decided in the affirmative, all taxes thereafter assessed for the maintenance and repair of roads and bridges in such village shall be paid in money and disbursed by the village council or governing board of such village as other village taxes. The village council or governing board of such village may assess all the property of such village not to exceed six mills on the dollar on the last assessed valuation of taxable property in such village. If they so assess, they shall certify the same to the county auditor for extension and collection, the same as other village taxes, and before such taxes are collected, such village council or governing board of such village shall lodge with the credit of the village by issuing village orders not to exceed the taxes so assessed, to the expense of road and bridge work. Provided, however, that for the year 1938, upon a petition as above provided for, being filed with the village clerk or recorder on or before the last Tuesday in March of said year, the village council may cause a special election to be held for the purpose of voting upon said question, by giving ten days' notice in the case of special elections in villages. (709, c. 142, §1.)

The publisher has inserted the above act as being applicable to villages and their officers, the village council or county board as the case may be, and to the village officers as the case may be, and not applicable to the city council or county board as the case may be, and to the city officers as the case may be.

1222. Claims, how audited and paid. 

Village warrants may not be paid by the cashier of the city or town, or any person acting as such, unless verified and approved by the city or town council. Village warrants may not be paid by the cashier of the city or town, or any person acting as such, unless verified and approved by the city or town council. (624a-5, §2.)


City warrants or orders should be paid in order of their presentation and not in order of issuance. Op. Atty. Gen., May 14, 1932.

Op. Atty. Gen. (218g-10), Apr. 19, 1934; note under §1174. Village warrants or orders should be paid in order of their presentation and not in order of issuance. They should be turned over to village treasurer by the manager of the store and should be disbursed in the same manner as other village money. Op. Atty. Gen. (218g-12), July 25, 1934.

Inurety and continuously employed village employees or officers whose compensation has already been fixed by law or order of common council need not file any itemized claims for wages or salary. Op. Atty. Gen., Apr. 31, 1934.


All expenditures of exclusive liquor store operated by village should be approved by village council and paid in same manner as other village expenditures. Op. Atty. Gen. (218g-12), Apr. 4, 1935.

Village council cannot receive compensation for services in connection with a municipal liquor store, and all employees must be hired by council and all obligations handled as other obligations of village. Op. Atty. Gen. (218g-16), Apr. 14, 1936.

Payment of judgment not be authorized by mayor or council to authorize payment under §1534. Op. Atty. Gen. (630a-10), Nov. 22, 1935.


1225. Tax levy. 

Villages having population of over 10,000 may appropriate from President's Contingent Fund of $2,500. Laws 1935, c. 32.

Section 1931-9 places a limitation on expenditure of $2,500 in any year for tourist promotion, and gives the power to levy a special tax in addition to general taxes. Harvester Co. v. S., 200 SW. 242, 274 NW. 217. See Dun. Dig. 6689.

1224. Financial report. 


1225. Tax levy. 

Villages having population of over 10,000 may appropriate money from President's Contingent Fund of $2,500. Laws 1935, c. 32.

Section 1931-9 places a limitation on expenditure of $2,500 in any year for tourist promotion, and gives the power to levy a special tax in addition to general taxes. Harvester Co. v. S., 200 SW. 242, 274 NW. 217. See Dun. Dig. 6689.

1224. Financial report. 


1225. Tax levy. 

Villages having population of over 10,000 may appropriate money from President's Contingent Fund of $2,500. Laws 1935, c. 32.

Section 1931-9 places a limitation on expenditure of $2,500 in any year for tourist promotion, and gives the power to levy a special tax in addition to general taxes. Harvester Co. v. S., 200 SW. 242, 274 NW. 217. See Dun. Dig. 6689.

1224. Financial report. 

§1225-2. Not to create indebtedness.—Whenever from and after January 1, 1932, the expense and obligations incurred chargeable to any particular fund of such village in any calendar year are sufficient to absorb 85 per cent of the entire amount of the tax levy payable in that year, including such amount as may be derived from the fund from the sale of said tax levy payable in any such year or years, no officers, board or official body of such village shall have the power and no power shall exist to create any additional indebtedness (save as the remaining 15 per cent of said tax levy is collected) without a vote of the electors for or attempting to create the same; and in no event shall any officer, board or official body of such village have the power, and no power shall exist, to create any indebtedness, which shall be a charge against the village, in excess of the tax levy payable in that year for the use of the particular department, board or official body, less the amount required to be paid each year therefrom on bonds herein authorized and interest accruing thereon. (Act Apr. 25, 1931, c. 397, §2.)

§1225-3. May issue certificates of indebtedness.—At any time after the annual tax levy has been certified to the county auditor by the governing body of such village, said certificate being recorded, but not during any year, or 10 of the year preceding the year for which the tax levy is made, the governing body of such village may, by resolution, issue and sell as many certificates of indebtedness as may be needed in anticipation of the collection of taxes levied for any and said tax levy for the purpose of raising the money for such fund, but the certificates outstanding for any such separate funds shall not at any time exceed 50 per cent of the amount of taxes previously levied for such fund and collected and no certificate shall be issued to become due and payable later than December 31 of the year succeeding the year in which said tax levy, certified to the county auditor as aforesaid, was made, and said certificates shall not be sold for less than par and accrued interest and shall not bear a greater rate of interest than six per cent per annum. Each certificate shall state upon its face for which such certificates were issued. The money derived from the sale of said certificates shall be credited to such fund or funds for the calendar year immediately succeeding the making of such levy and shall not be used or spent until such succeeding year. No certificate for any year shall be issued until all certificates for prior years have been paid, nor shall any certificate be extended; provided, that money derived from the sale of certificates for any one year may, if necessary, be used to redeem unpaid certificates issued in a prior year. (Act Apr. 25, 1931, c. 397, §3.)

§1225-4. Tax revenues for 1932.—All taxes levied in 1931 shall be considered as the tax revenues for the year 1932, and thereafter in any such village, taxes shall be levied as now provided by law not later than October of each year, but for the succeeding year. (Act Apr. 25, 1931, c. 397, §4.)

§1225-5. May issue bonds.—If any such village prior to January 1, 1931, has incurred by proper authority a valid indebtedness, excluding bonds, in excess of its cash on hand, such village may, for the purpose only of paying and discharging such valid indebtedness (except bonds) and interest thereon, issue its bonds in the fund from the sale of which the tax levy is made as aforesaid, or in any other fund, if such bonds may be issued on a vote of the council thereof, without a vote of the electors; provided that if any moneys received from taxes levied in 1930 and payable in 1931, or income from local sources received since January 1, 1931, have been used prior to the issuance of bonded indebtedness authorized by this act for the retirement of indebtedness existing January 1, 1931, and interest thereon, such bond issue may include the amount of such payments for the purpose of reimbursing the funds from which such moneys were paid. (Act Apr. 25, 1931, c. 397, §5.)

§1225-6. Tax levy to retire bonds.—The village council of any village issuing bonds pursuant to the authority of this act shall, before the issuance thereof, by a resolution, provide for a levy for each year until the principal and interest are paid in full, of a direct annual tax in an amount sufficient to provide the principal and interest thereon when and as such principal and interest become due, and sufficient to pay the cost of operating said village subject to the limitations herein fixed. Such tax levy shall be irrepealable until said levies are made, but the total amount necessary to pay the payment of said bonds and interest shall be derived from two sources: (1) 50 per cent of the amount necessary to pay said bonds and interest, and no more shall be levied as a special tax in addition to the annual tax levy for general corporation purposes, park and park board, library and water, light, power and building commission purposes, and other special taxes which may be levied annually as provided by law; and (2) 50 per cent of the amount necessary to pay said bonds and interest shall be raised and obtained from each of the annual tax levies made by said village for general corporation purposes, water, light, power and building commission purposes, park and park board and library purposes for each year until all of said bonds are paid, in the same ratio as the tax levy for paying 50 per cent of the bonds and interest payable in any one year bears to the total annual maximum tax levy that could be made for general corporation purposes, water, light, power and building commission purposes, park and board and library purposes for said year. Funds designed to pay and retire any bonds of such village outstanding and unpaid at the time of this Act takes effect shall not during any year contract any indebtedness, or make any payments thereon, which shall be a charge against that particular fund, remaining 15 per cent of said tax levy is collected) or commission of such village has the power to expend money such department, board or commission shall retain its right to create additional indebtedness (save as the remaining 15 per cent of said tax levy is collected) or commission of such village has the power to expend money such department, board or commission shall retain its right to create additional indebtedness (save as the remaining 15 per cent of said tax levy is collected) or commission of such village has the power to expend money such department, board or commission shall retain its right to create any indebtedness, which shall be a charge against such fund remaining uncollected and no certificate shall be issued to become due and payable later than December 31 of the year succeeding the year in which said tax levy, certified to the county auditor as aforesaid, was made, and said certificates shall not be sold for less than par and accrued interest and shall not bear a greater rate of interest than six per cent per annum. Each certificate shall state upon its face for which such certificates were issued. The money derived from the sale of said certificates shall be credited to such fund or funds for the calendar year immediately succeeding the making of such levy and shall not be used or spent until such succeeding year. No certificate for any year shall be issued until all certificates for prior years have been paid, nor shall any certificate be extended; provided, that money derived from the sale of certificates for any one year may, if necessary, be used to redeem unpaid certificates issued in a prior year. (Act Apr. 25, 1931, c. 397, §3.)

§1225-7. Boards of departments not to incur indebtedness.—Whenever any department, board or commission of such village has the power to expend money such department, board or commission shall not during any year contract any indebtedness, or incur any pecuniary liability, which shall be in excess of the sum that may be allotted to its department by the village council and each department of such village. A

§1225-8. Village recorders to keep record of allotment.—The village recorder shall keep a record showing accurately the amount allotted to each board or governing body for the calendar year, and the amounts incurred and expended from time to time by the village council and each department of such village. A
record of expenditures for the village council and all its departments shall be presented to and examined at a regular meeting once each month by the village council and shall be levied upon the taxing power for the purpose of raising money for such fund. No certificate shall be issued and outstanding for any separate fund exceeding 50% of the amount named in the tax levy for that fund as approved by the county auditor, and in no event exceeding the uncollected portion of said levy. No certificate shall be issued or become due and payable later than December 31 of the year succeeding the year in which such tax levies were certified to the county auditor for the purpose of this act, the last federal census of population may be made shall govern and shall be conclusive in determination hereunder the population of any such village. (Act Apr. 25, 1931, c. 397, §8.)

1225-10. Change in valuation or population not to change status.—When a village has once come under the provisions of this act, it shall continue under its provisions, notwithstanding any subsequent change in assessed valuation or population. (Act Apr. 25, 1931, c. 397, §10.)

1225-11. Provisions separable.—If any section, part or provision hereof be found unconstitutional such determination shall not affect the validity of the remaining provisions not clearly dependent thereon. (Act Apr. 25, 1931, c. 397, §11.)

1225-12. Inconsistent acts repealed.—This act shall take effect and be in force from and after its passage hereof, and the valuation shall be that used determined by the last Federal census taken prior to any particular fund of such village in any calendar year immediately succeeding the making of such levy and shall not be used or spent except during such succeeding year. No certificates for any year shall be issued until all certificates for prior years have been paid, nor shall any certificate be extended; provided that money derived from the sale of certificates for any one year may, if necessary, be used to redeem unpaid certificates issued in a prior year. (Act Apr. 19, 1933, c. 211, §3.)

1225-12½c. May issue and sell tax levy certificates. —In the event the village is unable to sell such certificates of indebtedness issued hereunder the full faith and credit of such village shall be irrevocably pledged for the redemption of the certificates so issued. Such certificates shall be paid from the money derived from the sale of such certificates, and the sale of such certificates shall be held by the treasurer. Such warrants shall be issued until all certificates for prior years have been paid, nor shall any certificate be extended; provided that money derived from the sale of certificates for any one year may, if necessary, be used to redeem unpaid certificates issued in a prior year. (Act Apr. 19, 1933, c. 211, §2.)
1225-12 ½d. To be on cash basis after January 1, 1934.—From and after January 1, 1934, such village shall be deemed for all purposes to be on a cash basis and shall thereafter remain on a cash basis. All taxes levied in 1933 shall be considered as the tax revenue for the year 1934, and thereafter in any such village taxes shall be levied as now provided by law, but for the succeeding year. (Act Apr. 10, 1933, c. 5, §5.)

1225-12 ½e. May issue bonds to pay floating indebtedness.—If any such village prior to January 1, 1933, has incurred any indebtedness for which valid obligations of the village, notwithstanding any claim of invalidity of any indebtedness funded by such bonds, and bonds issued hereunder in the total amount of such indebtedness as determined by the resolution of the village council, in the hands of any purchaser, shall be valid obligations of the village, notwithstanding any claim of invalidity of any indebtedness funded thereby. If any moneys received from taxes levied in 1932 and payable in 1933, or income from local sources received since January 1, 1933, have been used prior to the issuance of bonds authorized by this Act for the retirement of indebtedness existing January 1, 1932, or interest thereon, such bond issue may include the amount of such payments for the purpose of reimbursing the funds from which such moneys were paid. (Act Apr. 10, 1933, c. 211, §6.)

1225-12 ½f. Tax levy.—The village council of any village issuing bonds pursuant to the authority of this Act shall, at the time of the issuance thereof, by resolution, provide for a levy for each year until the principal and interest are paid in full, of a direct annual tax in an amount sufficient to pay the principal and interest thereon when and as such principal and interest become due. Such tax levy shall be irrevocable until all of such bond is paid. Such annual tax for the payment of such bonds shall be derived from two sources: (a) 40% of the amount necessary to pay said bonds and interest and no more shall be levied as a special tax in excess of the per capita limitations of Laws 1929, Chapter 206, but within the limitations of Laws 1921, Chapter 417; and (b) at least 6% of the amount necessary to pay said bonds and interest shall be raised and obtained from the annual tax levy made by said village within the per capita limitations of Laws 1929, Chapter 206, for general corporation, library, water, light, power and building commission purposes, in such proportion as may be determined by the village council. (Act Apr. 10, 1933, c. 211, §7.)

1225-12 ½g. Disposition of bonds.—Such bonds may be issued and sold to the State of Minnesota pursuant to existing laws at the time of the issuance thereof (except as herein modified), or to private purchasers, or to any bank or trust company or to any individual or individuals at par with accrued interest. (Act Apr. 10, 1933, c. 211, §8.)

1225-12 ½h. Limitation of expenditures.—No department, board or commission of such village shall during any year contract any indebtedness or incur any pecuniary liability which shall be in excess of the sums necessary to be levied, or shall be levied, for the operation of such department, board or commission or allotted to it for said year by the village council, plus local income accruing to such department, board or commission. A record of all expenditures of the village council and each other village officer or employee participating in or authorizing any action to be taken in violation of this Act shall be kept for one year. In that event the indebtedness authorized to be funded hereunder shall be the valid indebtedness, excluding bonds, in excess of cash on hand not specifically set aside for the retirement of bonds and interest thereon. (Act Apr. 10, 1933, c. 211, §9.)

1225-12 ½i. District Court may limit expenditures.—If at any time during any year a village operating hereunder is incurring obligations at a rate or upon a scale which would make it probable that the rate or scale be continued, after allowing for variations in seasonal requirements, that the total expenditures for said year would exceed the moneys to be received therein, after allowance for probable tax delinquencies, the district court in an action brought by any taxpayer, may require such village to limit its expenditures to a rate and scale which will assure that the total obligations incurred in such year will not exceed the moneys available therein. (Act Apr. 10, 1933, c. 211, §10.)

1225-12 ½j. Contracts in violation of Act to be null and void.—Each contract attempted to be entered into, or indebtedness or pecuniary liability attempted to be incurred in violation of the provisions of this Act, shall be null and void in regard to any obligations thereby sought to be imposed upon the village, and no claim therefor shall be allowed by the council of the village nor any board thereof; nor shall the clerk or recorder of such village or any other officer or employee issue or execute, nor shall the village treasurer pay any check, warrant or certificate of indebtedness issued on account thereof. Each member of the village council and each other village officer or employee participating in or authorizing any violation of this Act shall be individually liable to the village or to any other person for any damages caused thereby. Each member of the village council, or any board of such village present at a meeting of the board or council when any action is taken with reference to paying money or incurring indebtedness or authorizing any contract in violation of the provisions of this Act, shall be deemed to have participated in and authorized the same unless he shall have caused his dissent therefrom to be entered upon the minutes of the meeting. (Act Apr. 10, 1933, c. 211, §11.)

1225-12 ½k. Change in population not to affect status.—When a village has once come under the provisions of this Act, it shall continue under its provisions notwithstanding any subsequent change in assessed valuation or population. (Act Apr. 10, 1933, c. 211, §12.)

1225-12 ½l. May be continued for one year in certain cases.—The funding of the indebtedness of the village is necessary to the functioning of this law and if any such village shall on the 1st day of January, 1934, have an assessed valuation of not less than $1,500,000 and an assessed valuation of more than $1,000,000 and less than $1,500,000, shall draw any order or warrant on any fund until there is sufficient money in said fund to pay any order or warrant on all orders previously issued against said fund. (Act Apr. 20, 1931, c. 277, §1.)
1225-14. Shall not incur indebtedness.—Whenever from and after January 1, 1932, the expense and obligations incurred chargeable to any particular fund of such village in any calendar year are sufficient to absorb 85 per cent of the entire amount of the tax levy, payable in that year, including such amount as may remain in the fund from the levy of such prior year or years, no officer, board or official body of such village shall have the power and no power shall exist to create any additional indebtedness (save as the remaining 15 per cent of said tax levy is collected) which, taken together with the amount of such particular fund, or shall be in any manner a valid claim against such village, but such additional indebtedness attempted to be created shall be a personal claim against the officer or members of the municipal board or body voting for or attempting to create the same; and in no event shall any officer, board or official body of such village have the power, and no power shall exist, to create any indebtedness which shall be a charge against the village, in excess of the tax levy payable in that year for the use of the particular department, board or official body, less the amount required to be paid each year therefor on bonds herein authorized and interest accruing thereon. (Act Apr. 20, 1931, c. 277, §2.)

1225-15. May issue certificates.—At any time after the annual tax levy has been certified to the county auditor, but no sooner than the 10th day of the preceding the year for which the tax levy is made, the governing body of such village may, by resolution, issue and sell as many certificates of indebtedness as may be needed in anticipation of the collection of taxes levied for a fund named in the tax levy for the purpose of raising money for any such fund, but the certificates outstanding for any of such separate funds shall not at any time exceed 50 per cent of the amount of taxes levied for each fund remaining uncollected, and no certificate shall be issued to become due and payable later than December 31st of the year succeeding the year in which said tax levy certified to the county auditor as aforesaid, was made, and said certificates shall not be sold for less than par and accrued interest and shall not bear a greater rate of interest than six per cent per annum. Each certificate shall state upon its face for which fund the proceeds of said certificates shall be applied, the total amount of said certificates so issued, and the whole amount embraced in said tax levy for that particular purpose. They shall be numbered consecutively and be in the denominations of $100, or a multiple thereof, and may have interest coupons attached and shall be otherwise of such form and terms and may be made payable at such place as will best aid in their negotiations, and the proceeds of the tax assessed and collected, as aforesaid, on account of said fund, and the faith and credit of such village shall be irrevocably pledged for the redemption of the certificates so issued. Such certificates shall be paid from the moneys derived from the levy for the year against which such certificates were issued, except as herein provided. The money derived from the sale of said certificates shall be credited to such fund or funds for the calendar year immediately succeeding the making of such levy and shall not be used or spent until such succeeding year. No certificates for any year shall be issued until all certificates for prior years have been paid, nor shall any certificate be extended; provided, that money derived from the sale of certificates for one year may be used to redeem unpaid certificates issued in a prior year. (Act Apr. 20, 1931, c. 277, §3.)

Certificates of indebtedness of certain villages such as the village of Kinney issued in anticipation of unpaid taxes and used to redeem said certificates served that purpose only of paying and discharging such valid indebtedness (except bonds) and interest thereon, without a vote of the electors; provided that if any moneys received from taxes levied in 1930 and payable in 1931, or income from local sources received since January 1, 1931, have been used prior to the issuance of bonds authorized by this Act for the retirement of indebtedness existing January 1, 1931, and interest thereon, such bond issue may include the amounts of such payments for the purpose of reimbursing the funds from which such moneys were so paid; and provided further, that such bond issue may also include the amount of attorneys' fees and incidental expenses reasonably incurred in connection with placing such village on a cash basis and the issuance of such refunding bonds. (Act Apr. 20, 1931, c. 277, §5.)

1225-18. Tax levy to pay bonds.—The village council of any village issuing bonds pursuant to the authority of this Act shall, before the issuance thereof, by a resolution, provide for a levy for each year until the principal and interest are paid in full, or a direct annual tax in an amount sufficient to pay the interest and principal and interest thereon when and as such principal and interest become due. Such tax levy shall be irrevocably pledged until all of such bonds are paid. Said annual tax for the payment of said bonds and interest shall be derived from two sources: (1) 57 per cent of the amount necessary to pay said bonds and interest, and no more, shall be levied as a special tax in addition to the annual levy for general corporation purposes, water, light, power, building and improvement purposes, and library purposes for each year, and other special taxes which may be levied annually as provided by law; and (2) 43 per cent of the amount necessary to pay said bonds and interest shall be raised and obtained from each of the annual tax levies made by said village for general corporation purposes, water, light, power and building commission purposes, and library purposes for each year until all of said bonds are paid, in the same ratio as the tax levy for paying 43 per cent of the bonds and interest payable in any one year bears to the total annual maximum tax levy that could be made for general corporation purposes, water, light, power and building commission purposes, and library purposes for said year. (Act Apr. 20, 1931, c. 277, §6.)

1225-19. Boards or commissions may not incur indebtedness.—Whenever any department, board or commission of such village has the power to expend money such department, board or commission shall not during any year contract any indebtedness, or incur any pecuniary liability, which shall be in excess of the sum that may be allotted to its department for said year by the village council. The village council shall by resolution, prior to February 1st, each year, set aside for each such department, board or commission, such sum as seems necessary for the operation thereof, subject, however, to amendments of such resolution thereafter as necessity may require. (Act Apr. 20, 1931, c. 277, §7.)


1225-16. Revenues for 1931.—All taxes levied in 1930 shall be considered as the tax revenues for the year 1931, provided the outstanding indebtedness is funded and paid by the issuance of bonds as herein authorized, and thereafter in any such village, taxes shall be levied as now provided by law not later than October of each year, but for the succeeding year. (Act Apr. 20, 1931, c. 277, §4.)
CH. 9—VILLAGES AND CITIES

1225-20. Recorder to keep record.—The village recorder shall keep a record showing accurately the amount allotted to each board or governing body for the calendar year, and the amounts incurred and expended from time to time by the village council and other department of such village, the expenditures for the village council and all its departments shall be presented to and examined at a regular meeting once each month by the village council and shall show the true condition of affairs at the date of such meeting. (Act Apr. 20, 1931, c. 277, §3.)

1225-21. Federal census to govern.—For the purpose of the assessments for the last federal census of population taken prior to the calendar year in which any year shall be made shall govern and shall be conclusive in determining hereunder the population of any such village. (Act Apr. 20, 1931, c. 277, §9.)

1225-22. Application of act.—When a village has once come under the provisions of this Act, it shall continue under its provisions, notwithstanding any subsequent change in assessed valuation or population. (Act Apr. 20, 1931, c. 277, §10.)

1225-23. Provisions separable.—If any section, part or provision hereof be found unconstitutional such determination shall not affect the validity of the remaining provisions not clearly dependent thereon. (Act Apr. 20, 1931, c. 277, §11.)

1225-24. Inconsistent acts repealed.—This Act shall take effect and be in force from and after its passage and all acts and parts of acts inconsistent herewith are hereby repealed and declared of no effect insofar as they may be inconsistent with this Act. (Act Apr. 20, 1931, c. 277, §12.)

1225-24 1/4. Application.—This Act shall apply to all villages in the state which have a population of less than 1,500, and an annual valuation of taxable property (exclusive of moneys and credits) of more than $3,000,000 and less than $4,000,000, more than 70% of which assessed valuation consists of iron ore. For the purposes of this Act the population shall be determined by the last federal census taken prior to the passage hereof, and the valuation shall be that used as a basis for spreading the 1932 taxes. (Act Apr. 16, 1933, c. 275, §1.)

1225-24 1/4 a. Villages to be on cash basis.—From and after January 1, 1934, no such village shall draw or issue any order or warrant on any fund until there is deposited in the bank the same together with all warrants and orders previously issued against such fund. (Act Apr. 16, 1933, c. 275, §2.)

1225-24 1/4 b. May not create indebtedness—sale of certificates.—Whenever from and after January 1, 1934, the expenses and obligations incurred chargeable to any particular fund of such village in any calendar year are sufficient to absorb 90% of the entire amount of the tax levy for such fund payable in that year, including such amount as may remain in the fund from the levy of the prior year or years, neither the village council nor any officer, board or employee of such village shall have power and no power shall be created, shall be a charge against such officer or member of the board of such village. A record of such amount shall be kept, and in every event shall be made shall govern and shall be conclusive in determining the same hereunder the population of any such village. (Act Apr. 20, 1931, c. 277, §9.)

1225-24 1/4 b. Certificates of indebtedness.—When any certificates of indebtedness, issued hereunder have been or shall be unpaid when due by reason of the non-payment, when due and payable, of the taxes against which they were issued, and money to pay the same has hereafter been obtained or is hereafter obtained by the issuance and sale of new certificates of indebtedness or warrants for the payment thereof shall be issued against new certificates, such new certificates, to the extent that the proceeds thereof are so used, shall not be considered in determining the amount of certificates which may be issued against the levy for the calendar year in which they are issued. (Act Apr. 13, 1935, c. 171, §3 1/2.)

1225-24 1/4 c. Certificates may be deposited with city treasurer.—In the event the village is unable to sell such certificates of indebtedness in the manner prescribed, it may issue said certificates of indebtedness to the village treasurer or his agent and deposit the same with him. Certificates so issued shall be held by the treasurer and shall bear interest at 6 per cent per annum. The village may thereafter, as long as such certificates are on deposit with the treasurer, issue warrants upon the funds against which the same are attached, provided the principal amount of such warrants not to exceed the total principal amount of the certificates so held by the treasurer. Such warrants shall bear interest at 6 per cent per annum from and after the date they are presented to the treasurer and stamped "Not paid
for want of funds, but protected by certificates of indebtedness now held by me.” Such certificates may be sold by the village council and the proceeds of such sale shall be used to take up such warrants in the order presented for payment. Interest upon such warrants shall be charged against the treasurer for payment. Such certificates of indebtedness so held by the treasurer shall be paid at the same time and in the same manner as if they had been issued to a purchaser thereof. All warrants attempted to be be, or all obligations or any indebtedness attempted to be incurred under authority of this section in excess of the principal amount of the certificates of indebtedness so held by such treasurer shall be void. (Act Apr. 15, 1933, c. 275, §4.)

1225-24 1/2i. Shall remain on cash basis.—From and after January 1, 1934, such village shall be deemed for all purposes to be on a cash basis and shall thereafter remain on a cash basis. All taxes levied in 1933 shall be considered as the tax revenues for the year 1934, and thereafter in any such village taxes shall be levied as now provided by law, but for the succeeding year. (Act Apr. 15, 1933, c. 275, §5.)

1225-24 1/2j. May issue bonds to fund indebtedness. — Any such village prior to January 1, 1933, has incurred by valid authorized indebtedness, including bonds, in excess of its cash on hand not specifically set aside for the retirement of bonds and interest thereon, such village may for the purpose only of paying and discharging such valid indebtedness and interest thereon in the manner now provided by law, except that such bonds may be issued on a vote of the village council without a vote of the electors; provided that the purchaser of such bonds shall not be charged with notice of the existence of any indebtedness funded by such bonds, and bonds issued hereunder in the total amount of such indebtedness as determined by the resolution of the village council. In case of any purchaser, shall be void obligations of the village, notwithstanding any claim of invalidity of any such indebtedness funded thereby. If any moneys received from taxes levied in 1932 and payable in 1933, or income from local sources received since January 1, 1933, have been applied prior to the issuance of bonds authorized by this Act for the retirement of indebtedness existing January 1, 1933, or interest thereon, such bond issue may include the amount of the payment of the purpose of reimbursing the funds from which such moneys were paid. (Act Apr. 15, 1933, c. 275, §6.)

1225-24 1/2k. Tax levy to pay bonds and interest.—The village council of any such village issuing bonds pursuant to the authority of this Act shall, at the time of the issuance thereof, by resolution provide for a levy for each year until the principal and interest of said bonds are paid in full, of a direct annual tax in an amount sufficient to pay the principal and interest thereon when and as such principal and interest become due. Such tax levy shall be irrepealable until all of such bonds are paid. Such annual tax levy for the payment of such bonds shall be within the existing per capita and millage limitations upon tax levies applicable to such village. The county auditor, at the time of assessing the taxing rate, if any such bonds have been issued, shall adjust the same so that the total tax levy of such village, including levies for bonds issued hereunder, whether to the state or to private purchasers, shall not exceed existing per capita and millage limitations, plus any levies which may be authorized in excess of such limitations for bonded indebtedness and interest thereon existing at the time of the passage of this Act. The levies for the payment of such bonds shall be charged against the principal and interest levies for general corporation purposes, library purposes and water, light, power and building purposes in such proportions as the council may determine, but the amount levied, whether by the state auditor or the village council of such village, for the payment of interest on such bonds shall not be charged against any fund levied by the village council for such village, and shall be in excess of all existing millage limitations. (Act Apr. 15, 1933, c. 275, §7; Apr. 17, 1938, c. 299.)

1225-24 1/2l. May be sold or exchanged.—Such bonds may be issued and sold to the State of Minnesota pursuant to existing laws at the price of $100 per bond with accrued interest thereof (except as herein modified), or to private purchasers, or to both, or exchanged for outstanding orders at par with accrued interest. (Act Apr. 15, 1933, c. 275, §8.)

1225-24 1/2m. Tax levy—limit. — The amount which may be included by such any such village in its annual tax levy for each year thereafter made for general corporation and library purposes shall be 22 mills on the dollar of the taxable valuation of the village, and it may levy for such additional purpose as may be authorized by law; provided that the total amount of such levy shall not exceed the amounts authorized by Laws 1921, Chapter 17 (§§2061 to 2066), as amended by Laws 1929, Chapter 206, and with the levies for the payments of bonds issued hereunder, shall not exceed the total number of mills authorized in such village. (Act Apr. 15, 1933, c. 275, §9.)

1225-24 1/2n. Not to incur indebtedness.—No department, board or commission of such village shall contract any indebtedness or incur any pecuniary liability which shall be in excess of the sum that may be levied and collected for said department, board or commission allotted to it for said year by the village council, plus local income accruing to such department, board or commerce. A record of expenditures of the village shall be presented to and examined at a regular meeting of the village council or the officers thereof, and shall show the true condition of the affairs at the date of such meeting. (Act Apr. 15, 1933, c. 275, §10.)

1225-24 1/2o. District Court may require village to limit expenditures.—If at any time during any year a village operating hereunder is incurring obligations at a rate or upon a scale which would make it probable, if such rate or scale be continued, after allowing for variations in seasonal requirements, that the total expenditures for said year would exceed the moneys to be received therein, after allowance for probable tax delinquencies, the District Court, in an action brought by any taxpayer, may require such village to limit its expenditures to a rate and scale which will assure that the total obligations incurred in such year will not exceed the moneys available therein. (Act Apr. 15, 1933, c. 275, §11.)

1225-24 1/2p. Contracts to be null and void in certain cases. — Each contract attempted to be entered into, or indebtedness or pecuniary liability attempted to be incurred in violation of the provisions of this Act, shall be null and void in regard to any obligations thereby sought to be imposed upon the village, and no claim therefor shall be allowed by the council of the village nor any board thereof; nor shall the clerk or recorder of such village or any other officer or employee issue or execute, nor shall the village treasurer pay any check, warrant or certificate of indebtedness issued on account thereof. Each member of the village council and each other village officer or employee participating in or authorizing any violation of this Act shall be individually liable to the village or to any other person for any and all moneys or other things to which such member of the village council or any board of such village present at a meeting of the board or council when any action is taken with reference to paying money or incurring indebtedness or entering into any contract in violation of the provisions of this Act, shall be deemed to have participated in and authorized the same unless he shall have caused his dissent therefrom to be entered upon the minutes of the meeting. (Act Apr. 15, 1933, c. 275, §12.)
1225-24 $1. Village to continue under provisions of this act.—When a village has once come under the provisions of this Act, it shall continue under its provisions notwithstanding any subsequent change in assessed valuation or population. (Act Apr. 15, 1933, c. 275, §13.)

1225-24 $1 m. Operation of act to be postponed one year in certain cases.—The funding of the indebtedness of the village is necessary to the functioning of this law. If the village shall find it impossible to refund its outstanding bonds herein provided for prior to January 1, 1934, but can sell such bonds during the year 1934, the operation of this Act shall be postponed for one year. In that event the indebtedness authorized to be funded hereunder shall be the valid indebtedness, excluding bonds, in excess of cash on hand not specifically set aside for the retirement of bonds and interest thereon, incurred prior to January 1, 1934, and the provisions of Sections 2, 3, 4, 5, 7, 8, 9, 10, 11, 12, shall not take effect until and after January 1, 1935. (Act Apr. 15, 1933, c. 275, §14.)

1225-24 $1 n. Provisions separable.—If any provision hereof is found unconstitutions, such determination shall not affect the validity of the remaining provisions not clearly dependent thereon. (Act Apr. 15, 1933, c. 275, §15.)

1225-25. Villages not to draw orders.—That from and after January 1, 1932, no village now or hereafter having a population of more than 1,400 inhabitants, and less than 1,600 inhabitants, and an assessed valuation of more than $700,000, and less than $2,000,000, shall draw any order or warrant on any fund until there is sufficient money in such fund to pay the same, together with all orders previously issued against said fund. (Act Apr. 25, 1931, c. 388, §1.)

1225-26. Not to create indebtedness.—Whenever from and after January 1, 1932, the expense and obligations incurred chargeable to any particular fund of such village in any calendar year are sufficient to absorb 55 per cent of the entire amount of the tax levy, payable in that year, including such amount as may remain in the fund from the levy of any prior year or years, no officer, board, or official body of such village shall have the power and no power shall exist to create any additional indebtedness (save as the remaining 45 per cent of the tax levy is collected) which shall be a charge against that particular fund or shall be in any manner a valid claim against such village, but such additional indebtedness attempted to be created shall be a null and void personal claim against the village or the members of the municipal board or body voting for or attempting to create the same; and in no event shall any officer, board or official body of such village have the power, and no power shall exist, to create any indebtedness which shall be a charge against the village, in excess of the tax levy payable in that year for the use of the particular department, board or official body, less the amount required to be paid each year thereafter on the bonds herein authorized and interest accruing thereon. (Apr. 25, 1931, c. 385, §1.)

1225-27. May issue certificates of indebtedness.—At any time after the annual tax levy has been certified to the county auditor, but not earlier than October 10 of the year preceding the year for which the tax levy is made and before the levying of such bonds, the village council may issue certificates of indebtedness in 1225-28. Tax revenues for 1932.—All taxes levied in 1931 shall be considered as the tax revenues for the year 1932, and thereafter in any such village, taxes shall be levied as now provided by law not later than October of each year, but for the succeeding year. (Act Apr. 15, 1931, c. 388, §2.)

1225-28. May issue bonds.—If any such village prior to January 1, 1931, has incurred by proper authority a valid indebtedness, excluding bonds, in excess of 15 per cent of said tax levy for the purpose of 'raising money for any such park and park board and library purposes,' the village council of such village shall be entitled to issue such bonds for the purpose only of paying and discharging such valid indebtedness (except bonds) and interest thereon, issue its bonds in the manner now provided by law except that such bonds may be issued on a vote of the electors and such bond shall mature in equal annual installments extending over a period of not more than twenty years; provided that if any moneys received from such bonds are not sufficient to discharge said indebtedness as may be needed in anticipation of the making of such levy and shall not be used or spent until such succeeding year. No certificates for any year shall be issued until all certificates for prior years have been paid, and in no event shall any additional indebtedness attempted to be created be a personal claim against the officer or member of the municipal board or body voting for or attempting to create the same; and in no event shall any officer, board or official body of such village have the power, and no power shall exist, to create any indebtedness which shall be a charge against the village, in excess of the tax levy payable in that year for the use of the particular department, board or official body, less the amount which shall be paid each year thereafter on the bonds herein authorized and interest accruing thereon. (Act Apr. 25, 1931, c. 385, §3.)

1225-29. May issue certificates of indebtedness.—At any time after the annual tax levy has been certified to the county auditor, but not earlier than October 10 of the year preceding the year for which the tax levy is made, and before the levying of such bonds, the village council of any village issuing bonds pursuant to the authority of this act shall, before the issuance thereof, by a resolution, provide for a levy for each year until the principal and interest are paid in full of a direct annual tax in an amount sufficient to pay the principal and interest henceforth due on such debt, and no more shall be levied as a special tax in addition to the annual tax levy for general corporation purposes, park and park board, library, and water, light, power, and building, commission purposes, and other special taxes which may be levied annually as provided by law; and (2) 48 per cent of the amount necessary to pay said bonds and interest shall be raised and obtained from each of said funds, made by said village for general corporation purposes, water, light, power and building commission purposes, park and park board and library purposes, for each year until all of said bonds are paid, in the same ratio

1225-30. Tax levy to retire bonds.—The village council of any village issuing bonds pursuant to the authority of this act shall, before the issuance thereof, by a resolution, provide for a levy for each year until the principal and interest are paid in full of a direct annual tax in an amount sufficient to pay the principal and interest henceforth due on such debt, and no more shall be levied as a special tax in addition to the annual tax levy for general corporation purposes, park and park board, library, and water, light, power, and building, commission purposes, and other special taxes which may be levied annually as provided by law; and (2) 48 per cent of the amount necessary to pay said bonds and interest shall be raised and obtained from each of said funds, made by said village for general corporation purposes, water, light, power and building commission purposes, park and park board and library purposes, for each year until all of said bonds are paid, in the same ratio

272
as the tax levy for paying 43 per cent of the bonds and interest payable in any one year bears to the total annual maximum tax levy that could be made for general corporate purposes, public, police, building commission purposes, park and park board and library purposes for said year. Provided, however, that if any bonds of said village are outstanding and held by the State of Minnesota that such state bonds shall be retired upon maturity through the levy of a tax sufficient to pay the same when due, and said levy shall be in addition to all others herein provided for, and shall not be subject to any of the limitations provided for herein. (Act Apr. 25, 1931, c. 388, §6.)

1225-31. Boards or departments not to incur indebtedness.—Whenever any department, board or commission of such village has the power to expend money such department, board or commission shall not during any year contract any indebtedness, or incur any pecuniary liability, which shall be in excess of the sum that may be allotted to its department for said year by the village council or to pay maturing bonds outstanding at the time this Act takes effect. The village council shall by resolution, prior to February 1, of each year, set aside for each such department, board or commission, such sum as it deems necessary and adequate for the proper operation thereof, subject to the provisions of such resolution and of such resolution as it deems necessary for the true condition of affairs at the date of such meeting. (Act Apr. 25, 1931, c. 388, §7.)

1225-32. Village recorders to keep record of allotment.—The village recorder shall keep a record showing accurately the amount allotted to each board or governing body for the calendar year, and the amounts incurred and expended from time to time by the village council and each department of such village. A record of expenditures for the village council and all its departments shall be presented to and examined at a regular meeting once each month by the village council and shall show the true condition of affairs at the date of such meeting. (Act Apr. 25, 1931, c. 388, §8.)

1225-33. Federal census shall govern.—For the purpose of this act, the last federal census of population taken prior to the calendar year in which any levy may be made shall govern and shall be conclusive in determining hereunder the population of any such village. (Act Apr. 25, 1931, c. 388, §9.)

1225-34. Change in valuation or population not to change status.—When a village has once come under the provisions of this act, it shall continue under its provisions, notwithstanding any subsequent change in assessed valuation or population. (Act Apr. 25, 1931, c. 388, §10.)

1225-35. Provisions separable.—If any section, part or provision hereof be found unconstitutional such determination shall not affect the validity of the remaining provisions not clearly dependent thereon. (Act Apr. 25, 1931, c. 388, §11.)

1225-36. Inconsistent acts repealed.—This act shall take effect and be in force from and after it passage and all acts and parts of acts inconsistent herewith are hereby repealed and declared of no effect insofar as they may be inconsistent with this act. (Act Apr. 25, 1931, c. 388, §12.)

1225-37. Villages to be on cash basis.—That from and after January 1, 1932, no village now or hereafter herein incorporated shall be credited to more than 2,000 inhabitants and less than 3,000 inhabitants, and an assessed valuation of more than $3,000,000, and less than $4,000,000, shall draw any order or warrant on any fund until there is sufficient money in such fund to pay the same, together with all orders previously issued against said fund. (Act Apr. 25, 1931, c. 342, §1.)

1225-38. Officers may not incur indebtedness.—Whenever from and after January 1, 1932, the existing and necessary and legal powers and duties of the board of county commissioners of the county in which any particular fund of such village in any calendar year are sufficient to absorb 55 per cent of the entire amount of the tax levy, payable in that year, including such amount as may remain in the fund from the levy of any prior year or years, no officer, board or official body of such village shall have power to create any additional indebtedness; to create shall be a personal claim against the officer or members of the municipal board or body voting for or attempting to create the same, and no event shall any officer, board or official body of such village have the power, and no power shall exist, to create a charge against the village, in excess of the tax levy payable in that year for the use of the particular department, board or official body, less the amount required to be paid each year as interest due on the bonds outstanding at the time this Act takes effect and be in force from and after it passage and be in force and be in force from and after it passage. (Act Apr. 25, 1931, c. 342, §2.)

Mil limitations provided for by laws under which a village is operating must completely cover all expenses, and making visible improvements a village operating under cash basis law is not authorized to make a special levy to raise money for bond levy authorized by law, except in cases where specific power is given to levy a special tax and, village is not authorized to make a special levy for the payment of bond to be issued for purpose of improving its distribution system as a WPA project. Op. Atty. Gen. (44a-8), Apr. 7, 1937.

1225-39. Governing board may sell certificates.—At any time after the annual tax levy has been certified to the county auditor, but no earlier than October 10 of the year preceding the year for which the tax levy is made, the governing body of such village may, by resolution, issue and sell as many certificates of indebtedness as may be needed in anticipation of the collection of taxes levied for any fund named in the resolution for the purpose of raising money for any such fund, but the certificates outstanding for any of such separate funds shall not at any time exceed 50 per cent of the amount of taxes previously levied for such fund remaining uncollected, and no certificate shall be issued to become due and payable later than December 31 of the year succeeding the year in which said tax levy, certified to the county auditor as aforesaid, was made, and said certificates shall not be sold for less than par and accrued interest and shall not bear a greater rate of interest than six per cent annum. Each certificate shall state upon its face for which fund the proceeds of said certificate shall be used, the total amount of said certificate so issued, and the whole amount embraced in said tax levy for that particular purpose. They shall be numbered consecutively and be in the denominations of $100.00, or a multiple thereof, and may have Interest coupons attached and shall be otherwise of such form and terms and may be made payable at such place as will best aid in their negotiation, and the proceeds of the tax assessed and collected, as aforesaid, on account of said fund, and the faith and credit of such village shall be irrevocably pledged for the redemption of the certificates so issued. Such certificates may be paid from the moneys derived from the levy for the year against which such certificates were issued. The money derived from the sale of said certificates shall be held in a separate fund, and shall remain until immediately succeeding the making of such levy and shall not be used or spent until such succeeding year. No certificates for any year shall be issued until all certificates for prior years have been paid, nor shall any certificate be extended; provided, that money derived from the sale of certificates for any one year may, if necessary, be used to redeem unpaid certif-
1225-40. Tax levies for 1932.—All taxes levied in 1931 shall be considered as the tax revenues for the year 1932, and thereafter in any such village, 'taxes shall be levied as now provided by law not later than October 31 of each year, but for the succeeding year. (Act Apr. 25, 1931, c. 342, §4.)

1225-41. Village may issue bonds.—If any such village prior to January 1, 1931, has incurred by proper authority a valid indebtedness, excluding bonds, in excess of its cash on hand, such village may, for the purpose only of paying and discharging such valid indebtedness (except bonds) and interest thereon, issue its bonds in the manner now provided by law, except that such bonds may be issued on a vote of the electors; provided that if any moneys received from taxes levied in 1930 and payable in 1931, or income from local sources received since January 1, 1931, have been used prior to the issuance of bonds authorized by this act for the retirement of indebtedness existing January 1, 1931, and interest thereon, such bond issue may include the amount of such payments for the purpose of reimbursing the funds from which such moneys were so paid. (Act Apr. 25, 1931, c. 342, §5.)

1225-42. To provide for tax levy.—The village council of any village issuing bonds pursuant to the authority of this act shall, before the issuance thereof, by a resolution, provide for a levy for each year until the tax levy is sufficient to pay the principal and interest thereof when and as such principal and interest become due. Such tax levy shall be irrepealable until all of such bonds are paid. Said annual tax for the payment of said bonds and interest shall be levied from two sources: (1) 52 per cent of the amount necessary to pay said bonds and interest, and no more, shall be levied as a special tax in addition to the annual tax levy for general corporation purposes, water, light, power and building commission purposes, and library purposes for each year, and other special taxes which may be levied annually as provided by law; and (2) 48 per cent of the amount necessary to pay said bonds and interest as a direct tax in the manner now prescribed for the levy of the tax levy payable in any one year bears to the total annual maximum tax levy that could be made for general corporation purposes, water, light, power and building commission purposes, and library purposes for said year. (Act Apr. 25, 1931, c. 342, §6.)

1225-43. Departments of board shall not incur indebtedness.—Whenever any department, board or commission of such village has the power to expend money, such department, board or commission shall not during any year contract any indebtedness, or incur any pecuniary liability, which shall be in excess of the sum that may be allotted to its department for said year by the village council. The village council shall by resolution, prior to February 1, each year, set the sums that may be allotted to each such department, board or commission, such sum as it deems necessary and adequate for the proper operation thereof, subject, however, to amendments of such resolution thereafter as necessity may require. (Act Apr. 25, 1931, c. 342, §7.)

1225-44. Recorder to keep record of allotments.—The village recorder shall keep an accurate record showing the amount allotted to each board or governing body for the calendar year and the amounts incurred and expended from time to time by the village council and each department of such village. A record of expenditures for the village council and all its departments shall be presented to and examined at a regular meeting once each year by the village council and shall show the true condition of affairs at the date of such meeting. (Act Apr. 25, 1931, c. 342, §8.)

1225-45. Federal census shall govern.—For the purpose of this act, the last federal census of population taken prior to the calendar year in which any levy may be made shall govern and shall be conclusive in determining the number of the population of any such village. (Act Apr. 25, 1931, c. 342, §9.)

1225-46. Change in population not to affect law.—When a village has once come under the provisions of this act, it shall continue under its provisions, notwithstanding any subsequent change in assessed valuation or population. (Act Apr. 25, 1931, c. 342, §10.)

1225-47. Provisions separable.—If any section, part or provision hereof be found unconstitutional such determination shall not affect the validity of the remaining provisions not clearly dependent thereon. (Act Apr. 25, 1931, c. 342, §11.)

1225-48. This act shall take effect and be in force from and after its passage and all acts and parts of acts inconsistent herewith are hereby repealed and declared of no effect insofar as they may be inconsistent with this act. (Act Apr. 25, 1931, c. 342, §12.)

1225-49. Application of act.—This Act shall apply to all villages in the State which adopt the provisions of this Act by a unanimous vote of the council prior to December 31, 1933, and which have a population of more than 2500 and less than 3000 and an assessed valuation or population. (Act Apr. 25, 1931, c. 342, §5.)

1225-50. To be on cash basis after January 1, 1934.—That from and after January 1, 1934, no such village shall draw or issue any order or warrant against any of its funds until there is sufficient money in such fund to pay the same together with the warrants and orders previously issued against said fund. (Act Apr. 22, 1933, c. 415, §1.)

1225-51. May not incur indebtedness in excess of income.—Whenever from and after January 1, 1934, the expenses and obligations incurred chargeable to any particular fund of such village in any calendar year are sufficient to absorb 90 per cent of the entire amount of the tax levy payable in that year, including such amount as may remain in the fund from the levy of any prior year or years, no officer, board or official body of such village shall have the power, and no power shall exist, to create any additional indebtedness (save as the remaining ten per cent of said tax levy is collected) which shall be a charge against such village, but such additional indebtedness attempted to be created shall be a personal claim against the officer or members of the municipal board or body voting for or attempting to create the same; and in no event shall any officer, board or official body of such village have the power, and no power shall exist, to create any indebtedness which shall be a charge against excess of the tax levy payable in that year for the use of the particular department, board or official body, less the amount required to be paid each year therefrom on bonds herein authorized accruing thereon. (Act Apr. 22, 1933, c. 415, §2.)

1225-52. May issue certificates of indebtedness.—At any time after the annual tax levy has been certified to the county auditor, and not earlier than Octo-
ber 10th in any year, the governing body of such vil-

lage may by resolution of the purpose of the succeeding year, by

resolution, issue and sell as many certificates of In-

debtedness as may be needed in anticipation of the
collection of taxes so levied for any fund named in said tax levy, as spread by the county audi-
cor, to be collected for the use and benefit of said fund, and

no certificate shall be issued to become due and payable later than December 31st of the year succeed-
ning the one in which said tax levy, certified to the county auditor as aforesaid, was made, and said cer-
tificates shall not be sold for less than par and accrued interest and shall not bear a greater rate of interest than 6% per annum; each certificate shall state upon its face for which fund the proceeds of said certificate shall be used, the total amount of said certificates so issued, and the whole amount embraced in said tax levy for that particular purpose. They shall be num-
bered consecutively and be in the denominations of $100 or multiples thereof. Such certificates may have interest attached and shall be otherwise of such form and terms and be made payable at such place as will best aid in their negotiation, and the proceeds of the tax assessed and collected as aforesaid on account of such fund, and the excess of the amount of such village's indebtedness as irrevocably pledged for the redemption of the certif-
icates so issued. Such certificates shall be paid from the money derived from the levy for the year against which such certificates were issued. The money derived from the sale of said certificates shall be credited to such fund or funds for the calendar year immediately succeeding the making of such levy, and shall not be used or spent until such succeeding year. No certificate for any one year may be issued for any of said said certificates for prior years have been paid, nor shall any certificate be extended; provided that money derived from the sale of certificates for any one year may, if necessary, be used to redeem unpaid certif-
icates issued in a prior year. (Act Apr. 22, 1933, c. 415, §4.)

1225-53. Shall remain on cash basis.—From and after January 1, 1934, such village shall be deemed for all purposes to be on a cash basis and shall thereafter remain on a cash basis. All taxes levied in 1933 shall be considered as the tax revenues for the year 1934, and any such villages taxes shall then be calculated as now provided by law not later than October of each year, but for the succeeding year. (Act Apr. 22, 1933, c. 415, §6.)

1225-54. May issue bonds to fund indebtedness.—If any such village prior to January 1, 1933, has in-
curred by proper authority a valid indebtedness, ex-
cluding bonds in excess of its cash on hand, such vil-
lage may, for the purpose only of paying and discharg-
ing such valid indebtedness and Interest thereon, issue its bonds in the manner now provided by law, except that such bonds may be issued on a vote of the Coun-
cil thereof without a vote of the electors; provided that if any moneys received from taxes levied in 1933 and payable in 1933, or income from local sources re-
cieved since January 1, 1933, have been used prior to the issuance of bonds authorized by this Act for the retirement of indebtedness existing on January 1, 1933, and Interest thereon, such bond issue may in-
clude the amount of such payments for the purpose of reimbursing the funds from which such moneys were paid. (Act Apr. 22, 1933, c. 415, §6.)

1225-55. Tax levy to retire bonds.—The village council of any village issuing bonds pursuant to the

authority of this Act shall, before the issuance thereof, by resolution provide for a levy for each year until the principal and Interest thereon are paid in full, of a direct an-
nual tax in an amount sufficient to pay the principal and Interest thereon when and as such principal and Interest become due. Such tax levy shall be re-
posable until all of such bonds are paid. Such an-

ual tax for the payment of such bonds shall be within existing per capita limitations upon tax levies applic-
able to such village and shall be derived from two sources: (a) 27% of the amount necessary to pay said bonds and Interest, and no more, shall be levied as a special tax in addition to the annual tax levy for general corporation and library purposes, water, light, heat and building commission purposes, and any other special taxes which may be levied annually as provid-
ed by law; and (b) 73% of the amount necessary to pay said bonds and Interest shall be raised and ob-
tained from the special tax levy and other sources for general corporation and library purposes, water, light, power and building commission purposes for each year, until all of said bonds are paid, in the same ratio as the tax levy for paying 73% of the bonds and interest payable in any one year bears to the total annual maximum tax levy that could be made for general corporation and library purposes, water, light, power and building commission purposes for said year. (Act Apr. 23, 1933, c. 416, §7.)

1225-56. Department or boards shall not exceed limits.—Whenever any department, board or commis-
sion of such village having the power to expend money shall not have been provided with funds by a tax, special tax, such department, board or commis-

sion shall not during any year contract any indebted-
ness or incur any pecuniary liability which shall be in excess of the sum that may be allotted to its depart-
ment for said year by the Village Council. The Vil-

lage Council shall by resolution prior to February 1 each year, set aside for each such department, board or commission such sum as it deems necessary and adequate for the proper operation thereof, subject, however, to amendments of such resolution thereafter as necessity may require. (Act Apr. 22, 1933, c. 415, §8.)

1225-57. Village recorder to keep record.—The Vil-

lage Recorder shall keep a record showing accurately the amount allotted in each board or governing body for the calendar year and the amounts incurred and expended from time to time by the Village Council and each department of such village. A record of ex-

penditures for the Village Council and all its depart-
ments shall be kept before the regular meeting once each month by the Village Council and shall show the true condition of affairs at the date of such meeting. (Act Apr. 22, 1933, c. 415, §9.)

1225-58. Warrants and order legalized.—In the event that any such village, prior to the passage of this Act, issued its warrants or orders against any of its revenues, which warrants or orders have remained unpaid at the time of the passage of this Act, the said warrants and orders are hereby in all respects legalized. (Act Apr. 22, 1933, c. 415, §10.)

1225-59. Violations—penalties.—Any member of the Village Council or other governing body or board, or other village officer or employee, knowingly partic-

ipating in and authorizing any violation of this Act shall be guilty of a misdemeanor punishable by a fine not exceeding $100.00 or by imprisonment in the County Jail not exceeding three months for each of-

fense. Every contract attempted to be entered into by any member of the Village Council or other governing body or board, or any other village or department officer or employe, knowingly partic-

ipating in and authorizing any violation of this Act shall be null and void in regard to any obligation thereby sought to be imposed upon the village. No claim therefor shall be allowed the Village Council nor any governing board; nor shall the Village Recorder or any other village or department officer or employee issue or execute, nor shall the Village Treasurer pay, any warrant or certificate of indebtedness issued on account thereof. Each member of the Village Council or any village board or other village officer or employee participating in or authorizing any violation of this Act shall be individually liable to the village or to any
other person for any damages caused thereby. Each member of the Village Council or Village Board present at a meeting of the board of council when any action is taken with reference to paying money or incurring indebtedness or entering into any contract shall be deemed to have participated in and authorized the same unless he shall have caused his dissent therefrom to be entered upon the minutes of the meeting. Any member of the village council or governing board knowingly participating in or authorizing any violation of this Act shall be liable to suspension from office. Any vacancy created thereby shall be filled according to law. (Act Apr. 22, 1933, c. 415, §11.)

1225-60. To continue under provisions of act.—When a village has once come under the provisions of this Act it shall continue under its provisions notwithstanding any subsequent change in assessed valuation or population. (Act Apr. 22, 1933, c. 415, §12.)

1225-61. Provisions separable.—If any section, part or provision hereof be found unconstitutional, such determination shall not affect the validity of the remaining provisions not clearly dependent thereon. (Act Apr. 22, 1933, c. 415, §13.)

1225-62. Effective date.—This Act shall take effect and be in force from and after the passage, and all Acts and parts of Acts inconsistent herewith; provided that the village indebtedness existing on January 1, 1933, in any such village is a necessary step in the working out of this law and if any village hereunder shall be unable to sell its bonds prior to January 1, 1934, this Act shall not take effect therein. (Act Apr. 22, 1933, c. 415, §14.)

1225-71. Application of act.—This Act shall apply to every village having an assessed valuation in excess of $500,000 and less than $1,000,000, exclusive of other indebtedness of any such village as of December 31, 1935. (Jan. 3, 1936, Ex. Ses., c. 2, §1.)

1225-72. Outstanding warrants segregated for payment under this act.—All outstanding warrants or other indebtedness of any such village as of December 31, 1935, shall be and are hereby segregated to be paid only by levies and contributions from the village, town and school district as hereinafter provided. There shall be a special fund created by the village treasurer, called the "village indebtedness fund," from which such warrants and indebtedness shall be paid. (Jan. 3, 1936, Ex. Ses., c. 2, §2.)

1225-73. Part of taxes segregated for payment into fund.—tax levy.—limitations.—Other payments into fund.—The annual levy of such village for general purposes, in excess of $5,000 shall be segregated and levied for and paid into such village indebtedness fund; of the annual tax levy of any such school district 2 mills (or so much thereof as, after allowance for probable tax delinquencies, will produce $10,000) shall be levied for and paid into such village indebtedness fund. All such levies shall be within the existing per capita or mill limitations upon levies of such village, school district, town or county, and shall not exceed the amount which could be levied for payment upon such warrants or indebtedness as of December 31, 1935. If any such village may be levied in excess of existing mill limitations 14 mills (or so much thereof as, after allowance for probable tax delinquencies, will produce $3,000) upon all the taxable property of the village, such amount shall be paid into such village indebtedness fund. In addition thereto, there shall be set aside and paid into such village indebtedness fund all moneys hereafter collected by such village on the tax levies of 1934 and prior years, which shall have not been used prior to December 31, 1935, for the reduction of such indebtedness, and apportioned; not exceeding however, the sum of $15,000, hereafter collected on the delinquent taxes of 1933 and prior years by such town; provided that no part of the delinquent village taxes for library fund shall be paid into such village indebtedness fund except as necessary to pay warrants or indebtedness against such library fund. (Jan. 3, 1936, Ex. Ses., c. 2, §3.)

1225-74. Payments to village treasurer—separate fund—apportionment—payment of warrants.—All moneys provided to be paid into such village indebtedness fund by any such town or school district shall, as collected, be paid to the treasurer of the village or the county auditor and controller, as the case may be, and such funds shall be kept separate from all other moneys of the village, and shall be used solely for the payment of such indebtedness or any bonds issued to fund the same. The village treasurer shall apportion the moneys in each such village indebtedness fund between the various funds of the village against which warrants or indebtedness are outstanding, in proportion to the respective amounts of warrants and indebtedness against each such fund, and shall pay warrants against such funds out of the moneys provided to be paid into such fund payable in that year, including such amount as may be provided for hereunder. Such warrants shall be deemed to have participated in and authorized any town or school district which otherwise issued against such fund, and not segregated as provided for hereunder. (Jan. 3, 1936, Ex. Ses., c. 2, §4.)

1225-75. Limitation on creation of indebtedness—sale of bonds—participation of officer.—Whenever, from and after January 1, 1936, no such village shall draw any order or warrant on any fund until there is sufficient money in such fund to pay the same, together with all orders previously issued against such fund, and not segregated as provided for hereunder. (Jan. 3, 1936, Ex. Ses., c. 2, §5.)

1225-76. Limitation on creation of indebtedness—participation of officer.—Whenever, from and after January 1, 1936, the expenses and obligations incurred, chargeable to any particular fund of such village, school district, town or county, exceed 90 per cent of the entire amount of the tax levy for such fund payable in that year, including such amount
as may remain in the fund from the levy of prior year or years, no officer or board of such village shall have, power, and no power shall exist, to create any additional indebtedness (save as the remaining 10 per cent of said tax levy is collected) which shall be a charge against the total prior year fund, or shall be in any manner a valid claim against such village, but such indebtedness attempted to be created shall be a personal claim against the officer or member of the board voting for or attempting to create the same. (Jan. 3, 1936, Ex. Ses., c. 2, §7.)

1225-78. Certificates of indebtedness.—At any time after January first following the making of an annual tax levy for any such village may, for the purpose of meeting the obligations of the current year, by resolution issue and sell as many certificates of indebtedness as may be necessary to raise the money for any such fund. All certificates of indebtedness issued under the provisions of this act shall be negotiable and shall be payable to the order of the payee and shall have a definite due date. No certificate shall be issued to become due and payable later than December 31st of the year of issuance. Such certificates shall not be sold for less than par and accrued interest and shall not bear a greater rate of interest than six per cent per annum. Each certificate shall state upon its face for which funds proceeds of the certificate shall be used, the total amount of the certificates so issued against such fund and the whole amount embraced in said tax levy for that fund. They shall be numbered consecutively and be denominations of $25, or any multiple thereof, and may have interest coupons attached, and shall be otherwise in such terms and form as may be made payable at such place as will best aid in their negotiation. (Jan. 3, 1936, Ex. Ses., c. 2, §8.)

1225-79. Same.—limitations—renewal of certificates.—No such village shall be permitted during any year to anticipate by issuance of certificates of indebtedness more than 50 per cent of its tax levy payable in said year for any of its funds during the period prior to July 1st, and not more than 40 per cent of said levy (plus any amount authorized but not issued during the period prior to July 1st) during the period subsequent to July 1st and prior to December 31st; provided that the total amount of certificates of indebtedness issued against and fund, with interest thereon to maturity, shall not exceed 90 per cent of the tax levy for such fund payable in such year, and that the undiscarded portion of such certificates issued shall in no event exceed the uncollected portion of said tax levy for such fund. Any such villages may renew any outstanding certificate of indebtedness of any prior year or any prior six-months period, or issue new certificates, notwithstanding the fact that prior certificates were unpaid, whenever inability to pay such outstanding certificates is due to failure to collect sufficient moneys from the tax levy payable in said year to discharge such certificates; in the event such certificates are not paid within a reasonable time, such village may pay accrued interest thereon at the time of renewal. (Jan. 3, 1936, Ex. Ses., c. 2, §9.)

1225-80. Same.—inability to sell—warrants—in—interest—limitation of amount.—If any such village is unable to sell such certificates of indebtedness in the manner prescribed hereby it may proceed by one of the following methods: (a) issuing its certificates of indebtedness in any denomination but within the limitations as to total amounts herein contained, payable to the order of the creditor of such village, in payment of any claim or sum of such creditor as a result of litigation assessed valuation of mineral properties was decreased 35%, and delinquent taxes on forested lands were cancelled, a sale of the certificates of indebtedness by the village at their face value and accrued interest would have no effect on their status as deductible items in net indebtedness calculations. Op. Atty.-Gen. (476A-4), Apr. 26, 1936.

1225-81. Same.—taxes levied pledged—mortgage of certificates of indebtedness and deposited them with village treasurer and issued warrants against funds against which such certificates were issued, in case of inability to sell certificates, in order to secure payment of the debt, claim or account of such creditor and be irrevocably pledged for the redemption of the certificates so issued. Such certificates shall be paid from the money derived from the levy for the year against which such certificates were issued, or if there be not sufficient for that purpose, from other funds of the village. The money derived from the sale of such certificates (except those issued to take up old certificates as hereinbefore authorized) shall be credited to such fund or funds for the redemption of the village shall be irrevocably pledged for the redemption of the certificates so issued. Such certificates shall be paid from the money derived from the sale of certificates for any one year may, if necessary, be used to redeem unpaid certificates issued in a prior year. (Jan. 3, 1936, Ex. Ses., c. 2, §11.)

1225-82. Funding bonds—obligation, lien—Sale—interest—maturity—investment in—tax levy—payment of—any such village may, without a vote of electors, fund all or any portion of such indebtedness existing on December 31, 1935. Bonds issued for such purpose shall be the obligation of the village alone and, except as contributions from the annual levies of the town or school district are provided for herein, shall not be a lien upon any property in said town or school district outside the limits of the village. Such bonds may be issued and sold to the state or to private purchasers, or both, or exchanged for excess of principal amount of the certificates held by the treasurer. Such bonds shall bear interest at not to exceed six per cent per annum. The village may thereupon, as long as such certificates are on deposit with the treasurer, issue warrants upon the proceeds of the tax levy payable in said year against which such certificates were issued, in case of inability to sell certificates, in order to secure payment of the debt, claim or account of such creditor and be irrevocably pledged for the redemption of the certificates so issued. Such warrants shall be issued at not to exceed six per cent per annum from and after the date they are presented to the treasurer and stamped "Not paid for want of funds, but issued and sold for payment of the debt, claim or account of such creditor". Such certificates may be sold by the council and the proceeds of such sale shall be used to take up such warrants in the order in which they were presented to the treasurer, registered by him and stamped as aforesaid. Interest upon such warrants shall stop from the date they are called by the treasurer for payment. Such certificates of indebtedness so held by the treasurer shall be paid at the same time and in the same manner as if they had been issued to a purchaser thereof. All warrants attempted to be issued and all obligations or indebtedness attempted to be incurred under authority of this subsection in excess of the principal amount of the certificates of indebtedness so held by such treasurer shall be void. (Jan. 3, 1936, Ex. Ses., c. 2, §10.)

Where village was unable to sell certificates of indebtedness and deposited them with village treasurer and issued warrants against funds against which such certificates were issued, in case of inability to sell certificates, in order to secure payment of the debt, claim or account of such creditor and be irrevocably pledged for the redemption of the certificates so issued. Such certificates shall be paid from the money derived from the sale of such certificates (except those issued to take up old certificates as hereinbefore authorized) shall be credited to such fund or funds for the redemption of the debt, claim or account of such creditor and be irrevocably pledged for the redemption of the certificates so issued. Such certificates shall be paid from the money derived from the sale of the certificates for any one year may, if necessary, be used to redeem unpaid certificates issued in a prior year. (Jan. 3, 1936, Ex. Ses., c. 2, §11.)
installments shall fall due in not less than one year from the issuance of such bonds, and the last of such installments shall fall due in not more than ten years thereafter. Within the limits of the constitution, such bonds shall be legal investments of the State Board of Investment. At the time of issuing any such bonds, such town and school district shall make an annual and irrevocable tax levy in an amount sufficient, with the contributions and levies for such fund by the town and school district, to retire such bonds at maturity. If purchased by the state, the state auditor, at the time of certifying to the county auditor the levy to be expended therefor, shall take into consideration, in fixing the amount of such levy, the probable receipts from the contributions and levies to be made by the town and school district towards the payment of such bonds. If such bonds are sold to the state or other municipality, such town and school district shall pay into the fund maintained by the state for the payment of such bonds any moneys in the village indebtedness fund provided for herein, and the county auditor shall withhold any paid into the fund maintained by him for the payment of such bonds any levy levied by the town and school district thereon. Levies made for the payment of such bonds shall be within the limitations herein set forth, except as such limitations may be insufficient to meet such bonds at maturity. (Jan. 3, 1936, Ex. Ses., c. 2, §12.)

1225-83. Contracts violative of this act void—personal liability of officers participating.—Each contract attempted to be entered into or indebtedness or pecuniary liability attempted to be incurred, in violation of the provisions of this act, shall be null and void in regard to any obligation thereby sought to be imposed upon the village, and no claim therefor shall be allowed by the clerk of said village: nor shall the clerk of such village or any other officer or employee issue or execute, nor shall the village treasurer pay, any warrant or certificate of indebtedness issued on account thereof. Each member of the council and such other village officers or employees participating in or authorizing any violation of this act shall be individually liable to the village or to any other person for any damage that is caused thereby. Each member of the council present at a meeting thereof when any action is taken with reference to paying money or incurring indebtedness or entering into any contract, shall be deemed to have participated in and authorized same unless he shall have caused his dissent therefrom to be entered upon the minutes of the meeting. (Jan. 3, 1936, Ex. Ses., c. 2, §13.)

1225-84. Liability of towns and school districts.—This act shall not be construed as providing for the payment of any moneys by the town or school district to the village after the indebtedness herein referred to shall have been paid and retired in full, or as therefrom, or in any way the levies of such town, village or school district. (Jan. 3, 1936, Ex. Ses., c. 2, §14.)

1225-87. Purpose and construction—change in population.—This act is remedial in its nature and intended to remedy the financial condition of villages within the class stated, where, by reason of a substantial portion of the value consisting of iron ore, there is a community of interest in the discharge of such indebtedness in the future, and for such purpose to set aside contributions from the levies of the town and school district in which any such village is located, where by reason of the majority of the population of such town and school district being within the limits of the village, and by reason of the property in the village against which such indebtedness is a charge being subject to taxation by such town and school district, there is a community of interest in the discharge of such indebtedness. It is also intended to secure a sound fiscal policy in such villages after the payment of such indebtedness. If any such village shall come within the provisions of this act, the act shall continue to govern the operations thereof, notwithstanding any subsequent change in population, valuation or indebtedness. (Jan. 3, 1936, Ex. Ses., c. 2, §15.)

1225-85a. Certain warrants and orders legalized.—All orders, warrants or obligations incurred or contracted by such village upon any fund or by any department prior to December 31, 1935, and which orders or warrants have been segregated and are to be paid from the "Village Indebtedness Fund", and the same are hereby in all respects legalized and declared valid obligations of the said village. (Jan. 3, 1936, Ex. Ses., c. 2, §15a; added Apr. 8, 1937, c. 181, §1.)

1225-86. Soporability of provisions.—The provisions of this act, insofar as they provide for contributions from the town, school district, village and excess taxation by such town and school district being within the limits of the village, are not severable, and if any of said levies be held to be unconstitutional the entire act shall be unconstitutional. (Jan. 3, 1936, Ex. Ses., c. 2, §16.)

1225-87. Effective date—revision of tax levies already made—limitation of levies.—Except as herein otherwise provided, this act shall take effect from and after its passage, approval and adoption. If any such village or school district shall have levied in excess of its 1935 tax levy, the county auditor, at the time of spreading the same, or at the time of making appointments of taxes collected thereunder, shall revise such levy so as to incorporate therein the levy for the village indebtedness fund as herein provided, reducing the levy for road and bridge purposes of said town and the levy for general purposes of the school district by the amount of the levy for such indebtedness fund. The total amount of such taxes as so levied shall not exceed the existing limitations upon the levies of such town or school district. If any such village shall have heretofore made its 1935 levy and such levy shall not have been spread by the county auditor, the county auditor shall revise the same by reducing the levy for the village indebtedness fund as herein provided, for levy for general purposes to a levy for the village indebtedness provided for therein. In addition thereto, he shall add to such village levy an additional $2,000 (but not exceeding 14 mills) for such village indebtedness fund. If such village levy has heretofore been spread by the county auditor, the village treasurer, at the time of receiving the proceeds thereof, shall transfer $2,000 (but not exceeding 14 mills) from the general fund to the village indebtedness fund provided for herein, advising the council of such action. (Jan. 3, 1936, Ex. Ses., c. 2, §17.)

1225-01. Cash basis and limitation of expenditures in villages having 800 to 1200 population, etc.—Appropriation of over $8,000 upon property in the state which have a population of more than 800 and less than 1200, and an assessed valuation of taxable property (exclusive of moneys and credits) in excess of $775,000.00 and less than $1,000,000.00, more than 70% of which assessed valuation consists of iron ore. (Apr. 22, 1937, c. 356, §1.)

1225-02. Same.—Shall not draw warrants without funds after January 1, 1938.—From and after January 1, 1938, no such village shall draw or issue any order or warrant on any fund until there is sufficient money in such fund to pay the same, together with all warrants and orders previously issued against such fund. (Apr. 22, 1937, c. 356, §2.)

1225-03. Same.—Shall not create additional indebtedness; sale of certificates of indebtedness.—Whenever from and after January 1, 1938, the expenses and obligations incurred by any particular fund of such village in any calendar year are sufficient to absorb 90% of the entire amount of the tax levy for such fund payable in that year, including such amount as may remain in the fund from
the levy of the prior year or years, neither the village council nor any officer, board or employee of such village shall have power and no power shall exist to create any additional indebtedness (save as the remaining 10% of such tax levy is collected) which shall be in a charge against the village for any separate fund exceeding 50% of the village; but such additional indebtedness, if attempted to be created, shall be a charge against the village in excess of the local income and the tax levy payable in that year for the use of any particular department, board or official body, less the amount required to be paid each year therefrom on bonds herein authorized and interest accruing thereon. At any time after the annual tax levy has been certified to the county auditor and not earlier than October 10 in any year, the governing body of such village may, for the purpose of meeting the obligations of the ensuing year, by resolution issue and sell as many certificates of indebtedness as may be needed in anticipation of the collection of any fund not levied by said tax levy, for the purpose of raising money for such fund. No certificate shall be issued and outstanding for any separate fund exceeding 50% of the amount named in the tax levy for that fund as spread by the county auditor at the time of said levy. Such certificate shall not be sold for less than par and accrued interest and shall not bear a greater rate of interest than six per cent per annum. Each certificate shall be issued and sold upon its face for which fund. The proceeds of the certificates issued hereunder shall be credited to such fund or funds for such certificates were issued, or if they be not sufficient for such purpose, from other funds of the village. The money derived from the sale of such certificates shall be credited to such fund or funds for the calendar year immediately succeeding the making of such levy and shall not be used or spent except during such succeeding year. No certificates for any year shall be issued until all certificates for the prior year or years have been paid, nor shall any certificate be extended; provided that money derived from the sale of certificates for any one year may, if necessary, be used to redeem unpaid certificates issued in a prior year. (Apr. 22, 1937, c. 356, § 4.)

1225-05. Same.—Shall be deemed on cash basis after January 1, 1938.—From and after January 1, 1938, no such village shall be deemed to be on a cash basis and shall thereafter remain on a cash basis. All taxes levied in 1937 shall be considered as the tax revenue for the year 1938, and thereafter in any such village taxes shall be levied solely as provided by law for the succeeding year. (Apr. 22, 1937, c. 356, § 5.)

1225-06. Same.—May issue bonds to pay floating indebtedness.—If any such village prior to January 1, 1938, has incurred by proper authority a valid indebtedness, excluding bonds, in excess of its cash on hand not specifically set aside for the retirement of such bonds and interest thereon, such village may for the purpose only of paying and discharging such valid indebtedness and interest thereon, issue its bonds in the manner provided by law, except that such bonds may be issued on vote of the village council without a vote of the electors; provided that the purchaser of such bonds shall not be charged with notice of the invalidity of any indebtedness funded by such bonds, and bonds issued hereunder in the total amount of such indebtedness as determined by the resolution of the village council, in the hands of any purchaser, shall be valid obligations of the village, notwithstanding any claim of invalidity of any such indebtedness funded thereby. If any moneys received from taxes levied in 1936 and payable in 1937, or income from local sources received since January 1, 1937, have been used prior to the issuance of bonds authorized by this Act for the retirement of indebtedness existing January 1, 1938, for interest thereon, such bond issue may include the amount of such payments for the purpose of reimbursing the funds from which such moneys were paid. (Apr. 22, 1937, c. 356, § 6.)

1225-07. Same.—Tax levy to retire bonds.—The village council of any village issuing bonds pursuant to the authority of this Act shall, at the time of the issuance thereof, by resolution, provide for a levy for each year until the principal and interest are paid in full, of a direct annual tax in an amount sufficient to pay the principal and interest thereon when and as such principal and interest become due. Such tax levy shall be irrepealable until all of such bonds are paid. Such annual tax for the payment of such bonds shall be derived from two sources: (a) 30% of the amount necessary to pay said fund-bonds and interest and no more shall be levied as a special tax in addition to the annual tax levied for general corporation purposes, water, light, power and building inspection purposes, and library purposes for each year, and in addition to such other special taxes as may now be levied annually as provided by law and; (b) 70% of the amount necessary to pay said fund-bonds and interests shall be raised and obtained.
from each of the annual tax levies made by said village for general corporation purposes, water, light, power and building commission purposes, and library purposes, and such other special tax levies as may be levied annually as provided by law in such proportion as may be determined by the village council. Nothing herein shall be construed as a limitation on any taxes that may now be legally levied by such villages, and no bonds may be issued to the taxes which now may be levied for general corporation purposes, water, light, power and building commission purposes, and library purposes, may include all other levies for special tax purposes, including levies for payment of judgment and bonds, as are now permitted by law. (Apr. 22, 1937, c. 356, §7.)

1223-98. Same.—Not to limit issuance of bonds.—Nothing in this act shall be construed to limit or restrict the issuance of bonds for any purpose authorized by law, nor the expenditures of funds therefrom. (Apr. 22, 1937, c. 356, §8.)

1223-99. Same.—May be sold to state of Minnesota or private purchasers.—Such bonds may be issued and sold to the State of Minnesota pursuant to existing laws at the time of the issuance thereof, except as herein modified, or to private purchasers, or to both, or exchanged for outstanding orders at par with accrued interest. (Apr. 22, 1937, c. 356, §9.)

1223-100. Sale—Warrants legalized.—In the event that any village prior to the passage of this act issued its warrants or orders against any of its funds, which warrants or orders were outstanding and unpaid at the time of the passage of this act, the said warrants and orders are hereby in all respects legalized. (Apr. 22, 1937, c. 356, §10.)

1223-101. Sale—Shall not contract indebtedness.—At any time during the fiscal year of any such village shall during any year contract any indebtedness or incur any pecuniary liability which shall be in excess of the sum that may be levied and collected for said department, board or commission or allotted to such department, board or commission. A record of expenditures of the village shall be presented to and examined at a regular meeting of the village council each month and shall show the true condition of the affairs of the village in such form and at such time as shall be prescribed by the board or council when any action is taken with reference to paying money or incurring indebtedness or entering into any contract in violation of the provisions of this act, shall be deemed to have participated in and authorized the same unless he shall have caused the same to be done or consent thereto to be entered upon the minutes of the meeting. (Apr. 22, 1937, c. 356, §11.)

1225-104. Sale—Salary of president and trustees.—In all such villages the President and Trustees shall receive an annual salary of $100.00 for their services as such officers. (Apr. 22, 1937, c. 356, §14.)

1225-105. Same.—Change in assessment and population not to affect status.—When a village has once come under the provisions of this Act, it shall continue under its provisions notwithstanding any subsequent change in assessed valuation or population. (Apr. 22, 1937, c. 356, §15.)

1225-106. Same.—Provisions severable.—If any provision hereof is found unconstitutional, such determination shall not affect the validity of the remaining provisions not clearly dependent thereon. (Apr. 22, 1937, c. 356, §16.)


1229. Water and light plants. Village may issue bonds to pay for power house and distributing system and other plant for the purchase of generating equipment to be paid for solely from remains of net profits after paying interest and bond installments. Williams v. L. 187M11, 244 NW58. See Dun. Dig. 6693. Evidence that superintendent of a village electric system had general authority with respect to management thereof is sufficient prima facie to establish his authority to act with respect to a particular matter concerning same. Thelsen v. M., 200M515, 274NW617. See Dun. Dig. 6697. A city accepting water from well for six years was bound by contract price. Where contract was let without a proper call for bids and contained terms not included in call and purported to bind city to abandonment of a certain mine. Chisholm Water Supply Co. v. C., 285 NW895. See Dun. Dig. 6693. Plans and specifications for municipal power plant were sufficiently definite to present an adequate standard to bidders since line, size and location of plant, power plant appearing at open, public meetings, is not evidence that superintendent of a village electric system had general authority with respect to management thereof is sufficient prima facie to establish his authority to act with respect to a particular matter concerning same. Thelsen v. M., 200M515, 274NW617. See Dun. Dig. 6693. Plans and specifications for municipal power plant were sufficiently definite to present an adequate standard to bidders since line, size and location of plant, power plant appearing at open, public meetings, is not evidence that superintendent of a village electric system had general authority with respect to management thereof is sufficient prima facie to establish his authority to act with respect to a particular matter concerning same. Thelsen v. M., 200M515, 274NW617. See Dun. Dig. 6693. Village council had power to determine that bidders should submit bids for entire power plant, generating equipment, and distributing system rather than for separate units thereof, and likewise it could provide that bond covering entire undertaking was to be from excess net earnings of original plant to justify requirement. Davies v. V., 287 NW1. See Dun. Dig. 6693. Village council had power to determine that bidders should submit bids for entire power plant, generating equipment, and distributing system rather than for separate units thereof, and likewise it could provide that bond covering entire undertaking was to be from excess net earnings of original plant to justify requirement. Davies v. V., 287 NW1. See Dun. Dig. 6693. Village council had power to determine that bidders should submit bids for entire power plant, generating equipment, and distributing system rather than for separate units thereof, and likewise it could provide that bond covering entire undertaking was to be from excess net earnings of original plant to justify requirement. Davies v. V., 287 NW1. See Dun. Dig. 6693. Village council had power to determine that bidders should submit bids for entire power plant, generating equipment, and distributing system rather than for separate units thereof, and likewise it could provide that bond covering entire undertaking was to be from excess net earnings of original plant to justify requirement. Davies v. V., 287 NW1. See Dun. Dig. 6693. Village council had power to determine that bidders should submit bids for entire power plant, generating equipment, and distributing system rather than for separate units thereof, and likewise it could provide that bond covering entire undertaking was to be from excess net earnings of original plant to justify requirement. Davies v. V., 287 NW1. See Dun. Dig. 6693. Plans and specifications for municipal power plant were sufficiently definite to present an adequate standard to bidders since line, size and location of plant, power plant appearing at open, public meetings, is not evidence that superintendent of a village electric system had general authority with respect to management thereof is sufficient prima facie to establish his authority to act with respect to a particular matter concerning same. Thelsen v. M., 200M515, 274NW617. See Dun. Dig. 6693.

So long as village council acted freely and independently and for best interests of village, mere fact that it incorporated plans and specifications suggestions advanced by representatives of possible bidders on village power plant appearing at open, public meetings, is not evidence that superintendent of a village electric system had general authority with respect to management thereof is sufficient prima facie to establish his authority to act with respect to a particular matter concerning same. Thelsen v. M., 200M515, 274NW617. See Dun. Dig. 6693. Plans and specifications for municipal power plant were sufficiently definite to present an adequate standard to bidders since line, size and location of plant, power plant appearing at open, public meetings, is not evidence that superintendent of a village electric system had general authority with respect to management thereof is sufficient prima facie to establish his authority to act with respect to a particular matter concerning same. Thelsen v. M., 200M515, 274NW617. See Dun. Dig. 6693. Plans and specifications for municipal power plant were sufficiently definite to present an adequate standard to bidders since line, size and location of plant, power plant appearing at open, public meetings, is not evidence that superintendent of a village electric system had general authority with respect to management thereof is sufficient prima facie to establish his authority to act with respect to a particular matter concerning same. Thelsen v. M., 200M515, 274NW617. See Dun. Dig. 6693.

280
Absent charter or statutory requirement, a resolution of a municipal or county governing body power plant facility shall not be signed, attested and published. Id. See Dun. Dig. 7648.

Where time trac of land was separated from a village by a lake tribe apprising, and a later obtained loan from Eurland Credit Bureau, and state obtained title through foreclosure and later sold the land on a tax sale, but pursuant to section the private purchaser the land became subject to a special levy of paying off the water bonds. Op. Atty. Gen., Sept. 24, 1935.

Under a village resolution authorizing a refund of part of the purchase of a power plant, the refund should be made to the person paying the additional charge and not to a purchaser of the property. Op. Atty. Gen., Sept. 26, 1931.

The Village of Kenyon incorporated under the 1885 Village Law cannot purchase equipment for a power plant or extensions where no bonds are required to issue. Id., No. 1253.

The Village of Kenyon cannot enter into a contract for the construction of electric power equipment of a water plant through a contract stipulating that it is to be paid for out of earnings of the plant. Op. Atty. Gen., July 10, 1931.

Where at time tract of land was separated from a village by a lake tribe apprising, and a later obtained loan from Eurland Credit Bureau, and state obtained title through foreclosure and later sold the land on a tax sale, but pursuant to section the private purchaser the land became subject to a special levy of paying off the water bonds. Op. Atty. Gen., Sept. 24, 1935.

The village council, on its own initiative, passed resolution calling for special election to vote upon construction of power house, but the bond issue must be validated, ratified, approved and confirmed. Op. Atty. Gen., Oct. 10, 1931.

The Village of Kenyon incorporated under the 1885 Village Law cannot purchase equipment for a power plant or extensions where no bonds are required to issue. Id., No. 1253.

The Village of Kenyon incorporated under the 1885 Village Law cannot purchase equipment for a power plant or extensions where no bonds are required to issue. Id., No. 1253.

The Village of Kenyon incorporated under the 1885 Village Law cannot purchase equipment for a power plant or extensions where no bonds are required to issue. Id., No. 1253.

The Village of Kenyon incorporated under the 1885 Village Law cannot purchase equipment for a power plant or extensions where no bonds are required to issue. Id., No. 1253.

The Village of Kenyon incorporated under the 1885 Village Law cannot purchase equipment for a power plant or extensions where no bonds are required to issue. Id., No. 1253.

The Village of Kenyon incorporated under the 1885 Village Law cannot purchase equipment for a power plant or extensions where no bonds are required to issue. Id., No. 1253.

The Village of Kenyon incorporated under the 1885 Village Law cannot purchase equipment for a power plant or extensions where no bonds are required to issue. Id., No. 1253.

The Village of Kenyon incorporated under the 1885 Village Law cannot purchase equipment for a power plant or extensions where no bonds are required to issue. Id., No. 1253.

The Village of Kenyon incorporated under the 1885 Village Law cannot purchase equipment for a power plant or extensions where no bonds are required to issue. Id., No. 1253.

The Village of Kenyon incorporated under the 1885 Village Law cannot purchase equipment for a power plant or extensions where no bonds are required to issue. Id., No. 1253.

The Village of Kenyon incorporated under the 1885 Village Law cannot purchase equipment for a power plant or extensions where no bonds are required to issue. Id., No. 1253.

The Village of Kenyon incorporated under the 1885 Village Law cannot purchase equipment for a power plant or extensions where no bonds are required to issue. Id., No. 1253.

The Village of Kenyon incorporated under the 1885 Village Law cannot purchase equipment for a power plant or extensions where no bonds are required to issue. Id., No. 1253.

The Village of Kenyon incorporated under the 1885 Village Law cannot purchase equipment for a power plant or extensions where no bonds are required to issue. Id., No. 1253.

The Village of Kenyon incorporated under the 1885 Village Law cannot purchase equipment for a power plant or extensions where no bonds are required to issue. Id., No. 1253.

The Village of Kenyon incorporated under the 1885 Village Law cannot purchase equipment for a power plant or extensions where no bonds are required to issue. Id., No. 1253.

The Village of Kenyon incorporated under the 1885 Village Law cannot purchase equipment for a power plant or extensions where no bonds are required to issue. Id., No. 1253.

The Village of Kenyon incorporated under the 1885 Village Law cannot purchase equipment for a power plant or extensions where no bonds are required to issue. Id., No. 1253.

The Village of Kenyon incorporated under the 1885 Village Law cannot purchase equipment for a power plant or extensions where no bonds are required to issue. Id., No. 1253.

The Village of Kenyon incorporated under the 1885 Village Law cannot purchase equipment for a power plant or extensions where no bonds are required to issue. Id., No. 1253.

The Village of Kenyon incorporated under the 1885 Village Law cannot purchase equipment for a power plant or extensions where no bonds are required to issue. Id., No. 1253.

The Village of Kenyon incorporated under the 1885 Village Law cannot purchase equipment for a power plant or extensions where no bonds are required to issue. Id., No. 1253.

The Village of Kenyon incorporated under the 1885 Village Law cannot purchase equipment for a power plant or extensions where no bonds are required to issue. Id., No. 1253.

The Village of Kenyon incorporated under the 1885 Village Law cannot purchase equipment for a power plant or extensions where no bonds are required to issue. Id., No. 1253.

The Village of Kenyon incorporated under the 1885 Village Law cannot purchase equipment for a power plant or extensions where no bonds are required to issue. Id., No. 1253.

The Village of Kenyon incorporated under the 1885 Village Law cannot purchase equipment for a power plant or extensions where no bonds are required to issue. Id., No. 1253.

The Village of Kenyon incorporated under the 1885 Village Law cannot purchase equipment for a power plant or extensions where no bonds are required to issue. Id., No. 1253.

The Village of Kenyon incorporated under the 1885 Village Law cannot purchase equipment for a power plant or extensions where no bonds are required to issue. Id., No. 1253.

The Village of Kenyon incorporated under the 1885 Village Law cannot purchase equipment for a power plant or extensions where no bonds are required to issue. Id., No. 1253.

The Village of Kenyon incorporated under the 1885 Village Law cannot purchase equipment for a power plant or extensions where no bonds are required to issue. Id., No. 1253.

The Village of Kenyon incorporated under the 1885 Village Law cannot purchase equipment for a power plant or extensions where no bonds are required to issue. Id., No. 1253.

The Village of Kenyon incorporated under the 1885 Village Law cannot purchase equipment for a power plant or extensions where no bonds are required to issue. Id., No. 1253.

The Village of Kenyon incorporated under the 1885 Village Law cannot purchase equipment for a power plant or extensions where no bonds are required to issue. Id., No. 1253.

The Village of Kenyon incorporated under the 1885 Village Law cannot purchase equipment for a power plant or extensions where no bonds are required to issue. Id., No. 1253.

The Village of Kenyon incorporated under the 1885 Village Law cannot purchase equipment for a power plant or extensions where no bonds are required to issue. Id., No. 1253.

The Village of Kenyon incorporated under the 1885 Village Law cannot purchase equipment for a power plant or extensions where no bonds are required to issue. Id., No. 1253.

The Village of Kenyon incorporated under the 1885 Village Law cannot purchase equipment for a power plant or extensions where no bonds are required to issue. Id., No. 1253.

The Village of Kenyon incorporated under the 1885 Village Law cannot purchase equipment for a power plant or extensions where no bonds are required to issue. Id., No. 1253.


1247-1. Villages may pay salaries in certain cases.—That in all villages having a population of more than 12,000 and an assessed valuation of more than $50,000,000.00, the village council of such village be authorized to provide for the payment of salaries to the members of the village, light, power and building commission of such village, such salaries to be set by authorized to provide for the payment of salaries to the village recorder (clerk) a statement containing an estimate of the probable cost of supplying such village with the necessary water and light and other services given and rendered to the village for the ensuing year. (G. S. '13, §1234; '15, c. 214, §3; Apr. 15, 1933, c. 250, §2.)

1248. [Repealed].

Explanatory Note—Repealed and re-enacted by Laws 1919, c. 172, §3. The provision as re-enacted is set forth in §1248, Mason's Minn. St. 1927.

1249. [Repealed].

Explanatory Note—Repealed and re-enacted by Laws 1919, chap. 175, §4. See §§1850 to 1857, Mason's Minn. St. 1927.


Lot owner with house four-fifths in village limits was entitled to water connection upon payment of usual charges and assessments, and could not be compelled to have his lot attached to village. Op. Atty. Gen. (624d-2), Aug. 16, 1936.


Legislature did not intend to exclude a village owning and operating its own water and sewer systems from making a necessary and urgent improvement, even though connection with other systems would be available. Op. Atty. Gen. (624d-4), Sept. 16, 1937.

A village ordinance that no building should be erected on any lot or parcel of land within the corporate limits without a permit from the building and fire prevention board is reasonable, and is not for the issuance of building permits. Op. Atty. Gen. (477h-9), Oct. 12, 1938.

1252. Purchase of electrical energy. Village is authorized to purchase electrical energy from a private utility and granted a franchise in any manner and upon such terms and conditions as it shall determine. Op. Atty. Gen. (624c-11), Aug. 8, 1934.

In order to obtain electric light and power company not exclusive in terms does not interfere with or restrict right of city or village to establish, construct, and operate an electric distributing system for the said fund, the village council shall annually at the regular meeting in the month of March adopt a resolution setting aside from the general funds of the village $2,500.00 to be paid to the city or village for the payment of the principal of such warrants at their respective maturities. In addition to the above the village shall enter into an absolute contract to pay certain amount for electrical energy for period not exceeding ten years. Such contract shall be approved by the city council and may be renewed for such period and in such manner as the village council may determine. Op. Atty. Gen. (624c-12), May 14, 1938.
of the village, for park purposes, and such taxes shall be collected with and as a part of other village taxes, and paid into the village treasury and set apart as a village park fund. The board of park commissioners shall have power to expend such park fund, including the proceeds of any such warrants, in the accomplishment of the purposes and for the maintenance and improvement of parks and parkways. All warrants drawn upon such fund shall be accompanied by receipted vouchers, showing the purpose for which the warrant is drawn, and shall be signed by the president of the board and by the controller, and, if demanded, signed by a de- hereof, such condemnation proceedings shall be exercised only under and pursuant to the provisions of the statutes of the State of Minnesota relating to eminent domain. (Act Jan. 9, 1934, Ex. Ses., c. 55, §2.)

1263-3. Same—expense, how paid—levy of tax.—The cost of establishing and maintaining any airport established and maintained in pursuance with the provisions of this act shall be paid from the funds of the water and light department of any such village and if such funds are not sufficient thereto, the council of such village is hereby authorized to levy a tax, upon all taxable property of such village, in an amount sufficient to pay the balance of such costs. (Act Jan. 9, 1934, Ex. Ses., c. 55, §3.)

1263-4. Combined recreational council for village and school district.—Any village to which this act shall apply, which is now authorized by law to expend monies for recreational purposes, which is located within the territorial limits of any independent school district, which district is also authorized by law to expend monies for recreational purposes, may, by resolution passed by such independent school district to form and create a combined recreational council, as hereinafter provided, and with the powers and authority as hereinafter provided. (Jan. 15, 1936, Ex. Ses., c. 29, §1.)

1263-5. Same—creation—membership—powers.—The governing boards of such village and of such independent school district may by resolution adopted by a majority vote of each governing body, create a combined recreational council consisting of two members of such village council and two members of the governing board of such independent school district, to be known as a combined recreational council. Such recreational council so formed shall have authority to maintain recreational activities, but shall have no authority to incur any obligations in connection therewith except as are authorized by the governing bodies of both of such respective municipalities. (Jan. 15, 1936, Ex. Ses., c. 29, §2.)

1263-6. Same—expenditures—budget.—The said village shall not expend more money than it is authorized by law to expend for such purpose and such independent school district shall not expend more money for such purposes than it is authorized to expend, and such combined recreational council shall not be authorized to incur indebtedness in excess of such amounts nor in excess of the amounts as set aside for such purpose by the governing bodies of such village and such independent school district, which bodies are hereby authorized to set apart a budget for such combined expenditures and to designate the proportionate amount of such expenditures to be met by each respective municipality. (Jan. 15, 1936, Ex. Ses., c. 29, §4.)

1264-1. Bonds for funding floating indebtedness.—Act providing for placing certain villages on cash basis through issuance of bonds to fund outstanding indebted- nes. Laws 1921, c. 277, ante, §§1125-15 to 1125-24.

1264-3. Villages may acquire land for park pur- poses by condemnation.—The village council of any village in the state may by resolution or ordinance acquire, by gift, condemnation, or purchase for or in the name of the village, a tract of land, either with- in or without the corporate limits of the village, for park purposes and may appropriate money from the general revenue fund of the village for the purchase of such tract of land, not exceeding the sum of $2,000; and any payment so required by purchase or condemnation shall exceed 80 acres in area. Provided, however, that no village can

283
acquire more than 40 acres unless the question of
issuing bonds for acquiring a park shall have been
submitted to voters of the village prior to January 1,
1936, and carried by more than a five-eighths major-
ity. (19, c. 197, §1; Apr. 17, 1933, c. 519; Jan. 18,
1938, Ex. Sess., c. 41.)

There is no power to purchase land for park on in-
stallment plan, though current tax levy is sufficient to
pay first installment, it being insufficient to pay entire

Admission for bids for purchase of park lands is

Village funds may be appropriated for purchase of
Mar. 5, 1938.

Village may use funds for leasing land for park
Mar. 5, 1938.

This provision is controlling as to villages operating
under the Act of March 28, 1933, ch. 119, §1264-4.

That every paid municipal police department now
maintained, controlled and managed shall be paid
pensions as in the service of the police department of
any such village, and in such amounts and in such man-
ner as its articles of incorporation and constitution
and by-laws shall designate, not exceeding, however,
the following sum per month to each of its pensioned
members, viz:

Seventy-five Dollars ($75.00) per month when
such members shall have reached the age of fifty-
five years or more, and shall have served five years or
more in such department, or their widows and children
under 16 years of age, viz:

Any such paid police department of any village within
the classifications of this act shall become duly in-
corporated as a city of the second, third, or fourth
class, the provisions of this act shall remain in full
force and effect as to such relief associations incorpo-
rated therein. (Act Mar. 9, 1931, c. 48, §1; Mar. 28,
1933, c. 122, §1; Mar. 3, 1935, c. 519, §1; Mar. 17,
1938, c. 519, §1; Mar. 20, 1941, c. 519, §13.)

There is no provision of law for creation of a police
relief association similar to the firemen's relief associa-
31, 1933.
CH. 9—VILLAGES AND CITIES §1264-13

reside together the money herein required to be paid to such children shall be paid to such widow for the support of such children, but that the money paid to such widow for herself and such children shall not exceed $5,000 in any one year or $300 a month in all. Provided further, that in the event of the death of both parents leaving a minor child or children under the age of 16 years of age, entitled to such pension, such sums as may be necessary for the care, maintenance and education of such child or children may be paid to the legal guardian thereof, but not to exceed the sum of $75.00 per month to the children of any one policeman. Provided, further, that in the event that any such widow remarries, she shall receive no further benefits under this law. Each, and every such pension shall have any right to assign the same nor shall said association have the power to recognize any attempted assignment or pay over any sum whatever which has been assigned or attempted to be assigned. (Act Mar. 9, 1931, c. 48, §4.)

1264-10. Not to be subject to process.—No pension allowed or to be allowed by said police relief association under this act shall be subject to judgment, garnishments or executions or other legal process, and all money required to such pension shall have any right to assign the same nor shall said association have the power to recognize any attempted assignment or pay over any sum whatever which has been assigned or attempted to be assigned. (Act Mar. 9, 1931, c. 48, §5.)

1264-11. Association to have control of pension fund.—Subdivision 1. Said association through its officers shall have full charge, management and control of the pension fund herein provided for, which said fund shall be derived from the sources stated from a sum equal to two per cent of such monthly pay and to place the same to the credit of said police pension fund; it shall also be the duty of every police officer receiving any reward for services, in addition to the salary paid to him by the city, pay into such pension fund all such rewards, and it shall be the duty of the chief of police of any such village to place to the credit of and pay into such police pension fund all moneys coming into the hands of the police when the same shall have been unclaimed for a period of six months, and to sell all unclaimed property coming into the hands of the police when the same shall have been unclaimed for a period of six months, and place the proceeds thereof to the credit of said police pension fund.

Subd. 2. The village council or other governing body of such city shall each year, at the time the tax levies are made and provided for the general revenue levies within the limits now permitted by law, a tax of not less than one-fifth of a mill on all the taxable property of such village, the amount of which tax shall not in the aggregate exceed the sum of $6,000 per annum, and which levy shall be transmitted to the county auditor of the county in which the village is situated at the time the other tax levies are transmitted and shall be collected and the payment thereof shall be enforced in the same manner as the other taxes of such village. The village treasurer, when the moneys derived from such tax are received by him, shall credit the same to the Police Pension Fund, together with all penalties in the same manner as the other taxes of such village. From gifts of real estate or personal property, and from the rents and sales thereof or the income therefrom. It shall also be the duty of the village recorder, treasurer or other disbursing officer of such village where a police relief association has been duly incorporated and organized under the provisions of this Act, to deduct each month from the monthly pay of each member of such police department who is a member of the association provided for herein stated, from a sum equal to two per cent of such monthly pay and to place the same to the credit of said police pension fund; it shall also be the duty of every police officer receiving any reward for services, in addition to the salary paid to him by the city, pay into such pension fund all such rewards, and it shall be the duty of the chief of police of any such village to place to the credit of and pay into such police pension fund all moneys coming into the hands of the police when the same shall have been unclaimed for a period of six months, and to sell all unclaimed property coming into the hands of the police when the same shall have been unclaimed for a period of six months, and place the proceeds thereof to the credit of said police pension fund.

Subd. 3. If at any time the balance on hand of the fund so raised by taxation as in this section provided, together with any other resources, exceeds the sum of $50,000, then as often as this shall occur the levy of such sums shall be omitted for any year in which said condition shall exist, and if at any time the whole amount of the sums that may be raised by taxation in any year is not needed for the purposes of this Act and the maintenance of the said fund at $50,000 then said sum so to be raised by taxation in any such year shall be proportionately reduced to such amount as will be sufficient to carry out the provisions thereof.

Subd. 4. The village treasurer shall, upon written direction of the governing board or Board of Directors of the association, said fund shall be invested in such interest bearing securities as are specified from time to time by the said Board of Directors, provided that the same shall be such securities as are prescribed from time to time by the statutes of Minnesota as securities for investments of the State Board of Investment. (Act Mar. 9, 1931, c. 48, §6; Mar. 28, 1933, c. 122, §§2, 4, Apr. 20, 1939, c. 304.)

1264-12. Board of directors.—The governing board or Board of Directors of said association then incorporated shall consist of five members, to be elected annually, who shall first hold their office for one, two, three, four and five years, respectively, and thereafter each for a five-year term, or until the successor of each is duly elected and qualified, who shall serve without compensation and shall be active members of said Paid Police Department, and the Mayor or President and Village Treasurer shall be ex-officio members of said Board, and the Village Treasurer shall be the custodian of all funds of said association and shall disburse the same directed by said Board. The said Village Treasurer shall give bond to the Board of Trustees in an amount not less than the total balance of funds owned and belonging to such relief association as shown by its last annual statement, conditioned for the faithful discharge of his duties, and for the payment without delay of the officer or persons entitled by law, thereto, all money belonging to said relief association, which shall come into his hands by virtue thereof, provided that the premium for said bond may be paid by the said Board of Trustees out of the special fund of said association. All vacancies occurring in the elective membership of said Board shall be filled by a special election called for that purpose. None of said members shall be eligible to vote upon any question relating to his benefits hereunder. (Act Mar. 9, 1931, c. 48, §7; Mar. 28, 1933, c. 122, §3.)

1264-13. Board to file report.—The said Governing Board of said Association shall file annually on or before the 1st day of September of each year with the Recorder of said Village a detailed report of the amount of money or property so received, expended and still remaining on hand to the credit of said fund. The books and records of said Board shall be open to inspection and audit by any taxpayer of said Village or his duly authorized representative. (Act Mar. 9, 1931, c. 48, §8.)

1264-13 1/4. Firemen's pension in certain villages.—In any village having a population in excess of 5,000 and a valuation in excess of $8,000,000, exclusive of moneys and credits, and having a Fire Department Relief Association, said fund shall be maintained by this state and authorized to pay pensions under Ma—
son's Minnesota Statutes of 1927, Sections 1919 and 1920 and Sections 3723-3728, inclusive, or any amendments thereof, such Fire Department Relief Association may pay retirement pensions in excess of the amounts authorized by said Statutes, but not in excess of the following total amounts:

$75.00 per month to each member of the Association who shall have reached the age of 55 years and shall have served 30 years or more as a member of the paid municipal fire department in such village. The monthly payments of $75.00 may be increased by adding thereto an amount not exceeding three dollars per month for each year of active duty over 20 years of service before retiring; provided, that no such pension shall be authorized in any certificate of indebtedness of such village, regardless of its amount, and any such certificate shall be void to the extent of the amount of such pension.

No person shall be paid to any person while receiving a pension as provided in this act an amount not exceeding three dollars per month. No such pension shall be paid to any member of the Fire Department of a village while receiving a pension hereunder. (Act Apr. 15, 1935, c. 192, §1.)

Limitation.—No pension authorized by this act shall be paid to any person while receiving a pension in any form, or sick benefits, from any state, county, city, village, township or other political subdivision of the state, or to any person after he removes his residence from the United States, or to any person who shall have been convicted of a felony for which he shall have been adjudged to be imprisoned, or for a period of one year in which by reason of illness, drunkenness or otherwise, no such person receiving a pension or sick relief from any other public relief association, and no person receiving such pension shall be entitled to any other relief from the association. (Act Apr. 15, 1935, c. 192, §2.)

Maximum pay benefits.—Nothing herein shall be construed as preventing any such association from paying any benefits other than service pensions which they may be authorized to pay to members of the association under the General Laws of this state or the laws referred to, except that the boards of directors of all fire departments of any such village, regardless of its amount, and any such certificate shall be void to the extent of the amount of such pension.

Not to be subject to process.—No pension allowed or to be allowed by any Firemen's Relief Association under this act, and no accumulated contributions of members to the fund hereinafter referred to, shall be subject to judgment, garnishments, or executions or other legal process, and no person entitled thereto shall have any right to assign the same or any part thereof to any person without the consent of the association having the power to recognize any attempted assignment or pay over any sum whatever which has been assigned or attempted to be assigned. (Act Apr. 15, 1935, c. 192, §3.)

Deductions from pay.—Tax levy.—Premium on bonds of treasurer and secretary.—Investment of surplus.—In addition to the moneys in the special fund of said association provided to be raised therefor under existing laws for the payment of pensions and other benefits, revenues from the following sources shall be paid to said special fund: to wit: It shall be the duty of the village recorder, treasurer or other disbursing officer of such village to deduct each month from the monthly pay of each member of the paid department without a deduction from the special fund a sum equal to three and one-half per cent of such monthly pay, and to place the same to the credit of said special fund. The village council or other governing body of such village shall each year, at the time the tax levies are made for the general revenues of the village, levy, within the per capita or mill limitations now permitted by law, a tax in the amount of a sum one and one-half times the total balance of funds owned and belonging to such relief association as shown by its last annual statement conditioned for the faithful discharge of his duties during his continuance in office and for the payment with interest of such indebtedness as may be authorized by law therefor, of all moneys belonging to said relief association which shall come into his hands by virtue thereof. All vacancies occurring in such an office during the time such vacant office shall be considered in acting therefor, of all moneys belonging to said relief association which shall come into his hands by virtue thereof. All vacancies occurring in the elective membership of said board shall be considered in acting therefor, and no accumulated contributions of members to the fund hereinafter referred to shall be subject to judgment, garnishments, or executions or other legal process, and no person entitled thereto shall have any right to assign the same or any part thereof to any person without the consent of the association having the power to recognize any attempted assignment or pay over any sum whatever which has been assigned or attempted to be assigned. (Act Apr. 15, 1935, c. 192, §4.)

To make annual reports.—The said governing board or board of directors of said association whether herefore or hereafter incorporated shall consist of five members, to be elected annually, who shall first hold their office for one, two, three, four and five years, respectively, and thereafter each term of office of each shall be for a term of three years, or until the successor of each is duly elected and qualified, who shall serve without compensation and shall be active members of said paid fire department, the Mayor, Recorder or Clerk, and Chief of said Department shall be ex officio members of said board. The treasurer of said association shall give bond to the Board of Trustees in an amount not less than the total balance of funds owned and belonging to such relief association as shown by its last annual statement conditioned for the faithful discharge of his duties during his continuance in office and for the payment with interest of such indebtedness as may be authorized by law therefor, of all moneys belonging to said relief association which shall come into his hands by virtue thereof. All vacancies occurring in the elective membership of said board shall be considered in acting therefor, and no accumulated contributions of members to the fund hereinafter referred to shall be subject to judgment, garnishments, or executions or other legal process, and no person entitled thereto shall have any right to assign the same or any part thereof to any person without the consent of the association having the power to recognize any attempted assignment or pay over any sum whatever which has been assigned or attempted to be assigned. (Act Apr. 15, 1935, c. 192, §5.)

To raise funds.—The bonds and notes of such fund shall be open to inspection and audit by any taxpayer of said
village or his duly authorized representative. (Act Apr. 15, 1935, c. 192, §9.)

1264—1331. Act to remain in force.—If after the adoption and approval of this act any village subject to the terms hereof shall adopt a home rule charter, or shall become incorporated as a city, the provisions of this act shall remain in full force and effect as to said city and the Firemen’s Relief Association incorporated therein. (Act Apr. 15, 1935, c. 192, §10.)

1264—1331. Accumulated deductions to be repaid in certain cases.—Whenever a member of said association shall cease to be a member of said department, for any reason other than death or retirement, he shall be entitled to receive, on demand, one lump sum of the accumulated deductions from his pay standing to his credit. Whenever any member shall die without having received a pension, or without having received in pension payments an amount equal to the total amount of the accumulated deductions from his salary herefore provided for, the full amount of such accumulated deductions, less such pension payments, if any, as have been made to said member shall be paid in one lump sum to the beneficiary or beneficiaries designated by such member, or if none, to the legal representatives of such member; provided, however, if no valid claim is established therefor, such accumulated deductions shall remain with and become the property of said association. Provided, further, that if any member shall pay any regular payment for sick relief or hospitalization while a member of said Department under any plan approved by the association, such amount may be deducted from the 31/2 per cent of the member’s salary herefore mentioned. No member shall be entitled to interest upon deductions under the provisions of this paragraph. (Act Apr. 15, 1935, c. 192, §11.)

1264—1331. Certain villages may transfer monies from one fund to another.—Within the options of the Village Council in any village of this state, having a population of not less than 700 nor more than 800 according to the U. S. Government census of 1930, and a total tax valuation not more than $325,000, an act adopted and approved by a vote of not less than five in every seven votes cast, but not oftener than once in five years, for the purposes for which such fund was created, shall take effect and be in force from and after its passage. (Act Jan. 18, 1936, Sp. Sess., Laws 1935, c. 222, §1.)

1264—1331. Certain warrants and certificates of indebtedness validated.—That all warrants, orders, or certificates of indebtedness drawn and issued or obligations incurred or contracted by any village in this state having more than 8,000 and less than 9,000 assessed valuation, exclusive of moneys and credits, of villages between 2,500 and 3,000 population, with assessed valuation of not less than $1,500,000 to 52,000,000, 70 per cent of which is iron ore. It is hereby declared and declared valid obligations of said village. (Act Apr. 13, 1933, c. 222, §1.)

Sec. 2 of Act Apr. 13, 1933, cited, provides that the act shall take effect from its passage. (Act Apr. 24, 1937, c. 405, legalizes payments incident to construction of sewers.

STATUTES RELATING TO VILLAGES IN GENERAL

Act Mar. 9, 1933, c. 75, relates to the financial affairs of villages between 2,500 and 3,000 population, with assessed valuation exclusive of moneys and credits of more than $5,000,000 to 25,000,000. It is omitted as of local application only.

Per capita village police operating under laws 1885, c. 146, on cash basis may not levy taxes in excess of one per cent of its assessed valuation. (Act Apr. 15, 1933, c. 72, §6.)

Village CITIES

1268. Home rule charters.—Patrol limits.—Sale of intoxicating liquors in first class cities.—Prescribing areas.—Any city or village in the state of Minnesota, whenever incorporated, may frame a city charter for its own government in the manner hereinafter provided, that in such cities having patrol limits or districts or areas established by charter, outside of which intoxicating liquors may not be sold, such patrol limits or districts or areas may be altered by an amendment to the Home Rule Charter adopted by a three-fifths vote of the qualified voters of such city.

In any city of the first class, notwithstanding the provisions of its Home Rule Charter prescribing or fixing an area or areas in such city where intoxicating liquors may or may not be sold, it shall be lawful to sell intoxicating liquors as hereinafter provided when such sale of intoxicating liquors is duly licensed and regulated as provided by law, and the common council or other governing body of such city shall have power subject to the provisions of general laws regulating the sale of intoxicating liquors applicable to such cities, by a vote of three-fourths of the members thereof to prescribe areas from time to time but not oftener than once in five years for the sale of intoxicating liquors may be sold, provided, however, that the areas or districts so prescribed and fixed shall be confined to the industrial and commercial sections of such city as now existing, and provided that no such area or district having less than a width of two thousand feet (2000) shall be established. (R. L. '05, §748, 97, c. 375, §1; G. S. '13, §1342; Jan. 9, 1934, Ex. Ses., Laws 1933, c. 82, §1.)


1268-1. Same—powers additional.—The powers herein granted are in addition to powers now possessed by such cities under the provisions of Home Rule Charters and shall not limit or restrict such powers. (Act Jan. 9, 1934, Ex. Ses., c. 82, §2.)

1268-2. Same—repeal—territory added by special act.—All Acts or parts of Acts inconsistent herewith and hereby repealed or that the provisions of this Act shall not apply to territory added by any such city by special act which provided that intoxicating liquors should not be sold in such territory. (Act Jan. 9, 1934, Ex. Ses., c. 82, §3.)

1268-3. Same—effective date—duration.—This Act shall take effect and be in force from and after its passage and until ninety (90) days after the next general state election. (Act Jan. 9, 1934, Ex. Ses., c. 82, §4.)

1269. Board of freeholders.

Existence of freehold population is not a condition precedent to incorporation or reincorporation of a municipality. State v. City of Eraser, 191 Minn. 27, 264 N.W. 776. See Dun. Dig. 6532, 6543.

Members of a city charter election are not to be considered so long as their actions are within the law. See Dun. Dig. 6532, 6543.

A freeholder in holding title to real estate, however small its value. See Dun. Dig. 6568.

Even if member of board of freeholders is not a freeholder, his acts are valid as those of a de facto officer. See Dun. Dig. 6568.

Board of freeholders.

2070. Compensation—Expenses.

Expenses of preparation and submission of a charter, including legal services in connection therewith must be kept within $500 limit. (Op. Atty. Gen., July 1, 1932.)
1275. Framing charter.

The city of White Bear has authority under its home rule charter to adopt a charter based on the annexation of land outside its corporate limits, as a sewage disposal plant, notwithstanding Sp. Laws 1881, c. 410, 172M352, 214NW380.

Minneapolis is authorized to levy a lien on adjoining owners to secure payment for making excavation so as to protect walls on the adjoining property held invalid. 172M428, 210NW409.

Provision in home rule charter of Waseca that "no finer judgment rendered by the city shall be remitted to one charter by the common council, and with the approval of the mayor" is valid. Op. Atty. Gen., June 10, 1921.

City charter of Brainerd cannot regulate the employment of attorneys by the school district, which is not an exclusive part of the city government. Op. Atty. Gen., June 10, 1921.


County board of Hennepin county may issue license to Minneapolis Park Board to allow golf course to be used as private golf course by members of club making gift. Op. Atty. Gen. (612f), Aug. 3, 1934.

City of Duluth may adopt ordinance declaring sewage disposal plants to be a public utility and issue a bond for payment of same payable out of rates charged for use of such plants, without an election, and sell them to the state. Op. Atty. Gen. (387b-9), Sept. 23, 1937.

City of Mankato, at no time, had power to grant a perpetual electric franchise. Op. Atty. Gen., Dec. 8, 1931.

A village cannot avoid electric franchise for irregularities in the granting thereof where it has accepted the benefits thereof for a number of years, but the granting of one franchise does not prevent the granting of another franchise to other parties or the purchase of electric energy from another city, unless the first utility has been expressly given exclusive right. Op. Atty. Gen. (59b-11), Aug. 30, 1935.

Municipal regulation of public utilities in Minnesota. 16MinnLawRev461.

1276. Bonded indebtedness.

An outline of municipal bond procedure in Minnesota.

City of Duluth may adopt ordinance declaring sewage disposal plants to be a public utility and issue a bond for payment of same payable out of rates charged for use of such plants, without an election, and sell them to the state. Op. Atty. Gen. (387b-9), Sept. 23, 1937.

Regulation of franchises.

City of Mankato, at no time, had power to grant a perpetual electric franchise. Op. Atty. Gen., Dec. 8, 1931.

A village cannot avoid electric franchise for irregularities in the granting thereof where it has accepted the benefits thereof for a number of years, but the granting of one franchise does not prevent the granting of another franchise to other parties or the purchase of electric energy from another city, unless the first utility has been expressly given exclusive right. Op. Atty. Gen. (59b-11), Aug. 30, 1935.


Municipal regulation of public utilities in Minnesota. 16MinnLawRev461.


Special election on proposed city charter for village of Duluth as state-wide public utility bond was entire separate, and polls should remain open from nine A. M. until nine P. M. though no person could vote at primary after eight P. M. Op. Atty. Gen., June 15, 1933.

1285.1 Election validated.—That in all cases where an election has been held upon the question of the adoption of a charter pursuant to article 4, section 36, of the constitution, and notice of such election, properly stating the time, place and object thereof, was posted for more than 15 days prior thereto, but said notice was dated and first posted prior to the time the election was ordered by the governing body of the municipality, and where white ballots were used instead of lavender colored ballots as authorized in such a case, where a sample of said ballott was not published for one week in the official newspaper, but the proposed charter was so published, and said charter was therefore duly adopted at said election, all such proceedings for the adoption of the charter are hereby legalized and validated as again set forth in the following objections: (a) that the notice of election was posted before the election was ordered by the governing body; (b) that the ballots used were white in color; (c) that a sample ballot was not published for one week prior to the election in the official newspaper. (Act Apr. 13, 1931, c. 145.)

1286. Amendments to home rule charters—Petition—Election. Subdivision 1. Proposal on petition.—The board of freeholders may propose amendments to such charter, and shall do so upon the petition of five per cent of the voters of the city. All petitions circulated with respect to a charter amendment shall be uniform in character and shall have attached thereto the text of the proposed amendment in full; except that in the case of a proposed amendment containing more than one thousand words, a true and correct copy of the same may be filed with the city clerk, and the petition shall then contain a summary of not less than 56 nor more than 300 words setting forth in brief the material facts of the proposed amendment. Such summary shall contain a statement of the objects and purposes of the amendment proposed, and an outline of any proposed new scheme or frame of work of government and shall be sufficient to inform the signers of the petition as to what change in government is sought to be accomplished by the amendment. The summary, together with a copy of the proposed amendment shall first be submitted to the charter commission for its approval as to form and substance, the commission shall within ten days after such submission to it, return the same to the proposers of the amendment with such modifications in statement as it may deem necessary in order that the summary may fairly comply with the requirements above set forth.

Subdivision 2. Petitions—Signature—Affidavit.—The signatures to such petition need not all be appended to one paper, but to each separate petition there shall be attached an affidavit of the circulator thereof as provided by this section. Each signer of any such petition paper shall sign his name in ink or indelible pencil and shall indicate after his name his place of residence by street and number, or other description sufficient to identify the place. There shall appear on each petition the names and addresses of five electors of the city, and on each paper the names and addresses of the same five electors, who, as a committee of the petitioners, shall be regarded as responsible for the circulation and filing of the petition. The affidavit attached to each petition shall be as follows:

State of ____________________________
County of ____________________________

I, ____________________________, being duly sworn, declare and say that he, and he only, personally circulated the foregoing paper, that all the signatures appended thereto were made in his presence, and that he believes them to be the genuine signatures of the persons whose names they purport to be.

Signed ____________________________
(Signature of Circulator)

Subscribed and sworn to before me this ______ day of ___________19
Notary Public (or other officer)
authorized to administer oaths
The foregoing affidavit shall be strictly construed and any affidavit convicted of swearing falsely as regards any particular thereof shall be punishable in accordance with existing law.

Subdivision 3. Examination and certification by city clerk—Separate papers assembled as one petition—Amendment of petition—New petition.—All petition papers for a proposed amendment shall be assembled and filed with the charter commission as one instrument. Within ten days after such petition is transmitted to the city council, the city clerk shall determine whether each paper of the petition is properly executed and who is properly signed, and shall declare whether the signed paper is sufficient in number of voters. The city clerk shall declare any petition paper entirely invalid which is not attested by the circulator thereof as required in this section. Upon completion of the examination, the city clerk shall certify the result of his examination to the council. If he shall certify that
the petition is insufficient, he shall set forth in his certificate the particulars in which it is defective and shall at once notify the committee of the petitioners of his findings. A petition may be amended at any time within ten days after the date of filing of a certificate of insufficiency by the city clerk, by filing a supplemental petition upon additional papers signed and filed as provided in case of an original petition. The city clerk shall within five days after such amendment is made, notify the committee of the petitioners of his findings and no further action shall be had on such amendment unless the city clerk shall show the petition still to be insufficient, he shall file it in his office and notify the committee of the petitioners of his findings and no further action shall be had on such amendment. The finding of the insufficiency of a petition shall not prejudice the filing of a new petition for the same purpose.

Subdivision 4. Publication of proposed amendments — Ballots — Three-fifths vote. — Amendments shall be submitted as in the case of the original charter, and the proposal shall be published for at least 30 days in not exceeding three newspapers of general circulation in such city. The form of ballot and mode of voting shall be similar to those used upon the adoption of the original charter, the general nature of each amendment being briefly indicated. If three-fifths of those lawfully voting at such election shall declare in favor of any amendment so proposed, the amendment so declared, & recommend and recognize, shall take effect, as in the case of the original charter, provided that, if it be proposed that any amendment shall take effect at a specified time, it shall take effect as proposed. (As amended Apr. 17, 1939, c. 29.)

Laws 1925, c. 91. Validation of charter amendment. Submission of Charter Amendment No. 8 to voters of Minneapolis, Minn., Aug. 12, 1925. In the present case, it was not so designated by city council. Government, city charter, Dug. 8714. See Dun. Dig. 9542.

Blank ballots at special election were properly rejected by trial court in computing total number of votes present at special election on charter amendment. Op. Atty. Gen., July 31, 1931.

Amendments authorizing publication of bond coupon and publication of proposed charter amendments once each week for a period of 30 days in a weekly newspaper, and to deposit same shall be certified, deposited and recorded, and if the proposition is rejected by the vote of the people, the same shall be certified, deposited and recorded without any change, as in the case of the original charter, without publication, does not violate Const. art. 4, §36. Op. Atty. Gen., July 31, 1931.


1930. [Repealed]

Repealed by Laws 1929, c. 185.

1310% DECISIONS RELATING TO CITIES IN GENERAL

City flushing street was engaged in corporate function and was liable for negligence. 174M184, 218NW892.

The rule that, where a city receives supplies of property and uses them, it may be held liable for the reasonable value thereof, does not apply where there has been no material use and no one having authority has taken any part in the matter and prompt objection has been taken by taxpayers. 177M44, 224NW261.

The existence and amount of benefits resulting from a local improvement in a city are legislative questions on which the judgment of the local legislative body must prevail, unless demonstrably wrong. Third Street Widening, 185M170, 240NW355. See Dun. Dig. 6261(87).

Rule of assessment properly ignoring both use and value to the person assessed, does not apply where there has been no material use and no one having authority has taken any part in the matter and prompt objection has been taken by taxpayers. 177M44, 224NW261.

City Clerk furnishing a certificate showing no special amendments on proposed charter, and charter, without publication, does not violate Const. art. 4, §36. Op. Atty. Gen., July 31, 1931.

City Clerk furnishing a certificate showing no special amendments on proposed charter, must be published once each week in weekly papers and daily in daily papers. Op. Atty. Gen., Jan. 12, 1933.

Evidence held to sustain finding of negligence of city and contractor leaving ridge across street, resulting in injury to automobile, Hofmann v. C., 187M320, 245NW373. See Dun. Dig. 6261(87).

There was no issue for jury upon contributory negligence of plaintiff, who was riding as a guest in an automobile which was injured on account of water on roadway caused by acts of city. Hofmann v. C., 187M326, 245NW373. See Dun. Dig. 6812, 6836.

Where excavation and ridge in street were made by contractor under direct supervision of city inspector, both were negligent if either was negligent. See, Hofmann v. C., 187M320, 245NW373. See Dun. Dig. 6812, 6836.

Where excavation and ridge in street were made by contractor under direct supervision of city inspector, both were negligent if either was negligent. See, Hofmann v. C., 187M320, 245NW373. See Dun. Dig. 6812, 6836.

Where excavation and ridge in street were made by contractor under direct supervision of city inspector, both were negligent if either was negligent. See, Hofmann v. C., 187M320, 245NW373. See Dun. Dig. 6812, 6836.

Where excavation and ridge in street were made by contractor under direct supervision of city inspector, both were negligent if either was negligent. See, Hofmann v. C., 187M320, 245NW373. See Dun. Dig. 6812, 6836.

Where excavation and ridge in street were made by contractor under direct supervision of city inspector, both were negligent if either was negligent. See, Hofmann v. C., 187M320, 245NW373. See Dun. Dig. 6812, 6836.

Where excavation and ridge in street were made by contractor under direct supervision of city inspector, both were negligent if either was negligent. See, Hofmann v. C., 187M320, 245NW373. See Dun. Dig. 6812, 6836.

Where excavation and ridge in street were made by contractor under direct supervision of city inspector, both were negligent if either was negligent. See, Hofmann v. C., 187M320, 245NW373. See Dun. Dig. 6812, 6836.

Where excavation and ridge in street were made by contractor under direct supervision of city inspector, both were negligent if either was negligent. See, Hofmann v. C., 187M320, 245NW373. See Dun. Dig. 6812, 6836.

Where excavation and ridge in street were made by contractor under direct supervision of city inspector, both were negligent if either was negligent. See, Hofmann v. C., 187M320, 245NW373. See Dun. Dig. 6812, 6836.

Where excavation and ridge in street were made by contractor under direct supervision of city inspector, both were negligent if either was negligent. See, Hofmann v. C., 187M320, 245NW373. See Dun. Dig. 6812, 6836.

Where excavation and ridge in street were made by contractor under direct supervision of city inspector, both were negligent if either was negligent. See, Hofmann v. C., 187M320, 245NW373. See Dun. Dig. 6812, 6836.

Where excavation and ridge in street were made by contractor under direct supervision of city inspector, both were negligent if either was negligent. See, Hofmann v. C., 187M320, 245NW373. See Dun. Dig. 6812, 6836.

Where excavation and ridge in street were made by contractor under direct supervision of city inspector, both were negligent if either was negligent. See, Hofmann v. C., 187M320, 245NW373. See Dun. Dig. 6812, 6836.

Where excavation and ridge in street were made by contractor under direct supervision of city inspector, both were negligent if either was negligent. See, Hofmann v. C., 187M320, 245NW373. See Dun. Dig. 6812, 6836.

Where excavation and ridge in street were made by contractor under direct supervision of city inspector, both were negligent if either was negligent. See, Hofmann v. C., 187M320, 245NW373. See Dun. Dig. 6812, 6836.

Where excavation and ridge in street were made by contractor under direct supervision of city inspector, both were negligent if either was negligent. See, Hofmann v. C., 187M320, 245NW373. See Dun. Dig. 6812, 6836.
or proprietary powers and not its governmental or public powers as affecting liability for negligence of nurse. Borwe v. C., 1903394, 251NW15. See Dun. Dig. 6808.

Evidence justified finding village liable for injuries inflicted when balcony railing insecutively gave way and fell, with some of the spectators, upon plaintiff engaged building. For defense that it functioned governmental in maintaining such building for health and recreation in the park. Mares v. S., 214M388, 251NW262. See Dun. Dig. 6889.

Where snow accumulated on cornice of building during night and melted next day and formed strip of ice upon abutting sidewalk, at time pedestrian was in motion ahead of building, city not held liable for failure to give notice of the presence of ice upon walk. Meyer v. C., 191M343, 264NW204. See Dun. Dig. 6894.

In action for injuries to pedestrian from ice on sidewalk, formed during day of accident, evidence to show that ice which existed were formed every winter regularly for a number of years was properly attributed to its wear, as affecting constructive notice to city.

In considering liability for ice and snow on public sidewalks, temperature, age of snow and sidewalks in a safe and reasonable condition beyond what is reasonable, in view of prevailing climatic conditions. L. & N. 

Rights and liabilities of a municipality in respect to water surface are the same as those of a private landowner. City of St. Paul v. K., 194M382, 255NW267. See Dun. Dig. 6801.

Where measure is passed, and not all of those originally elected, to city officers and employees used, word as equivalent of "pay". Borwe v. C., 193M390, 254NW597. See Dun. Dig. 6825, 6840.

Burden of proof of conditions which justify a finding that an ordinance fixing minimum taxi fares is beyond power of municipal corporation as a sovereign body. City of St. Paul v. C., 194M386, 255NW266. See Dun. Dig. 6809.

Where charter or statutory provision requires an affirmative vote of a majority of all members of council, both present and voting and those voting or subsequently elected, to city. Id. See Dun. Dig. 6794.

A prosecution for a violation of a municipal ordinance requiring person, in the course of his delivery of merchandise goods, to cover cost of issuing it, services of officers, and other items of municipal expenses. State v. Clousing, 285NW711. See Dun. Dig. 6795.

It is incumbent upon a municipality to exercise reasonable care and diligence to keep and maintain its sidewalks and streets in a safe and reasonable condition for public use and travel, including protection from falling objects, but city is not an insurer of safety and is not liable for injuries sustained by a pedestrian by falling of a defective cornice. City of St. Paul v. K., 191M343, 264NW212. See Dun. Dig. 6810.

Doctrine of res ipsa loquitur did not apply against a city, in favor of a pedestrian injured by falling of defective cornice on sidewalk. Id. See Dun. Dig. 6818.

In action by landowner against village, evidence held to support jury's verdict that defendant city was legally responsible for constructing its street without making reasonable provision for the disposal of snow, and snow was a nuisance due to winter regularly for a number of years was properly attributed to its wear, as affecting constructive notice to city. Id. See Dun. Dig. 6822, 10172.

Where snow accumulated on cornice of building during night and melted next day and formed strip of ice upon abutting sidewalk, at time pedestrian was in motion ahead of building, city not held liable for failure to give notice of the presence of ice upon walk. Meyer v. C., 191M343, 264NW204. See Dun. Dig. 6894.

Where a charter or statute provides that vote of a majority of all members of council in existence at time vote is taken is required to give effect to a contract entered into by council is contract of corporation. Id. See Dun. Dig. 6700.

While personnel and membership of city council or governing board change, municipal corporation continues unchanged and a contract entered into by council is contract of corporation. Id. See Dun. Dig. 6709.

Whether city exercised such control over WPA employees engaged in blacktopping city streets as to justify application of doctrine of res ipse loquitur. Hughes v. C., 261M411, 281NW1. See Dun. Dig. 6855.

City ordinance prohibiting placing, leaving, throwing, dropping or scattering any material on sidewalks created no obligation in fruit company abutting on sidewalk upon which a customer accidentally dropped a visor cap which tripped and injured a pedestrian, though officials of fruit company noticed cap but did not remove it. O'Hara v. C., 195M394, 251NW915. See Dun. Dig. 6858.

Whether a municipality unreasonably refuses to render public utility service. Burford v. C., 190M394, 251NW256. See Dun. Dig. 6865.

Evidence held to support jury's verdict that defendant city was legally responsible for constructing its street without making reasonable provision for the disposal of snow, and snow was a nuisance due to winter regularly for a number of years was properly attributed to its wear, as affecting constructive notice to city. Id. See Dun. Dig. 6822, 10172.

Burden of proof of conditions which justify a finding that an ordinance fixing minimum taxi fares is beyond power of municipal corporation as a sovereign body. City of St. Paul v. C., 194M386, 255NW266. See Dun. Dig. 6809.

Where charter or statutory provision requires an affirmative vote of a majority of all members of council, both present and voting and those voting or subsequently elected, to city. Id. See Dun. Dig. 6794.

A prosecution for a violation of a municipal ordinance requiring person, in the course of his delivery of merchandise goods, to cover cost of issuing it, services of officers, and other items of municipal expenses. State v. Clousing, 285NW711. See Dun. Dig. 6795.

It is incumbent upon a municipality to exercise reasonable care and diligence to keep and maintain its sidewalks and streets in a safe and reasonable condition for public use and travel, including protection from falling objects, but city is not an insurer of safety and is not liable for injuries sustained by a pedestrian by falling of a defective cornice. City of St. Paul v. K., 191M343, 264NW212. See Dun. Dig. 6810.

Doctrine of res ipsa loquitur did not apply against a city, in favor of a pedestrian injured by falling of defective cornice on sidewalk. Id. See Dun. Dig. 6818.

In action by landowner against village, evidence held to support jury's verdict that defendant city was legally responsible for constructing its street without making reasonable provision for the disposal of snow, and snow was a nuisance due to winter regularly for a number of years was properly attributed to its wear, as affecting constructive notice to city. Id. See Dun. Dig. 6822, 10172.

Where snow accumulated on cornice of building during night and melted next day and formed strip of ice upon abutting sidewalk, at time pedestrian was in motion ahead of building, city not held liable for failure to give notice of the presence of ice upon walk. Meyer v. C., 191M343, 264NW204. See Dun. Dig. 6894.

Where a charter or statute provides that vote of a majority of all members of council in existence at time vote is taken is required to give effect to a contract entered into by council is contract of corporation. Id. See Dun. Dig. 6700.

While personnel and membership of city council or governing board change, municipal corporation continues unchanged and a contract entered into by council is contract of corporation. Id. See Dun. Dig. 6709.

Whether city exercised such control over WPA employees engaged in blacktopping city streets as to justify application of doctrine of res ipse loquitur. Hughes v. C., 261M411, 281NW1. See Dun. Dig. 6855.

City ordinance prohibiting placing, leaving, throwing, dropping or scattering any material on sidewalks created no obligation in fruit company abutting on sidewalk upon which a customer accidentally dropped a visor cap which tripped and injured a pedestrian, though officials of fruit company noticed cap but did not remove it. O'Hara v. C., 195M394, 251NW915. See Dun. Dig. 6858.

Whether a municipality unreasonably refuses to render public utility service. Burford v. C., 190M394, 251NW256. See Dun. Dig. 6865.
supervision of a licensee or engaged in applying plaster on a job covering less than 100 square yards to do so without a license held not to be so discriminatory as to violate charter of New Ulm. Op. Atty. Gen., July 11, 1933.

In absence of fraud or illegality, a municipality is estopped to deny validity to contract to perform on a job covering less than 100 square yards to do so in performance which will result in substantial loss it is held not to be necessary for a municipality to maintain a proper manner, has accepted performance for a contract in a proper manner, has accepted performance for which but for its exercise of due care. Op. Atty. Gen., Aug. 20, 1931.


City furnishing services of fire department outside limits is acting in governmental capacity as affecting public utility and is not liable for negligence of its officers or agents, but it is held in absence of statutory or charter authority, and could not establish dealers or extract an unreasonable license fee. Op. Atty. Gen., (59a-32), Apr. 17, 1938.


A city or village maintaining a public park is discharging a governmental function and is not liable for damages or injuries to persons using playground constituting exercise of a governmental function. Op. Atty. Gen. (59a-32), Dec. 28, 1938.

A city or village maintaining a public park is discharging a governmental function and is not liable for damages or injuries to persons using playground constituting exercise of a governmental function. Op. Atty. Gen. (59a-32), Dec. 28, 1938.

A city or village maintaining a public park is discharging a governmental function and is not liable for damages or injuries to persons using playground constituting exercise of a governmental function. Op. Atty. Gen. (59a-32), Dec. 28, 1938.

A city or village maintaining a public park is discharging a governmental function and is not liable for damages or injuries to persons using playground constituting exercise of a governmental function. Op. Atty. Gen. (59a-32), Dec. 28, 1938.

A city or village maintaining a public park is discharging a governmental function and is not liable for damages or injuries to persons using playground constituting exercise of a governmental function. Op. Atty. Gen. (59a-32), Dec. 28, 1938.
PROVISIONS RELATING TO ALL CITIES


1312. Cities may own and operate or lease. Proposals and bids for construction of power plant held too indefinite to permit a competitive bid, and bid received not responsive to advertisement for bid. City of Bemidji v. E., 204 Minn. 205, 232 NW 683. See Dun. Dig. 9707. Letting of contract for construction of power plant for a city was void where advertisement was in such form that there could only be one possible bidder that could comply with negotiations for materials and service. Id. See Dun. Dig. 6707.

1313. Certificates in lieu of bonds. A home rule city or any city electing to come under this act may issue or sell its bonds, or in lieu thereof have interest bearing certificates, to raise funds for municipal electric light plant. 16 MinnLaw Rev 657.

1314. Accounts, how kept. Williams v. V., 187 Minn. 616, 244 NW 688; note under §1299.


1321-1. Building lines—establishment. 17 MinNw22, 221 NW 835.

PROVISIONS RELATING TO CERTAIN CITIES

1322. Gas, electric and water plants. Ability for injuries from electric shock. 180 MinNw 646.

1325-1. May construct or purchase electric light plant. That each city in the State of Minnesota having not less than ten thousand and not more than fifty thousand inhabitants, is hereby authorized and empowered by an affirmative vote of two-thirds of all the members of its city council, to construct, erect or purchase an electric light plant to be operated by such city for the lighting of its public streets, alleys, lanes, parks and public grounds, and for such other municipal purposes and uses requiring light or power, as the city council of such city may direct; and for such use and benefit of the inhabitants of such city and upon such conditions as the city council of such city may from time to time by ordinance prescribe. (’61, c. 199, §1.)

1325-2. Bonds. That each such city is hereby authorized and empowered by an affirmative vote of two-thirds of all the members of its city council, to issue, in addition to all bonds hereetofore authorized to be issued by such city, its bonds in an amount to be determined by said council, not exceeding the aggregate forty thousand dollars, for the aforesaid purposes of constructing, erecting, or purchasing an electric light plant in such city. (’61, c. 199, §2.)

1325-3. Conditions for bonds. Said bonds shall be for the principal sum of one thousand ($1,000) dollars each, and shall be payable at such times and at such place as the city council may designate, any proviso to the contrary notwithstanding, and any law of this state, whether general or special, governing such city, to the contrary notwithstanding; and the faith and credit of such city insuring the same is hereby irrevocably pledged to the payment of the same. Said bonds shall be made payable to bearer, or to the order of the person or corporation to whom they may be delivered, as the city council of such city may deem best, shall draw interest semi-annually at such place as the city council may determine, at a rate not exceeding four per cent per annum, to be represented by coupons attached to said bonds. Said bonds shall be signed by the mayor and attested by the recorder or clerk of such city, and the corporate seal of the city shall be impressed upon said bonds, and said bonds shall be signed by said recorder or clerk. (’01, c. 199, §3.)

1325-4. Negotiation of bonds. The city council of such city shall have authority, by an affirmative vote of two-thirds of all its members, to negotiate the sale of such bonds in such manner as in its judgment shall best subserve the interests of said city, but no such contract to negotiate a sale, nor the said bonds, nor any of them, at less than their par value and accrued interest; and neither the said bonds, nor the proceeds from the sale thereof, shall be used for any other purpose than that heretofore specified, and such purpose shall be distinctly stated in the resolution or ordinance authorizing the issue. (’01, c. 199, §4.)

Sec. 5 of Laws 1901, c. 199, cited, provides that the same shall take effect from its passage. Approved Apr. 10, 1901.

1326-1. Certain cities may contract use of sewers. — Any city of the second, third or fourth class may make contract for the use of other city sewer, or any sewer on land outside and within one mile of the limits of such city. Any such contract heretofore made is hereby validated and confirmed. Provided nothing herein shall be construed as limiting amount or power now possessed by any such city under its home rule charter. (Act Feb. 28, 1928, c. 44; Mar. 31, 1937, c. 128, §1.)

Sec. 2 of Act Mar. 31, 1937, cited, provides that the Act shall take effect from its passage.

1327. Designation of depositories of city funds. — The city council or common council of any city in this state, but not including cities when governed under a charter adopted under and pursuant to sec-
1338. Teachers' retirement fund associations in cities.

The voters of the city of Minneapolis may amend its charter so that it would conflict with any general law concerning pension systems for employees. Op. Att'y Gen. (335d), Aug. 26, 1934.

Laws 1906, c. 343.

Teachers Retirement Fund Association funds to be exempt from garnishment, attachment, and execution. Laws 1939, c. 72.

1360. Plan of association—Fund—Approval of council.

Where a teachers' retirement fund association may extend or renew an existing mortgage, though by reason of the foreclosure of land the amount due may exceed the excess of appraised value. Op. Att'y Gen. July 31, 1924.

1363. Tax levies—When said plan is adopted, as heretofore set forth, and said association is formed and incorporated, the proper officers of said association shall certify annually to the proper authorities, who have charge of the levying of taxes for school purposes in said city and in the county in which said city is located, the amount which it will be necessary to raise by taxation in order to carry out the plan so adopted, as heretofore set forth, from year to year, and it shall be the duty of the said authority to have charge of the levying of taxes to include in the tax levy for the ensuing year a tax in addition to all other taxes, sufficient to produce so much of the said funds as so certified as the amount of the levying of taxes for school purposes in said city shall approve, provided, however, that in cities of the first class which are or are not operating under a home rule charter. Said tax shall in no event exceed one-tenth of a mill upon each dollar of the assessed value of all taxable property of said city, and in all other cities in which this law is applicable, said tax shall in no event exceed three-tenths of a mill upon each dollar of the assessed value of all taxable property of said city unless the authorities having charge of the levying of taxes for school purposes in such last mentioned cities shall determine that a larger tax than one-tenth of a mill upon all taxable property of said city should be levied, in which event the amount so determined shall be levied, which shall, however, in no event exceed three-tenths of a mill upon each dollar of the assessed value of all taxable property of said city; said tax shall be collected as other taxes are collected in said city and when so collected shall be paid over to the treasurer of said association to be held and disbursed in accordance with the provisions of said plan of association.

Provided that any such association formed by the teachers employed by any independent school district in any city of the first class the territorial limits of which school district coincide with the territorial limits of such city, and that city, and any independent school district, not provided for in the charter of said city, shall not pay to any beneficiary more than $1800.00 as an annuity in any one year, except that in cases where the amount paid to any member, with interest to the time of retirement, would provide an annuity in excess of $500.00, such association may pay an annuity of $900.00 from public funds in addition to the annuity which said member contributed with interest to the time of retirement, would provide, or the equivalent thereof.

Provided further, that this enactment shall not affect the annuities or rights to annuities of any member of such association who, at the time of this enactment are being paid annuities, or any member who now are, or, prior to July 31, 1940, will be, eligible to retirement, and shall have retired prior to said date; and, at the time said association shall certify to the Board of Education the amount which shall be raised by taxation, it shall file with the Clerk of said Board an itemized statement of its assets and liabilities at the close of the last fiscal year, an itemized statement of receipts and expenses for said year, and a list of the annuities paid during said year, and all the records of such association shall be open to reasonable public inspection. (‘09, c. 343, §8; ’11, 293
1366. "Teachers" defined.

Act providing for membership by county superintendents of schools in teachers' retirement fund. Laws 1931, c. 146, post, §§1365-1 to 1365-4.


1360-1. Certain proceedings legalized.—That in any independent school district, however organized, in any city of the first class in the State of Minnesota, the territorial limits of which independent school district coincide with the territorial limits of such city, and the government of which independent school district is not provided for in the charter of such city, wherein a teachers' retirement fund association has been legally organized, incorporated and established pursuant to the provisions of Mason's Minnesota Statutes of 1927, Sections 1358-1366 inclusive, as amended, and has been in operation and engaged in the business of collecting and disbursing funds, receiving, holding and disposing of real estate and personal property more than 20 years, but where after its organization, amendments to its original plan of organization and articles of association were in good faith duly adopted, recorded and filed, and put into effect, but not submitted for approval to or approved by the common council or city council of said city; its organization and said amendments to its articles of incorporation, and conduct of business in accordance therewith shall be deemed to be legal, valid and effective as against any claim of invalidity, irregularity or defect in that any such amendments were not submitted for approval to or approved by the common council or city council of said city. (Act Apr. 5, 1936, c. 111, §1.)

1360-2. Certain moneys and credits of teachers exempt from execution, etc.—All moneys deposited by a teacher or member or deposited by any other person or corporation, municipal or private, to the credit of such teacher or member in a corporation organized as a "Teachers Retirement Fund Association" under Chapter 343 of the Session Laws of 1909 or acts amendatory thereof, and all moneys, rights and interests or annuities due or to become due to such teacher, member or annuitant or their beneficiaries, from any such association shall be exempt from garnishment, attachment and execution or sale on any final process issued from any court. (Act Mar. 22, 1933, c. 72.)

1367. Appropriations for entertainment.

Repealed by Laws 1937, c. 79 [§§1363-17 to 1363-22].


The powers collected under this section after it is repealed should be transferred to general fund. Op. Atty. Gen., May 26, 1933.

1972-½. Certain cities may buy toll bridges. That whenever any bridge has been by any person or corporation constructed to extend over or partly over an interstate or international river or water into another state or country, and such bridge has for at least three years real estate owned and operated as a toll bridge by any person or corporation, any city of any class organized either under a home rule charter or under the general law and located within three miles of the beginning of the nearest approach to the point at which the bridge is located is authorized to purchase from the owner thereof at the fair value thereof, determined as hereinafter provided, and thereafter to own, operate, repair, improve, extend and maintain the same as a toll bridge, whether all or any portion of such bridge and approaches be within or without the territorial limits of the city. Any such bridge over navigable waters of the United States shall be owned, operated and maintained by any city acquiring the same subject to and in accordance with the Act of Congress authorizing the construction thereof and the lawful rules and regulations of the Secretary of War relative thereto. (Act Apr. 20, 1939, c. 216, §1.)

1972-½a. May operate toll bridges and collect tolls. —That in any such city, the governing body may acquire and operate a toll bridge and operate it subject to and in accordance with the Act of Congress authorizing the construction thereof and the lawful rules and regulations of the Secretary of War relative thereto to any other powers herein or by other law granted to it, when so authorized by the voters as set forth in Section 1 shall have power and authority to purchase, acquire, take and hold in fee simple, by purchase with or without local or other aid grant of moneys, rights, interests or credits, improvements, structures, franchises, easements, approaches, buildings, equipment, appurtenances, machinery, and other personal or mixed property appurtenant to, or necessary and convenient for the owning, operation, repair, improvement, extension and maintenance of, any such bridge so purchased by it; and such city shall have power and authority to charge and receive reasonable and uniform prices and tolls for transit over such bridge from all persons or corporations using the same, which charges and tolls shall be fixed and determined by the common council or chief governing body of such city and may be by such body changed and adjusted from time to time, provided such charges and rates of toll shall be so fixed and adjusted as to provide a fund sufficient to pay the reasonable expense of maintaining and operating the bridge and its approaches under economical management, and to provide a sinking fund sufficient to amortize any outstanding revenue bonds and pay the full and established rates of toll therefor. After a sinking fund sufficient to pay the cost of acquiring such bridge has been provided from bridge revenues only, such bridge shall thereafter be maintained and operated free of tolls, or the rates of toll shall be so adjusted as to provide a fund of not to exceed the amount necessary for the proper maintenance, repair and operation of the bridge. (Act Apr. 20, 1939, c. 216, §2.)

1972-½b. Council to adopt resolution. —Before any such city shall purchase any such toll bridge the common council or chief governing body shall, by resolution adopted by a five-sevenths majority vote of all the members of the council or governing body, find and determine that the purchase of the bridge will be of public benefit and in the interest of the city and the welfare of its inhabitants, and shall find and determine the fair value of the said bridge taking into consideration, so far as can be ascertained, the cost of construction and of maintenance thereof, the rate of depreciation thereon, the reasonably estimated amount of income to be derived therefrom as provided by the revenue bonds and other securities during the three years immediately preceding such determination and any incidental expenses connected with the purchase thereof, which findings and which determination of fair value shall for all the purposes of this act be conclusive as to the matters therein found and determined. (Act Apr. 20, 1939, c. 216, §3.)

1972-½c. (a) May issue and sell bonds. —For the purpose of acquiring and purchasing any such toll bridges included in such acquisition, any such city may when so authorized by the voters as set forth in Section 1, and by a five-sevenths majority of the city council or other governing body, issue and sell revenue bonds and other obligations to be known as Toll Bridge Bonds and payable out of the revenue and income to be derived from the
to the payment therefrom of the bonds and all interest thereon, the city may by a five-sevenths majority vote of the council or other governing body or by the terms of said mortgage or indenture, or by separate written instrument if such bonds be not secured by mortgage or indenture, as to all matters concerning (a) the use and disposition of all income and revenues derived from the operation of such toll bridge; (b) the manner and method of operating such bridge and property covered thereby; (c) the insurance to be carried thereon and the disposition of the insurance moneys; (d) its books of account and the inspection and audit thereof and its accounting methods; (e) the rates of tolls and charges for the use of said bridge and all other matters pertaining to the care and operation thereof by the city; (f) the man-
§1372-1/2i. CH. 9—VILLAGES AND CITIES

Revenues to be kept separate.—Every such city owning and operating a toll bridge under this Act must keep all income and revenues derived from the operation of such bridge separate and distinct from all other revenues, and shall keep the books of account for such bridge distinct from other city accounts, and in such manner as to show the true and complete financial results of such city ownership and operation. Such accounts shall be so kept as to show in detail the actual cost to such city of such bridge; the daily tolls collected therefrom; all cost of maintenance, repair and improvement; all operating expenses of every description; and the amounts set aside for sinking fund purposes. The council or chief governing body shall cause to be printed annually, for public distribution, a report showing the financial results of such city ownership and operation. (Act Apr. 20, 1939, c. 316, §9.)

§1372-2/4j. Not to be included within limit of indebtedness.—Any bonds issued under this Act, whether secured and insured as herein provided, shall be excepted from and shall not constitute an obligation or indebtedness of such city within the meaning of any provisions contained in the charter of such city or in any law of the state prescribing, limiting or fixing the time and manner of payment of municipal bonds, and such bonds may be issued and sold or disposed of by any such city as in this Act provided, notwithstanding any such charter or statutory provisions. (Act Apr. 20, 1939, c. 316, §10.)

§1372-2/4k. Bonds may be registered.—Any bonds issued under this Act may be payable to bearer or to the order of the person or corporation to whom they may be delivered and sold for cash or property, and may be registered with the City Treasurer, or with the trustee under any indenture of trust. (Act Apr. 20, 1939, c. 316, §11.)

§1372-2/4l. May sell bridge to the State of Minnesota, —(a) Any city purchasing and acquiring any such bridge, as in this Act provided, shall thereafter have power and authority to sell, assign and transfer the same and its approaches, or any interest therein, to the State of Minnesota or to any public agency or political subdivision thereof, or to any other state or public agency or political subdivision thereof in or adjoining which any part of the bridge is located, or to any two or more of them jointly, provided that any such sale or transfer shall not alter, change, modify or affect the rights, powers, securities and privileges of the holders of any outstanding bonds issued by said city in payment of said bridge as in this Act provided, or the payment of the principal and interest of such bonds when and as due; and any such sale or transfer made while any of such bonds are outstanding shall be subject to the payment thereof and to the assumption and performance by the vendee or transferee of all obligations, liabilities and covenants imposed upon said city by this Act or incurred and assumed by it in connection with the issuance of such bonds.

(b) Any city purchasing any such bridge, as in this Act provided, may thereafter acquire, condemn, occupy, possess and use real estate and other property needed for the operation, maintenance, improvement and extension of such bridge and its approaches by purchase or by condemnation or expropriation in accordance with the laws of the state of Minnesota governing the acquisition of private property for public purposes by condemnation or expropriation. (Act Apr. 20, 1939, c. 316, §13.)

§1372-2/4m. Inconsistent acts repealed.—All acts and parts of acts inconsistent herewith are hereby repealed. (Act Apr. 20, 1939, c. 316, §14.)

§1372-2/4n. Provisions severable.—If any provision of this Act shall be held invalid the remainder of this Act, and the application of the provisions thereof shall be affected thereby. (Act Apr. 20, 1939, c. 316, §15.)

Sec. 16 of Act Apr. 20, 1939, provides that the act shall take effect from its passage.

§1372-7/1q. Port authority commission established. —A Commission to be known as "Port Authority of..." is hereby established in and for every city of this State which has, or shall have, in excess of 1000 inhabitants and which is or shall be situated upon, or adjacent to, or which embraces or shall embrace within its boundaries, in whole or in part, a port or harbor located on a navigable lake or stream. This act is expressly declared to be applicable to all such cities, whether now or hereafter existing under a charter framed and adopted under Section 36 of Article 4 of the State Constitution or not. Where two or more port districts in cities of the first class are adjacent, they shall constitute a metropolitan port district and the council of the city owning and operating a toll bridge under the State of Minnesota or to any public agency or political subdivision thereof within the limits thereof, the powers or functions of the joint commission to be known as "Port Commission," the further designation in the name to be supplied and adopted by the commission. Such joint commission shall consist, ex officio, of all the commissioners of any such city, and of each city, or its public agency or political subdivision, owning and operating a toll bridge under the State of Minnesota or to any public agency or political subdivision thereof, and shall perform such functions and have such powers as may be delegated or extended to it by concurrent resolutions adopted from time to time by the port authorities in the constituent port districts. When so authorized such joint commission may exercise any or all the powers conferred by this act upon said port authorities. Any such port authority may subsequently withdraw or rescind its action or concurrence in any such resolution, and, upon proper notice thereof, the powers or functions of the joint commission shall to that extent be withdrawn. (Laws 1929, c. 61, §1; Apr. 9, 1931, c. 132.)

§1372-7/1q a. Members—Terms—Vacancies.—Such Port Authority for any city shall consist of three commissioners who shall serve without compensation for their services, or any remuneration, save for expenses incurred in the performance of their services, and such commissioners shall be appointed by the city council of each city in and for which such Port Authority is hereby created. The first commissioners of any such Port Authority shall be appointed for terms as follows: one for two years; one for four years; and one for six years. Thereafter, the term in which such vacancy occurs. (Act Mar. 11, 1929, c. 61, §2.)


§1372-7/1q b. By-laws and rules—Duties.—The commissioners constituting such Port Authority may adopt by-laws and rules of procedure governing their action, not inconsistent with this or other laws, and shall adopt an official seal. They shall elect from among their number a president, a vice-president and a treasurer, and shall also elect a secretary who may or may not be a member of such commission; any of said officers except those of president and vice-president may be held by one commissioner. The said officers shall have the same powers usually attendant upon such offices, and such other duties and powers not inconsistent herewith, as may be provided by the Port Authority. The treasurer shall receive and be responsible for all moneys of the Port Authority from whatever source derived, and the same shall be deemed public funds. He shall disburse the same

296
only on order signed by the secretary and counter-
signed by the president or vice-president, or other
vouchers authorized by law, and each order shall
state the name of the payee, and the nature of the
claim for which the same is issued. He shall keep an
account of all moneys coming into his hands, show-
ing the source of all receipts, and the nature, purpose
and authority of all disbursements, and at least once
each year, at times to be determined by the Port
Authority, shall file with the secretary a detailed fi-
nancial statement of the Port Authority showing all
receipts and disbursements, the nature of the same,
the moneys on hand, and the purposes for which the
same are applicable, the credits and assets of the
Port Authority and its outstanding liabilities, which
report together with the treasurer's vouchers, shall
be examined by the Port Authority, and if found cor-
correct approved by resolution entered on the records.
The treasurer of every Port Authority shall give bond
to the state in a sum equal to twice the amount of
money which will probably be in his hands at any
time during any one year of his term, said amount to
be determined at least annually by the Port Author-
ity, in its discretion, to be conditioned for the fa-
thful discharge of his official duties, and to be approved as to
both form and sureties by the Port Authority and
filed with its secretary. (Act Mar. 11, 1929, c. 61,
§3.)

1372-7/3c. Depositories to be designated.—The
Port Authority shall biennially designate a National
or State bank or banks as depositories of its money.
Such depositories shall be designated only within the
State of Minnesota and upon condition that bonds ap-
proved as to form and surety by the Port Authority
and at least equal in amount to the maximum sum
expected to be on deposit at any one time shall be
first given by such depositories to the Port Authority,
such bonds to be conditioned for the safe keeping
and prompt repayment of such deposits. Whenever
any of the funds of the Port Authority shall be de-
posited by the treasurer in any such depository, the
treasurer and the sureties on his official bond shall,
to such extent, be exempt from liability for the loss
of any such deposited funds by reason of the failure,
bankruptcy, or any other act or default of such de-
pository. Provided, however, that no such Port Au-
thority may accept assignments of collateral by any
depository of its funds to secure such deposits to the
same extent and conditioned in the same manner as
assignments of collateral and permitted by law to se-
cure deposits of the funds of any such city. (Act
Mar. 11, 1929, c. 61, §4. July 14, 1937 Sp. Sess. c. 28, §1.)

Sec. 2 of Act July 14, 1937, cited, provides that the
act shall take effect from its passage.

1372-7/3d. Territorial jurisdiction.—The territorial
jurisdiction and authority of the Port Authority shall
cover and include all portions of any city in and for
which the same is created and established as afore-
said, and, all portions of such port or harbor within
said city. Said city and said portions of such port
or harbor are hereby declared to be the Port
District. (Act Mar. 11, 1929, c. 61, §5.)

1372-7/3e. Not to levy taxes.—City to provide
funds.—The Port Authority shall have no right or
authority to levy any tax or special assessment, nor
to pledge the credit of the state, or any other sub-
division or municipal corporation thereof; nor to in-
cur any debt, or to enforce any penalty or forfeiture,
either within or without the Port District, other than
property owned by said Port Authority. Annually, at
such time as may be fixed by charter, resolution or
ordinance of the city in and for the time being, the Port
Authority shall transmit to the council of such city a detailed estimate, in
writing, of the amount of money which in its opinion
will be required for the business and proper conduct
of its affairs during the next ensuing fiscal year, in
excess of any expected receipts from the conduct of
its business, or other sources, and any such city, in
addition to all other powers now possessed thereby,
and in addition to, and in excess of any limitation
upon the amount it is otherwise permitted by law to
levy, to authorize, in its discretion, to levy taxes for
the benefit of, and for expenditure by, such Port Authority, not
exceeding, however, in any one year an amount equal
to a tax of fifteen one-hundredths of one mill upon
the dollar of the assessed valuation thereof, upon all
the taxable property in such city, on which property
the same is applicable, the credits and assets of the
Port Authority and its outstanding liabilities, which
report together with the treasurer's vouchers, shall
be examined by the Port Authority, and if found cor-
correct approved by resolution entered on the records.
The treasurer of every Port Authority shall give bond
to the state in a sum equal to twice the amount of
money which will probably be in his hands at any
time during any one year of his term, said amount to
be determined at least annually by the Port Author-
ity, in its discretion, to be conditioned for the fa-
thful discharge of his official duties, and to be approved as to
both form and sureties by the Port Authority and
filed with its secretary. (Act Mar. 11, 1929, c. 61,
§3.)

1372-7/3f. City to transfer property.—The city
council of any such city may in its discretion, by ma-
ajority vote, and with or without consideration, trans-
fer property owned by said city to any such Port
Authority, or any portion thereof, and, all portions of such port or harbor
within the same are applicable, the credits and assets of the
Port Authority and its outstanding liabilities, which
report together with the treasurer's vouchers, shall
be examined by the Port Authority, and if found cor-
correct approved by resolution entered on the records.
The treasurer of every Port Authority shall give bond
to the state in a sum equal to twice the amount of
money which will probably be in his hands at any
time during any one year of his term, said amount to
be determined at least annually by the Port Author-
ity, in its discretion, to be conditioned for the fa-
thful discharge of his official duties, and to be approved as to
both form and sureties by the Port Authority and
filed with its secretary. (Act Mar. 11, 1929, c. 61,
§3.)

1372-7/3g. Powers and duties.—It shall be the gen-
eral duty of any such Port Authority to promote the
general welfare of the Port District, and of the port
as a whole; to endeavor to increase the volume of
the commerce thereof, to promote the efficient, safe
and economical handling of such commerce, and to
provide or promote adequate docks, railroad and
terminal facilities open to all upon reasonable and
equal terms for the handling, storage, care and ship-
ment of freight and passengers to, from and through

297
the port. It shall further be the special duty of such Port Authority:

(a) To confer with any similar body created under laws of any state embracing within its boundaries any part of any port or harbor of which the Port District forms a part, and insofar as agreement shall be possible to adopt in conjunction with said similar body a comprehensive plan for the regulation and future development and improvement of the entire harbor and port.

(b) To consider and adopt detailed and comprehensive plans for the regulation, future development and improvement of the Port District, which plans shall, as nearly as may be, be consistent with the general plan above referred to.

(c) To confer from time to time with any such similar body and, so far as may be, to agree thereupon legislation and regulations needed for the regulation and control of the port as a whole, and to recommend the adoption of such legislation and regulations to the appropriate councils, legislatures or other legislative and regulatory bodies.

(d) To determine upon legislation and regulations needed for the regulation and improvement of the port or harbor or subdivision of either, or to any other body, the carrying out of any public improvement for the benefit of the port or Port District.

(f) To institute proceedings and take such steps to remedy any abuses as may appear in the public interest.

(g) Annually in January of each year to make written report to the city council of such city, giving a detailed account of its activities and of its receipts and expenditures during the preceding calendar year, together with such further matters and recommendations as may appear to them in the public interest.

(h) To determine upon legislation and regulations needed for the regulation and improvement of the port or harbor or subdivision of either, or to any other body, the carrying out of any public improvement for the benefit of the port or Port District.

(i) To confer with any similar body created under laws of any state embracing within its boundaries any part of any port or harbor of which the Port District forms a part, and insofar as agreement shall be possible to adopt in conjunction with said similar body a comprehensive plan for the regulation and future development and improvement of the entire harbor and port.

(j) To consider and adopt detailed and comprehensive plans for the regulation, future development and improvement of the Port District, which plans shall, as nearly as may be, be consistent with the general plan above referred to.

(k) To confer from time to time with any such similar body and, so far as may be, to agree thereupon legislation and regulations needed for the regulation and control of the port as a whole, and to recommend the adoption of such legislation and regulations to the appropriate councils, legislatures or other legislative and regulatory bodies.

(l) To determine upon legislation and regulations needed for the regulation and improvement of the port or harbor or subdivision of either, or to any other body, the carrying out of any public improvement for the benefit of the port or Port District.

(m) To investigate the practices, rates and conduct of privately owned or operated dock, terminal and port facilities within the Port District, and to institute proceedings and take such steps to remedy any abuses as may appear in the public interest.

(n) To determine upon legislation and regulations needed for the regulation and improvement of the port or harbor or subdivision of either, or to any other body, the carrying out of any public improvement for the benefit of the port or Port District.

(o) To confer with any similar body created under laws of any state embracing within its boundaries any part of any port or harbor of which the Port District forms a part, and insofar as agreement shall be possible to adopt in conjunction with said similar body a comprehensive plan for the regulation and future development and improvement of the entire harbor and port.

(p) To consider and adopt detailed and comprehensive plans for the regulation, future development and improvement of the Port District, which plans shall, as nearly as may be, be consistent with the general plan above referred to.

(q) To confer from time to time with any such similar body and, so far as may be, to agree thereupon legislation and regulations needed for the regulation and control of the port as a whole, and to recommend the adoption of such legislation and regulations to the appropriate councils, legislatures or other legislative and regulatory bodies.

(r) To determine upon legislation and regulations needed for the regulation and improvement of the port or harbor or subdivision of either, or to any other body, the carrying out of any public improvement for the benefit of the port or Port District.

(s) To confer with any similar body created under laws of any state embracing within its boundaries any part of any port or harbor of which the Port District forms a part, and insofar as agreement shall be possible to adopt in conjunction with said similar body a comprehensive plan for the regulation and future development and improvement of the entire harbor and port.

(t) To consider and adopt detailed and comprehensive plans for the regulation, future development and improvement of the Port District, which plans shall, as nearly as may be, be consistent with the general plan above referred to.

(u) To confer from time to time with any such similar body and, so far as may be, to agree thereupon legislation and regulations needed for the regulation and control of the port as a whole, and to recommend the adoption of such legislation and regulations to the appropriate councils, legislatures or other legislative and regulatory bodies.

(v) To determine upon legislation and regulations needed for the regulation and improvement of the port or harbor or subdivision of either, or to any other body, the carrying out of any public improvement for the benefit of the port or Port District.

(w) To confer with any similar body created under laws of any state embracing within its boundaries any part of any port or harbor of which the Port District forms a part, and insofar as agreement shall be possible to adopt in conjunction with said similar body a comprehensive plan for the regulation and future development and improvement of the entire harbor and port.

(x) To consider and adopt detailed and comprehensive plans for the regulation, future development and improvement of the Port District, which plans shall, as nearly as may be, be consistent with the general plan above referred to.

(y) To confer from time to time with any such similar body and, so far as may be, to agree thereupon legislation and regulations needed for the regulation and control of the port as a whole, and to recommend the adoption of such legislation and regulations to the appropriate councils, legislatures or other legislative and regulatory bodies.

(z) To determine upon legislation and regulations needed for the regulation and improvement of the port or harbor or subdivision of either, or to any other body, the carrying out of any public improvement for the benefit of the port or Port District.


1382. Appeal. Certiorari is a proper remedy to review the judgment of the municipal court of Minneapolis rendered on security for payment of fine. The municipal court, through statute and decision, has held that there shall be no appeal and that judgment shall be final. This is the right of a defendant, of a judicial determination by trial court. Ridgway v. V., 187M553, 245NW115. See Dun. Dig. 1394, 6906.

1391. Cities may impose wheelage tax. SPECIAL ACTS RELATING TO CITIES GENERALLY


PROVISIONS RELATING TO CITIES OF FIRST CLASS


1413. Annexation of territory. All or any portion of the territory of any incorporated village or city of the fourth class may be annexed to an adjoining city of the first class or any part thereof, by proceedings duly had, as provided for in the annexation of a part of the territory of such village or city of the fourth class to an adjoining city of the first class, for their approval or rejection at the next regular village or city election, or at a special election called for the purpose. Ten days' notice of any election to vote on such proposition shall be given by posting three written or printed notices thereof in three public places within said village or city, and shall state the time and place when and where such election will be held, and shall also state the proposition on which the said electors will vote. Notice of such election shall be recorded in the records where such election was held, and a certificate of such election shall be filed with the city clerk of the city of the first class. In the event of a positive vote for annexation, the city of the first class shall, within thirty days after the filing of such petition, adopt a resolution creating the annexed territory and the special election for the purpose shall be held, and such special election shall be held in the manner and under the provisions for the special election of a city of the fourth class.(Act Apr. 24, 1929, c. 343, §1.)

1415-7: People to vote on annexation.—Notice of any election to vote on such proposition shall be given by posting three written or printed notices thereof in three public places within said city of the fourth class or such part thereof, at least ten days prior to such election, which are to be published in such manner as to give the time and place such election will be held, and shall also state the proposition on which the said electors will vote.
Notice of such election will also be published for at least one week prior to such election in a newspaper published in said city of the fourth class, or, if such city be the county seat of the county in which said city of the fourth class, then in a newspaper published at the county seat of the county in which said city is located.

The ballots shall briefly and concisely state the proposition to be voted upon, together with the words, "For annexation" and "Against annexation" and such election shall be held, conducted and the results thereof be canvassed in the same manner as any other special or general election held for other purposes in cities of the fourth class. (Act Apr. 24, 1929, c. 343, §2.)

1415-7. Annexation of territory. — If the board of county commissioners of the county in which such city of the fourth class is located at its next regular or adjourned regular meeting, and if no such meeting has been set, then at a special meeting to be called by said county auditor at a time not more than 20 days after the filing of such resolution in his office. (Act Apr. 24, 1929, c. 343, §3.)

1415-8. Duties of county board. — If it appears by such canvass that five-eighths of the electors of such city of the fourth class, casting their ballots upon the question of such election, are in favor of the annexation of such territory, and the governing body of such city of the fourth class shall adopt a resolution reciting the result of such election and stating that such city of the fourth class consents to the annexation of the territory embraced in said resolution into the county in which such city is located and stating that such city of the fourth class is located and also with the county auditor of the county in which said city of the first class is located.

The county auditor of the county in which said city of the fourth class is located hereby is required to present the same to the board of county commissioners of the county in which said city of the fourth class is located at its next regular or adjourned regular meeting, and if no such meeting has been set, then at a special meeting to be called by said county auditor at a time not more than 20 days after the filing of such resolution in his office. (Act Apr. 24, 1929, c. 343, §4.)

1415-11. Territory to become part of city. — Whenever the certified copy of resolution duly filed by such city of the fourth class with the clerk of such city of the first class, pursuant to Section 1413, General Statutes 1923 and the certified copy of resolution so filed in his office by such city of the fourth class and the certified copy of the resolution so filed in his office by the board of county commissioners of the county in which such city of the fourth class is located at its next regular or adjourned regular meeting. (Act Apr. 24, 1929, c. 343, §5.)

1415-12. Not to affect collection of taxes. — No transfer of territory under the provisions of this act shall affect the collection of taxes levied at the date of the filing and recording of the resolution provided for in Section 8 of this act, but all such taxes shall be collected by the officers of the original county and all monies then remaining in or afterwards coming into the treasury of such original county, or into the possession of any officer of such county and belonging to such city of the fourth class or any school district or any part thereof in the territory transferred. All special assessments belonging to such city of the fourth class in the territory transferred, shall be apportioned and paid to the board of county commissioners of the said city of the fourth class has become a part and to such school district in the same manner as it would have been paid to such city of the fourth class if the said city of the fourth class or any school district had remained a part of such original county. (Act Apr. 24, 1929, c. 343, §7.)

1415-13. To become part of school districts. — The territory embraced in the resolutions referred to in Section 6 of this act shall, after the
adoption of the final resolution as provided for in
this act and its recording as herein provided, become
and be thereafter a part of the school district of said
city of the first class. (Act Apr. 24, 1929, c. 343, §8.)

1415-14. Annexation of lands.—Lands outside any
incorporated municipality and adjoining and contigu-
ous to any city of the first class, now or hereafter
having 350,000 inhabitants, within the same county
in which said city of the first class is situated and
which have been platted into subdivisions approved
by the city council of such city, and by the county
board of such county and in which streets and alleys
have been dedicated for public use, may be annexed to such city of the first
class upon petition of the owner or owners thereof,
which petition shall be in writing and shall be pre-
sented to and filed with the governing body of such
city of the first class. The word "owner," as herein
used, shall mean any and all persons or parties having
any right, title, estate, lien or interest in the lands
proposed to be so attached, other than the tax or as-
essment liens held by the state or any of its sub-
divisions. (Act Apr. 27, 1929, c. 414, §1.)

1415-15. Proceedings in annexation.—Upon the
presentation of such petition to the governing body
of such city, the same shall be referred to the plan-
ning commission of such city, if one exists therein.
If such planning commission by a four-fifths vote
shall recommend the annexation of such land and
if such governing body finds that the territory de-
scribed in such petition is so conditioned and so
located as properly to be made a part of such city of
the first class, it shall have power by resolution duly
adopted by a four-fifths vote of such governing body
to annex such territory, and immediately upon the
adoption of such resolution, the territory annexed
shall become a part of such city for all purposes.
Thereafter the City Clerk of such city of the first
class shall file with the Register of Deeds of the
county wherein such city of the first class is situated,
and in the office of the Secretary of State, a certified
copy of the resolution adopted by such governing
body, so annexed said territory to such city of the
first class. (Act Apr. 27, 1929, c. 414, §2.)

1415-16. To be part of adjacent wards.—Such an-
nexed territory shall become part of adjacent wards
of such city of the first class, and the portion of
such territory to be added to wards adjacent thereto
shall be determined by the extension in straight lines
of the ward lines of such adjacent wards. (Act Apr.
27, 1929, c. 414, §3.)

1415-17. Tax levies.—Taxes levied and due and payable at the time of the passage of such resolution
shall be collected and received by the proper officers
of the county in which such city of the first class is
located, and when so collected shall be transmitted
by such officers to the state or governmental sub-
division to which said taxes were originally due and payable. But such due and payable at the time of the passage of such resolution, shall be collected and received by the proper officers of the county in which such city of the first class is located, and shall be distributed as if at the date of the levy thereof the said lands were a part of such city of the first class. All special assessments levied at the time of the passage of such resolution, for the making of any public improvement, and all assess-
ments made to meet any bonded indebtedness in and of said subdivision in which said lands were prior to the passage of said resolution located, and for the payment of which said lands have become
obligated, shall, when collected by the proper officers of the county in which such city of the first class is
located, be transmitted to the governmental subdivi-
sion making such public improvement and the levy
of assessment therefor. (Act Apr. 27, 1929, c. 414,
§4.)

1415-18. Limitation on public improvements.—For
the period of 10 years after the annexation of any
lands under this act, no works of improvement shall
be done within such annexed territory under any law
of this state or any provisions of charter of such city of
the first class under which any portion of the cost
thereof shall be paid for out of the general funds
except the cost of such improvements made in streets
intersections where no private property abuts against
which said cost can be assessed or shall be assessed
against any property outside the boundaries of said
lands so annexed but during such term such land
shall be subject to assessments for any improvements
either inside or outside the boundaries thereof per-
mitted by such law or charter. (Act Apr. 27, 1929,
c. 414, §5.)

1415-19. Applications.—This act shall apply to all
cities now or hereafter having over 50,000 inhab-
habitants, including all such cities organized and
operating under a home rule charter adopted under
the provisions of Section 36, Article IV, of the state
constitution, and the laws of the state relating there-
to. (Act Apr. 27, 1929, c. 414, §6.)

Sec. 7 provides that act shall take effect from and
after its passage.

1417-1. Salary of alderman in certain cities.—That
in cities now or hereafter having over 50,000 inhab-
habitants and not having a commission or council
manager form of government the salary of each alder-
man shall be $2400 per annum, payable pro rata
monthly out of the city treasury. (Act Apr. 19, 1937,
c. 294, §1; Apr. 1, 1939, c. 132.)

1417-2. All acts and parts of acts inconsistent
with this act are hereby repealed. (Apr. 19, 1937,
c. 294, §2.)

1421. Salary of chief of police.

Compulsory retirement age of fire and police officers
in cities of the first class set at 65 years. Laws 1928, c. 136.

1422-1. City Council may reduce salaries.—That
the City Council of any city of the First Class now or
hereafter having a population of 50,000 inhabitants
or more, including any such city operating under a
Charter adopted pursuant to the provisions of Section 36, Article 4, of the Constitution of the State of
Minnesota, is hereby authorized and empowered to
reduce the salaries or compensations now prescribed
under the provisions of any such Charter and ordi-
nances enacted in pursuance thereof for all officers and
employees, whether elective or appointive, in an
amount not less than 10% thereof. (Act Feb. 28,
1933, c. 42, §1.)

1422-2. Effective for two years.—This act shall
take effect and be in force for a period of two years
from and after its passage. (Act Feb. 28, 1933, c. 42,
§2.)

1420. 1427. [Repealed.]

Repealed by act Apr. 8, 1933, c. 177, §29, post, §750-39.

1436. Police pensions.


The institute includes not only those cities within design-
ated class at time law was enacted but also those sub-
sequentl} coming within same. State v. City Council of
Minneapolis, 188M447, 247NW614.

1437. Incorporation of police department as relief
association.—Pensions.—That every paid municipal
police department now existing or which may here-
after be organized, is hereby authorized to become
incorporated pursuant to the laws of this state and
adopt a constitution and by-laws as a relief associa-
tion, to provide for and permit and allow such police
relief association, so incorporated or so organized,
or any police pension relief association now in
existence and incorporated according to law, to pay
out of, and form any funds it may have received from any source, a service, disability, or dependency pension in such amounts and in such manner as its articles of incorporation, or the constitution and by-laws shall designate, not exceeding however, the following sum per month to each of its pensioned members who shall have served twenty years or more in such department, or their widows and children under sixteen years of age, viz.:

A sum equal to one-half of the monthly compensation allowed such member as salary at the date of his retirement, when such member shall have arrived at the age of fifty (50) years or more, and shall have served twenty years or more in such department, or their widows and children under sixteen years of age, viz.:

- A sum equal to one-half of the monthly compensation allowed such member as salary at the date of his retirement, when such member shall have arrived at the age of fifty (50) years or more, and shall have served twenty years or more in such department, or their widows and children under sixteen years of age, viz.:

**1437 CH. 9—VILLAGES AND CITIES**

1438. Payments — limitations.—The pensions authorized by this act shall not be paid to any person while drawing salary in any amount from such city as an employee in any police department or any department of the state or any county or municipality therein as an employee, provided, however, that this provision shall not affect the status of a pensioner of any person whose status as a pensioner has been fixed by retirement while another provision of law was in effect; and no member shall be entitled to said pension after he removes his residence from the United States or who shall have been convicted of a felony, provided, that no widow or child under sixteen years of age of any member who shall have been convicted of a felony, shall be deprived of their pension rights under this act by reason thereof unless such widow or child under sixteen years of age shall have been a party to the commission of such felony, and provided further that where such member so convicted of a felony is then receiving a pension, his wife or child under sixteen years of age who has not been a party to the commission of such felony shall receive the pension provided for herein in the event of the death of such pensioner, receiving the pension herein mentioned shall not receive or be entitled to receive any other or further pension or relief from said association. (15, c. 68, §3; Apr. 8, 1931, c. 118, §2.)

1440. Association to have charge of funds.—Said association, through its officers, shall have full charge, management and control of the pension fund herein provided for, which said fund shall be derived from the following sources: From gifts of real estate or personal property, rents, money or from other sources. It shall also be the duty of the city treasurer of any city affected by this act to deduct each month the monthly pay of each member of such police department, a sum equal to two per cent of such monthly pay, and place the same to the credit of the said police pension fund; it shall also be the duty of every police officer receiving any reward for services in making arrests, or otherwise, to place the credit of the police pension fund all such rewards, and it shall be the duty of the chief of police of any such city to place to the credit of the police pension fund all moneys falling into the hands of the police that are not required for a pension or relief, and to sell all unclaimed property falling into the hands of the police when the same shall have been unclaimed for a period of six months and place the proceeds thereof to the credit of the said police pension fund.

An amount or sum sufficient to pay pensions due and payable in the following fiscal year, provided said sum shall not be less than three-fifths (3/5) mill, nor in excess of one (1) mill, in addition to the rate allowed to be levied by the charter of any city affected by this act, shall be annually assessed and levied at the time and in the manner that taxes for the other funds of such city are levied and assessed, and all the taxable property in such city as the same appears on the tax records of such city and such levy of said sum for the benefit of such police relief association shall be collected and apportioned by the proper officers of each city where a police department exists, upon each parcel of all the taxable property in such city as the same appears on the tax records of such city and such levy of said sum shall be charged against each member of the police department in proportion to the amount of his pay or salary at the time of his disability, and shall be collected and apportioned in the same manner as are all taxes of such city, and all annual surpluses shall remain in said police pension fund. (15, c. 68, §5; '21, c. 118, §2; '25, c. 197; Laws 1929, c. 311, §1; Apr. 8, 1931, c. 118, §8; Mar. 29, 1925, c. 76.)

1442. Not to repeal existing acts.

Requirement of amended law for local consent is unnecessary where county affected by the act, or city establishing separate fund, or any member of the police force of such city having given consent before amendment. State v. City Council of Minneapolis, 188 Minnesota, 247 N.W. 154.
1442-2. Pension system for disabled or retired employees in certain cities created.—That every such municipal department or bureau of health now existing, or which may hereafter be organized, may and hereby is authorized to become incorporated pursuant to the provisions of the General Statutes of Minnesota, and to receive and hold any state aid and benefits, or be a relief association to provide and permit said department or bureau of health, relief association so incorporated or so organized, to pay out of and from any fund that it may have received from the State of Minnesota or any other source, a service or disability pension in such sum and under such limitations and conditions as its articles of incorporation and by-laws shall provide and permit, to each of its pensioned members, who shall have reached the age of fifty years or more in such health department or bureau for a period of twenty years or more in the city in which such relief association shall be so organized, or who having been disabled physically or mentally because of any injury or disability received or suffered while so employed as such member of such health department or bureau so as to render necessary his retirement from active service, and in addition thereto to pay out of and from any such fund funds or money or other sources; second, the Commis- sioner of Finance or Department of Finance of any city affected by this act shall deduct each month from the monthly pay of each member of such department or bureau of health a sum equal to one per cent of such monthly pay and place the same to the credit of the said health department or bureau pension fund. ('19, c. 430, §4; Apr. 18, 1929, c. 224, §1; Apr. 24, 1937, c. 414, §3.)

Explanatory note.—The title and enacting clause of Act April 24, 1929, cited, purports to amend §§2, 4 of c. 229, Laws 1919. Section 1 of the last named act amended sections 2 and 4 of Laws 1919, c. 430. The defect is perhaps technical and not fatal.

1442-3. Right in increase or reduce amounts not to exceed fifty dollars.—Every such association shall have the power and authority to increase or reduce the amount of such pension whenever, because of the amount of funds on hand or for other good reasons, such increase or reduction may seem feasible or proper to the board of management of said relief association, provided the pension herein authorized shall never exceed $75.00 per month for each person pensioned. ('19, c. 430, §3; Apr. 18, 1929, c. 224, §1.)

1442-4. Not to be paid while drawing salary.—The pension authority of this act shall not be paid to any person who is only part time employed or while drawing salary in any amount from said municipality or who shall have been convicted of a felony for which he shall be adjudged to be imprisoned, or who shall have been adjudged to be mentally because of any injury or disability received or suffered while so employed as such member of such health department or bureau so as to render necessary his retirement from active service, and in addition thereto to pay out of and from any such fund funds or money or other sources; second, the Commissioner of Finance or Department of Finance of any city affected by this act shall deduct each month from the monthly pay of each member of such department or bureau of health a sum equal to one per cent of such monthly pay and place the same to the credit of the said health department or bureau pension fund. ('19, c. 430, §4; Apr. 18, 1929, c. 224, §1; Apr. 24, 1937, c. 414, §3.)

Explanatory note.—The title and enacting clause of Act April 24, 1929, cited, purports to amend §§2, 4 of c. 229, Laws 1919. Section 1 of the last named act amended sections 2 and 4 of Laws 1919, c. 430. The defect is perhaps technical and not fatal.

1442-6. Association to have charge of funds—Tax levy.—Said association through its officers shall have full charge, management and control of the health department or bureau pension fund herein provided for, which said fund shall be derived from the following sources; first dues of its members and from the gifts of real estate or personal property, rents or money or other sources; second, the Commiss- sioner of Finance or Department of Finance of any city affected by this act shall deduct each month from the monthly pay of each member of such department or bureau of health a sum equal to one per cent of such monthly pay and place the same to the credit of the said health department or bureau pension fund; third, the Commis- sioner of Finance or Department of Finance of any city affected by this act shall deduct each month from the monthly pay of each member of such department or bureau of health a sum equal to one per cent of such monthly pay and place the same to the credit of the said health department or bureau pension fund; and shall not be used or de- voted to any other purpose than for the purpose of the health department or bureau pension fund. ('19, c. 430, §6; Apr. 18, 1929, c. 224, §1.)


1442-11. Retirement allowances to employees.
Retirement allowances may be paid in certain cases. Laws 1939, c. 55.
This act has applied to the city of Minneapolis from the beginning and affirmative of legal right and did not affect it, and all amendments to the act apply to such city. Op. Atty. Gen. (58a-35), §78.00.

1442-13. Definitions.—The following words and phrases as used in this Act, unless a different meaning is plainly required by the context, shall have the following meanings:
(a) "Service allowance" shall mean the allowance to which an employe may be entitled who retires from the city service after having attained the mini- mum established age for retirement.
(b) "Disability allowance" shall mean the allowance to which an employe may be entitled who retires from the city service as a result of disability before having attained the minimum established age for retirement.
(c) "Retirement allowance" shall mean either a service allowance or a disability allowance.
(d) "Annuity" shall mean payments for life derived from contributions made by an employe, as provided in this Act.
(e) "Pension" shall mean payments for life derived from credits allowed and appropriations made by the city, as provided in this Act.
(f) "Supplementary allowance" shall mean the allowance which may be granted to a present incumbent, division "B" in addition to a pension and an annuity.
(g) "Present incumbent" shall mean an employe who is in the service of the city at the date the pro-
visions of this Act become effective therein, who elects to become a beneficiary of the fund created by this Act and to comply with the provisions of the Act relative thereto, and who is not in the non-contributing class.

(b) "Future entrant" shall mean an employee who enters the service of a city at a date subsequent to the date when the provisions of this Act become effective therein, who becomes a contributor to the retirement fund.

(i) "Actuarial equivalent" shall mean the annual amount, determined by calculations based on mortality and interest rates, that would be purchased with a given amount at a stated age.

(j) "Accumulated amount" shall mean the amount which any given installments or periodic installments of money would accumulate when increased by interest additions compounded at regular intervals.

(k) "Not accumulated credits" shall mean the amount standing to the credit of any employee in the contributing class after deducting all amounts debited to the account of such employe from the gross credits to such account.

(m) "Established age" shall mean the minimum age for retirement on a service allowance as specified by the rules of the retirement board.

(n) "Separation refund" shall mean the amount returned to an employe who is separated from the service of the city prior to having become entitled to a retirement allowance, or to his or her heirs, executors or assigns.

(o) "Present worth" of an annuity, pension or retirement allowance shall mean the value or cost price thereof to the date of retirement or other date, when specified.

(p) "Actuarial deficit or surplus" of an allowance or of allowances shall mean the difference between the estimated cost of said allowance or allowances and the actual cost thereof.

(q) "Employee" as herein used shall mean each and every person not an elective officer of said city, paid by the city or any of its various boards, departments or commissions, and any person employed by any of the various boards, departments or commissions operating as a department of the city government or independently in care of any of its governmental activities the funds of which board, department, or commission are wholly or in part raised by taxation in such city, and each and all of the employees of such boards, departments or commissions, the funds of which boards, departments, or commissions are raised wholly or in part by taxation upon the property in such city, shall be entitled to all of the privileges conferred by this Act to the same extent as persons employed directly by the municipality.

(r) The word "dependent" as herein used shall mean a spouse, child, or any person actually dependent upon and receiving his principal support from such employe.

(s) "Effective officer" as herein used shall mean an officer elected by direct vote of the people, and "elective position" shall mean a position filled by direct vote of the people.

(t) "Conditional present incumbent" shall mean any employee of the city at the time this Act is adopted who has not been employed by the city for five years thereafter, and who shall have fulfilled the conditions herein specified, shall be entitled to receive a retirement allowance therefrom, as set forth in the provisions of this Act; provided, that no retirement allowance shall be paid any retired employe of such city prior to the expiration of the calendar year next succeeding the date this Act becomes effective therein.

Any conditional present incumbent shall be entitled to participate in the benefits provided by this Act upon submitting to the retirement board a written notice of desire to accept the provisions of the Act and of such evidence of the right to so participate as the board may require; provided that any such employe who is less than 30 years of age at the date this provision becomes effective therein shall submit such notice before reaching that age, and any such employe who shall have passed the age of 30 at that time shall make written application for participation in the benefits of the retirement fund within 30 days after such date. All such applications not filed within the time specified herein shall be denied by the retirement board.

The minimum age for retirement on a service allowance except as otherwise provided, shall be established by the retirement board, may be greater for men than for women, may differ for different classes of grades of employment, but shall not be less than 60 years for men and 58 years for women, nor greater than 65 years for men and 63 years for women. The ages so established by the board shall not be subject to revision prior to the expiration of a five-year period from the establishment thereof, and shall apply to all persons who retire during the continuance thereof.

Subject to the limitations stated in this Act, any employe in the contributing class who shall have attained the established age for retirement shall be entitled to retire, and any such employe who shall remain in the service of the city for five years thereafter, shall be retired, and receive a service allowance as specified in this Act; provided, that if in not less than 30 days before the arrival of an age of compulsory retirement, the head of the department, branch or independent board of the municipality in which he or she is employed, certifies to the retirement board that by reason of his or her efficiency and his or her willingness to remain in the service of the municipality the continuance of such an employe therein would be advantageous to the public service, such employe may be retained for a term not exceeding three years upon certification by the retirement board, and at the end of the three years he or she may, by similar certification, be continued for one additional term not to exceed two years.

Any employee who retired prior to the passage of this amendment, and the designated beneficiaries of any such employe shall be entitled to a retirement allowance to be calculated, determined and payable in accordance with the provisions of Mason's Minnesota Statutes of 1927, Sections 1442-11 to 1442-34, inclusive, as amended. Any payments herefore made and retirement heretofore approved, which would have been valid had this act been in force at the time of making the same, are validated to the same extent as if the same had been made subsequent to the passage of this amendment. (19, c. 522, §4; '25, c. 335, §1, Apr. 20, 1932, c. 380, §1, Apr. 17, 1933.)


Conditional present incumbents who comply with 1935 amendment are entitled upon retirement to a pension

fund at the time this definition becomes effective. (19, c. 522, §3; Apr. 20, 1933, c. 328, §1.)

throughout period of their service, not to exceed 25 years, figure to time of retirement and not merely to age 72.

1442-15. Classification of employees.—Employees of the city shall be divided into a contributing class, a non-contributing class and an exempt class.

The contributing class shall consist of all employees not included in either of the other two classes and shall be subdivided into present incumbents, employees in the service of the city at the date this act becomes effective therein, who elect to become contributors to and prospective beneficiaries of the fund created by this act, and subsequent entrants, employees who enter the service of the city subsequent to the date this act becomes effective therein.

The non-contributing class shall consist of all employees, including common laborers, whose individual pay or compensations do not exceed $750.00 per annum, provided, however, that when the compensation of an employee who is paid on a monthly basis equals or exceeds $62.50 per month on a 12-month basis, such employee shall be classified as a contributor and shall from and after such time contribute to the fund and assume all the obligations imposed upon and be entitled to all the benefits conferred upon members of the contributing class, as herein and in this act specifically set forth.

Provided, further, that from and after the end of the calendar year in which the average annual compensation of an employee who is paid on a day basis equals or exceeds $750.00 per calendar year during his period of service with the city, such employee from and after such date shall be classified as a contributor and shall assume all the obligations imposed upon and be entitled to all the benefits conferred upon members of the contributing class, as herein and in this act specifically set forth.

Any employee in the non-contributing class may, upon written application filed with the retirement board prior to attaining the age of 50 years, elect to become a member of the contributing class and shall then assume all the obligations imposed upon and be entitled to all the benefits conferred upon members of the contributing class, as herein and in this act specifically set forth. Provided, however, that any employee in the non-contributing class who has attained the age of 50 years at the time of the passage of this act shall have one year from and after its passage to make said election. Such election, when made, shall be final and irrevocable.

The exempt class shall consist of:

(a) Employees who are members of, or who are eligible to become members of, an organization or association on behalf of which a tax is levied against its members, and shall be classified as a contributor and shall assume all the obligations imposed upon and be entitled to all the benefits conferred upon members of the contributing class, as herein and in this act specifically set forth.

(b) Persons filling elective positions. Provided, that any elective officer holding an elective position, as those terms are defined herein, who shall have filled such elective position for twenty years or more and who shall not have received as compensation for his services as such elective officer any sum or sums in excess of $3000.00 per annum, shall be entitled to retire at completion of twenty years of service on a service allowance. Such service allowance shall be computed and determined as provided for herein. Before receiving said service allowance such officer shall contribute to the fund herein provided for the amount equal to the amount of contributions to said fund which said elective officer would have made had he been a contributor to said fund since January 1, 1922, in accordance with the minimum contributions herein provided for, plus four per cent compound interest.

(c) Persons serving without pay.

(d) Persons serving on executive boards.

(e) Pupil nurses, internes and staff physicians employed at the city hospitals.

(f) Employees in the service of the city at the time this Act is adopted who, after its adoption, have not given written notice of a desire to accept the provisions of this act.

(g) Persons not citizens of the United States.

(19, c. 522, §5; '25, c. 326, §1; Apr. 20, 1923, c. 328, §1; Jan. 13, 1936, Ex. Sess., c. 20; Apr. 17, 1927, c. 171, §1; Apr. 17, 1939, c. 288.)

Sec. 5 of Act Apr. 7, 1937, cited, provides that the Act shall take effect on its passage and the commission shall cease. (19, c. 522, §6; Apr. 20, 1933, c. 328, §1; Mar. 2, 1937, c. 53, §1.)

The word "there" in brackets was omitted from the amending act of Mar. 2, 1937, cited. (19, c. 522, §6; Apr. 20, 1933, c. 328, §1; Mar. 2, 1937, c. 53, §1.)

Sec. 2 of Act Mar. 2, 1937, cited, provides that the Act shall take effect on its passage and the commission shall cease. (19, c. 522, §6; Apr. 20, 1933, c. 328, §1; Mar. 2, 1937, c. 53, §1.)

1442-16. Retirement allowance for employees in the non-contributing class including common laborers.

—A retirement allowance, payable in equal monthly installments shall be granted to any employee or other employee in the non-contributing class who satisfies the conditions hereafter specified.

Such retirement allowance shall be the actuarial equivalent of the accumulated amount of monthly installments of $12.50 throughout the period of service of the retiring employee, accumulated to the date of retirement at four per cent compound interest, provided, that no such allowance shall exceed $500.00 per annum, nor be less than $300.00 per annum.

Upon receipt of proof of death of any common laborer or other employee in the non-contributing class who has fulfilled the requirements for retirement on an allowance, (a) who is employed by the city, or (b) who is temporarily separated from the service of the city, or (c) who has been retired on an allowance, there shall be paid to the heir or heirs of such employee or to such trustee or trustees as the retirement board may select, the sum of $150.00.

In order to be entitled to a retirement allowance, a common laborer or other employee in the non-contributing class shall have been employed thereby for a period of time which in the aggregate shall equal 20 or more periods of five months each, the last season of which shall have immediately preceded the date of retirement, and in addition thereto shall either (1) have attained the age of 55 years and have been declared by the medical board to be incapacitated for further service to the city or (2) have attained the age of 70 years.

(a) The retirement board may require any such beneficiary while still under the age of 70 years, to undergo a medical examination by the medical board once each year. Should the medical board report that said beneficiary is no longer physically or mentally incapacitated for the performance of duty, such retirement allowance shall cease and the head of the department in which such beneficiary was employed at the time of the retirement shall forthwith upon notification by the retirement board, re-employ said beneficiary.

(b) Should any such retired beneficiary, while under the age of 70 refuse to submit to at least one medical examination in any year by a physician or physicians designated by the medical board, his pension shall be discontinued until the withdrawal of such refusal, and should such refusal continue for one year, all his rights, in and to the retirement allowance shall be forfeited.

(c) Upon application of any such beneficiary under the age of 70, drawing a pension or a retirement allowance under the provisions of this Act, approved by the retirement board, said beneficiary may be restored to active service by the head of the department in which said beneficiary was employed at the time of retirement. Upon the restoration of a beneficiary to active service, his retirement allowance shall cease. (19, c. 522, §6; Apr. 20, 1933, c. 328, §1; Mar. 2, 1937, c. 53, §1.)
Service allowances to persons in contributing class.—Annuity, pension and supplementary allowance. (a) The service allowance for a present incumbent in the contributing class shall consist of an "annuity," a "pension" and a "supplementary allowance" as herein defined.

(b) The service allowance for a future entrant in the contributing class shall consist of an "annuity" and a "pension" as herein defined.

(c) The annuity shall be the actuarial equivalent of the net accumulated contributions of the retiring employee, calculated at his or her age at the date of retirement.

(d) The pension shall be the actuarial equivalent of the accumulated amount of such annual installments as may be now or hereafter fixed and designated by law throughout the period of service of the retiring employee, up to the date of retirement, accumulated to the date of retirement at 4 per cent compound interest.

(e) The supplementary allowance shall be the actuarial equivalent of the difference between:

(i) The net accumulated amount of the contributions made by the retiring employee for all periods of service for the city subsequent to the adoption of this act therein, not exceeding 30 years.

(ii) All members in the contributing class who, at the time of retirement, have been in the service of the city for fifteen years or over shall be entitled to a minimum retirement allowance of $30.00 per month.

(f) In the event of the death of an employee in the contributing class while in the service of the city, there shall be paid to the heirs thereof the net amount to which the contributions already made by the employee and the credits allowed or contributions already made by the city for retirement on a service pension. In the absence of heirs of such employee that portion of the amount to the credit of said employee on which the pension is to be based as defined in paragraph (d) hereof shall be cancelled and the city shall be liable for only the balance of such credits.

(g) Except as otherwise provided in this act, the service of each "present incumbent" shall be calculated from the date in service from which said employee elects to claim credit and the amount of each future entrant shall be calculated from the date of original appointment. Said service shall include periods of service at different times and service for one or more departments, branches or independent boards of the municipality. It is further provided that in computing length of service of contributing employees for the purpose of this act, periods of separations from the service shall not be included.

(h) Retirement allowances as herein provided shall be paid in monthly installments and checks shall be issued and mailed to the last known address of each beneficiary on the first business day of the month succeeding the month in which his or her allowance is authorized; provided, however, that where a beneficiary is 74 years of legal disabilities said monthly installments in such cases may be paid to the duly appointed guardian. (19, c. 522, §7; '25, c. 335, §1; Mar. 2, 1937, c. 51, §1.) See §1442-14 of Act Mar. 2, 1937, cited, provides that the Act shall take effect from its passage.

Revised statutes of 1933, p. 976.
(c) Should any disability beneficiary while under the established age for retirement refuse to submit to at least one medical examination in any year by a physician or physicians designated by the medical board, his or her allowance shall be discontinued until the withdrawal of such refusal, and should such refusal continue for one year, all his or her rights in and to any retirement or disability allowance established under this Act shall be forfeited.

(d) Upon application of any beneficiary under the established age for retirement drawing a pension or a retirement allowance under the provisions of this Act, approved by the retirement board, said beneficiary may be restored to active service by the head of the department in which such beneficiary was employed at the time of his retirement. Upon the restoration of a beneficiary to active service his or her retirement allowance shall cease.

(e) The medical board shall consist of the city physician, a physician to be selected by the retirement board, and a physician to be selected by the employe. (19, c. 522, §8; ’25, c. 336, §1; Apr. 20, 1933, c. 328, §1.)

1442-19. Same—service allowances—options.
City employe entitled to retirement allowance, who in- the period of employment prior to his or her retirement, in- stances provided for herein, and payment with such deductions for service, shall be a full and complete discharge and acquittance of all claims and demands whatsoever for all services rendered by such person during the period covered by such payment. (a) on the basis of the actuarial equivalent of the net balance of credits and the present worth of the city's accumulated annual installments of $60,000 then standing to the credit of such contributor, in addition to the net accumulated salary deductions as specified above. If there be no de- pendent of such contributor surviving him, then only the net accumulated salary deductions shall be paid to the estate of such contributor.

(c) Upon reinstatement of a former employe to the service, credit for such past service or for any part thereof shall be granted only upon repayment of the amount of the separation refund, with interest, from the time of separation; provided this provision shall not apply to service rendered prior to the date that this Act becomes effective. (19, c. 522, §10; ’25, c. 336, §1; Apr. 20, 1933, c. 328, §1.)

1442-20. Refunds.—(a) In case of an employe to whom this Act applies who shall become absolutely separated from the service without being entitled to a retirement allowance, the total net accumulated amount of deductions from his or her salary, pay or compensation, made for the purpose of accumulating a fund from which to pay retirement allowances, shall be returned to such employe with accrued interest.

(b) Upon the death of a contributor before retirement there shall be paid to his or her estate or to such person as he or she shall have nominated, the net accumulated salary deductions standing to his or her credit, provided that in case of the death of a contributor after ten years of service, there shall be paid to the dependents or heirs of such contributor, the present worth of the city's accumulated annual installments of $60,000 then standing to the credit of such contributor, in addition to the net accumulated salary deductions as specified above. If there be no de- pendent of such contributor surviving him, then only the net accumulated salary deductions shall be paid to the estate of such contributor.

(c) On applications for reinstatement to active service, credit for such past service or for any part thereof shall be granted only upon repayment of the amount of the separation refund, with interest, from the time of separation; provided this provision shall not apply to service rendered prior to the date that this Act becomes effective. (19, c. 522, §11; ’25, c. 336, §1; Apr. 20, 1933, c. 328, §1; Jan. 18, 1934, Ex. sess., c. 73, §1; Jan. 13, 1936, Ex. sess., c. 21.)

Sec. 2 of Act Jan. 9, 1934, cited, decides that the act shall take effect from its passage.

Act Jan. 5, 1934, cited, purports to amend subd. (b) only, but sets forth the other parts of the section as it was amended Apr. 20, 1933.

1442-22. Individual record of credits required.—The city comptroller or other person having supervision of the payment of salaries to employes shall cause the deductions to be withheld from all specific appropriations for the particular salaries or compensation from which the deductions are made and from all allotments out of lump sum appropriations for payments of such salaries or compensation for each fiscal year; and a record of said sums shall be entered to the credit of the various employes from whose salaries deductions have been made. The amount of said deductions shall be deposited in the city treasury and credited to the retirement fund.

At the close of each fiscal year there shall be distributed to each contributing employe in proportion to the accumulated amount then to the credit of said
employee as accumulated salary deductions the amount of the income from interest earned on the accumulated retirement deduction, and after having deducted from the total of such income (1) the amounts otherwise required as interest for various allowances and/or purposes specified in the Act, (2) an amount to be set aside to apply on the cost of disability allowances and (3) an amount to be set aside for such other purposes as may be established by the city for the purpose of liquidating past losses on investments or to create a reserve fund and be added to and distributed with the interest earnings of the next succeeding year. The amount that shall be deducted from the gross interest earnings to apply on the cost of disability allowances shall be not more than one-half (1/2) of the cost of disability allowances for contributing employees. The amount that shall be set aside to liquidate past losses on investments or to create a reserve from which to liquidate future losses shall be such amount as the board may deem necessary for such purpose but not in excess of one million dollars. The amount received as interest on the debt and investments in the fund.

At the end of each calendar year and throughout the first 360 months of actual employment there shall be entered to the credit of each employee from whose salary or compensation deductions are made, an amount of $60.00 per employee, the accumulated amount of such loan by deductions from such employee’s monthly compensation.

The board shall, upon the request of any contributing employee who has borrowed from the retirement fund under the Federal Housing Administration insured mortgage system, provide for the repayment of such loan by deductions from such employee’s monthly compensation.

(c) All payments from the funds created by this act shall be made by the treasurer of the city only upon warrant signed by the president of the retirement board and countersigned by the executive secretary, and no warrant shall be drawn except by order of the retirement board duly entered in the record of its proceedings.

The retirement board is hereby authorized and empowered in carrying out the provisions of this act, to establish special funds supplementing individual contributions by the employees and to receive, invest and disburse for such purpose all moneys in the form of donations, gifts, legacies, bequests, or otherwise, which may be contributed by private individuals or corporations or organizations for the benefit of the city employees generally, or any special employee or class of employees of the city. (As amended, Mar. 17, 1939, c. 65.)

1442-30. Same—Application—Approval.—No disability or service allowance shall be granted to any employee who may become eligible for retirement as provided in this act until the said employee, or one authorized to act in his behalf, shall have filed with the retirement board, in such form as may be prescribed by said board, an application for such allowance; no installment or installments of any such allowance shall be paid for any period prior to the effective date of retirement.

The pension board shall be allowed a period of 60 days from and after the filing of the application within which to approve the same and compute the amount of service or disability allowance to which the applicant is entitled and in the event a service or disability allowance is granted the same shall commence with the effective date of the retirement of the person entitled thereto.

All installments of service or disability allowance heretofore paid for any period commencing prior to 60 days subsequent to the filing of the application therefor are hereby fully legalized and validated.

The pension board is hereby authorized and directed to pay any employee who has prior to the passage of this act retired on the service or disability allowance and who has not been paid said allowance for a period of 60 days from and after the filing of his application therefor, a sum or sums equal to an installment of service or disability allowance for said period of 60 days. (19, c. 522, §20: Apr. 11, 1935, c. 146, §1.)
credit of a retired employee at the date of his or her death, who has retired under the Option 1 plan of retirement, the retirement board shall, at the written request of such employee, file with the retirement board prior to his or her death, or at the written request of his or her spouse, or his or her personal representative, or when the death has occurred, after the employee's death, provide for the payment of such credits or balances or any portion thereof in monthly installments until such credits or balances are exhausted; provided, however, that such benefit shall be determined pursuant to the class of the employee now or at any time permitted to receive a sum or sums standing to the credit of the employee at the time of his or her death. (Act Mar. 17, 1939, c. 65, §1.)

1442-40b. May pay interest on balances.—The retirement board shall provide for the payment of annual interest on the credits or balances remaining on deposit at the same rate that is paid to contributing employees on accumulated salary deductions. (Act Mar. 17, 1939, c. 65, §2.)

1442-40c. Application of act.—Nothing in this act shall be construed to alter the method of determining the person or persons entitled to receive such refunds or the amount to be paid. (Act Apr. 1, 1939, c. 136, §3.)

1442-40d. Compulsory retirement of certain employees of police and fire departments.—Every employee, officer or person on the payroll of any fire or police department in any city of the first class shall retire upon reaching the age of 65 years; provided, that any such employee, officer or person on the payroll of any such fire or police department, serving as such on or before January 1, 1939, who has attained the age of 65 years and who has not served a sufficient length of time to enable him to receive the benefits under the terms and provisions of any pension act now in effect, shall not be entitled to receive such benefit. (Act Apr. 1, 1939, c. 136, §1.)

1442-40e. Same.—Effective September 1, 1940.—This act shall take effect and be in force from and after September 1, 1940. (Act Apr. 1, 1939, c. 136, §5.)

1442-41. Retirement of employees—credit on time. This section held not to apply to cases where an employee retired from service for the city more than five years before its passage, and at the time of retirement was not entitled to any pension or retirement allowance. 1944-5924, 219NW324.

1442-42. Disability allowances in certain cities.—That every city of the state now or hereafter having over 50,000 inhabitants, including such each such city now or hereafter operating under a home rule charter adopted pursuant to the provisions of Section 36, Article IV, of the Constitution of the State, which adopts or has adopted a system of paying pensions or retirement allowances to retired municipal employees pursuant to Chapter 522, General Laws 1919 [§§1442-11 to 1442-34], and the retirement board in control of such system are hereby authorized to pay pension or retirement allowances to each and every employee who at the time of ratification of the system provided by said Chapter 522, General Laws 1919, was, is or shall be then receiving compensation from the city under the provisions of Chapter 467, General Laws 1913 [§4539], and acts amendatory thereof [Workmen's Compensation Act], and (a) who, at the time of the injury for which such compensation is paid, was, is or shall be receiving salary or pay as an employee in excess of $750.00 per annum, or (b) who, at the time of retirement from the city service, was, is or shall be receiving pension or retirement allowance, in excess of $750.00 per annum, during any periods which in the aggregate equal 10 or more seasons of five or more months each in not to exceed an equal number of years, rates of pay which did not provide an average amount in excess of $750.00 per annum, and has attained the age of 55 years. (Act Mar. 28, 1929, c. 106, §1.)

1442-43. Amount of allowance.—The pension or retirement allowance which any such employee shall be entitled who at the time of the adoption of such plan had been receiving in excess of $750.00 per annum shall be of the same amount and shall be calculated in the same manner as would have been pursued if the plan had been as provided by Chapter 522, General Laws 1919 [§§1442-11 to 1442-34], and acts amendatory thereof, had been in effect at the time when the injury was received for which such compensation is paid as provided by Chapter 467, General Laws 1913 [§4330], and acts amendatory thereof. Every pension or retirement allowance to which any such employee at rates of pay less than an average of $750.00 per annum shall be entitled shall be of the same amount and shall be calculated in the same manner as provided in Section 6, Chapter 522, General Laws 1919 [1442-16]. (Act Apr. 1, 1939, c. 136, §2.)

1442-44. Retirement board to determine amounts.—It shall be the duty of the said retirement board to determine the annual amount of any such allowance and to provide for payment thereof; provided, that any payment thereof shall not begin until the compensation therefor, had been in effect at the time when the injury was received for which such compensation is paid as provided by Chapter 467, General Laws 1913 [§4330], and acts amendatory thereof, has ceased. (Act Mar. 28, 1929, c. 106, §3.)

1442-45. Tax levy.—The retirement board in any such city shall include in the financial statement required by Section 14 of said Chapter 522, General Laws 1919 [1442-24], the amount, in addition to all other amounts, of the portion of any such disability or retirement allowance chargeable against the city, and it shall be the duty of the proper city officials in such city to levy a tax sufficient to provide such amount in addition to the amount to be levied pursuant to said Chapter 522, General Laws 1919, and amendments thereof. (Act Mar. 28, 1929, c. 106, §4.)

1442-46. Payment of disability allowance.—The retirement board provided by said Mason's Minnesota Statutes of 1927, Sections 1442-11 to 1442-34, inclusive, is hereby invested with all the rights, privileges and obligations relative to any such disability or retirement allowance, and is authorized to continue payment to the surviving spouse of any employee during the lifetime only of such surviving spouse, and to the end room which the compensation therefor are to be paid, pursuant to the allowances and funds authorized by Mason's Minnesota Statutes of 1927, Sections 1442-54, inclusive, including the right, privilege, or obligation to cancel any such allowance under conditions specified therein. (Act Mar. 28, 1929, c. 106, §5; Apr. 24, 1935, c. 250.)

1442-47. Members of park board may resign.—In each city of the first class of this state now or hereafter having a population of 50,000 inhabitants or more including each such city now or hereafter operating under a home rule charter adopted under and pursuant to Section 4, Article IV, of the State Constitution, the Board of Park Commissioners of said city, if any such there be, shall have full power and authority to accept the resignation of any member of said Board, anything in the charter of said city to
May fill vacancies in board of park commissioners in certain cities.—In each city of the first class of this state now or hereafter having a population of 50,000 inhabitants or more, including each such city now or hereafter operating under a home rule charter adopted under and pursuant to Section 36, Article 4, of the State Constitution, if the Board of Park Commissioners of said city (if any such there be) shall fail to fill any elective vacancy on said Board ten days prior to the last day for filing for nomination to an elective city office, in advance of a general primary or primary held in said city, for the unexpired term of the person causing such vacancy, then the voters of said district wherein said vacancy exists in any such city shall fill such elective vacancy by nomination at such primary election and election at the general city election thereafter in the manner prescribed by law for nomination and election of elective members of said Board, anything in the charter of said city to the contrary notwithstanding. The President or Vice-President and the Secretary of said Board shall certify to the City Clerk ten days before said election that a vacancy exists in said Board, and the Clerk shall take effect from its passage.

Pension and retirement allowances to surviving spouse, etc.—Every city of this state now or hereafter having over 50,000 inhabitants, which has been operating a retirement system hereafter adopted shall pay pensions and retirement allowances to retired municipal employees pursuant to Laws 1919, Chapter 522 [§§1442-11 to 1442-54], or said act as amended, acting by and through its city council or chief governing body of the city, and the pension and retirement board in charge of such system are hereby authorized and empowered to pay pensions and retirement allowances to the surviving spouse, dependents, heirs or nominees of any employee of the city in the contributing class who has hereafter died, or who may hereafter die, before attaining the minimum age for retirement on a service pension under the provisions of said Act or said Act as amended, and who has rendered or shall have rendered service in the city for a period of 20 years or more prior to the date of his or her decease, and whose death was not or shall not be caused by an accident which occurred or shall occur while such employee was or shall be engaged in the performance of his or her duties as such employee.

The amount of such pensions and retirement allowances hereby authorized shall be the net amount of personal contributions made by such employee under the provisions of said Act or said Act as amended, prior to his or her decease, and interest thereon, and the net amount of the contributions made by the city in respect to such employee, with interest thereon, shall be calculated and determined in the same manner as provided in said Laws 1919, Chapter 522, as amended, for the calculation and determination of pensions and retirement allowances becoming payable under the provisions of said Act and said Act as amended. It shall be the duty of the governing body of the city to levy annually a tax on the taxable property in the city sufficient to pay all pensions and retirement allowances hereby authorized, in addition to all other taxes authorized to be levied by said Chapter 522 and said Act as amended; and it shall be the duty of the retirement board of the city to administer the proceeds of such additional taxes and cause the same to be paid to the person or persons entitled thereto under the provisions of this Act and said Chapter 522 and said Act as amended. (Act Apr. 20, 1931, c. 244; Apr. 1, 1933, c. 146.)

Retirement boards may make loans to contributing members in certain cases.—In every city of this state now or hereafter having over 50,000 inhabitants, which has hereafter adopted or shall hereafter adopt a system of paying pensions and retirement allowances to retired municipal employees pursuant to Laws 1919, Chapter 522, or said Act as amended, the retirement board is hereby authorized to make loans to the contributing members of such retirement fund in amounts not to exceed fifty per cent of the amount of the salary deductions standing to the credit of any contributor. No loan shall be made except in case of necessity which in the opinion of the board is deemed sufficient to warrant the granting of such loan, nor without the approval of at least three members of the board. Loans may be granted in case of lay-off of employees where such lay-off is of indefinite duration and does not amount to a complete separation from the service.

Repayment of loans in all cases where the employee is still in service shall begin with the month following the making of said loan, and there shall be re- 50. Applications and payments for retirement allowances validated.—In all cases where the surviving spouse or any deceased employee of any city which has adopted the plan and is paying retirement allowances to employees pursuant to Mason's Minnesota Statutes of 1927, Sections 1442-21 to 1442-34, inclusive, and acts amendatory thereof, has filed an application within 30 days after death of such employee with the retirement board of such city, said board is hereby authorized to continue such payments to the person entitled thereto in the same manner and with the same force and effect as though the deceased employee had made and filed his application with such retirement board during his life time. Any payments heretofore made which would have been valid had this act been in force at the time of making such payments are hereby validated and legalized, and said board is hereby authorized to continue such payments until the full amount of benefits have been received as now provided for by law. (Act Apr. 11, 1935, c. 149.)

Retirement allowance may be left on deposit in fund.—May fill vacancies in board of park commissioners in certain cities.—In each city of the first class of this state now or hereafter having over 50,000 inhabitants, which has hereafter adopted or shall hereafter adopt a system of paying pensions and retirement allowances to retired municipal employees pursuant to Laws 1919, Chapter 522, or said Act as amended, the retirement board is hereby authorized to make loans to the contributing members of such retirement fund in amounts not to exceed fifty per cent of the amount of the salary deductions standing to the credit of any contributor. No loan shall be made except in case of necessity which in the opinion of the board is deemed sufficient to warrant the granting of such loan, nor without the approval of at least three members of the board. Loans may be granted in case of lay-off of employees where such lay-off is of indefinite duration and does not amount to a complete separation from the service.

Repayment of loans in all cases where the employee is still in service shall begin with the month following the making of said loan, and there shall be re-
someone acting in his behalf shall make the applica-
tion for such retirement allowance is made. The
retirement allowance shall be the actuarial equivalent
of twenty years of service, becomes separated from the city after
becoming permanently separated, plus interest, as provided for
in Section 1442-23, 1934 Supplement to Mason's
Minnesota Statutes 1927. (Mar. 2, 1937, c. 52, §2.)

1442-53. Same—Payment to heirs.—If such con-
tributing member dies before reaching the age of
fifty-five years, or having attained the age of fifty-five
years without having made the election provided for
herein, there shall be paid to his or her heirs, as
defined in Section 1442-13, subdivision (i), 1934 Supple-
ment to Mason’s Minnesota Statutes 1927, the
amount to his or her credit on the date of his or her
death. In the absence of heirs, that portion of the
credit contributed by the city shall be cancelled, and the
balances as it was on the date of separation shall
become a part of the contributors’s account. The interest
credit accrued from the date of separation to the date of
death on such member's deposit shall be withheld and
credited to the reserve for loss on investment account.
(Mar. 2, 1937, c. 52, §3.)

1442-54. Same—Withdrawal of deposits.—Such con-
tributing member may, after electing to receive a
retirement allowance as provided herein, make appli-
cation to withdraw his or her deposit before reaching the age of
fifty-five years, at which time that portion contributed by the city shall be cancelled and one-
half the interest credited on his or her deposit on the date of
separation to date application is made to withdraw
such credit shall be withheld and shall be credited to the reserve for
loss on investment account of such fund. (Mar. 2, 1937, c. 52, §4.)

1442-55. Same—Rights forfeited on withdrawal.—
If such deposit is withdrawn before retirement, the
retirement rights shall be forfeited and such em-
ployee returns to the service of the city and again be-
comes a contributing member to the fund and re-
deposits the amount withdrawn, plus four per cent compound
interest on the amount from date of withdrawal to date of
reinstatement to the service of the city. (Mar. 2,
1937, c. 52, §5.)

1442-56. Same—Retirement allowance for dis-
able persons.—If such contributing member, after
becoming permanently separated from the service of the
city and after electing to receive a retirement
allowance as provided herein, makes appli-
cation to receive such permanent separation before reaching the age of fifty-five years, he or she shall be entitled
to receive such retirement allowance before reaching the age of fifty-five years, upon application to the
Municipal Pension and Retirement Board and cer-
tified by the medical board provided in such act. Such
retirement allowance shall be the actuarial equivalent
of the total credit to his or her account on the date
application for such retirement allowance is made.
(Mar. 2, 1937, c. 52, §6.)

1455. Civil service commission.
Removal from public office in Minnesota. 20 MinnLaw
Rev 721.

1455-1. Employees to be classified.—The employees of the board of education of any independent school
district in any city of the first class in the state of
Minnesota, the territorial limits of which school dis-

1455-2. Who are employees.—That the term “em-
ployees,” as used in this act, shall not include members
of the board of education, superintendent of
schools, assistant superintendent, under the direc-
tion of the board, teachers, including principals and super-
visors, chief engineer, recreational director, physi-
cians, dentists and temporary employees. (Act Feb.
21, 1933, c. 35, §2.)

1455-3. Clerk to certify list.—That it shall be the
duty of the clerk of the Board of Education of such
independent school district to promptly furnish the
secretary of any such civil service board a list of the
employees of the Board of Education of said independ-
ent school district, together with a statement of the
duties performed by them, and the salaries paid to
them, and it shall thereupon become the duty of the
civil service board to classify such employees under
the rules of said civil service board, said classification
to be subject to final approval of the Board of Edu-
cation. (Act Feb. 21, 1933, c. 35, §3.)

Act contemplates that civil service board shall per-
form same duties with reference to employees of board of
education which it performs with reference to em-
ployees of city and such board has obligation of paying
all expenses incurred in classifying employees and

1455-4. Present employees to retain positions.—That
employees of any such Board of Education, who are
regularly employed by such Board at the time of the
classification of the employees by the civil service
board as herein provided, shall retain their positions,
unless removed for cause. (Act Feb. 21, 1933, c. 35, §4.)

Sec. 5 provides that the act shall be in force from its
passage.

1450-1. Civil service rules for unskilled labor.—
That no city of the first class located in any county
having a population of not less than 275,000 inhab-
"inhabitants and not more than 550,000 inhabitants includ-
"ing any such city operating under a charter adopted
"pursuant to the provisions of Section 36, Article 4,
"of the Constitution of the State of Minnesota, shall
"require any person seeking employment or appointment as
"a common, unskilled or semi-skilled laborer to be
"qualified in any classification herein, to follow the
civil service rules and regulations in relation thereto as a condi-
"tion to any such employment or appointment. (Act
"Apr. 21, 1933, c. 372, §1.)


1450-2. Inconsistent acts repealed.—All laws and
parts of laws, ordinances and charter provisions in-
consistent herewith are hereby repealed. (Act
"Apr. 21, 1933, c. 372, §2.)

Sec. 3 of Act Apr. 21, 1933, cited, provides that the act
shall take effect from its passage.
1465. Removal of officers or employees. 

Reinstatement of illegally discharged civil service employees. 18MinnLawRev837.

1465-1. Notice of discharge of employees.—No regularly employed person having a classification under civil service regulation in cities of the first class operating under Article 4, Section 36 of the Constitution of the State of Minnesota, shall be discharged, suspended or demoted, because of inefficiency, breach of duty or misconduct, unless written notice specifically and fully stating the reasons for such discharge, suspension or demotion is served upon such employe by the officer, board or person whose duty it is or may be to remove or employ such employe. (Act Apr. 22, 1933, c. 405, §1.)

Commissioner of public safety of city had no authority to indefinitely suspend from his position the position of superintendent of bureau of police and fire alarm telephone, on sole ground of a temporary deficiency in fund provided in city budget for all salaries and expenses of said bureau for that year, there being more than twenty employees in said bureau, and no other employes being suspended. State v. Warren, 195M168, 261NW857. See Dun. Dig. 658a.

Inefficiency does not consist of a separate act, but embraces a course of conduct, a lack of integrity, or limitation of capacity. Hughes v. D., 273NW618. See Dun. Dig. 891e.

Inefficiency denotes incapability for office, while misconduct denotes an improper discharge of duties of office, and while an officer may not twice be punished for same misconduct, he may be punished for a subsequent misconduct. See 1465-1. Hearing.—Within ten days after the service of such notice such employe may demand a hearing before a board to be known as a Board of Appeals or Referees, said Board to consist of three members, one member to be appointed by the mayor from outside the City Service; one member to be appointed by the City Council from the administrative officials of the Municipality; and one member to be appointed by the chief civil service examiner, administrative head, or secretary of the Civil Service Department. (Act Apr. 22, 1933, c. 409, §2.)

1465-3. Board to fix date of hearing.—The Board of Appeal or Referees shall within ten days after their appointment serve a written notice upon such employe, setting forth the time of the hearing before them of said charges. The hearing of said charges shall be open to the public, and said employe may appear with an attorney.

1465-4. Board to make investigations.—The Board, or member, thereof in making an investigation, or conducting a hearing under this Act shall make such investigation, or inquiry, or conduct such hearings, in such manner as to ascertain the substantial rights of the parties, and all findings of fact shall be based upon reviewable evidence. (Act Apr. 22, 1933, c. 409, §4.)

Evidence before administrative tribunals. 23MinnLawRev. 514

1465-5. Employes shall be removed, when.—If, after the investigation and hearing by the Board of Appeal or Referees as hereinbefore provided, such employe is found guilty of inefficiency, breach of duty or misconduct, he shall be removed, reduced or suspended, and his name may be stricken from the service register. If the Board of Appeal or Referees determine that the charges are not sustained, such employe, if he has been suspended pending the investigation, shall be immediately reinstated and shall be paid all back pay due for the period of suspension. (A) Findings and determination hereunder and appeal of suspensions, reasonable?—After notice is given in writing and shall be filed within three days after the completion of such hearing with the secretary of the Board of Appeal or Referees, and it shall be the duty of the secretary to notify such employe of said decision in writing.

(B) Any person suspended, reduced or removed by the Board of Appeal or Referees after the investigation may appeal from the order to the District Court by serving written notice thereof upon the secretary within ten days after the filing of said order or the receipt by said employe of said order as above provided. Within five days thereafter the secretary shall certify to the clerk of District Court the record of the proceedings, including all documents, testimony and minutes. The case shall then be at issue and shall be placed upon the calendar of the clerk of District Court to be tried before the Court without jury at the next general term thereof to be held in the county where said city is located at the place nearest said city. The question to be determined by the Court shall be:

"Upon the evidence was the order of the Board of Appeal or Referees reasonable? Hughes v. D., 273NW857. See Dun. Dig. 6591, 8010a.

Upon a hearing of charges of inefficiency, breach of duty, and misconduct in performance of duty preferred against a police officer, it was proper for board of appeal to receive in evidence service record of officer as bearing upon question of his inefficiency, although such record would not be competent as evidence to prove charges of misconduct alleged to have been committed subsequent to passage of act and not included in service record offered as evidence. Id.

1465-6. Board to serve without pay.—Each member of the Board of Appeal or Referees shall serve without pay, but the Council may allow such compensation as the board deems commensurate with the services rendered by said Board of Appeal or Referees. The Council shall pay from the Municipality treasury all expenses incurred by said Board of Appeal or Referees in connection with the performance of its duties and shall furnish said Board of Appeal or Referees with all supplies, stationery or equipment it may require. (Act Apr. 22, 1933, c. 405, §6.)

1465-7. Limitation of act.—Nothing in this act shall limit the power of any officer to suspend a subordinate for a reasonable period for the purpose of discipline or pending investigation of the charges when he deems such suspension warranted. (Act Apr. 22, 1933, c. 409, §7.)
1465-8. Application of act.—This act shall not apply to such cities of the first class operating under Article 4, Section 36, of the Constitution of the State of Illinois, under the home-rule charter or Civil Service Ordinances for the hearing and determination of charges against employees before a Civil Service Commission or Board established by such charter or Civil Service Ordinances. Upon repeal of such provisions creating such Commission or Board this Act shall become effective also as to such cities. (Apr. 26, 1937, c. 320, §1.)

CH. 9.—VILLAGES AND CITIES

1475-2. Inconsistent acts repealed.—All laws or provisions or parts thereof inconsistent herewith are hereby repealed. (Act Apr. 24, 1931, c. 320, §2.)

1479. Contracts for lighting streets.

In action, brought in behalf of all taxpayers of city of St. Paul, to recover damages from a public service corporation, for alleged unjust discrimination, in that it chartered and received for electric current furnished city a rate higher than that charged and received for such current furnished other named patrons, complaint, failed to state a cause for it shows that rate paid by city was within lawful rate fixed by city council and alleged that no such violation as has been charged. Ailawed to be a competitor of city. Callender v. N., 1925551, 257 NW 512. See Dun. Dig. 2596c.

1481. "Public utilities" defined.


1485. Acquisition and operation.

When authorized to divert or use waters for power or other purposes aforesaid, by ordinance, fixed such rates and/or payment for such service within such city, and to determine the amount which any such public service corporation shall pay the city for the exercise of any franchise or privilege in, over, under, or upon any of the streets or public places in or within said city, whenever such public service corporation is not specifically relieved of such payment, the sum fixed by the governing body, pursuant to this act, for the use of such property and privilege, shall not be less than the minimum fixed by such charter to be paid in those cases wherein the grantee is not specifically relieved from such payment. (Act Apr. 24, 1935, c. 286, §1.)

1491-6. Acts validated.—That in all cases in which, during the 12 months immediately preceding the adoption of this act the governing body of any such city has, subsequent to the expiration of such franchises and licenses aforesaid, by ordinance, fixed rates for such services or any part thereof and fixed the payment to be made to such city for the use of the streets and other public places in such city, and such ordinance has been accepted by any public service corporation, for alleged unjust discrimination, in that it chartered and received for electric current furnished city a rate higher than that charged and received for such current furnished other named patrons, complaint, failed to state a cause for it shows that rate paid by city was within lawful rate fixed by city council and alleged that no such violation as has been charged. Ailawed to be a competitor of city. Callender v. N., 1925551, 257 NW 512. See Dun. Dig. 2596c.

1491-7. Limitation of act.—This act shall not be construed as authorizing any such governing body to change any rates for such service, or the amount of payment for the use of the streets and other public places aforesaid, for the 12 months next preceding the passage of this act, nor shall any agreements or contracts have been embodied in an agreement now or hereafter existing between any such city and any such public service corporation, which agreement determines the amount of such rates and/or payment for a definite period of time. (Act Apr. 24, 1935, c. 286, §3.)

1499-1. Directors of trusts to be created.—That all rights, powers and duties of any city of this state of the first class having over 50,000 inhabitants, concerning all property and estate whatsoever, donated to any such city for the establishment or maintenance of any hospital or hospitals, the administration and management of which is now or shall hereafter become vested in or conferred to such city, shall be exercised and discharged by a charitable trust, created for the purpose of carrying out the provisions of this act and for the establishment, management and control of any such hospital or hospitals. (Act Mar. 14, 1931, c. 56, §1.)

1499-2. Trustees—terms.—The Mayor of such city shall be ex officio a member of the Board of Directors of Trusts and the other six members shall be residents of such city appointed by the Judges of the District Court of the State of Illinois in which such city is located, by concurrent action of a majority of such Judges, for the following terms be—
gaining with date of appointment; two for a term of two years; two for a term of four years and two for a term of six years, and thereafter as such terms expire the vacancies caused thereby shall be filled by appointment for four years. Said Judges by like concurrent action shall appoint members to fill out the unexpired term of any member who for any reason ceases to be a member before the expiration of his term.

The Judges of said District Court shall meet and take action upon any of the matters in this Section specifically appointed for the session judges of such District or upon the petition of the Mayor or any resident taxpayer of such city. (Act Mar. 14, 1931, c. 56, §2.)

1499-8. Powers and duties. — The Directors of Trusts shall have power to: make rules and by-laws for the proper conduct of their business; to appoint and remove from time to time such agents and employees as in their judgment may be required for the proper discharge of their duties, and to determine the duties and compensation of all such agents and employees; to make such contracts and agreements in accordance with the conditions of any such donation as in their judgment may from time to time be required in the administration and management of such properties and in accordance with the provisions of the city charter of such city and existing or future ordinances enacted by the common council relating to the award and conditions of contracts and generally, it shall be the duty of the Directors of Trusts, for and in the name of such city, to do, perform and discharge all and singular whatever acts and duties are or from time to time may become proper or necessary to be done by such city in discharge of its duties in connection with such use or trust, and to file with the City Clerk on or before February 15th of such year a report for the preceding calendar year showing all receipts and disbursements with sources and purposes thereof, together with a statement of assets under their control and property acquired or disposed of during such year, and such other general information as to the management and control of the trust property as in their judgment is proper. (Act Mar. 14, 1931, c. 56, §3.)

1499-4. City Treasurer to be custodian. — The Treasurer of such city shall have custody of and be responsible for the safe keeping of all cash, securities, title documents and records appertaining to the property, the administration and management of which devolves upon the Directors of Trusts, and shall furnish such information as to such cash and other property held by him as may be requested by the Directors of Trusts. He shall keep the cash and other property of each trust separate and pay out and deliver the same from time to time upon order of such Board of Directors of Trusts made in accordance with their rules and regulations in carrying out their duties as such Board of Directors of Trusts. (Act Mar. 14, 1931, c. 56, §4.)

1499-5. Directors to receive no compensation. — The Directors of Trusts in the discharge of their duties and within the scope of their powers aforesaid shall be considered agents of the city, but no compensation for their employment whatsoever shall be rendered by such Director for such service, nor shall any such Director have or ever acquire any personal interest in any contract whatever made by such Directors of Trusts in carrying out their duties or powers as such; nor shall any such Director receive directly or indirectly any compensation for services rendered or material or supplies furnished to any person while an inmate of any institution conducted by such Directors of Trusts. Any such Director violating any of the provisions hereof shall be removed from further acting as such Director and the vacancy so caused shall be filled under the provisions of Section 2 hereof [$1499-2]. (Act Mar. 14, 1931, c. 56, §5.)

1499-6. Application. — This act shall apply to all cities of this state of the first class having over 50,000 inhabitants, including any such city operating under a charter adopted pursuant to Section 36, Article 4 of the State Constitution, not only to any city operating under a charter adopted pursuant to Section 36, Article 4 of the State Constitution providing for a department or Board with authority to exercise and discharge the rights, powers and duties herein provided to be exercised and discharged by the Board of Directors of Trusts, nor to any city which now has erected and/or now maintains any such hospital jointly with any county. (Act Mar. 14, 1931, c. 56, §6.)

1504. Condemnation of land for harbors, etc. Boundary dispute between claimants of land condemned. 176M512, 223NW767.

1504-1. Public landings, wharves, docks, etc. For creation of a commission known as "Port Authority" for certain cities over 50,000 population, see Laws 127 c. 61, ante, §§1372 to 1372-7.

1531-1. Conveyance to university of discontinued water power sites.—Any city of the first class operating under a home rule charter, and having and owning the fee title to any tract or piece of land with water power rights and facilities running with such land, that the public use of which shall have been discontinued, shall, in addition to all other powers granted such city, have the power and authority to sell, transfer, quit claim and convey such land and water power rights to the University of Minnesota for a nominal consideration in any case where the city council of such city shall deem such land and power rights of no further public use and shall transfer and conveyance to the best interest of the city. Provided, however, that such transfer and conveyance shall require two-thirds vote of all members of the city council. (Jan. 13, 1926, Ex. Sec., c. 6, §1.)

1537. Condemnation, how conducted, etc. One obtaining market value of property was not entitled to an additional award for expense of removal from the premises. 176M389, 225NW468.

1538-1. Streets and highways. This section does not repeal or modify the provisions of the charter of the city of St. Paul, providing for condemnation of land for street and highway purposes. 177M146, 225NW868.

1541-1. Cities may acquire exempt property.—Each city of the first class now or hereafter having a population of 50,000 inhabitants or more, including such city operating under a charter adopted pursuant to the provisions of Section 36, Article 4, of the Constitution of the State of Minnesota, is hereby authorized and empowered to acquire by purchase, condemnation, or otherwise any right or interest in land either platted or unplatted within the limits of said city, which interest in land consists of a right or privilege in the owner of said land to offset certain amounts against special assessments levied by the governing body, the city council or the board of park commissioners of such city for park or parkway purposes, or both. (Act Apr. 25, 1931, c. 385, §1.)

1541-2. Right of eminent domain.—In the event that the chief governing body, city council or board of park commissioners of such city shall exercise such right by condemnation such body may do so under any laws provided for the condemnation of real property or eminent domain or under any provision of the charter of such city granting to such body the right of condemnation or eminent domain; or, it being for the best interests of such city, such chief governing board, city council, or board of park commissioners shall so declare in writing to the governing body and authority to acquire said rights by purchase, taking into consideration the present worth of such right to exemption
and the probability or improbability that such ex-
ceptions would ever be used as an offset to future as-
sessment for benefits. (Act Apr. 25, 1931, c. 385, §2.)

1541-3. May issue bonds.—In order to carry out the purpose of this Act each such city is hereby author-
ised to issue bonds, or certificates of indebtedness to secure funds for the amount necessary to acquire
said right, and the city council or other chief govern-
ing body shall levy annually a tax on all the taxable
property of the city sufficient to meet the interest
and the principal about to mature on said bond. (Act
Apr. 25, 1931, c. 385, §3.)

1552. Designation of land for streets, etc.
This act became a part of the Minneapolis Home Rule
Charter, merely by reference to it. 177M122, 254NW 845.

Section 6532. Mason's Minn. Stat. 1927, which creates a
cause of action in favor of a landowner for his expenses
incurred in a condemnation proceeding under Chapter 41
of those statutes, does not apply to

under the same of §155. See Harrel v. M., 201M 622, 277NW286. See Duni, Dug 3121, 3122.

1553. Proceedings for acquisition of lands. After the
adoption of the resolution it shall be the duty of the
city engineer to make the report to the council
a plat and survey of such proposed improvement,
showing the character, course and extent of the same
and the property necessary to be taken or interfered
with thereby, with the name of the owner of each parcel
or part of property so affected, the engineer and
readily ascertain the same, and such statement as
may in the opinion of the engineer be proper to ex-
plain such plat and survey and the character and ex-
tent of the proposed improvement.

When such plat and survey shall be finally adopted
by the city council, it shall be filed with the city clerk,
and it shall be held to show correctly the character
and extent of the improvement actually agreed upon
and ordered by the city council.

Said plat shall also show the amount of land taken
from each owner, so far as the owners may be known,
and the lands contiguous to such improvements.

The city council shall then or afterwards appoint
five freeholders of said city, no two of whom shall
reside in the same ward, as commissioners, to view
the premises and to ascertain and award the amount
of damages and compensation to be paid to the owners
of property which is to be taken or injured by
such improvement, and to assess the amount of such
damages and compensation, and the expense and
improvement upon the land and property to be ben-
fited by such improvement, and in proportion to the
benefits to be received by each parcel and without
regard to a cash valuation.

Three or more commissioners shall constitute a
quorum and be competent to perform any duty re-
quired of such commissioners; and they shall be no-
tified of their appointment, and vacancies in their
number shall be filled by the city council, and they
shall be sworn to the faithful discharge of their du-
ies.

They shall give notice by two publications in the
official paper of said city that such survey and plat
is on file in the office of the city clerk, for the
examination of all persons interested, and that they
will on a day designated in such notice, which shall
be at least ten days after the first publication of such
notice, meet at a place designated in said notice on
or near the proposed improvement, and view the
property proposed to be taken or interfered with for
the purpose of such improvements, and ascertain and
award therefor compensation and damages, and view
the premises to be benefited by such improvement,
and assess thereon in proportion to benefits, amount
necessary to pay such compensation and damage and
the cost of making the improvement, and that they
will then and there hear such allegations and proofs
as interested persons may offer. Any such commis-
sioners shall meet and view the premises pursuant
to such notice, and may adjourn from time to time,
and, after having viewed the premises, may, for the
hearing of evidence and preparation of their award
and assessment, adjourn or go to any other conven-
ient place in said city, and may have the aid and
advice of the city engineer and of any other officer
of the city, and adjourn from time to time; After
viewing the premises and hearing the evidence of-
fered, such commissioners shall prepare and make a
true and impartial appraisement and award of the
compensation and damages to be paid to each per-
son whose property is to be taken or injured by the
making of such improvement, and the property of the
same property, a part of which only is to be tak-
en or damaged by such improvement, shall be bene-
fited by such improvement, then the commissioners,
in considering and awarding compensation and dam-
gages, shall also consider, estimate and offset the ben-
fits which will accrue to the same owner, in respect
to the remainder of the same property, and award
him only the excess of the compensation or damages
over and above such benefits.

Said commissioners shall then assess the
amount of such compensation and damages so award-
ed upon the land and property benefited by such pro-
posed improvements, together with the expense and
cost of making the improvements as fixed by the city
council, and in proportion to such benefits, but in no
case shall the amount of such assessment exceed the
actual benefit to the lot or parcel of land so assessed,
deducting therefrom any damages or injuries to the
same parcels which are less than such benefits, and
assessing only the excess, and prepare and report to
the city council their appraisement and award, and
if in the judgment of said commissioners the amount of such compensation and damages, together
with the cost of making such improvement, shall ex-
cede the actual benefit to the lot or parcel of property
subject to assessment, they shall so indicate in their
report and shall state the amount of such excess.

Said commissioners shall also report to the city
council an assessment list containing their assessment of
such compensation, benefits, and costs, or so much
thereof as shall not exceed the actual benefits to the
property so assessed, which list shall contain a brief
description of each tract or parcel of property as-
essed, the name or names of the owners thereof, if
known, and the amount assessed against each parcel
of property and the amount of the excess of such
compensation, damages and costs as aforesaid, which
they shall return unassessed.

The commissioners may employ clerical assistance,
and the cost thereof, as well as the commissioners' compen-
sation, and the expenses of printing the prior notice-
tives required, including, among others, the notice of
consideration by the city council, hereinafter referred
to, estimated at the same rate per line as the cost of
printing the prior notices, shall be added to the
other amounts to be assessed and shall be assessed
therewith. The city attorney shall represent the city
before the commissioners and produce such evidence
as the case may require.

The city council, may, however, provide by the res-
olution appointing such commissioners that a certain
specified percentage, not exceeding one-third (33 1/3 %) per cent, of the total damages and
cost of improvements, shall in any case be pay-
able out of the city's general funds, and in that case
the city's share shall be added to the amount of the
certificate or certificates to be issued and sold under Section 10,
and the city council shall from year to year levy a
sufficient tax upon the taxable property of the city
to pay the same, with interest. In such case the
amount provided to be paid out of the general funds
shall not be assessed.

Said commissioners shall, upon the completion of
their said report, file the same with the city clerk
and thereupon it shall be the duty of said city clerk

315
to give notice to all interested parties by publishing, as soon as possible, in the official paper of said city a notice containing descriptions of the several lots and parcels of land taken for such proposed improvements, the amount awarded for the taking of each such lot or parcel, the names of the owner or owners thereof, and a description or parcels of land upon which benefits have been assessed, the amount assessed against each such lot or parcel and the names of the owner or owners of the same; the names of all owners referred to herein as required to be obtained from said commissioners, and, so far as the same may be necessary, from their records or records of the county treasurer. Said published notice shall also designate and fix a place and time, not earlier than three weeks from date of publication of the same, at which a committee therein designated by the city council or by the park commissioners of said council will meet to hear and consider, from or on the part of the owner or owners of the several lots or parcels of land taken for such proposed improvement and of the several lots or parcels of land upon which benefits have been assessed, any and all objections to the making of such improvement, or who deems that the award of said commissioners for the taking of or interference with his property, and against the several lots or parcels of land described in the assessment list reported to the city council by the commissioners, in accordance with the assessments so confirmed or in proportion to such assessments as herein provided. The city council may in its discretion direct the several assessments in any proceeding under this act until the completion or substantial completion of the improvements proposed to be made therein, and the actual costs of such improvements and proceeding have been determined, which cost may include interest at 5% per annum on moneys actually advanced by said city clerk, otherwise as obtained from the records in the office of the county treasurer; provided that the failure of any such owner or owners to receive such notice shall not in any wise operate to invalidate any of the proceedings covered by this act.

Any person whose property is proposed to be taken, improved, or benefited, under the provisions of this chapter, and who objects to the making of such improvement, or who deems that there is any irregularity in the proceedings of the city council, or on the part of the owner or owners thereof, shall give notice to said committee the report of the commissioner so appointed by it, by reason of which the award of said commissioners ought not to be confirmed, or who is dissatisfied with the amount of damages awarded to him for the taking of or interference with his property, or with the amount of the assessment for benefits to any property affected by such proceedings, shall appear at the hearing or file with said city clerk, designated in such published notice, at any time before such hearing or before the report and recommendation of said committee is filed, as hereinbefore provided, his written objection to the making of such improvement, or his objection to the damages awarded or benefits assessed, or his claim of said irregularities, specifying the name, and a description of the property affected by such proceedings.

At the time and place designated by such published notice for said hearing the city clerk shall present to said committee the report of the commissioner so appointed together with all written objections so filed with said city clerk and such committee shall then consider the same and hear said objection, or their representatives, in person, and shall adjourn said hearing from time to time as may be necessary.

Within ten days from the conclusion of said hearing or hearings said committee shall file with said city clerk its report and recommendation on the matter so submitted, and upon such filing the city clerk shall cause to be published in the official newspaper of said city once a week for two successive weeks, the last publication thereof being at least two weeks before said meeting of said city council.

Said city council, upon the day fixed for the consideration of said reports and recommendation or at any subsequent meeting to which the same may stand over or be referred, may by resolution annul and abandon said proceedings, or may confirm such awards and assessments or any or either thereof, or annul the same, or send the same back to said commissioners for further consideration; and said commissioners may in such case again meet at a time and place to be designated in a notice which shall be published by said city clerk once in the official newspaper of said city and copies of which shall be similarly mailed by said city clerk to all interested persons, at least two weeks prior to said meeting, and hear any further evidence that may be adduced by interested persons, and may adjourn from time to time, and may correct any mistakes in such award and assessment and alter and revise the same as they deem just, and again report the same to said city council, who may thereupon confirm or annul the same.

Whenever the city council shall confirm any such award and assessment such confirmation shall make such award and assessment final and conclusive upon all parties interested, except as hereinafter provided, and the city council shall proceed, at the same or at any subsequent meeting, to levy such assessment or such fractional part thereof as the city council may deem necessary to pay the costs of the proceedings and making the improvements therein upon the several parcels of land described in the assessment list reported by the commissioners, in accordance with the assessments so confirmed or in proportion to such assessments as herein provided. The city council may in its discretion divide the several assessments in any proceeding under this act until the completion or substantial completion of the improvements proposed to be made therein, and the actual costs of such improvements and proceeding have been determined, which cost may include interest at 5% per annum on moneys actually advanced by the city, and thereupon the city council shall proceed to levy assessments in such proceeding, aggregating the amount of such costs or such portion of such costs as the city council shall have determined in conformity with the provisions of this act, upon the several parcels of land described in the assessment list reported to the city council by the commissioners in such proceeding, and such assessments so levied shall be in amounts proportionate to and not greater than the several amounts theretofore confirmed upon such parcels of land respectively by the council or by the court upon appeal in such proceeding. The city council shall cause to be made and shall adopt an assessment roll of such assessments, which may be substantially in the following form, or any other form the council may adopt.

The city council doth hereby assess and levy upon and against the several parcels of land below described the respective sums of money set against each lot or parcel. This assessment is made to defray the compensation and damages awarded for the taking of an injury to private property, and
estimated cost of improvement, and in and about the 

.... as shown on the plat and survey of the same or file in the office of the city clerk of said city. 

This levy, unless objected to by the receiver and assessment of commissioners duly appointed to make such assessment and in proportion to benefits from such improvements to accrue to the parcels and not exceeding the benefits to the parcels so assessed.

Name of Owner, Description Amount  

if known of land. Lot Block Description  

of day of meeting of the council this... 

A. D. 19 ...  

Attest  

City Clerk  

'((11, c. 185, $2; G. S. 13, §1567; 13, c. 334, §1; 25, c. 417, §1; Apr. 27, 1929, c. 419, §1.)  

171M297, 214NW30; note under §1564.  

The amount of net award for compensatory and damage incident to an improvement are to be added to the actual costs of doing the construction work, including incidental expenses, in order to determine whether the total advancement exceeds the costs of the improvements. 172M464, 214NW222.

Although property devoted to railroad use may not be benefited for that purpose, it may be enhanced in market value by a public improvement for which it is more valuable for railroad uses than for other purposes. Board of Park Com'ts v. B., 190M534, 253NW761. See Dun. Dig. 6800.

Supreme court will not review correctness of instructions or failure to give them to commissioners appointed by district court to reassess benefits in proceeding by city of Minneapolis for acquisition and improvement of property. Northwestern Power Co. v. Board of Park Com'ts v. B., 190M534, 253NW761. See Dun. Dig. 6811.

Application of "unit rule" did not interfere with exercise of exclusive condemnation jurisdiction by commissioner. 1D. See Dun. Dig. 3097.

Fact that commissioners appointed to reassess benefits on land to be acquired and improved for park purposes arrive at identical figures assessed by a board of commissioners formerly appointed for that purpose is not fatal. 1D. See Dun. Dig. 3097.

That phase of proceeding where court appoints commissioners for reappraisal and reassessment is not strictly judicial in character but court is acting for convenience of legislature, but time when appropriate action is taken to determine whether commissioners appointed to reassess benefits in proceeding by city of Minneapolis for acquisition and improvement of property, Board of Park Com'ts v. B., 190M534, 253NW761. See Dun. Dig. 6811.

Supreme court will not review correctness of instructions or failure to give them to commissioners appointed by district court to reassess benefits in proceeding by city of Minneapolis for acquisition and improvement of property. Northwestern Power Co. v. Board of Park Com'ts v. B., 190M534, 253NW761. See Dun. Dig. 6811.

Determination of commissioners as to property benefited and benefits accruing to such property is not reviewable by a court unless it appears that it was fraudulent, arbitrary or made upon a demonstrable mistake of fact. 1D. See Dun. Dig. 3097.

Action of city in erecting a bridge with approach over and on street. Change of grade of street and city was liable in damages to abutting owner for ensuing injury to his property. Brier v. C., 201M30, 275NW268. See Dun. Dig. 6657.


The State has no power to assess land belonging to the United States for benefits arising from local improvements, but (land that is in process of being acquired by the Government may be assessed subject to the condition of the title at the time the council is called up to confirm the assessment. Op. Att'y Gen., Mar. 17, 1931.

1554. Same—Objections to confirmation—Appeal—Reappraisal—Appeal to Supreme Court. 

Property owner has no right of appeal to district court unless he files objections as required by statute. 171M297, 214NW30.

District court not having acquired jurisdiction of appeal by reason of failure of property owner to file objections as required by statute, may consider question whether city acquired jurisdiction in condemnation proceedings. 171M300, 221NW93.

The commissioners may not make the city file award to each person interested in the property, since the court, retaining jurisdiction, may by proper notice and order direct that tax sale be ordered, if the whole of the damages so awarded to each of those persons of interest is entitled. 175M300, 221NW14.


1556. Right to abandon—Effect of award—Payment. 175M300, 221NW14.

1557. Spreading of assessment installments. The city clerk shall transmit a certified copy of such assessment roll to the county auditor of the county in which the land lies and the county auditor shall include 5 per cent of the principal amount of such assessment with and as part of the taxes upon each parcel for each year for twenty years, together with annual interest at the rate ascertained, as hereinafter provided. The city council and board of park commissioners may, however, by such concurrent resolution, determine that the amount of such assessment shall be paid in two installments instead of twenty, and in such case the county auditor shall include a corresponding per cent of the principal amount of such assessment with and as part of the taxes of each year, together with such annual interest until the whole is collected. The county auditor shall include in the taxes for each year one such installment, together with one year's interest upon such installment and all subsequent installments at the same rate, each of which, together with such interest, shall be collected with the annual taxes upon such land, together with like penalties and interest in case of default, all of which shall be collected with and enforced as the annual taxes and credited to the proper city fund. Any parcel assessed may be discharged from the assessment at any time after the receipt of the assessment by the county auditor by paying all installments that have gone into the hands of the county treasurer as aforesaid, with accrued interest and penalties and costs, as above provided, and by paying all subsequent installments; or any parcel assessed may be discharged from the assessment by presenting certificates or bonds sold against such assessments as herein provided sufficient in amount to cover all installments due on such parcel and accrued interest, penalties and costs, and all installations yet to accrue, by surrendering such certificates or bonds to the county treasurer for cancellation or having endorsed thereon such instalments, interest, penalties and costs. Said assessment shall be a lien on the land from the time of the making thereof as against the owner and every person in any way interested in the land. The owner of the land and any person liable to the Government may be assessed against such assessment at the time of application for judgment in the regular proceedings for the enforcement of delinquent taxes, but such assessment shall not be deemed invalid because of any irregularity, provided it has been published substantially as required, and no defense shall be allowed except upon the ground that the cost of the improvement is substantially less than the amount of the assessment, and then only to the extent of the difference between the assessment and the actual cost. Assessments made under this act shall be called special street and parkway assessments of the United States for benefit arising from local improvements.
city of .......and numbered consecutively. Whenever an assessment is certified as aforesaid by the city clerk to the county auditor, a duplicate thereof shall be sent to the city comptroller, and all such assessments shall be sufficiently identified by the name and number as aforesaid. (11, c. 185, §5; G. S. '13, §1570; '13, c. 345, §4; '17, c. 103, §3; Apr. 27, 1929, c. 413, §2.)

1558. Same.—Method of improvements.—Assessments.

171M227, 214NW30; note under §1554.
172M454, 216NW22; note under §1553.

1563. Same.—Bonds for improvements.

171M227, 214NW30; note under §1554.

1566-9. Same.—Regulatory ordinances.

Act Apr. 10, 1933, c. 208, provides that the city council or park commissioners of any city of the first class may appoint five commissioners to determine the damage to property caused by the widening, straightening or improvement of parkways or highways resulting from abandonment of the improvement. On confirmation of the report of the commissioners the city treasurer is required to refund to the owners assessed the amount of the award. The limit of expenditure under this section is $1,500,000, and the provision in the act was to increase this limitation and that the act is a piece of legislative jobbery, and is special legislation of the most vicious kind. The act is not entitled to a place in any statute compilation.

1569. Residence districts—Council may designate.

Aesthetics in zoning. 14MinnLawRev104.

1580-1. Compromise and settlement of delinquent special assessments.—That the governing body of any city of the first class that has special assessments for local improvements which are delinquent for the years 1934 and prior years and aggregate a total sum of not more than $1,500,000, is hereby authorized and empowered to direct the city treasurer of such city to accept payment, together with a description of the real estate against which such assessment was levied. Immediately upon receipt of such certification, the county auditor shall make all necessary and proper entries upon his official records, evidencing the payment of such assessment, in accordance with the certification made by said city treasurer, and under the terms of this act. (July 15, 1937, Sp. Ses., c. 53, §5.)

1580-6. Same; separability.—That the terms and provisions of this act are hereby declared to be separable, and that if any part or provision of this act shall be declared unconstitutional by any court of competent jurisdiction, such judicial declaration shall not affect or invalidate any other part or provision of this act. (July 15, 1937, Sp. Ses., c. 53, §6.)

1580-7. Same; power of cities of the first class to provide additional charter powers.—That the powers granted in and by this act are in addition to all existing powers of any such city, and may be exercised by such city, anything in any charter thereof to the contrary notwithstanding (July 15, 1937, Sp. Ses., c. 53, §7.)

1580-8. Same; distribution of money collected.—That payments of delinquent special assessments when and as made under this act, shall be distributed among the several funds of any such city in the following proportion:

(a) Payments on assessments covering water mains, gas mains or similar improvements made in connection with any utility operated or owned by any such city shall be immediately credited and paid over to the public utility fund in the whole amount received in settlement and payment of assessments described in subdivision (a) of this section.

(b) Except as provided in subdivision (a) of this section, all other delinquent special assessments, as provided in this act, shall be immediately credited and paid over to the sinking fund, or other fund of any such city heretofore or hereafter established by such city for the purchase, or payment when due, of any bonds or any other funded debt of such city. (July 15, 1937, Sp. Ses., c. 53, §8.)

1580-1. Expenditures for exhibition, etc.

Correction.—The second paragraph of the note under this section in Mason's Minn. St. 1927 should appear under §1570.

1593. Auditoriums—definitions.

Laws 1927, c. 131 [§§1593 to 1600], as amended, and Minnesota does not come within the operation of Laws 1927, c. 131. 174M509, 219NW872.

1596. Same—Councils to have charge and control. —City council of St. Paul may let a contract for the construction or alteration of an auditorium, notwithstanding adverse report of persons mentioned in St. Paul City Charter, section 312(6). Op. Atty. Gen., May 6, 1931.

1598. Same—Bonds in excess of limitations. —This section and the last paragraph of bond indebtedness in Minneapolis. 174M509, 219NW872.

1600-1g. Certain cities of the first class may appropriate money to pay for pipe organ.—Any city of the first class that has heretofore installed a pipe organ in its municipal auditorium, and has failed or refused to pay the full amount of the claim for
said organ is hereby authorized to appropriate not to exceed $40,000 as a final payment therefor. This appropriation to be made from any moneys that may exceed $40,000 as a final payment therefor. This said organ is hereby authorized to appropriate not be available. (Act. Apr. 21, 1933, c. 384.)

Industrial wastes into a common natural water course, directly or indirectly discharge sewage and/or industrial wastes from that particular area does or is likely to cause or does cause a public nuisance, and that its removal and/or abatement thereof will be a benefit of the condition created by such two or more contiguous cities of the first class coming within the meaning of Section 1 hereof, for the determination whether the discharge of sewage and industrial wastes into a common natural water course is likely to endanger public health and/or to create a nuisance, such cities shall be organized and incorporated into a Sanitary District. (Act Apr. 19, 1933, c. 341, §1.)

Sanitary district to be organized.—Immediately upon the passage of this Act and whenever any area in the future comes within the meaning of this Act, the State Board of Health shall proceed to investigate such and every area comprised or more contiguous cities of the first class coming within the meaning of Section 1 hereof, for the purpose of determining whether the discharge of sewage and industrial wastes into a common natural water course from said cities is likely to endanger public health and is likely to cause or does cause a public nuisance and that the removal and/or abatement thereof will be a benefit to such area. Should it be determined by the State Board of Health that the discharge of sewage and industrial wastes from that particular area does or is likely to endanger the public health and/or does or is likely to cause a public nuisance, and that its removal and/or abatement will be a benefit to such area, the said Board shall so find and shall by written order declare said cities to be a single Sanitary District. The State Board of Health shall forthwith serve a copy of said findings and order in the manner provided by statute for the service of summons in civil action upon the Mayor of each of said cities. Such notice shall set forth all the facts and conditions causing the creation of such Sanitary District and the reasons why each particular municipality is included within the proposed district. The original findings and order of said State Board of Health shall be filed with the Secretary of State. A copy of said findings and order together with a notice specifying the time and place of a public hearing shall be published by the State Board of Health in a legal newspaper in each of the cities of the first class once each week for two successive weeks. Such public hearing shall be held not earlier than 30 days after the publication of said notice and at a point convenient to the persons within the proposed District. Such hearing may be adjourned from time to time. At such hearing each city of the first class may appear and offer testimony and arguments either for or against the creation of the District. Likewise any citizen or taxpayer of any such city may appear and be heard in the matter. To carry out the purpose of this Act the State Board of Health shall have the power to subpoena witnesses, to administer oaths, and to compel the production of books, papers, records, and other evidence. Witnesses shall receive the same fees and mileage as in civil actions. Any subpoena in such proceedings, or contumacy of a witness, upon application of said Board, may be punished by the District Court in the same manner as if the proceedings were pending in such court.

If after hearing and consideration the State Board of Health shall determine that the public health so requires, and the property in such area will be benefited by the elimination of such conditions, it shall so find and shall confirm its order creating said district. The State Board of Health shall file forthwith a copy of said order with the clerk of the district court of the county in which each city of the first class and serve a copy of said order upon every person who appeared at said hearing, and shall file a copy of said order with the clerk of the district court of the county in which each city of the first class is located. A copy of such order together with a notice addressed to all citizens, taxpayers, and each city and all other interested parties, stating that each city or person aggrieved by said order may appeal from such order in the manner provided in Section 3 hereof, shall be published in the same manner as is provided for the publication of the order creating such Sanitary District.

If after hearing and consideration the State Board of Health shall determine that the removal or abatement of the condition created by such two or more contiguous cities of the first class discharging sewage and industrial wastes into a common natural water course will not benefit such area it shall so find and shall by order declare such area not to be a sanitary district. The Board may employ legal counsel and such other assistance as may be necessary for the purpose of making the investigations herein provided for and otherwise discharging the duties herein imposed upon the Board.

Appeals to District Court.—Within 30 days after the final publication of said order and notice as hereinbefore provided, each city or any citizen or taxpayer may appeal to the district court wherein the city or property of such citizen or taxpayer is located for exclusion of such city from such Sanitary District. The district court thus appealed to shall serve a judge from a judicial district not within or contiguous to such established Sanitary District to hear and determine said appeal. Said cause may be brought on for hearing by the city, citizen or taxpayer so appealing or the State Board of Health and said appeal shall be tried as other civil causes by the court without a jury. If the court finds that all the requirements of law in establishing said district have been complied with, and that the city or the property of such citizen or taxpayer appealing to said court be benefited by the elimination and/or abatement of such condition, it shall make its findings according to the evidence introduced before it, authorizing and directing the inclusion or exclusion of such city within the established Sanitary District, and the clerk of the district court where said cause is tried is directed to enter judgment in accordance with said findings. Said judgment shall be final and conclusive upon all the parties to such proceedings.
his term of office as Mayor. The Governor shall also of each city or such other member of the governing subdivisions except that of notary public. The Mayor shall hold office under the state or any of its political provided that no such appointee from said citizenry own members as trustees to said board, and also one trustee from the citizenry of each city or county wherein such cities of the first class are located, should there be no appeal by any municipality, citizen or taxpayer, or if there shall be such appeal, within 40 days after the order shall have been handed down by the District Court or by the Supreme Court affirming the establishment of a body as he may name shall also be a trustee during said sanitary district, with the clerk of the District Court of the county in which each city of the first class is located, should there be no appeal by any municipality, citizen or taxpayer, or if there shall be such appeal, within 40 days after the order shall be filed, by the Governor for a term of four years. The mayor or the person appointed by the mayor shall serve for the term of office of the mayor, except that the mayor may, in the event said mayor shall appoint some member of the governing body to serve upon the board, terminate that person's membership as trustee at his will. Each of said periods of time is to be computed from the first Tuesday in July of the year in which the appointments are made, and each of said terms is to end on the first Monday in July. The term of all trustees shall begin on a first Monday of any and shall be for four years except as herein otherwise provided. Each trustee shall serve until his successor is duly appointed and qualified. The term of a trustee shall terminate when for any reason he ceases to hold the city office to which he was elected. A vacancy in the office of trustee occurring from any cause shall be filled for the unexpired term as herein provided; a successor to a trustee, whether to fill a vacancy or in succession to a trustee whose term has expired, shall be appointed in the same manner as is provided for an original appointment.

Each appointee before entering upon the duties of his office shall take and subscribe the oath of office prescribed by Section 8, Article 5 of the Constitution. Such oath duly certified by the official administering the same shall, in the case of State Board of Trustees appointed, be filed with the Secretary of State. After the Sanitary District has been organized the oaths of office of trustees shall be filed with the Secretary of said Sanitary District.

The removal of any trustee from the county in which he resides at the time of his selection shall operate as a resignation of his office. A trustee may be removed from office by the Governor for misfeasance, malfeasance or nonfeasance in the manner provided for by the laws of the state for removal of state officers. No trustee or person holding appointment under such board shall be interested directly or indirectly in any contract entered into under the provisions of this act. Each trustee shall be reimbursed the actual and necessary expenses incurred by him in the performance of his duties, and each of them selected by the Governor shall receive the sum of $1,000.00 per year and each trustee selected by the councils or other governing bodies of such cities of the first class and not holding public office other than that of notary public shall receive the sum of $10.00 per diem or part thereof spent in attending meetings of the board, but such trustee shall not receive more than the sum of $400.00 in any one year. (Act Apr. 19, 1933, c. 341.)

1607-12. Election of first board.—The first board of trustees so selected shall serve as follows: The member elected by each city council who shall not hold public office other than that of notary public, for a term of four years, the member elected by each city council from its members, for a term of two years, and the member appointed by the Governor, for a term of four years. The mayor or the person appointed by the mayor shall serve for the term of office of the mayor, except that the mayor may, in the event said mayor shall appoint some member of the governing body to serve upon the board, terminate that person's membership as trustee at his will. Each of said periods of time is to be computed from the first Tuesday in July of the year in which the appointments are made, and each of said terms is to end on the first Monday in July. The term of all trustees shall begin on a first Monday of any and shall be for four years except as herein otherwise provided. Each trustee shall serve until his successor is duly appointed and qualified. The term of a trustee shall terminate when for any reason he ceases to hold the city office to which he was elected. A vacancy in the office of trustee occurring from any cause shall be filled for the unexpired term as herein provided; a successor to a trustee, whether to fill a vacancy or in succession to a trustee whose term has expired, shall be appointed in the same manner as is provided for an original appointment. Each appointee before entering upon the duties of his office shall take and subscribe the oath of office prescribed by Section 8, Article 5 of the Constitution. Such oath duly certified by the official administering the same shall, in the case of State Board of Trustees appointed, be filed with the Secretary of State. After the Sanitary District has been organized the oaths of office of trustees shall be filed with the Secretary of said Sanitary District.

The removal of any trustee from the county in which he resides at the time of his selection shall operate as a resignation of his office. A trustee may be removed from office by the Governor for misfeasance, malfeasance or nonfeasance in the manner provided for by the laws of the state for removal of state officers. No trustee or person holding appointment under such board shall be interested directly or indirectly in any contract entered into under the provisions of this act. Each trustee shall be reimbursed the actual and necessary expenses incurred by him in the performance of his duties, and each of them selected by the Governor shall receive the sum of $1,000.00 per year and each trustee selected by the councils or other governing bodies of such cities of the first class and not holding public office other than that of notary public shall receive the sum of $10.00 per diem or part thereof spent in attending meetings of the board, but such trustee shall not receive more than the sum of $400.00 in any one year. (Act Apr. 19, 1933, c. 341.)

1607-14. Quorums—meetings—officers and employees.—Four-sevenths of the members of the board of trustees shall constitute a quorum for the transacting of business and an affirmative vote of four-sevenths of the entire membership of the board shall be required for the passage of any measure, except
as otherwise provided herein. As soon as the trustees first appointed enter upon the duties of their office, they shall organize by electing one of their members chairman, who shall hold office at the pleasure of the trustees. The trustees shall elect a secretary, a chief engineer, consulting engineers and other consultants, attorneys, and such other officers, agents and employees as they may see fit; provided, however, that whenever the board of trustees performs any work within the limits of a city of the first class or establishes a minimum wage for skilled and/or unskilled labor in the specifications of any contract for work within a city of the first class, the rate of pay to such skilled and unskilled labor shall be the prevailing rate of wage for such labor in such city. The State Treasurer shall be Treasurer of such Districts. The officers, agents and employees shall perform such duties and receive such compensation as the Board of Trustees may determine, and shall be removable at the pleasure of the Board. (Act Apr. 19, 1933, c. 341, §7.)

1607-15. Board of trustees to adopt rules. —The Board of Trustees may from time to time make, adopt, and enforce such rules, regulations and ordinances as may be necessary or expedient for carrying into effect the purposes of this Act, and fix penalties for violation thereof, not exceeding for each offense $500 days imprisonment in jail or workhouse, or a fine not exceeding one hundred dollars, with imprisonment not exceeding 30 days if the fine is not paid. Prosecution may be in any municipal court sitting within the District. Every sheriff, constable, policeman and other peace officer shall see that all such rules, regulations and ordinances are obeyed, and shall arrest and prosecute offenders. All fines collected shall be paid into the treasury of the city or county from which the arresting officer draws his salary; and all persons committed shall be received into any penal institution within the District at the expense of the District Courts and all persons shall take notice of such rules, regulations and ordinances without pleading or proof of the same. The Board of Trustees shall also have power to adopt orders, resolutions, rules and regulations for the proper management and conduct of the business of said sanitary district for carrying into effect the objects for which such sanitary district is formed. All sessions or meetings of the trustees shall be public and all records shall be open to inspection. The Board of Trustees shall prepare annually a comprehensive report of its official and financial transactions and shall mail a copy of such statement to the Governor of the State, the State Board of Health, and the governing body of each city of the first class included within such sanitary district. (Act Apr. 19, 1933, c. 341, §8.)

1607-16. Powers of sanitary district. —The sanitary district, in addition to the other powers vested in it, is empowered:

(a) To regulate and control the discharge of so-called factory or industrial wastes into the jointly used sewers or works of said sanitary district.

(b) To enter into contracts with the industry or industries producing wastes for the purpose of determining the amount of treatment that such industry or industries shall give the wastes at the point of origin, and to enter into contracts with such industry or industries providing for charge to be made annually or otherwise for the treatment which may be given to such wastes at the works of the sanitary district.

(c) To require any occupant of any industrial premises inside or outside of the boundaries of any established municipality within the area of said sanitary district, and any person in discharging factory or industrial wastes directly or indirectly into any river, canal, ditch or other waterway within the boundaries of said sanitary district to discontinue such discharge or construct new sewage disposal plants or to so change or rebuild any outlet, drain or sewer as to discharge said factory or industrial waste into sewers of the sanitary district or into any watercourse or waterway as may be established by said sanitary district under such regulations as said sanitary district may determine.

(d) To make, promulgate and enforce such reasonable rules and regulations for the supervision, protection, management and use of any system of joint or separately used intercepting sewers and treatment and disposal works as it may deem expedient, and such regulations shall prescribe the manner in which connections to the jointly used intercepting sewers shall be made, and may prohibit discharge into said sewers of any liquid, or solid waste deemed detrimental to the sewerage system or treatment and disposal works of said sanitary district.

(e) The Board of Trustees and the governing body of any municipality or territory adjacent to the sanitary district may by agreement provide for the treatment and disposal of sewage from such municipality or territory at the sewage treatment and disposal works of said district; provided, however, that in the event said Board of Trustees has undertaken or shall undertake, by contract or otherwise, to convey, that and dispose of sewage to the sanitary district or municipality not included within the boundaries of such district, such territory or municipality shall pay the entire cost of any sewage collection, treatment and disposal works used exclusively by it and of such additional capacity of intercepting sewers and sewage treatment and disposal works as may be necessary for, and the cost of operation, maintenance and repair incurred in the conveying, pumping, treatment and disposal or sewage of such territory or municipality not included within the boundaries of such district, such additional cost to be determined by the Board of Trustees. Like agreements may be made by the Board of Trustees with the United States Government, the State of Minnesota and with person, firms, institutions, or corporations having plants or industries located adjacent to said sanitary district. The reasonableness of any rule and the factual determinations of the Board of Trustees may be reviewed by the district court on application of any municipality or person or corporation aggrieved therein. (Act Apr. 19, 1933, c. 341, §9.)


1607-17. Objects and purposes. —The general purpose and object of any sanitary district organized under this Act shall be to promote the public health and welfare by providing an adequate and efficient system and means of collecting, conveying, pumping, treatment and disposal of all domestic sewage, commercial and industrial wastes and their products within its own territory, so that the pollution resulting from the discharge thereof into any water course within the sanitary district shall be so reduced that such river, stream or water course shall cease to be, and shall not become a nuisance, or offensive, or injurious to the health and well-being of the people of the State. To accomplish such purpose and end, the Board of Trustees of any sanitary district organized under this Act shall have power within or without the territorial boundaries of the district to construct, operate, maintain and reconstruct a sewage disposal system or systems and to obtain sites for, to lay out, establish, construct, operate, maintain and reconstruct a sewage disposal system or systems, and to obtain sites for, to lay out, establish, construct, operate, maintain, repair and reconstruct, and may provide for the laying out, establishing, constructing, operating and maintaining of channels, drains, ditches, intercepting sewers, sewage treatment and disposal plants and works, pumping stations and other works necessary thereto and outlets for carrying off, treating and disposing of the drainage
sewage of such district; provided, that no site within or without the territorial limits of any municipality included in such sanitary district shall be acquired or used for any sewage treatment or sludge handling or disposal works or that any such treatment or sludge handling or disposal works be located, maintained or operated upon such site except with the approval and consent of five-sevenths of the entire Board of Trustees expressed by resolutions to such effect.

For the purpose of this Act, an intercepting sewer and appurtenances thereto shall be considered as only such sewer, and appurtenances thereto that are not now or will not be required by any municipality within the sanitary district, if said municipalities continued to dispose of their sewage and industrial waste by discharging said sewage and industrial waste without treatment into a common natural water course.

607-19. Board of trustees to adopt comprehensive plan.—Before undertaking the construction or operation of any system of sewage disposal for the district including intercepting sewers, pumping stations, treatment works, and appurtenances, it shall be the duty of the Board of Trustees of such sanitary district to adopt a comprehensive plan and program of procedure and work, for the collection, treatment, and disposal of sewage and waste materials of said sanitary district, and the same may be modified from time to time, with necessary maps, plans, surveys, and estimates of probable cost of such system for the entire district based upon the probable needs and requirements of the district and of any adjacent territory likely to be annexed to such district, down to such time in the future as to the trustees shall seem most efficient and economical as well as proper and reasonable.

Notwithstanding any other provisions of this Act to the contrary or otherwise, any city included within any such sanitary district shall, after the Board of Trustees has adopted a comprehensive plan and program of procedure and work for the collection, treatment, and disposal of sewage and waste materials for the said Sanitary District, at its own cost and expense, and in accordance with such the comprehensive plan and program of procedure and work originally adopted or hereafter modified by the Board of Trustees, make provision for and construct and erect and maintain any and all drains, sewers, intercepting sewers and other structures necessary for and constituting, or to constitute, any portion or portions of such sewage disposal system situated within or without the corporate limits of such city, as set out in Section 11, said intention shall be expressed by a resolution adopted by a majority vote of the members elected of its governing body, and thereafter such municipality may, notwithstanding any provision to the contrary included within any local charter or general or special law of the State of Minnesota, issue and sell its bonds for the cost thereof, subject to the limitations of Section 17, without a vote upon said question by the electors of such city. All bonds issued under the provisions of this section shall be in units of not less than the annual installment payments as determined by the governing body of the city, the first thereof to become due and payable in not more than three years from the date of such obligations, and the last installment thereof to become due and payable not more than thirty years from their date. No annual maturing installment of principal of any issue of such obligations shall be more than two and one-half times the amount of the smallest installment thereof maturing in any one year. (Act Apr. 19, 1933, c. 341, §12.)

607-20. May enter land for purposes of surveys and construction.—Such sanitary district may, through its officers, agents and employees, enter upon land within or without the territorial limits of such district for the purpose of making surveys and examinations whenever the Board of Trustees deem it necessary or expedient in connection with the performance of its duties or functions. Such sanitary district may, with the written consent of the county, town or municipal park, street, road, alley or any public highway within or without its territorial limits, whenever it shall be reasonably necessary or expedient for the purpose of constructing, maintaining or operating its sewage disposal system and it may lay out and construct in any such park, street, road, alley or public highway, main and intercepting sewers and necessary appurtenances and connections thereto and connect thereto any sewer, drain, or outlet now in place or thereafter constructed by any municipality within the territorial limits of such sanitary district. Before proceeding with any survey or inspection it shall notify in writing the authority having charge or control of such park, street, road, alley, public highway, sewer, drain or outlet, and no permit or payment of fee or charge shall be required. Such sanitary district shall provide with all due dispatch with its report or report on completing the same it shall restore at its own expense such park, street, road, alley or public highway, and the public structures which may occupy such park, street, road, alley, or public highway, such as water mains, water connections and appurtenances, sewers, manholes, catchbasins and sewer connections, ornamental light poles and cables, and the property of municipal or public utility companies as gas mains and appurtenances, electric light and power cables or ducts, telephone cables or ducts, to as good condition as the property was in at the time of the report or report on completing the same.
Such sanitary district shall have power to lay out, construct, operate and maintain, without compensation to the State or to any of its subdivisions, any part of said system of channels, drains, ditches, sewers and outlets, or any other of its works over, upon or under any land covered by any navigable waters of the State. 

Just compensation is market value at time of taking contemporaneously paid in money, to be arrived at upon just consideration of all uses for which land is suitable, and highest and most profitable use for which the property is adaptable and needed, or likely to be needed, in reason of its location and surroundings, and under the existing conditions and subject to the State or to any of its subdivisions, and over, upon and through any of said channels, drains, ditches, sewers and outlets, or any other of its works, any highways of said cities, towns or municipalities either within or without the territorial limits of such sanitary districts which interfere with the construction of such system of channels, drains, ditches, sewers and outlets and other works, when in process of construction or repair, shall upon reasonable notice given to them by the sanitary district, promptly shift, adjust, accommodate or remove the same at the cost and expense of said sanitary district, so as to comply reasonably with the needs and requirements of such sanitary district.

All contractor's bonds covering work to be done within the limits of any municipality within the district shall contain provisions indemnifying such city or municipality harmless for loss, injury or damage arising out of such construction.

Just compensation is market value at time of taking contemporaneously paid in money, to be arrived at upon just consideration of all uses for which land is suitable, and highest and most profitable use for which the property is adaptable and needed, or likely to be needed, in reason of its location and surroundings, and under the existing conditions and subject to the State or to any of its subdivisions, and over, upon and through any of said channels, drains, ditches, sewers and outlets, or any other of its works, any highways of said cities, towns or municipalities either within or without the territorial limits of such sanitary districts which interfere with the construction of such system of channels, drains, ditches, sewers and outlets and other works, when in process of construction or repair, shall upon reasonable notice given to them by the sanitary district, promptly shift, adjust, accommodate or remove the same at the cost and expense of said sanitary district, so as to comply reasonably with the needs and requirements of such sanitary district.

All contractor's bonds covering work to be done within the limits of any municipality within the district shall contain provisions indemnifying such city or municipality harmless for loss, injury or damage arising out of such construction. (Act Apr. 19, 1933, c. 341, §13.)

1607-21. May acquire lands, etc.—The trustees may from time to time acquire in the name of the district by purchase, deed, grant, lease, devise or condemnation such right, title and easement in land within and/or without its corporate limits as it may deem expedient, at a cost per acre not to exceed twice the average yearly true and full value of the property, as established in the tax lists of the current year five years preceding the year 1935 except by condemnation in a court of competent jurisdiction, including among others the right and easement to construct and maintain underground conduits with or without disturbance of the surface. It may sell and convey land found unnecessary for its purpose, provided, however, that no sale of land be made by said board of trustees without first obtaining an order from the District Court of the district in which such land is situated authorizing said sale. Said order shall be filed with the secretary of said district, and the Clerk of said District Court.

Land, or any right, interest, estate or easement therein, may be acquired by the exercise of the right of eminent domain in the manner prescribed by Mason's Minnesota Statutes of 1927 as amended, Sections 1552 to 1556 inclusive, but without any assessment of benefits. All awards not set aside as therein provided shall be a charge upon the district for which said award shall be credited. The duties specified to be performed in said sections by the city council, the city clerk and the city engineer, respectively, shall be performed by the trustees, the seal and official seal of the district are hereby declared to be the official seal of the district and all deeds, orders, bonds, contracts and all other writings and instruments executed by the trustees in the exercise of the power of eminent domain, and such estate shall not be limited or qualified in any way by construction.

Just compensation is market value at time of taking contemporaneously paid in money, to be arrived at upon just consideration of all uses for which land is suitable, and highest and most profitable use for which the property is adaptable and needed, or likely to be needed, in reason of its location and surroundings, and under the existing conditions and subject to the State or to any of its subdivisions, and over, upon and through any of said channels, drains, ditches, sewers and outlets, or any other of its works, any highways of said cities, towns or municipalities either within or without the territorial limits of such sanitary districts which interfere with the construction of such system of channels, drains, ditches, sewers and outlets and other works, when in process of construction or repair, shall upon reasonable notice given to them by the sanitary district, promptly shift, adjust, accommodate or remove the same at the cost and expense of said sanitary district, so as to comply reasonably with the needs and requirements of such sanitary district. All contractor's bonds covering work to be done within the limits of any municipality within the district shall contain provisions indemnifying such city or municipality harmless for loss, injury or damage arising out of such construction.

Chapter 1607—Villages and Cities.
1607-23. May contract with adjacent municipalities.

Any city of the first class comprising said Sanitary District, may contract with any of its adjacent municipalities, villages, governmental functions, institutions, persons, or firms, for the conveying, treatment, and disposal of sewage and industrial waste. (Act Apr. 19, 1933, c. 341, §16.)

1607-24. Financing of project. (a) Preliminary annual tax based on assessed valuation—Service to outlying territory—Allocation to cities after preliminary period—Unrepaired sewage—Unmeasured sewage.—Except as herein otherwise provided, all costs of operation, maintenance and repair of joint or common sewers, and of all treatment and disposal works and appurtenances thereto for a period of ten years from and after commencement of construction of said disposal system, and all costs of land and right-of-way, construction or joint or common sewers, and of all treatment and disposal works and appurtenances thereto shall be a uniform charge upon the entire district, on the basis of assessed valuation exclusive of money and credits to be paid by a uniform annual tax upon the property of such district; provided, however, that in the event any such city of the first class has undertaken or shall undertake, by contract or otherwise, to convey, treat and dispose of the sewage of territory not included within the boundaries of such city, such additional cost to be determined by the Board of Trustees, and included in such city's proportion of the taxes, shall be computed, and such proportion paid by such city, and such costs included in the annual tax levied by said city and the territory served by such city under contract or otherwise bears to the total volume of sewage, and in such estimate of the costs to be borne by each city, there shall be taken into account not only the sewage and wastes of each such city that are intercepted and treated, but an estimate shall be made of the sewage wastes of each city which enter or are discharged directly or indirectly into any stream or water course flowing through or adjacent to such district or any part thereof, and such untreated sewage and wastes shall be considered as contributed by such city. Provided that the board of trustees shall make such allowance for infiltration, conveyance, losses, leakage, etc., into or out of the Joint or common intercepting sewers after the point of measurement by any city of the first class, as it may deem just and equitable.

(b) Budget for preliminary construction cost—Bonds—Objections to budget—Tax levy—Bond sales—System of rental charges.—The board of trustees when and as soon as the same shall be organized, in order to provide funds to carry out the purposes of this act and for the expense and disbursement of such Sanitary District for the period before any tax moneys shall become available, shall prepare a detailed budget of its needs and certify the same to the governing bodies of the respective cities which governing bodies shall review said budget, and the board of trustees, upon notice from any such city of the first class, shall hear objections to said budget and may after such hearing modify or amend the budget, and shall give notice to the cities of the first class of the same and of any validation or amendment, and thereupon said governing bodies shall issue and sell bonds in the amount of said budget, as herein provided, and pay the proceeds of such bond sale into the treasury of said district. The board of trustees, after the first day of July of each year, shall prepare a detailed budget of its needs for the next calendar year, specifying separately in said budget the amounts to be expended for construction, operation and maintenance respectively, and shall certify to the governing body of each city of the first class within said sanitary district, together with a statement of the proportion of said budget to be paid by each such city as herein provided. The governing body of each such city shall adopt a resolution against the expenditure of said budget, and the board of trustees, upon notice from any such city of the first class, shall hear objections to said budget and may after such hearing modify or amend the budget, and shall give due notice to the cities of the first class of such modification or amendment. It shall be the duty of the governing body of each city of the first class within the district to provide the funds necessary to meet its proportion of the total cost for construction, operation and maintenance as finally certified by the board of trustees, such funds to be raised by the tax levies, bond sales or by any other means within the authority of said cities of the first class, and to pay the same into the treasury of said district, as time and such times as the treasurer of said district may require, and said city is hereby authorized to issue and sell such bonds as may be necessary to meet its obligations under this section, irrespective of any limitation in any home rule charter or special or general law, without a vote upon said question by the electors of said city, and bonds so determined to be issued and sold shall be issued and sold in the manner provided by Section 12, but for the purpose of providing all or a part of the funds necessary for the current operating and maintenance charges of said sewage disposal system and to pay the interest and principal of any bonds issued or indebtedness incurred for the construction of said system, the board of trustees, as soon as the sewage disposal system shall come into operation, shall adopt a resolution, uniform in its application to all cities of the first class within the sanitary district, establishing reasonable rental charges and providing for the collection of the same by the respective cities from the owners or occupants of the property, which is served directly or indirectly by the sewer system or property for the payment of such rental charges equitable, the board of trustees may classify the property benefited thereby, taking into consideration the extent and character of the sewage and wastes, and the nature of the use made of such facilities. Such rental may be based upon either the
CHAPTER 9—VILLAGES AND CITIES

§1607-24

Metered consumption of water on the premises connected with the sewer system, making due allowance for the commercial use of water and for the use of water from private sources of supply, all other public and kind of plumbing fixtures connected with the sewer system; or said rental charges may be determined by the board of trustees upon a combination of such methods, or upon any other equitable basis.

(c) Resolution by trustees for collection of rentals—Lien—Priority.—The board of trustees of said sanitary district shall, in its resolution, provide for the billing and collecting of sewer rentals from all persons and corporations whose premises are served directly or indirectly by its sewage disposal system, including premises within which their waste is drained in whole or in part from independent of the city or public water department. Upon the adoption of the terms of this resolution by [sic] governing body of such city of the first class all such sewer rentals shall constitute a lien upon the real property served by the sewage disposal system, and such lien shall be prior and superior to every other lien or claim, except the lien of an existing tax or local assessment.

(d) Same.—Objections—Adoption by cities.—A copy of this resolution shall be transmitted to the governing body of each city of the first class within the sanitary district. Upon notice from any such city of the first class the board of trustees shall hear objections to said resolution and may, after such hearing, amend such resolution. The governing body of any city of the first class may then by ordinance adopt such resolution providing for the establishing and collection of such rentals from the respective owners or occupants of property, provided that any such city may risk required funds from such rental charges as its governing body may determine.

(e) Cities to determine basis of rentals—Collection by water department—Fund—Disbursement.—In the event the governing body of any city of the first class shall by ordinance adopt the method prescribed by [sic] by this resolution of the board of trustees the governing body of such city shall on or prior to August first of each year, by resolution determine the basis of rental to be charged property within said city served either directly or indirectly by the sewage disposal system and shall transmit forthwith a copy of said resolution to the water department of said city, and the chief engineer of said water department shall add such charges to the next water bills rendered to the owners, lessees, or occupants of property for water service and to render bills to owners or occupants of property for water service and to render bills to owners or occupants of property using private sources of supply. The sewer rentals may be charged and collected in two equal semi-annual installments. Said amounts so charged except against owners or occupants of property using private sources of supply, shall be collected in connection and in addition to the water charge for water service: and no part of the charge for water service shall be accepted without including therewith the sewer rental charge. The funds received from the collection of sewer rentals shall be kept by the comptroller or proper official of such city of the first class, as a separate and distinct fund, and shall be known as the sewer rental fund. This fund shall be used by any such city of the first class for the purposes of construction and maintenance of the sanitary district system, as hereinbefore described, and for the payment of the interest on any debt incurred for the construction of such sewage disposal system, and for the payment of debt, and shall not be used for the extension of a sewage system to serve unsewered areas or for any purpose other than one or more of those specified above.

(f) Failure of cities to provide funds—County auditor to spread tax—Collection.—If any such city of the first class shall fail to take the necessary action to provide the funds required by the board of trustees as hereinabove provided, the board of trustees shall, subject to the limitations hereinbefore provided, on October 10th of each calendar year, certify to the county auditor of the county in which such city so failing to comply shall be located the amount determined by the board of trustees to be raised by said city for operation and maintenance, and the county auditor shall extend, spread and include the same with and as a part of the general taxes for state, county and municipal purposes, to be collected and enforced therewith, together with penalties and interest, and the county treasurer, upon the collection of the same, shall transfer the same to the treasurer of the sanitary district.

(g) Same.—Trustees may issue bonds—Liability of defaulting city.—Whenever any such city shall fail to provide such funds in such amount equal to said default as set forth in said resolution, such sanitary district through its board of trustees by a five-sevenths vote of the board, shall have power to incur indebtedness in the amount so required from the proceeds of the issue of bonds therof. The bonds issued by said sanitary district pursuant hereto shall bear interest at a rate not exceeding five per cent per annum, payable semi-annually, shall be of such date, denominations, form and place of payment, and shall be executed as determined by the board of trustees issuing them, shall be secured by pledge of the full faith, credit and resources of the defaulting municipality, shall comply with the provisions of Mason's Minnesota Statutes 1927, Sections 1938-5, as to the maturity thereof, and such bonds shall be paid from tax levies made in conformity with Mason's Minnesota Statutes 1927, Sections 1926-6 and 1943-10, and such bonds shall be sold in the manner prescribed by Mason's Minnesota Statutes 1927, Section 1943. Said sanitary district each year in addition to any other taxes authorized to be levied for it under this Act shall have power to cause to be levied a sufficient tax on the taxable property of such defaulting city to pay the interest and several installments of the principal of said bonds as they shall become due.

(h) Payment by city—Effect—Erroneous estimates—Bonds—Tax levy.—Whenever any such city of the first class within the said district shall have made the payments provided herein, such payment shall fully acquit and discharge such city and all the taxable property therein from all further liability or duty to pay for the work or improvements or portion thereof contemplated to be made or to be paid for by said city, and for which such charge has been so allocated and charged to such city: provided, however, that if such allocation be based upon a preliminary estimate and the actual cost of such work or improvement, or portion thereof, shall thereafter be found to exceed the amount so allocated and charged to such city, such excess shall be charged to and paid by such city or by the taxable property therein as hereinbefore provided, and if upon completion of such work or improvement, or portion thereof, the cost of which has been so allocated and charged, it be found that the sum so paid by such city from the proceeds of a bond issue is excessive, such excess shall be returned to such city and shall be placed in the sinking fund of such bond issue, and shall be used solely for the purpose of paying the principal and interest of such bond issues hereunder by such city. The bonds issued by
any municipality pursuant hereto shall bear interest at a rate not exceeding five per cent per annum, payable semi-annually, shall be of such date, denomination, and in such form as the governing body of the corporation issuing them, shall be secured by pledge of the full faith, credit and resources of the municipality, shall comply with the provisions of Mason's Minnesota Statutes 1927, Sections 1938-4 to 1938-6, as to the matters thereof, and such bonds shall be paid from tax levies made in conformity with Mason's Minnesota Statutes 1927, Sections 1938-7 and 1938-10, and such bonds shall be sold in the manner prescribed by Mason's Minnesota Statutes 1927, Section 1943.

(1) Limitation of indebtedness and tax levies.—The total aggregate indebtedness for all purposes under this act shall not exceed three and one-half per cent of the assessed valuation of the taxable real and personal property within said district, excluding money and credits, and the taxes levied against the property of any municipality in any one year shall not exceed two mills upon the assessed valuation thereof, exclusive of the taxes it may be necessary to levy to pay the principal or interest on any bonds or indebtedness of said municipality issued or incurred under the provisions of this Act.

(j) Same—Inconsistent laws inapplicable.—No provisions of any existing law or special or home-rule charter under which any such municipality may be acting shall be deemed or construed to impair, curtail or limit in amount, form or manner to require the issue of such bonds pursuant to this act, and the bonds issued by any municipality pursuant to this act shall not be included in computing the net indebtedness of such municipality under any applicable law or charter. (Sp. Acts 1933, c. 14, §1; Sp. Acts 1939, c. 202.)

Act July 14, 1937, Sp. Ses., cited, amends only the fourth paragraph of this section.

1607-25. Municipality may levy special assessment.—Any municipality within or without the district whose sewage or industrial waste is discharged by contract or otherwise into the sewage disposal system of such sanitary district, shall have authority to levy special assessments upon any property within such district, not subject to real estate taxes, which is benefited by the sewage disposal system located therein. Said special assessments may be levied and collected in the same manner as other special assessments for local improvements authorized by local charters, or general laws. (Act Apr. 19, 1933, c. 344, §19.)

1607-26. Contiguous municipalities shall treat sewage.—Within one year after any such sanitary district shall begin treating sewage and industrial waste, any municipality contiguous thereto that is grossly polluting a watercourse common to such district and such municipality shall treat its sewage and industrial waste, any municipality contiguous thereto shall be treated as determined by the governing board of the corporation issuing them, and such bonds shall be paid from tax levies made in conformity with Mason's Minnesota Statutes 1927, Sections 1938-7 and 1938-10, and such bonds shall be sold in the manner prescribed by Mason's Minnesota Statutes 1927, Section 1943.


Bonds or certificates of indebtedness may be issued payable out of earnings of sewage plant less cost of operation, replacements, and reserve for depreciation. Id. Soldiers' Home is a state agency which is subject to laws and regulations of state board of health so far as its disposal of sewage is concerned. Op. Atty. Gen. (387g-9), May 3, 1933.

Minnesota River into which cities of Chaska and Shakopee discharge their sewage is a water course coming to said sanitary district.

Village of Newport is contiguous to sanitary district, but cities of Anoka, Chaska and Shakopee are not contiguous. Id.

1607-27. Law repealed.—Laws 1927, Chapter 181, is hereby repealed. The proceeds of any taxes hereafter levied by any city of the first class for any metropolitan drainage commission created under said Act whose territorial limits are included within any regular sanitary district that may be organized under this Act, whether the funds are in the hands of the State Treasurer or in the process of collection, shall, as soon as the funds are available therefrom, be duly transmitted and paid over by the State Treasurer or the several city treasurers as the case may be, to the treasurer of such sanitary district, for credit to the respective cities, when and as soon as the same shall be organized. Such transfer shall be made upon the written request of such sanitary district by a resolution adopted by its trustees, certified copies of which shall be presented, one to the State Treasurer and one to each of the city comptrollers of said cities. Such sanitary district as may be created under this Act shall likewise succeed to and become vested with all legal outstanding obligations of such metropolitan drainage commission organized under said Act whose territorial limits are included within such sanitary district that may hereafter be organized, and the proper officers of said sanitary district shall likewise succeed to all the property rights of such metropolitan drainage commission organized under said Act whose territorial limits are included within such sanitary district that may hereafter be organized, and the proper officers of said sanitary district whenever the same shall be organized, any and all property of every nature and description in the possession or control of such metropolitan drainage commission, including all maps, plats, records and reports, and all furniture, laboratory material, fixtures and equipment. Such sanitary district shall likewise assume and be obligated to pay all legal outstanding obligations of such metropolitan drainage commission at the time such transfer of property is made. Any metropolitan drainage commission created and existing under said Chapter 181 is hereby, continued, and shall be treated as a separate sanitary district, that may be organized under this Act shall succeed to all the property rights of such drainage commission as set forth in this section. Said drainage commission shall thereupon cease to exist, and no further taxes for its support shall be levied. (Act Apr. 19, 1933, c. 341, §19.)

1607-28. Appropriation to State Board of Health for expenses.—The sum of $15,000.00 or so much thereof as may be necessary, is hereby appropriated out of any funds in the State Treasury, not otherwise appropriated, for expenses of the State Board of Health as necessary expenses in the execution of the duties enjoined upon said Board under this Act, provided
however, that upon the establishment of a regular sanitary district under the provisions of this Act, all moneys so paid out of the State Treasury shall be refunded to the State with interest at 4 per cent paid out of the State Treasury shall be refunded to the State with interest at 4 per cent.

1607-20. Inconsistent acts repealed.—All Acts or parts of Acts inconsistent herewith are hereby repealed; provided, that nothing in this Act contained shall be deemed to impair or invalidate any ordinance or future regulations or requirements of the State Board of Health, adopted according to law, forbidding any pollution of any waters of the State. (Act Apr. 19, 1933, c. 341, §20.)

Sewage disposal plant is to be approved by state board of health. Op. Att'y Gen. (225M), June 1, 1936.

1607-23. Equitable charges for sewage facilities.—Any city of the first class operating under home rule charters, and not embraced within the limits of any sanitary district which is authorized to provide a system of sewers, sewage pumping station, or a sewage treatment or disposal plant or plants for public use, in addition to all other powers granted to it by law, may have an ordinance duly adopted by the governing body thereof, to charge just and equitable rates, charges or rentals for the use of such facilities and for connections therewith by every person, firm or corporation whose premises are served by such facilities, either directly or indirectly. Such charges, shall be, as nearly as reasonably possible equitable and in proportion to the service rendered, and may take into consideration the quantity of sewage produced and its concentration, strength, and pollution qualities in general and the cost of its disposal. The charges may be fixed on the basis of water consumed or on some other basis of measuring the use made of the aforesaid facilities. In the event of any conflict with other municipalities, districts or private parties for the supplying of sewers aforesaid, such rates, charges or rentals may also be levied the same as in independent operations. (Dec. 28, 1933, Ex. Sess. c. 30, §1.)

Whether an owner of premises has the same directly connected with sewer main or connects them to sewer main by indirect means such as by easement in other premises that are directly connected, he may be required to pay rental charge. Op. Att'y Gen. (357B-9), Nov. 26, 1932.

This act is constitutional. Id. City may adopt ordinance declaring sewage disposal plants to be a public utility and issue bonds to pay cost of completing same payable out of rentals charges for use of such plants, without an election, and sell them to the state. Op. Att'y Gen. (357B-9), Sept. 25, 1933.

1607-32. Same—general sewer fund—disposition. —The moneys received from the rates, charges or rentals as herein authorized shall be kept separate from the general or other revenues of the political subdivision so collected and shall be used for the special purposes for which the political subdivision was created and organized. (Act Apr. 19, 1933, c. 341, §20.)

Establishing and fixing the charges aforesaid the receipts therefrom shall be used first to meet the costs of operating and maintaining the said facilities, and any additional sums collected shall be applied to capital and the amount charged to special assessments, and also any amount of such cost properly chargeable to other than sanitary sewers, shall be deducted therefrom; and no such rate, charge or rental shall include any amount therefor or be applied thereto upon their collection. (Dec. 28, 1933, Ex. Sess. c. 30, §2.)

1607-33. Same—Charges as the tax lien on land—delinquent rentals.—The rates, charges or rentals for the aforesaid sewer service shall be a charge against the owner, lessee or occupant of the premises, or against any or all of them; and any such claim for unpaid rates, charges or rentals which have been properly billed to the occupant of the premises may be collected in a civil action in any court of competent jurisdiction, and, in the discretion of the governing body of the municipality, may be recorded by the county auditor (or auditors of the counties) with the taxes against such property served and shall be collected as other taxes are collected. Payments of delinquent rentals shall be credited to the same fund as current funds for that purpose and are subject thereto any cost of collection accruing to the political subdivision. (Dec. 28, 1933, Ex. Sess. c. 30, §3.)

1607-34. Same—fixing rates—hearing.—Before any rate for the service aforesaid is fixed under authority of this chapter, a public hearing with due posted or published notice thereof shall be held by the governing body at which hearing interested persons thereat may be given an opportunity to be heard on the question. A similar hearing shall be held before the establishment of any change in such rates, charges or rentals. (Dec. 28, 1933, Ex. Sess. c. 30, §4.)

1614. Height of buildings in cities regulated.—That for the purpose of promoting the public health, safety, order, convenience, prosperity and general welfare, any city in the state of Minnesota thereafter having 50,000 inhabitants or over, acting by and through the governing body of such city, may by ordinance regulate the location, size and use of buildings on lots, and the density of population therein, may make different regulations for different districts thereof, and may acquire or prepare and adopt a comprehensive city plan for such city or any portion thereof for the future physical development and improvement of the city, in accordance with the regulations made as aforesaid, and may thereafter adopt regulations or plan, such alterations, however, to be made only after there shall be filed in the office of the city clerk a written consent of the owners of two-thirds of the several descriptions of real estate situate within 100 feet of the real estate affected, and said regulations or plan conflicting herewith, the governing body of any such city, by an affirmative vote in favor thereof by a majority of the members of the governing body of such city; provided, however, that notwithstanding any resolution, ordinance or law conflicting herewith, the governing body of any such city, by an affirmative vote in favor thereof, may by ordinance grant a permit for the construction of additions, extensions or improvements to any hospital which is being actually operated and maintained on the premises which it occupies on the date of the passage of this act; provided, further, that whenever the city planning commission or board shall make recommendation in writing to the governing body of any such city for altering said regulation or plan, with respect to a more restricted use of any real estate within 1000 feet of a public park, which part contains...
§1615  CH. 9—VILLAGES AND CITIES

not less than 50 acres, located near or adjacent to the waters of a navigable lake, covering an area of not less than 1000 square miles, said governing body, by a two-thirds vote of all its members, may alter said regulation or plan in accordance with said recommendations of the city planning commission or board. (As amended Apr. 17, 1937, c. 239, §1.)

This section is valid. American Wood Products Co. v. Minneapolis (DC-Minn), 21F(2d)440, aff'd 35F(2d)657.

Legislative powers with respect to zoning in cities stated. American Wood Products Co. v. Minneapolis (DC-Minn), 21F(2d)440, aff'd 35F(2d)657.

The mere fact that a zoning ordinance is harsh and serves the general welfare is not enough to establish invalidity. American Wood Products Co. v. Minneapolis (DC-Minn), 21F(2d)440, aff'd 35F(2d)657.

Ordinance passed under this section creating multiple dwelling district and prohibiting enlargement of factories erected therein, held valid. American Wood Products Co. v. Minneapolis (CCAB), 35F(2d)657, aff'd 35F(2d)446.

This act, including the consent clause, does not permit the city to sacrifice its police powers or to delegate any of its police powers: it is not an unlawful delegation of legislative power. Leighton v. C. (USDC-Minn), 16F(Supp)101.

Contention that the consent clause deprives city council of power to act except with consent of required number of property owners, held without merit. 10.

Owner seeking reclassification of property, and who had been unable to obtain requisite consent of adjoining owners, was entitled to challenge validity of this act. 10.

City of Minneapolis had power to fix setback lines in a zoning ordinance. 171M231, 213NW907.

Setback lines in zoning ordinances may cast an uncompensated burden on property. 171M231, 213NW907.

Act of city council in vacating a granted permit to erect a building in disregard of a setback line was not arbitrary or unlawful. 171M231, 213NW907.

Act of city council in vacating a granted permit to erect a building in disregard of a setback line was not arbitrary or unlawful. 171M231, 213NW907.

Building inspector, an administrative officer, was not required to make findings of fact, where no statute or ordinance so required. If he erred in his opinion, his opinion as conclusion as to the facts, there was adequate remedy by appeal or other proceeding. 11.

Ordinance was not invalid because it authorized building inspector to refuse a permit when, in his opinion, the building or structure was not safe. 11.

Building inspector to refuse a permit when, in his "opinion," the building or structure was not safe. 11.

Sections 1614-1617, as amended, in harmony with their general purpose and intent, and the local governing body may provide by ordinance for the enactment of general or specific rules governing the determination and variation of such regulations.

Where an officially established city planning commission already exists under the city charter it shall function as the board of adjustment, otherwise the powers of the board of adjustment shall vest in the governing body who may delegate all or part of such powers to a committee of the governing body. The terms of the members of the board of adjustment shall be concurrent with their terms as members of the governing body or city planning commission. The board shall adopt rules in accordance with the provisions of any ordinances adopted pursuant to this act.

Appeals to the board of adjustment may be taken by any person aggrieved.

The board of adjustment shall fix a reasonable time for the hearing of the appeal, giving notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person, or by agent, or by attorney.

The board of adjustment shall have the following powers:

1. To hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by an administrative official in the enforcement of this act or of any ordinance adopted pursuant to this act.

2. To hear and decide all matters referred to it or upon which it is required to pass under such ordinance.

3. In passing upon appeals, where there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of such ordinance, to vary or modify the application of any of the regulations or provisions of such ordinance relating to the use, construction, or alteration of buildings or structures or the use of land so that the purpose of the ordinance shall be served, and safety and welfare secured and substantial justice done.

In exercising the above mentioned powers such board may, in conformity with the provisions of this act, reverse or affirm wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision, or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken.

The majority vote of the members of the board shall be sufficient to overrule any order, requirement, decision, or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under any such ordinance, or to effect any variation in such ordinance. (Act Apr. 24, 1929, c. 340, §2.)

§1617-1. Grant of Power.—In order to provide for the proper and reasonable enforcement of regulations adopted pursuant to Chapter 217, Laws of Minnesota for 1921 [§§1614-1617] governing the location, size and use of buildings, and to provide for such reasonable determinations of such regulations as will eliminate practical difficulties in the enforcement of such regulations, and to provide for such reasonable determinations in the terms of such regulations as will eliminate unnecessary hardship in the way of carrying out the strict letter of such regulations, the local governing body is hereby empowered to appoint a board of adjustment. (Act Apr. 24, 1929, c. 340, §1.)

§1617-2. Board of adjustment.—Such a local governing body may provide for the appointment of a board of adjustment, and in conformity with the provisions of this act may provide that the said board of adjustment is to be appointed by the local governing body for a term of years, or until otherwise provided by ordinance, or until the expiration of the term of office of such board of adjustment. (As amended Apr. 17, 1937, c. 239, §1.)

§1617-3. Application.—The provisions of this act shall not apply to any city now or hereafter having provided for the establishment of a board of adjustment in conformity with the provisions of the city charter of such city. (Act Apr. 24, 1929, c. 340, §3.)

§1618. Restricted residence districts.—Any city of the first class may, through its council, upon petition of fifty (50) per cent of the owners of the real estate taxable in the district sought to be affected, by resolution, designate and establish by proceedings hereunder restricted residence districts and in and by such resolution and proceedings provide that no building or structure for any one or more of the purposes hereinafter named, and thereafter no building or other structure shall be erected, altered or repaired for any of the purposes, prohibited by such resolution and proceedings, which may prohibit the following, to-wit: hotels, restaurants, eating houses, mercantile business, stores, factories, warehouses, printing establishments, tailor shops, meat markets, ice houses, blacksmith shops, repair shops, paint shops, bakeries, eyeing, cleaning and laundering.
ing establishments, billboards and other advertising devices, public garages, public stables, apartment buildings, churches, or signs advertising for rent or sale the property only on which they are placed.

No building or structure erected after the creation of such district shall be used for any purpose for which its erection shall be prohibited hereunder. The term "Council" in this act shall mean the chief governing body of the city by whatever name called.

Any district or any portion thereof created under the provisions of this act may be vacated and the restrictions thereon removed by the council upon petition. The council may also, in the discretion of the council, prescribe the grounds on which the removal of such restrictions shall be considered advisable. The council shall first, after causing the probable cost of the proceedings, if abandoned, to be deposited by the petitioners, designate the restrictions thereon removed by the council upon petition of the owners of the property included within such district or portion thereof and the removal of such restrictions shall be accomplished in the manner herein provided for the creation of such district, and in the vacation of any such district or any portion thereof and the removal of such restrictions each and all of the provisions of this act as to allowance of damages and benefits to property affected by any proposed vacation of any such district or portion thereof and the removal of restrictions thereon removed by the council upon petition of the owners of the property included within such district or portion thereof and the removal of such restrictions shall be accomplished in the manner and to the address above provided and to such persons as shall have appeared in said proceedings and requested in writing that such notice be mailed to them. (As amended Apr. 20, 1931, c. 290, §3.)

Laws 1931, c. 290, §3, amends the fourth subdivision of this section.

1626-4. Bond issue. The limitation as to amount of bonds is repealed by §1626-12.

1626-5. Park commissioners authorized to establish but one flying field. The limitation as to number of flying fields is repealed by §1626-12.

1626-8. Cities may establish municipal airports.—Each city of the first class now or hereafter having a population of 50,000 inhabitants or more, including each such city operating under a charter adopted pursuant to Section 29, Article 4, of the Constitution of the State of Minnesota, is hereby authorized and empowered to establish and maintain a municipal flying field and airport, to acquire land from time to time necessary for that purpose, and to erect thereon and equip for the operation thereof. When deemed necessary land may be leased by any such city for the purposes hereof. (Act Apr. 23, 1929, c. 379, §1, superseding Act Apr. 5, 1926, c. 125, §1.)

1626-9. Cities may establish airport.—The land so to be acquired, or acquired and used, by each such city may be used, or so acquired and used, whether the land be located within or without the limits of such city. Such land may be acquired from time to time by purchase, gift, devise, condemnation or otherwise, and the title so acquired by condemnation or purchase shall be in fee simple absolute, unquestioned in any way whatsoever. When the right of condemnation is to be exercised, such condemnation proceedings shall be exercised only under and pursuant to
the provisions of the statutes of the state of Minnesota relating to eminent domain; provided that where such an airport has already been acquired by a city, such additional land should be contiguous thereto. (Act Apr. 9, 1931, c. 128, §1, amending Laws 1929, c. 379, §2, and superseding Laws 1929, c. 125, §2.)

1626-10. To fix charges.—Each such city shall have the authority to determine the charges for the use of said municipal flying field and airport and the terms and conditions under which the municipal flying field and airport and its facilities may be used, provided that such charges shall be reasonable and uniform for the same class of service, to lease parts thereof to individuals, co-partnerships or corporations, to any municipal or state government or to the national government or to foreign governments or any department of either thereof for flying purposes or any purpose incidental thereto, and to determine the terms and conditions of said leasing by said lessees and any lands acquired, owned, controlled, or occupied by such cities as herein provided shall and hereby are declared to be acquired, owned, controlled and occupied for a public purpose and as a matter of public necessity. (Act Apr. 25, 1929, c. 379, §3, superseding Laws 1929, c. 125, §3.)

1626-11. Disposition of revenues.—The revenues obtained from the ownership and operation of any such municipal flying field and airport shall be used to finance the maintenance and the operating expenses thereof and to make payment of interest on and current principal requirements of any outstanding bonds or certificates issued for the acquisition or improvement thereof, and to make payment of interest on any mortgage herefore made. That portion of revenue in excess of the foregoing requirements may be applied to finance the extension or improvement of said flying field and airport. (Act Apr. 25, 1929, c. 379, §4, superseding Laws 1929, c. 125, §4.)

1626-12. Bond issue.—The limitation of bonds to the amount of $150,000 for airport purposes and the limitation of one airport only to each city of the first class found in Chapter 62 of the Laws of Minnesota for 1927 [§§1626-4, 1626-5] are hereby expressly repealed, and each such city shall be authorized to issue bonds for the purposes defined in this act to an amount not to exceed $450,000 in addition to all other bonds or certificates issued for such purposes; except that in cities where a bond issue has been authorized in an ordinance approved by popular vote of the voters, the amount of such bond shall be limited to the amount authorized in said ordinance. No indebtedness, mortgage, lien, or security, created, suffered, or incurred in the acquisition of land for such airport, except as expressly authorized in this act, shall be purchased at an average price of more than $600.00 an acre unless by condemnation proceedings. (Act Apr. 25, 1929, c. 379, §5, superseding Laws 1929, c. 125, §5.)

1626-13. Issue of bonds—Rate of interest.—In order to carry out the purpose of this act each such city is hereby authorized to issue municipal flying field or airport bonds or certificates of indebtedness to secure funds for the purchase and improvement of the specified land or to meet the cost of purchase or erection of designated buildings and structures. Said bonds or certificates of indebtedness shall be issued by each such city in the manner prescribed by law or by the charters thereof for the issuance and authorization of issuance of bonds. In any city having a board of estimate and taxation the bonds hereby authorized may be issued from time to time by vote of five-sevenths of all the members of the board after request thereto by vote of two-thirds of the members of the city council or the mayor and council, or in any other manner and if so authorized shall be issued by said board of estimate and taxation. In cities not having a board of estimate and taxation such bonds may be issued and sold from time to time by vote of two-thirds of the members of the city council or other chief governing body subject to the right of referendum where provided in the charter of any such city. Such bonds shall bear interest at not exceeding 5% per annum payable semi-annually. The principal shall be payable serially in not more than 30 annual installments as nearly equal as may be. The city council or other chief governing body shall levy annually a tax on all the taxable property of the city sufficient to meet the interest and principal about to mature. The bonds or certificates hereby authorized, or any part thereof, may be issued and sold by each such city and shall have the same force and effect as contained in the charter of said city or in the law of this state prescribing or fixing limitations upon the bonded indebtedness of the city, but the full faith and credit of such city shall at all times be pledged for the payment thereof at maturity and for the payment of current interest thereon.

In case the jurisdiction of said airport be under a board of park commissioners in the cases provided in Section 7 [§1626-14] thereof, such board shall first request the city council that it request the issuance of bonds for such purposes.

The amount of all bonds heretofore or hereafter issued by any such city for the acquisition or improvement of a flying field or airport shall not be counted or included in the net indebtedness of the city or in any computation of the city's outstanding indebtedness for the purpose of determining the limit of net indebtedness of the city. (Act Apr. 25, 1929, c. 379, §6, superseding Laws 1929, c. 125, §6.)

1626-14. Authority may be exercised by governing body or board of park commissioners.—The authority hereby granted may be exercised by the city council or chief governing body thereof, by whatever name designated, or may be exercised by the board of park commissioners or other body in charge of the park system of the city. When said authority shall have been so vested in said latter body either under the provisions of this act or under the provisions of Chapter 62 of the Laws of Minnesota for 1927 [§§1626-1 to 1626-7], said authority shall continue to be exercised by said body in control of the park system of said city. Whenever a city is vested with such authority shall have full and complete authority to govern said field so acquired and to regulate by general ordinance the use of said land for flying and for other aviation purposes. (Act Apr. 25, 1929, c. 379, §7, superseding Laws 1929, c. 125, §7.)

1626-15. Proceedings legalized.—In all cases where a city of the first class mentioned in this act has heretofore issued any bonds for the purpose of acquiring land and improving the same for a municipal flying field pursuant to an ordinance approved by the voters of such city, the proceedings heretofore taken in that regard are hereby in all respects validated and confirmed; any bonds already issued thereunder are hereby declared to be issued in all respects as if issued under the provisions of this act or under the provisions of Chapter 62 of the Laws of Minnesota for 1927 [§§1626-1 to 1626-7], said authority shall continue to be exercised by said body in control of the park system of such city. Whenever a city is vested with such authority shall have full and complete authority to govern said field so acquired and to regulate by general ordinance the use of said land for flying and for other aviation purposes. (Act Apr. 25, 1929, c. 379, §8, superseding Laws 1929, c. 125, §8.)

1626-16. Application. This act shall not apply to any city which has already issued or shall issue bonds for municipal flying field and airport purposes as authorized by an ordinance referred to and approved by the voters of such city by popular vote. (Act Apr. 25, 1929, c. 379, §9, superseding Laws 1929, c. 125, §9.)
Airports may be enlarged in certain cases. The governing body of any city of the first class in this State, now or hereafter, to which the city owns, maintains and operates an airport within its corporate limits, is hereby authorized and empowered, from time to time, as funds are available, to extend, enlarge and improve the facilities of said airport. Land necessary therefor may be acquired in the manner provided by the charter of any such city. (Apr. 24, 1937, c. 388, §1.)

Sec. 2 of Act Apr. 24, 1937, cited, provides that the Act shall take effect from its passage.

Tax levy for Municipal airport. Each city of the first class of this State now or hereafter having a population of 50,000 inhabitants or more, including each city now or hereafter operating under a Home Rule Charter adopted under and pursuant to Section 36, Article 4 of the State Constitution, acting through its City Council or Chief Governing Body thereof by whatever name known or Board of Park Commissioners, is hereby authorized and empowered to levy annually on real and personal property of said City the tax not exceeding 1/20th of a mill on each dollar on the assessed valuation of said City for the purpose of operating and maintaining the Municipal airport of said city. (Apr. 29, 1931, c. 273, §1.)

To be additional powers. The provision of this Act shall be in full force and effect notwithstanding any provision in the Charter of said City to the contrary hereof. But no such levy shall be made unless authorized by the Board of Estimate and Taxation of said city, according to the provisions of the Charter of said city establishing said Board of Estimate and Taxation. (Apr. 29, 1931, c. 273, §2.)

Provisions separable. If any provision of this Act shall be held to be unconstitutional, it shall not affect the balance of said Act. (Apr. 29, 1931, c. 273, §§.)

Limitation in use of proceeds of bonds. That where bonds have been or may hereafter be issued, by a city of the first class having a population of 50,000 inhabitants or more, including all such cities operating under home-rule charters adopted under and pursuant to Section 36, Article 4 of the State Constitution, which bonds have been authorized by the voters of such city voting upon a proposition providing for the issuance of an aggregate amount of bonds for two or more distinct improvements, with a definite amount provided therein for each improvement, no part of the proceeds of such bonds shall be used until after the governing body or resolution determined the projects and the amount of the proceeds of such bonds for such projects under each bond issue. (Act Apr. 3, 1929, c. 126, §.)

City to give notice of intent. Whenever any City Council, or other governing body, or official board of any city of the first class in the State of Minnesota, operating under a Home Rule Charter, which has now or may hereafter have a population of 50,000 or more shall determine by the exercise of the right of eminent domain or pursuant to any general or special law or proceedings or pursuant to any Home Rule Charter to extend, widen, straighten or open any street, avenue, alley, roadway, parkway or boulevard which may now or hereafter exist or to acquire lands or easements in lands therefor or to improve the same by grading, laying of water lines, constructing streets, sidewalks, curbs and gutters, or to establish or construct subways, overhead railways or crossings, building line easements or boulevards in, upon or along the same or to acquire easements or rights in lands for the purpose of constructing bridges or ditches or to change the course of or divert any stream of water (except the Mississippi River) or shall determine to acquire lands or buildings for public purposes for which there shall be levied a special assessment on any property for such purposes or who shall determine to require or regulate or restrict the use of buildings or lands by zoning pursuant to any law now or hereafter enacted authorizing the same shall give notice of such intent in accordance with Section 3 hereof. (Act Apr. 26, 1929, c. 383, §1.)

Who served. Whenever any official of any such city shall, pursuant to any authority given him by law, ordinance or provision of the City Charter, issue or cause to be issued, notice or warning in connection with any specific building or land not public property and including lands and buildings used or occupied by public service corporations shall serve a copy of such order, decree, notice or warning upon the owner of such lands or building, or both, affected by such notice in the manner provided in Section 3 hereof. The notice herein provided for shall include notices given by the Commissioner of Health affecting the sanitary condition of buildings or property, also those with respect to the existence of communicable diseases. (Act Apr. 25, 1929, c. 383, §2.)

Form of notice. The notices required in Sections 1 and 2 hereof shall be served upon the owner of such lands or buildings in the manner prescribed by Statute for serving notices in civil actions, in case the owner is a resident of such city and is known to the officer or official of such city In the performance of such service. But no such notice shall be served upon owners of property in connection with the office of making such service. In case the owner is not a resident of said city or is not known or cannot be found by reasonable investigation a copy of such notice shall be mailed to said owner if known and not a resident of such city or if not known to the person whose name appears on the records of the County Auditor or the Register of Deeds in the county in which such city is located as the person who last paid the taxes on such property by depositing a copy of such notice in the postoffice postage prepaid, and addressed to the person above specified in an envelope plainly bearing on its front in type no smaller than ten point the words "Important notice affecting your property." Such notice shall be general in its character, but shall include a statement of the nature of the proceeding which affects the property of the person to whom such notice is sent; the officer or department of the city from whom further information may be obtained and the address to which communications or personal requests may be made. (Act Apr. 25, 1929, c. 383, §3.)

Application. It is the intent of this Act to provide only the manner in which notices shall be served upon owners of property in connection with official proceedings or actions above specified. It shall not affect provisions of any law only in so far as it relates to the giving of notice to owners. All other requirements, stipulations and provisions of each and all of said laws in so far as they are not inconsistent with this law shall be and remain in full force and effect. (Act Apr. 25, 1929, c. 383, §4.)

Act paramount. This Act shall be paramount to and supersede any provisions of any law or charter which are inconsistent herewith. (Act Apr. 25, 1929, c. 383, §5.)

Sec. 6 provides that the act shall take effect from and after its passage.

Cities may reimburse for certain expenditures. That any city of the first class is hereby authorized and empowered to reimburse any person, or the representative of the estate of any decedent, for actual expenses incurred for hospital, medical care, treatment, and for funeral services of any person who died in the performance of any act or service which was performed or undertaken through the act or acts of any agent, servant or official of such city in the performance of a governmental duty, and such city of the first class shall
have the right to reimburse and pay such person, or the representative of any such decedent, upon the passing of a resolution by the Council authorizing such payment, at any time within thirty days from and after the passage of this act. (Act Apr. 4, 1933, c. 158, §1.)

1630-23 g. Inconsistent acts repealed.—All laws and parts of laws, ordinances and charter provisions inconsistent herewith are hereby suspended and made inoperative for a period of thirty days from and after the passage of this act, after which time this act shall become and be suspended and inoperative and all laws and parts of laws, ordinances and charter provisions inconsistent herewith and hereby suspended shall again become operative and be in full force and effect. (Act Apr. 4, 1933, c. 158, §2.)

1630-23 h. Purchase of land from federal government for civic center or public park.—Any city of the first class in the State of Minnesota and/or any such city and the county in which it is located, acting jointly, are hereby authorized to buy from the federal government a site or sites for city markets or the expansion a site or sites for municipal waterworks projects for a cumulative amount of more than 50,000 inhabitants, including any such city operating under a home-rule charter adopted in pursuance of the State Constitution, Article 4, Section 36, and which city operates its waterworks system by means of a Board of Water Commissioners created by Act of the Legislature, and which city owns, maintains and operates its own Municipal Market, is hereby authorized and empowered, for the purposes herein designated, to issue bonds not exceeding $550,000; said bonds to be in such denominations and payable at such places and at such times, not exceeding 30 years from the date thereof, as may be deemed best. Said bonds shall be in serial form and bear interest at a rate not to exceed six per cent per annum, payable semi-annually, at such place or places as shall be designated therein, and such governing body is further authorized to negotiate for such bonds from time to time to the highest bidder or bidders therefor, and upon the best terms that can be obtained therefor; provided, however, that no such bonds shall be sold for a less amount than the par value thereof and accrued interest thereon. (Act Jan. 9, 1934, Ex. Sess., c. 63, §1.)

Sec. 2 of Act Dec. 31, 1923, cited, provides that the act shall take effect from its passage.

1630-23 i. Bonds for construction of waterworks and municipal market.—The governing body of any city in this state, now or hereafter having a population of more than 50,000 inhabitants, including any such city operating under a home-rule charter adopted pursuant to the Constitution of the State of Minnesota, Article 4, Section 36, and which city operates its waterworks system by means of a Board of Water Commissioners created by Act of the Legislature, and which city owns, maintains and operates its Municipal Market, is hereby authorized and empowered, for the purposes herein designated, to issue bonds not exceeding $550,000; said bonds to be in such denominations and payable at such places and at such times, not exceeding 30 years from the date thereof, as may be deemed best. Said bonds shall be in serial form and bear interest at a rate not to exceed six per cent per annum, payable semi-annually, at such place or places as shall be designated therein, and such governing body is further authorized to negotiate for such bonds from time to time to the highest bidder or bidders therefor, and upon the best terms that can be obtained therefor; provided, however, that no such bonds shall be sold for a less amount than the par value thereof and accrued interest thereon. (Act Jan. 9, 1934, Ex. Sess., c. 63, §1.)

Sec. 2 of Act Dec. 31, 1923, cited, provides that the act shall take effect from its passage.

1630-23 j. Bonds for construction of waterworks and municipal market.—The governing body of any city in this state, now or hereafter having a population of more than 50,000 inhabitants, including any such city operating under a home-rule charter adopted pursuant to the Constitution of the State of Minnesota, Article 4, Section 36, and which city operates its waterworks system by means of a Board of Water Commissioners created by Act of the Legislature, and which city owns, maintains and operates its own Municipal Market, is hereby authorized and empowered, for the purposes herein designated, to issue bonds not exceeding $550,000; said bonds to be in serial form and bear interest at a rate not to exceed six per cent per annum, payable semi-annually, at such place or places as shall be designated therein, and such governing body is further authorized to negotiate for such bonds from time to time to the highest bidder or bidders therefor, and upon the best terms that can be obtained therefor; provided, however, that no such bonds shall be sold for a less amount than the par value thereof and accrued interest thereon. (Act Jan. 9, 1934, Ex. Sess., c. 63, §1.)

Sec. 2 of Act Dec. 31, 1923, cited, provides that the act shall take effect from its passage.

1630-23 k. Bonds issued, legalized and validated.—That all proceedings heretofore taken by majority vote of the governing body of any such city, for the issuance of certificates of indebtedness against the permanent improvement revolving fund of such city, and for the refunding of such certificates in such amount as may be necessary to pay the principal of such certificates when same shall fall due, in the manner provided by Section 5, Chapter 131, of the 1927 Laws of Minnesota [§11938-7], for which tax shall be levied, for the purpose of refunding such certificates and for the redemption of such bonds at their maturity. (Act Jan. 9, 1934, Ex. Sess., c. 63, §2.)

1630-23 l. Same—proceeds, how used.—The proceeds of any and all bonds issued and sold under the authority of this Act shall be used for the following purposes and none other, viz.:

(a) For acquiring by gift, purchase, or condemnation a site or sites for municipal waterworks projects or extensions and improvements thereof; provided, however, that no bonds in excess of the sum of $350,000.00 shall be issued for such projects under the provisions of this Act.

(b) For acquiring by gift, purchase, or condemnation a site or sites for city markets or the expansion and improvement of existing city markets and equipping the same; provided, however, that no bonds in excess of the sum of $200,000.00 shall be issued for such projects under the provisions of this Act. (Act Jan. 9, 1934, Ex. Sess., c. 63, §3.)

1630-23 m. Same—separability provision.—If any provision of this Act or any part thereof is declared invalid, the remainder of this Act and the application thereof shall not be affected thereby. Act Jan. 9, 1934, Ex. Sess., c. 63, §5.)

Sec. 6 of Act Jan. 9, 1934, cited, provides that the act shall take effect from its passage.

1630-23 n. Proceedings legalized.—That in all cases where the governing body of a city of the first class by a majority vote has heretofore adopted any proceedings pursuant to authority contained in the charter of such city, for the issuance of certificates of indebtedness against the permanent improvement revolving fund of such city, such proceedings and all permanent improvement revolving fund certificates of indebtedness so issued under authority of such charter, are hereby legalized and declared to be valid and binding obligations, notwithstanding any defect or defects which may have occurred in such proceedings or certificates. (Act Feb. 8, 1935, c. 5, §1.)

1630-23 o. Bonds issued, legalized and validated.—That all proceedings heretofore taken by majority vote of the governing body of any such city, for the issuance of certificates of indebtedness against the permanent improvement revolving fund certificates of indebtedness are hereby validated and legalized, notwithstanding any defect in such proceedings, and such refunding bonds shall be the valid and legal obligations of such city when same shall have been sold and delivered pursuant to such proceedings; provided, however, that such refunding bonds shall not be sold or negotiated for less than par and accrued interest. (Act Feb. 8, 1935, c. 5, §2.)

1630-23 p. Tax levy.—That prior to the issuance of any of such refunding bonds, the governing body of any such city shall levy an ad valorem tax sufficient to pay the principal and interest on such bonds when same shall fall due, in the manner provided by Section 5, Chapter 131, of the 1927 Laws of Minnesota [§11938-7], which tax shall be in addition to all other taxes levied by such city, and shall be without limitation. (Act Feb. 8, 1935, c. 5, §3.)

1630-23 q. Act remedial.—That it is hereby expressly found and determined that this act is remedial in nature, being necessary to protect the financial credit of such cities, and this act shall take effect and be in force from and after its passage. (Act Feb. 8, 1935, c. 5, §4.)

1630-23 r. Bonds for municipal market.—The governing body of any city of the first class in this state, now or hereafter existing, which city owns,
maintains and operates its own Municipal Market, is hereby authorized and empowered, for the purposes herein designated, to issue from time to time as needed the negotiable bonds of their respective cities to an amount in the aggregate not exceeding $200,000 payable at such denominations and payable at such places and at such times, not exceeding 30 years from the date thereof, as may be deemed best. Said bonds shall be in serial form and bear interest at a rate not to exceed six per cent per annum not exceeding 30 years from the date thereof, as may be deemed best. Said bonds shall be in serial form and bear interest at a rate not to exceed six per cent per annum payable semi-annually, at such place or places as shall be designated therein, and such governing body is hereby authorized to negotiate and sell such bonds from time to time to the highest bidder or bidders therefor, at terms that can be obtained therefor; provided, however, that no such bonds shall be sold for a less amount than the par value thereof and accrued interest thereon. (Act April 24, 1935, c. 284, §4.)

1630-2.3 q. Limitations not to apply.—The bonds authorized by Section 1, of this Act, or any portion thereof, may be issued and sold by any such city notwithstanding any limitation contained in the charter of such city or in any law of this state prescribing or fixing any limit upon the bonded indebtedness of such city. The governing body of any such city issuing said bonds shall set aside annually from the revenues of the operation of projects for which the bond issue herein is authorized, a sufficient amount to pay the interest on said bonds and the principal of any such bonds maturing in any such year; and in the event such revenue is insufficient for this purpose, the governing body of any such city issuing said bonds shall include in the tax levy a sufficient amount for the payment of such interest as it accrues and for the accumulations of a sinking fund for the redemption of such bonds at their maturity. (Act April 24, 1935, c. 284, §2.)

1630-2.3 u. To be additional powers.—The authority granted in this Act is in addition to all existing power and authority of any city operating under a home rule charter adopted in pursuance of the State Constitution, Article 4, Section 36. (Act Apr. 24, 1935, c. 284, §4.)

1630-2.3 v. Provisions severable.—If any provision of this Act shall be held invalid the remainder of this Act and the application thereof shall not be affected thereby. (Act Apr. 24, 1935, c. 284, §5.)

1630-2.3 w. Sinking fund committee to invest funds.—Whenever, in any city of the first class, now or hereafter existing, the right and duty of investing sinking fund moneys of such city is vested in a sinking fund committee or similar body as distinct from the governing body of any such city, such sinking fund committee or similar body, in addition to all other powers to make such investments in them vested, is hereby authorized to invest such sinking fund moneys in interest bearing promissory notes of any such city, heretofore issued, the payment of which is provided for by receipts of delinquent taxes accruing to such city, provided, however, that all receipts from delinquent taxes which are, at the time of the passage of this act, pledged to the payment of such notes shall be applied to the payment thereof until the same shall have been paid in full and to the extent that any such city shall have pledged its delinquent taxes to the payment of such notes said pledge is hereby expressly authorized and validated. (Act Apr. 24, 1935, c. 284.)

1630-2.3 x. Cities may establish municipal forest.—Any city of the first class operating under Chapter IV, Section 36, of the constitution of the State of Minnesota by resolution of the governing body thereof may purchase or obtain by condemnation proceedings, any tract or tracts of land bordering any lake, for a municipal forest and manage the same on forestry principles and may reserve any part of such land for use as a public bathing beach. The selection of such lands and the plans of management therefor shall have the approval of the state forester. (Act Apr. 17, 1935, c. 203, §1.)

Sec. 2 of Act Apr. 17, 1935, cited, provides that the act shall take effect from its passage.

HOUSING ACT FOR CITIES OF FIRST CLASS NOT UNDER HOME RULE CHARTERS

ARTICLE I
GENERAL PROVISIONS

1630-3. Citation of law.—Cities to which law applies.

Act is limited to dwelling erected after its enactment. Miller v. F., 192 M331, 271 N.W. 818. See Dun. Dig. 6252.

1630-4. Definitions * * * .

See subd. (12), modifying this subdivision as to definition of "basement." (12 ³) Basement.—In all cities of the first class which have heretofore or may hereafter adopt by charter or ordinance the Housing Act as provided in Chapter 137, Session Laws of 1917, as amended by Chapter 517, Session Laws of 1919, which regulates the space which must be left between a building and the adjoining building or between a building and the boundary line of the lot or lots on which it stands, by the number of stories in such building. A basement is a story partly underground but having at least one-half of its height above the curb level of the adjoining street and shall be counted as a story. (Act Apr. 22, 1929, c. 232, §1.) See also, §§3009, 4075.

ARTICLE II
DWELLINGS HEREAFTER ERECTED

Title 1
Light and Ventilation

1630-16. Side yards, etc.

See §1630-4 (12).§.


This section is invalid for uncertainty. State v. Parker, 155 M558, 277 N.W. 490.

Title 3
Fire Protection

1630-44. Means of egress.

In action for rent wherein defendant defended on ground that she moved out because apartment had only one exit, burden was upon defendant to prove that building inspector made "requirements," building having been constructed prior to passage of this act. Miller v. F., 192 M331, 271 N.W. 818. See Dun. Dig. 6426.

1630-56. Outside stand pipes.

This section is superseded by §5809 insofar as the latter refers to outside standpipes in hotels and lodging houses. Op. Atty. Gen., July 24, 1933.

ARTICLE V
IMPROVEMENTS


In action for rent wherein defendant defended on ground that she moved out because apartment had only one exit, burden was upon defendant to prove that building inspector made "requirements," building having been constructed prior to passage of this act. Miller v. F., 192 M331, 271 N.W. 818. See Dun. Dig. 6426.

ARTICLE VI
REQUIREMENTS AND REMEDIES

1630-110. Permit to commence building.

Where city ordinance required application to city council for permits for erection or maintenance of build-
ings to be used for sale or storage of lumber and no application was made, question whether ordinance which is otherwise constitutional, is constitutional in its particular application, cannot be determined by court as discretion of city council has not been invoked or declared, State v. Clousing, 1921, 262 NW 844. See Dun. Dig. 8625.

Ordinance requiring permission from city council as condition precedent and maintenance of building used for sale or storage of lumber held applicable to existing structures and erection of new structures as replacements of similar ones destroyed by fire. 1d.

Ordinance giving to city council power to issue or withhold permits for erection and maintenance of buildings used for sale or storage of lumber held constitutional and not attacked. 1d. If there are more motives of city council except as they may be disclosed on the face of particular act in question or by reference to general existing conditions or other legislative acts, 1d.

Ordinance requiring building permits from city council held not to be retroactive or retrospective in effect as applied to facts and circumstances of case. 1d.

One does not have vested right to continue to maintain lumber yard free from restrictions or regulations imposed by municipal legislative authority pursuant to the lawful exercise of its delegated police power. Id.

In mandamus to compel issuance of building permit, court is bound to consider situation as it exists as of time of issuance of writ whether preemption writ should issue, and where a city ordinance has been passed simultaneously with or subsequent to such vote and validity and necessity are proper for determination. Id. See Dun. Dig. 8625.

Certificate of compliance. Illegal use and occupancy of a homestead does not connote or imply repeal of the provisions of said Housing Act. Id. Small automobile repair shop at rear of his home in a residential district was not guilty of illegal use and occupancy, as he had only obtained a special permit from city council, which was authorized by a provision in said Housing Act to issue such permits in cases of an extraordinary or critical difficulty. 1d. See Dun. Dig. 8625.

Certificate of compliance. "Serve an order in the manner provided for the service of a summons in a civil action in this state." One does not have vested right to continue to maintain lumber yard free from restrictions or regulations imposed by municipal legislative authority pursuant to the lawful exercise of its delegated police power. Id.

Provision that if he feels aggrieved thereby he shall appeal to the district court by the service of a notice upon the person injured or damaged thereby. (Act Apr. 24, 1937, c. 424, §5.)

Court cannot inquire into motives of city council except as they may be disclosed on the face of particular act in question or by reference to general existing conditions or other legislative acts. Id.

Ordinance requiring building permits from city council held not to be retroactive or retrospective in effect as applied to facts and circumstances of case. 1d.

One does not have vested right to continue to maintain lumber yard free from restrictions or regulations imposed by municipal legislative authority pursuant to the lawful exercise of its delegated police power. Id.

Certificate of compliance. Illegal use and occupancy of a homestead does not connote or imply repeal of the provisions of said Housing Act. Id. Small automobile repair shop at rear of his home in a residential district was not guilty of illegal use and occupancy, as he had only obtained a special permit from city council, which was authorized by a provision in said Housing Act to issue such permits in cases of an extraordinary or critical difficulty. 1d. See Dun. Dig. 8625.

Certificate of compliance. "Serve an order in the manner provided for the service of a summons in a civil action in this state." One does not have vested right to continue to maintain lumber yard free from restrictions or regulations imposed by municipal legislative authority pursuant to the lawful exercise of its delegated police power. Id.

Provision that if he feels aggrieved thereby he shall appeal to the district court by the service of a notice upon the person injured or damaged thereby. (Act Apr. 24, 1937, c. 424, §5.)

Court cannot inquire into motives of city council except as they may be disclosed on the face of particular act in question or by reference to general existing conditions or other legislative acts. Id.

Ordinance requiring building permits from city council held not to be retroactive or retrospective in effect as applied to facts and circumstances of case. 1d.

One does not have vested right to continue to maintain lumber yard free from restrictions or regulations imposed by municipal legislative authority pursuant to the lawful exercise of its delegated police power. Id.

Certificate of compliance. Illegal use and occupancy of a homestead does not connote or imply repeal of the provisions of said Housing Act. Id. Small automobile repair shop at rear of his home in a residential district was not guilty of illegal use and occupancy, as he had only obtained a special permit from city council, which was authorized by a provision in said Housing Act to issue such permits in cases of an extraordinary or critical difficulty. 1d. See Dun. Dig. 8625.

Certificate of compliance. "Serve an order in the manner provided for the service of a summons in a civil action in this state." One does not have vested right to continue to maintain lumber yard free from restrictions or regulations imposed by municipal legislative authority pursuant to the lawful exercise of its delegated police power. Id.

Provision that if he feels aggrieved thereby he shall appeal to the district court by the service of a notice upon the person injured or damaged thereby. (Act Apr. 24, 1937, c. 424, §5.)

Court cannot inquire into motives of city council except as they may be disclosed on the face of particular act in question or by reference to general existing conditions or other legislative acts. Id.

Ordinance requiring building permits from city council held not to be retroactive or retrospective in effect as applied to facts and circumstances of case. 1d.

One does not have vested right to continue to maintain lumber yard free from restrictions or regulations imposed by municipal legislative authority pursuant to the lawful exercise of its delegated police power. Id.

Certificate of compliance. Illegal use and occupancy of a homestead does not connote or imply repeal of the provisions of said Housing Act. Id. Small automobile repair shop at rear of his home in a residential district was not guilty of illegal use and occupancy, as he had only obtained a special permit from city council, which was authorized by a provision in said Housing Act to issue such permits in cases of an extraordinary or critical difficulty. 1d. See Dun. Dig. 8625.

Certificate of compliance. "Serve an order in the manner provided for the service of a summons in a civil action in this state." One does not have vested right to continue to maintain lumber yard free from restrictions or regulations imposed by municipal legislative authority pursuant to the lawful exercise of its delegated police power. Id.

Provision that if he feels aggrieved thereby he shall appeal to the district court by the service of a notice upon the person injured or damaged thereby. (Act Apr. 24, 1937, c. 424, §5.)

Court cannot inquire into motives of city council except as they may be disclosed on the face of particular act in question or by reference to general existing conditions or other legislative acts. Id.

Ordinance requiring building permits from city council held not to be retroactive or retrospective in effect as applied to facts and circumstances of case. 1d.

One does not have vested right to continue to maintain lumber yard free from restrictions or regulations imposed by municipal legislative authority pursuant to the lawful exercise of its delegated police power. Id.

Certificate of compliance. Illegal use and occupancy of a homestead does not connote or imply repeal of the provisions of said Housing Act. Id. Small automobile repair shop at rear of his home in a residential district was not guilty of illegal use and occupancy, as he had only obtained a special permit from city council, which was authorized by a provision in said Housing Act to issue such permits in cases of an extraordinary or critical difficulty. 1d. See Dun. Dig. 8625.

Certificate of compliance. "Serve an order in the manner provided for the service of a summons in a civil action in this state." One does not have vested right to continue to maintain lumber yard free from restrictions or regulations imposed by municipal legislative authority pursuant to the lawful exercise of its delegated police power. Id.

Provision that if he feels aggrieved thereby he shall appeal to the district court by the service of a notice upon the person injured or damaged thereby. (Act Apr. 24, 1937, c. 424, §5.)

Court cannot inquire into motives of city council except as they may be disclosed on the face of particular act in question or by reference to general existing conditions or other legislative acts. Id.

Ordinance requiring building permits from city council held not to be retroactive or retrospective in effect as applied to facts and circumstances of case. 1d.

One does not have vested right to continue to maintain lumber yard free from restrictions or regulations imposed by municipal legislative authority pursuant to the lawful exercise of its delegated police power. Id.

Certificate of compliance. Illegal use and occupancy of a homestead does not connote or imply repeal of the provisions of said Housing Act. Id. Small automobile repair shop at rear of his home in a residential district was not guilty of illegal use and occupancy, as he had only obtained a special permit from city council, which was authorized by a provision in said Housing Act to issue such permits in cases of an extraordinary or critical difficulty. 1d. See Dun. Dig. 8625.

Certificate of compliance. "Serve an order in the manner provided for the service of a summons in a civil action in this state." One does not have vested right to continue to maintain lumber yard free from restrictions or regulations imposed by municipal legislative authority pursuant to the lawful exercise of its delegated police power. Id.

Provision that if he feels aggrieved thereby he shall appeal to the district court by the service of a notice upon the person injured or damaged thereby. (Act Apr. 24, 1937, c. 424, §5.)

Court cannot inquire into motives of city council except as they may be disclosed on the face of particular act in question or by reference to general existing conditions or other legislative acts. Id.

Ordinance requiring building permits from city council held not to be retroactive or retrospective in effect as applied to facts and circumstances of case. 1d.

One does not have vested right to continue to maintain lumber yard free from restrictions or regulations imposed by municipal legislative authority pursuant to the lawful exercise of its delegated police power. Id.
PROVISIONS RELATING TO CITIES OF SECOND CLASS

By the amendment of §1671, the provision as to primary elections is made applicable to cities of the second class.

1639-1. Certain boards abolished.—That in any city of the second class located on any navigable river where a Federal wild life refuge has been created by the Federal government for the protection and propagation of wild life therein, the local governing board, whatever its name, or whatever board created for the administration of city property held by such city for, among other things, animal, bird, fish, game and hunting preserves, and place the control and administration thereof in the hands of such governing body. (Act Apr. 15, 1926, c. 172.)

1648-2. Association to fix pension.—That every paid municipal police department now existing or which may hereafter be organized may and is hereby authorized to become incorporated pursuant to the provisions of any applicable law of this state, or adopt a constitution and by-laws as a relief association to provide for the retirement, relief and medical expenses in case of public injury sustained in the performance of his duty as police officer, so as to render necessary his retirement from active police service may be placed upon the pension list, and shall receive such pension as provided for in said articles of incorporation or constitution and by-laws; provided, however, that if any such police officer shall die leaving a widow surviving him she may be paid as long as she remains unmarried such amounts not exceeding, however, the sum of $50.00 per month and in such manner as its constitution or the constitution and by-laws shall prescribe, but not to exceed $45 per month whenever, because of the injury sustained, there was actuarial necessity his retirement from active police service may be placed upon the pension list, and shall receive such pension as provided for in said articles of incorporation or constitution and by-laws; provided, however, that said fund shall not be used for any other purpose than for the payment of such pension. (Act Mar. 25, 1937, c. 169, §1.)

1648-3. Same.—Funds to be kept in special fund.—The treasurer of such relief association shall place the money received by him in payment of any such warrant in the special fund of such relief association. (Act Mar. 25, 1937, c. 169, §2.)

1648-4. Same.—Emergency declared to exist.—An emergency exists and this act shall be construed as a relief measure for firemen’s relief associations in any city of the second class. (Act Mar. 25, 1937, c. 169, §4.)

1649. Sprinkling of streets.


1650. Definition.

City in flushing a paved street to keep it in proper condition was engaged in a corporate, as distinguished from a public, function and therefore not subject to the provisions of any employee’s. 174M184, 218NW892.

1664-28. Same.—Application of law.


1664-42. Same.—Use of proceeds of bonds.

Laws 1932, c. 284, §16, repeals Laws 1919, c. 224. §16. (See §997-4 to 997-4h.)


1664-43. Cities of second class may establish residence requirements and wage scale.—That in all cities of the second class in the State of Minnesota the city council shall by ordinances duly enacted with appropriate penalty provisions for the enforcement thereof, have power and authority as follows:

(a) To establish residence requirements and require that in all construction or repair work on any roads, bridges, sewers, streets, alleys, parks, parkways, buildings, utilities, or any other public work involving the improvement of public property, includ-
ing schools, all labor, either skilled or unskilled shall meet those requirements.

(b) To adopt a scale of wages to be paid in all public works and to require that it be a part of the specifications in contracts or be effective in all construction or repair work on any roads, bridges, sewers, streets, alleys, parks, parkways, buildings, utilities, or any other work involving the improvement or public property, including schools on which work public moneys are to be expended. (Act Apr. 9, 1931, c. 121, §1.)

1064-44. That these powers shall be in addition to all other powers now vested in such cities and in their city councils. (Act Apr. 9, 1931, c. 121, §2.)

1064-45. Waterworks, lighting plants and sewage pumping plants; Board of municipal works may be created.—That in each city in the State of Minnesota which now has, or hereafter may have, no more than 50,000, and not less than 20,000 inhabitants, there be and hereby is created and established a board of municipal works, which shall have the control and management of such works, lighting plants, and sewage pumping plants of such city as may be owned and operated by such city, with the powers and duties hereinafter designated, provided, however, that this act shall not apply insofar only as the pumping and disposal of sewage is concerned to any city situated upon a navigable river which now has or may hereafter have a municipal sewage disposal plant for the treatment and disposal of sewage in such city. (c. 336, §1; c. 165, §11; c. 226, §1; Mar. 29, 1955, c. 75, §1.)

1064-46. Same; authority to be exercised by board; appointment.—That all authority under this act, in each such city, shall be exercised by a board of six (6) commissioners to be known and designated as the "Board of Municipal Works," who shall be appointed by the mayor of such city, and whose term of office shall be as hereinafter designated. (c. 336, §2.)

1064-47. Same; appointment and tenure of board members; qualifications; vacancies; removal; president, vice president, and secretary; quorum; powers; contracts; employees; city electrician; by-laws and regulations; treasurer; legal adviser. It is hereby made the duty of the mayor in each such city in the state, in which a water works plant, a lighting plant and a sewerage pumping plant, or any one or more of them, is being owned and operated by such city on the last Monday in April, 1903, to make an enumeration as of that time to appoint the board hereinbefore designated, whose term of office shall commence immediately upon such appointment, one of whom shall be appointed to serve until the first Monday in May following, one until one (1) year after the following first Monday in May, one until two (2) years after the following first Monday in May, one until three (3) years after the following first Monday in May, one until four (4) years after the following first Monday in May, and one until five (5) years after the following first Monday in May, and their successors shall thereafter be appointed at the times and in the manner hereinbefore designated for the appointment of successors.

Each such board shall assume the control and management of such works immediately after the same shall be installed or established by such city and be ready for operation.

That whenever there shall hereafter be shown by any official state census that any city in this state contains the number of inhabitants hereinbefore designated, and not theretofore shown, and there shall at that time be owned and operated by such city one or more of such municipal works, it shall be the duty of the mayor of such city, on the last Monday in April following the official notice of such census, to appoint the board hereinbefore designated, whose term of office shall commence immediately upon such appointment, and who shall be appointed to serve for the length of time specified in this section, and their successors shall thereafter be appointed at the times and in the manner hereinbefore designated for the appointment of successors.

That whenever there shall hereafter be constructed, purchased or installed any one of the municipal works hereinbefore designated, by any such city in which such board of municipal works have been theretofore appointed and established, or additions or extensions made to any such works therein previously established, or machinery installed to be operated in conjunction therewith, such board shall thenceforth assume the control, operation and management of such works, extensions or machinery, in addition to all works then under its control, immediately and the same shall be completed by such city and ready for operation.

All vacancies, by resignations or otherwise, shall be filled by the board, but every such appointment shall restore an affirmative vote of a majority of all the members of the board.

The mayor may remove any of the commissioners for misconduct, incompetency or neglect of duty after opportunity shall be given him to be heard on written charges. Each member of said board shall before entering upon the discharge of his official duties take and subscribe the usual oath of office and deposit the same with the city recorder of such city, and the same shall be evidenced by a written acceptance of his said appointment. All appointments herein provided for shall be made by the mayor in writing and filed by him with the city recorder of such city; and when made by the board, the

§1664-44
CH. 5.—VILLAGES AND CITIES

336
secretary of said board shall certify the necessary facts to such recorder, showing the cause of such vacancy and how filled.

The said board shall elect annually one of their number to be president and one to be vice president of the board, and may make by-laws and regulations for their government not inconsistent herewith.

In the absence of the president from the city or when he is present and is incapacitated from acting, the said vice president shall be the acting president of said board with all the powers and duties of said president. A majority of said board shall constitute a quorum, and all contracts and engagements, acts and doings of each member within the scope of their duty and authority shall be obligatory and binding upon such city.

The members of said board shall receive no compensation for their services, but shall be allowed their reasonable official expenses, except that traveling expenses outside such city shall not be allowed any such members unless authority to make such trip be previously granted by such board and approved in writing by the mayor of such city.

The said board shall elect some suitable person as secretary, not a member of said board, who shall, as such secretary, be the general superintendent of the several municipal works under its control in such city.

The said board shall have the power, by an affirmative vote of a majority of all its members to remove him for cause, after opportunity shall be given him to be heard upon written charges.

Said board may appoint some suitable person to have the care and superintendence of all poles and wires owned, by such city, and who shall be styled "city electrician," with such powers and duties as may be prescribed by said board. Such city electrician shall be ex-officio superintendent of the fire alarm system of such city.

Said board may appoint and employ all proper clerks, assistants and employees necessary or convenient for the operation and management of the several municipal works or departments in such city, and for accomplishing the purposes contemplated by this act.

The city electrician shall be ex-officio superintendent of the fire alarm system of such city.

Said board shall provide for the appointment, employment and compensation of all persons appointed and employed by said board in any of the departments under its control shall be such as may be fixed by such board, by an affirmative vote of a majority of all its members.

The city attorney of such city, except when otherwise specially designated by said board, shall be ex-officio treasurer of said board. The city engineer of such city, except when otherwise designated by said board for special purposes, shall be the engineer of said board.

The city attorney of such city, except when otherwise specially designated by said board, shall be the legal adviser of said board.

The treasurer of such city is hereby declared to be ex-officio treasurer of said board.

The city engineer of such city, except when otherwise designated by said board, shall have the care and superintendence of all poles and wires owned, by such city, and who shall be styled "city electrician," with such powers and duties as may be prescribed by said board. Such city electrician shall be ex-officio superintendent of the fire alarm system of such city.

The said board may appoint and employ all proper clerks, assistants and employees necessary or convenient for the operation and management of the several municipal works or departments in such city, and for accomplishing the purposes contemplated by this act.

The city electrician shall be ex-officio superintendent of the fire alarm system of such city.

Said board may appoint some suitable person to have the care and superintendence of all poles and wires owned, by such city, and who shall be styled "city electrician," with such powers and duties as may be prescribed by said board. Such city electrician shall be ex-officio superintendent of the fire alarm system of such city.

Said board may appoint and employ all proper clerks, assistants and employees necessary or convenient for the operation and management of the several municipal works or departments in such city, and for accomplishing the purposes contemplated by this act.

The city electrician shall be ex-officio superintendent of the fire alarm system of such city.

Said board may appoint and employ all proper clerks, assistants and employees necessary or convenient for the operation and management of the several municipal works or departments in such city, and for accomplishing the purposes contemplated by this act.

The city electrician shall be ex-officio superintendent of the fire alarm system of such city.

Said board may appoint and employ all proper clerks, assistants and employees necessary or convenient for the operation and management of the several municipal works or departments in such city, and for accomplishing the purposes contemplated by this act.

The city electrician shall be ex-officio superintendent of the fire alarm system of such city.

Said board may appoint and employ all proper clerks, assistants and employees necessary or convenient for the operation and management of the several municipal works or departments in such city, and for accomplishing the purposes contemplated by this act.

The city electrician shall be ex-officio superintendent of the fire alarm system of such city.

Said board may appoint and employ all proper clerks, assistants and employees necessary or convenient for the operation and management of the several municipal works or departments in such city, and for accomplishing the purposes contemplated by this act.

The city electrician shall be ex-officio superintendent of the fire alarm system of such city.

Said board may appoint and employ all proper clerks, assistants and employees necessary or convenient for the operation and management of the several municipal works or departments in such city, and for accomplishing the purposes contemplated by this act.

The city electrician shall be ex-officio superintendent of the fire alarm system of such city.

Said board may appoint and employ all proper clerks, assistants and employees necessary or convenient for the operation and management of the several municipal works or departments in such city, and for accomplishing the purposes contemplated by this act.

The city electrician shall be ex-officio superintendent of the fire alarm system of such city.

Said board may appoint and employ all proper clerks, assistants and employees necessary or convenient for the operation and management of the several municipal works or departments in such city, and for accomplishing the purposes contemplated by this act.

The city electrician shall be ex-officio superintendent of the fire alarm system of such city.

Said board may appoint and employ all proper clerks, assistants and employees necessary or convenient for the operation and management of the several municipal works or departments in such city, and for accomplishing the purposes contemplated by this act.

The city electrician shall be ex-officio superintendent of the fire alarm system of such city.

Said board may appoint and employ all proper clerks, assistants and employees necessary or convenient for the operation and management of the several municipal works or departments in such city, and for accomplishing the purposes contemplated by this act.

The city electrician shall be ex-officio superintendent of the fire alarm system of such city.

Said board may appoint and employ all proper clerks, assistants and employees necessary or convenient for the operation and management of the several municipal works or departments in such city, and for accomplishing the purposes contemplated by this act.

The city electrician shall be ex-officio superintendent of the fire alarm system of such city.

Said board may appoint and employ all proper clerks, assistants and employees necessary or convenient for the operation and management of the several municipal works or departments in such city, and for accomplishing the purposes contemplated by this act.

The city electrician shall be ex-officio superintendent of the fire alarm system of such city.

Said board may appoint and employ all proper clerks, assistants and employees necessary or convenient for the operation and management of the several municipal works or departments in such city, and for accomplishing the purposes contemplated by this act.

The city electrician shall be ex-officio superintendent of the fire alarm system of such city.

Said board may appoint and employ all proper clerks, assistants and employees necessary or convenient for the operation and management of the several municipal works or departments in such city, and for accomplishing the purposes contemplated by this act.

The city electrician shall be ex-officio superintendent of the fire alarm system of such city.

Said board may appoint and employ all proper clerks, assistants and employees necessary or convenient for the operation and management of the several municipal works or departments in such city, and for accomplishing the purposes contemplated by this act.

The city electrician shall be ex-officio superintendent of the fire alarm system of such city.

Said board may appoint and employ all proper clerks, assistants and employees necessary or convenient for the operation and management of the several municipal works or departments in such city, and for accomplishing the purposes contemplated by this act.

The city electrician shall be ex-officio superintendent of the fire alarm system of such city.

Said board may appoint and employ all proper clerks, assistants and employees necessary or convenient for the operation and management of the several municipal works or departments in such city, and for accomplishing the purposes contemplated by this act.

The city electrician shall be ex-officio superintendent of the fire alarm system of such city.

Said board may appoint and employ all proper clerks, assistants and employees necessary or convenient for the operation and management of the several municipal works or departments in such city, and for accomplishing the purposes contemplated by this act.

The city electrician shall be ex-officio superintendent of the fire alarm system of such city.

Said board may appoint and employ all proper clerks, assistants and employees necessary or convenient for the operation and management of the several municipal works or departments in such city, and for accomplishing the purposes contemplated by this act.

The city electrician shall be ex-officio superintendent of the fire alarm system of such city.

Said board may appoint and employ all proper clerks, assistants and employees necessary or convenient for the operation and management of the several municipal works or departments in such city, and for accomplishing the purposes contemplated by this act.

The city electrician shall be ex-officio superintendent of the fire alarm system of such city.

Said board may appoint and employ all proper clerks, assistants and employees necessary or convenient for the operation and management of the several municipal works or departments in such city, and for accomplishing the purposes contemplated by this act.

The city electrician shall be ex-officio superintendent of the fire alarm system of such city.

Said board may appoint and employ all proper clerks, assistants and employees necessary or convenient for the operation and management of the several municipal works or departments in such city, and for accomplishing the purposes contemplated by this act.

The city electrician shall be ex-officio superintendent of the fire alarm system of such city.

Said board may appoint and employ all proper clerks, assistants and employees necessary or convenient for the operation and management of the several municipal works or departments in such city, and for accomplishing the purposes contemplated by this act.

The city electrician shall be ex-officio superintendent of the fire alarm system of such city.

Said board may appoint and employ all proper clerks, assistants and employees necessary or convenient for the operation and management of the several municipal works or departments in such city, and for accomplishing the purposes contemplated by this act.

The city electrician shall be ex-officio superintendent of the fire alarm system of such city.

Said board may appoint and employ all proper clerks, assistants and employees necessary or convenient for the operation and management of the several municipal works or departments in such city, and for accomplishing the purposes contemplated by this act.

The city electrician shall be ex-officio superintendent of the fire alarm system of such city.

Said board may appoint and employ all proper clerks, assistants and employees necessary or convenient for the operation and management of the several municipal works or departments in such city, and for accomplishing the purposes contemplated by this act.

The city electrician shall be ex-officio superintendent of the fire alarm system of such city.

Said board may appoint and employ all proper clerks, assistants and employees necessary or convenient for the operation and management of the several municipal works or departments in such city, and for accomplishing the purposes contemplated by this act.

The city electrician shall be ex-officio superintendent of the fire alarm system of such city.

Said board may appoint and employ all proper clerks, assistants and employees necessary or convenient for the operation and management of the several municipal works or departments in such city, and for accomplishing the purposes contemplated by this act.

The city electrician shall be ex-officio superintendent of the fire alarm system of such city.

Said board may appoint and employ all proper clerks, assistants and employees necessary or convenient for the operation and management of the several municipal works or departments in such city, and for accomplishing the purposes contemplated by this act.

The city electrician shall be ex-officio superintendent of the fire alarm system of such city.

Said board may appoint and employ all proper clerks, assistants and employees necessary or convenient for the operation and management of the several municipal works or departments in such city, and for accomplishing the purposes contemplated by this act.

The city electrician shall be ex-officio superintendent of the fire alarm system of such city.
On or before the second Monday in August of each year the secretary of said board shall present to the said board of municipal works of such city, in writing, an estimate of the probable receipts during the next ensuing fiscal year for each such department, from each and all sources other than municipal, such fiscal year to commence on the first day of April; together with an estimate of the several amounts required during the next ensuing fiscal year for the operation and proper maintenance of each of the departments under their control, and shall also make a special estimate of amounts required for the water works department of any city during the next ensuing fiscal year for each of the following purposes, to wit:

First—For the current expenses of operating and maintaining said water works department.

Second—For interest on all outstanding water works bonds.

Third—For water works extensions and improvements.

Fourth—For the payment of outstanding water works bonds maturing during the next ensuing fiscal year; the aggregate amount of not exceeding fifteen thousand (15,000) dollars.

The estimate for extensions and improvements in such water works department shall not, however, exceed ten (10) per cent of the said estimated probable receipts from all sources other than municipal, unless approved by an affirmative vote of a majority of all the members of the city council.

If said estimate of the probable receipts shall be less than the total of the amounts required for all of the purposes designated, said secretary shall thereupon prepare a detailed statement of all water which will probably be used and consumed for municipal purposes during the next ensuing fiscal year, excepting the water to be used for public fountains, public drinking places, and public watering troughs, and shall equitably apportion the amount so required in addition to the estimated amount of receipts from other sources, to the said several municipal purposes for which said water is to be used, on the basis of the water rates prescribed and established by said board for like purposes, but shall not exceed such rates, and shall make as assessment of the several amounts so appropriated on the general fund of said city and on the funds of the several municipal departments so using said water.

Upon the completion of such estimate for all departments, and the control of said board, said secretary shall present the same to said board, for the consideration and approval of said board.

Said board shall upon receipt thereof proceed to consider the same and make such corrections or changes as shall be deemed necessary to perfect and equalize the same, and shall approve and establish the same on or before the last Monday in August following.

After such several estimates and the assessments for water works purposes upon the several municipal departments have been fully approved and established by said board, a duplicate of the same, duly certified to by the secretary of said board, under the seal of said board, shall be transmitted to and filed with the recorder of said city on or before the said last Monday in August, and at the same time a like copy shall be transmitted to and filed with the municipal department or board of said city against which an assessment for the use of water has been so made.

The city recorder shall thereupon include the amounts so established by said board and the amounts so assessed against the general fund of such city, in his estimate to the city council of the several sums which shall be required to meet the expenses of each city during the next ensuing fiscal year; and said council shall establish the same in its tax levy for such year; and each board, or governing body, of the municipal department or boards shall make and file with the same, as they are incurred, the amount so assessed against it in its estimate of the several sums required during the next ensuing fiscal year, and such amounts shall in each instance be included in the respective tax levies for such year.

All amounts so assessed by said board and so included in the said tax levies, shall be paid to the treasurer of said board by each of said municipal departments respectively, in two equal installments, on the first day of July and on the first day of December of the year in which they are incurred.

If said estimate of the probable receipts shall be equal to or shall exceed the total of the amounts required for the next ensuing fiscal year, then no assessment shall be made for the use of water upon the several municipal departments as hereinbefore provided, and any and all surplus in the treasury of said department at the end of any fiscal year, and which said board shall by resolution determine not to be required for the next ensuing fiscal year, shall be ordered paid into the general fund of said city by said board. (’03, c. 165, § 8.)

1664—52. Same; sinking fund; duties of city treasurer, investment; redemption of bonds.—The said board may at any time create and establish a sinking fund for the accumulation of a fund to be used for the redemption of outstanding water works bonds at their maturity. Such sinking fund shall be created by ordinance passed by an affirmative vote of two-thirds of all the members of said board. Moneys shall be paid into such sinking fund during such years only in which no water works bonds are otherwise issued, and the amount exceeding five thousand dollars. The moneys to be paid into said fund shall be obtained from the following sources, to wit: First. Such amount as may be designated each year by said board by resolution, but shall not exceed such rates, and shall make as assessment of the several amounts so appropriated for the water works department as “for bonds sinking fund” under the “fourth” purpose department. Second. Said board may at any time direct the city treasurer to invest a specified portion of the surplus fund in the treasury of the water department at the end of any fiscal year, as said board may deem advisable, and the said ordinance creating the same shall provide that such transfer of surplus shall not in any one year exceed the amount of ten thousand dollars, nor shall the total of all moneys paid into said fund in any one year exceed said sum of ten thousand dollars.

The city treasurer shall keep said fund separate and distinct from other funds, and shall keep, preserve and invest the same and pay orders drawn upon the same in the manner and as may be designated by the ordinance creating the same. The said board may at any time direct the city treasurer to invest a specified portion of said fund or the whole thereof in bonds of any city, or in certificates of indebtedness issued by said city, or in bonds or certificates of the State of Minnesota, or in certificates of deposit accompanied by bonds if indemnity of one or more banks located in said city, or in the opinion of said board the same can be done advantageously.

Said fund shall be used exclusively for the payment of maturing water works bonds, and only such amount shall be paid therefrom annually, in the redemption of such bonds by said board, under the ordinance of such board may annually, by resolution, authorize and designate. (’03, c. 165, § 8a, added by ’11, c. 236, § 4.)

1664—53. Same; transfer of money to municipal works fund.—It shall be the duty of the city council of each such city, immediately after the organization of such board, to direct the treasurer of such city to transfer from the general fund to the municipal works fund for the accumulation of a fund to be used for the redemption of outstanding water works bonds; the aggregate amount of which shall not exceed the sum of five thousand dollars. The moneys to be paid into said fund shall be obtained from the following sources, to wit: First. Such amount as may be designated each year by said board by resolution, but shall not exceed such rates, and shall make as assessment of the several amounts so appropriated for the water works department as “for bonds sinking fund” under the “fourth” purpose department. Second. Said board may at any time direct the city treasurer to invest a specified portion of the surplus fund in the treasury of the water department at the end of any fiscal year, as said board may deem advisable, and the said ordinance creating the same shall provide that such transfer of surplus shall not in any one year exceed the amount of ten thousand dollars, nor shall the total of all moneys paid into said fund in any one year exceed said sum of ten thousand dollars.

The city treasurer shall keep said fund separate and distinct from other funds, and shall keep, preserve and invest the same and pay orders drawn upon the same in the manner and as may be designated by the ordinance creating the same. The said board may at any time direct the city treasurer to invest a specified portion of said fund or the whole thereof in bonds of any city, or in certificates of indebtedness issued by said city, or in bonds or certificates of the State of Minnesota, or in certificates of deposit accompanied by bonds if indemnity of one or more banks located in said city, or in the opinion of said board the same can be done advantageously.

Said fund shall be used exclusively for the payment of maturing water works bonds, and only such amount shall be paid therefrom annually, in the redemption of such bonds by said board, under the ordinance of such board may annually, by resolution, authorize and designate. (’03, c. 165, § 8a, added by ’11, c. 236, § 4.)
fund, to be thereafter maintained by him and controlled by said board, all moneys theretofore levied for the departments under the control of said board, as the same may be received by such treasurer, shall be paid into the county treasurer of such county, and all moneys in the city treasury of such city applicable to the needs of said departments, prior to the time that the first of the tax levies, hereinafter designated to be made by the board of control, shall become levied, reckoned and applied by said treasurer, for said board; and the city council of each such city shall also, hereafter, when not provided for in the board's estimate, cause to be transferred to the municipal works fund from the amounts raised by the city treasurer as aforesaid, and necessary therefor, to the proper fund of such city the necessary means for maintaining and operating such works, or additions and extensions thereto as may have been installed by such city and which such board has assumed control, until the beginning of the fiscal year following the first tax levy, which shall be the board's estimate for the same. ('03, c. 165, §6.)

1664-54. Same; payments from fund; orders, issuance.—No moneys shall be paid out of the funds in the city treasury belonging to said board, except for principal or interest of water and light bonds, or either, unless such payment shall be specially authorized by an affirmative vote of a majority of all the members of such board, taken by a call of the ayes and noes, and then only upon order drawn by the city treasurer on the board, signed by the president and countersigned by the secretary, specifying the purpose and department for which, and the account upon which it is drawn, and made payable to the order of the person, firm or corporation in whose favor it is issued; provided, that orders in the form above prescribed may be issued at the proper time, without specific action by the board in each instance, for the payment of salaries or wages previously fixed and determined by the board, and made payable at certain definite times and in certain definite installments. ('03, c. 165, §10.)

1664-55. Same; expenditures to conform to estimate; borrowing power.—In all appropriations, and in all assessments, charges or liabilities incurred, said board shall not exceed in any fiscal year the amount of the estimate made therefor, as hereinafter provided, and, except when otherwise authorized by law, no loans shall be made by said board at any time for any purpose or for any extension of the works under their control, or to be rendered unavoidable by fire or other unforeseen calamity, and such expenditure be approved by a majority vote of the city council of such city. ('03, c. 165, §11.)

1664-50. Same; redemption of bonds.—Whenever the city treasurer shall pay any principal or interest on any water or light bond he shall immediately transmit to the secretary of said board a statement of such payment, together with the bond or coupon so redeemed, and the proper entry thereof shall be made by the secretary in the books kept for that purpose. ('03, c. 165, §12.)

1664-57. Same; regulating distribution of water; rates, lien; hydrants; preventing waste of water.—Each such board shall have the power and authority to fix the price and rates therefor, and from time to time cause to be assessed the water rate to be paid by the owner or occupant of each house or other building having or using water, upon such basis as they shall deem equitable, and such water rate shall be delinquent if not paid by the owner or occupant of each house or other building, and upon the lot or lots upon which such house or other building is situated, and they shall erect such new number of public hydrants, and in such places as shall be fixed from time to time by the city council of such city. Said board is hereby authorized and required to restrain and prevent any and all waste of water, whether occurring under private or public use, and to that end may, when in its judgment necessary, turn off the water or take such other action as in its judgment may be proper. ('03, c. 165, §13.)

1664-58. Same; enforcing payment of water rates.—That each such board may from time to time, for the purpose of enforcing a full supply of water to the inhabitants of such city for any and all purposes, extend the water works system under its control in such manner as said board may deem best, subject to all conditions hereinafter contained.

That the said board of municipal works of each such city shall establish such reasonable water rates as will at all times insure to such city at least a sufficient income to pay all the expenses and costs of operation, maintenance and repair of said system and works, and the interest on outstanding bonds. ('03, c. 165, §15.)

1664-60. Same; offenses by board or officers.—It is hereby declared to be a misdemeanor, punishable by a fine not exceeding five hundred (500) dollars, or by imprisonment in the county jail not exceeding one year, or both, at the discretion of the court, for said board, or any of its officers, to knowingly omit the property of any person from assessment for water rates, or neglect or refuse to collect the same, or to give any person other or different credit for the use of water than that given the whole public, or those belonging to the same class. ('03, c. 165, §16.)

1664-61. Same; regulation of lighting plants; extension.—Each such board shall have the power and authority to regulate the distribution of lamps on the streets and public grounds of said city in such manner as to property light such streets and public grounds, and shall determine the number and location of such lamps and provide for the proper operation, care and maintenance of the same, and of all poles, wires, fixtures and appliances pertaining thereto, and to that end may, when in its judgment necessary, turn off the water or take such other action as in its judgment may be necessary to carry into effect the objects and intent of this act, and not inconsistent herewith, and to supply and define any power or mode of supplying the lighting of such city. ('03, c. 165, §11.)

1664-62. Same; by-laws, regulations, and ordinances; penalty for violation; publication.—That each such board is hereby invested with full power to make and enforce such by-laws, regulations and ordinances applicable to any or all of the works under their control as may be deemed necessary or to carry into effect the objects and intent of this act, and not inconsistent herewith, and to supply and define any power or mode not already specially designated herein, but contemplated by this act; said board may prescribe, as penalty for the violation of any ordinance or part thereof, the imposition upon the offender of a fine not exceeding one hundred (100) dollars, or imprisonment for a term not exceeding ninety (90) days, or either, and publish the same in a local newspaper, and in any court of this state. All such regulations and ordinances shall be published at least once in the official newspaper of such city. ('03, c. 165, §17.)
1664-63. Same; contracts, writing; lowest bidder, advertisement.—Every contract for material or for the construction of any part of any of said works under the control of said board, shall be let to the lowest responsible bidder therefor, except in cases of minor improvements, after notice soliciting proposals for the doing of such work shall have been published in the official newspaper of such city, in at least two separate issues of the same; provided, said board shall have the right to reject any and all bids, and such rights shall be reserved in each advertisement soliciting bids; and provided further, that in the event of any extraordinary or sudden injury to any of (the) said works or any part of such system whereby damage or loss might ensue by reason of any delay, or in the event of the lowest bid submitted being no less than ten (10) per cent greater than the engineer's estimate thereof, the said board may cause the damage to be repaired or the proposed improvement to be made without contract and in such manner as the board may deem for the best interests of the city; and provided, further, that in all work of laying water pipe, said board may require all joints to be made by persons in the employ of said board. ('03, c. 166, §18.)

1664-64. Same; purity of water; filters; increasing supply.—That each such board shall have the power and authority to determine upon, adopt, construct and install a system or systems after the same have been erected, directed, shall be and remain as in said act provided, and to make additions and extensions thereto, except as in this act otherwise expressly provided; provided, that in such additional or new plants this act shall not repeal, amend or modify an act of the legislature of this state, entitled “An act to authorize and empower cities in this state having a population of not less than ten thousand ($10,000) and not more than fifty thousand ($50,000), to construct, erect or purchase electric light plants in such cities, and to authorize and empower such cities to issue their bonds for such purposes,” approved April 16th, 1901, [§ 1325-1 to 1325-4], except in so far as this act vests such board with power or authority to control, operate and manage such plants after the same shall have been constructed, erected or purchased by the city, as in said act provided, and to make additions and extensions thereto for the uses and purposes for which such plants shall have been so installed by such city, and such plants are intended and directed by the council of such city to be used, but the power and authority to determine upon and make, construct and install additions and extensions to any such lighting plant for new and additional uses, not theretofore directed, shall be and remain as in said act provided, but when such additions and extensions for such new and additional uses shall have been determined upon, constructed and installed ready for use and operation, the control, operation and management thereof shall be immediately assumed by such board, and, provided, further, that this act shall not vest said board with any power or control over the sewer pipes of any such city, nor to abridge in any manner the powers of the corporation of such city to annex property to the laying or extensions of sewer pipes or constructing a sewer system or part of same in any such city, or to deprive such council of the supervision or control of such sewer pipes or system of sewerage, but such board shall have the full control and management of the pumping plant only of such system or systems of sewerage and of all machinery, appliances and flush tanks employed in the operation of such system or systems after the same have been erected, constructed and installed by such city. ('03, c. 165, §22.)

1664-66. Same; diversion or corruption of water; injury to works, civil liability.—If any person or persons shall destroy or injure any of the machinery, fixtures or appliances used or required for operating the lighting plant or the sewerage pumping plant in such city, or do any act which shall cripple the operation of any such plant, or reduce its efficiency, such person or persons, and their aides and abettors, shall forfeit to the said board of such city, to be recovered in a civil action, treble the amount of damages (besides cost of suit), which shall appear on the trial thereof to have been sustained; and all such acts are hereby declared to be a trespass, and the injury thereof may be further punished by a fine not exceeding one thousand ($1,000) dollars, or by imprisonment not exceeding one (1) year, or both, at the discretion of the court. ('03, c. 165, §21.)

1664-67. Same; commencement and scope of powers of board.—The board of municipal works herein provided for, shall have no powers over, or duties of any kind in connection with, any of the municipal works herein designated until the same shall have been fully completed and installed and shall be in use and operation or ready to be put into use and operation, but such board shall be vested with and shall have the full power and authority to control, operate and manage all such works shall have been constructed, installed and come under the control of such board to determine upon, make, construct and install any and all extensions thereto, except as in this act otherwise expressly provided; provided, that in such additional or new plants this act shall not repeal, amend or modify an act of the legislature of this state, entitled “An act to authorize and empower cities in this state having a population of not less than ten thousand ($10,000) and not more than fifty thousand ($50,000), to construct, erect or purchase electric light plants in such cities, and to authorize and empower such cities to issue their bonds for such purposes,” approved April 16th, 1901, [§ 1325-1 to 1325-4], except in so far as this act vests such board with power or authority to control, operate and manage such plants after the same shall have been constructed, erected or purchased by the city, as in said act provided, and to make additions and extensions thereto for the uses and purposes for which such plants shall have been so installed by such city, and such plants are intended and directed by the council of such city to be used, but the power and authority to determine upon and make, construct and install additions and extensions to any such lighting plant for new and additional uses, not theretofore directed, shall be and remain as in said act provided, but when such additions and extensions for such new and additional uses shall have been determined upon, constructed and installed ready for use and operation, the control, operation and management thereof shall be immediately assumed by such board, and, provided, further, that this act shall not vest said board with any power or control over the sewer pipes of any such city, nor to abridge in any manner the powers of the city council of such city to annex property to the laying or extensions of sewer pipes or constructing a sewer system or part of same in any such city, or to deprive such council of the supervision or control of such sewer pipes or system of sewerage, but such board shall have the full control and management of the pumping plant only of such system or systems of sewerage and of all machinery, appliances and flush tanks employed in the operation of such system or systems after the same have been erected, constructed and installed by such city. ('03, c. 165, §22.)
1664-71. Improvement of lake and park—bonds or certificates of indebtedness.—That the city council or other governing body of any city of the second class in this state located upon navigable boundary waters which now has or may hereafter have a population of not less than 20,000 or of which the taxable value is hereby authorized to issue and sell in accordance with the laws of this state, and to hold in fee simple by purchase or condemnation land for the establishment of docks, quays, levees, wharves, landing places, railroads and other transportation loading and unloading places, land and water freight and passenger stations, terminals and terminal buildings for any and all kinds of transportation and necessary equipment and appurtenances thereon on any navigable stream within the limit of such city and may set aside such portion of said land when acquired as the public may require for use for public travel and shall devote the remainder thereof to uses hereinbefore provided for required by the United States government. (Jan. 13, 1936, Ex. Ses., c. 8, §1.)

1664-72. Same—form, terms, and sale of bonds.—Such said bonds to be made and issued in such denominations and payable at such place and at such time not exceeding 30 years from the date hereof as may be deemed best by the city council or governing body, notwithstanding any provisions contained in the charter of such city or any law of this state prescribing or fixing any limit upon the total amount of indebtedness of such city falling due in any one fiscal year, and to bear interest at a rate not to exceed six per cent per annum, payable semi-annually, with interest coupons attached, payable at such place or places as shall be designated therein. Said council or governing body is further authorized to negotiate and sell such bonds from time to time to the highest bidder or bidders therefor, and upon the best terms that can be obtained for said bonds; provided that no such bonds shall be sold for a less amount than par value thereof and accrued interest thereon, and provided further that all of said bonds shall be made for principal sum of not less than $100.00 or more than $1,000 each. (Jan. 13, 1936, Ex. Ses., c. 7, §2.)

1664-73. Same—submission to popular vote—debt limit—levy of tax—sinking fund.—The bonds hereby authorized, or any part thereof, may be so issued and sold, notwithstanding any provision contained in the charter of such city or any law of this state requiring approval of the voters of such city or any limitations contained in said charter or laws prescribing or fixing any limit upon the bonded indebtedness of such city.

The full faith and credit of any such city shall at all times be pledged for the payment of any bonds issued thereunder. Such certificates of indebtedness shall be payable solely out of the specified portion of the revenues or income to be derived from such river terminal docks, quays, levees, wharves, landing places, railroad and other transportation loading and unloading places, land and water freight and passenger stations, terminals and terminal buildings for any and all kinds of transportation and necessary equipment and appurtenances, such reasonable place to be determined and fixed by the common council or governing body of such city, and the making of such charge shall not invalidate any bonds issued by such city to cover the payment of the construction thereof. (Jan. 13, 1936, Ex. Ses., c. 8, §2.)

1664-74. Same—execution of bonds.—All bonds issued under authority of this act shall be sealed with the seal of the city issuing the same and signed by the mayor and attested by the city recorder or clerk of such city, and said certificates of indebtedness shall be signed with the lithographed signature of the recorder or clerk. (Jan. 13, 1936, Ex. Ses., c. 7, §4.)

1664-75. Same—use of proceeds of bonds.—Said council or governing body hereby is and shall be authorized and fully empowered, in addition to all other powers possessed by it, to use the said bonds or the proceeds of the sale thereof for the purposes herein specified, but neither the same nor any part thereof shall be used for any other purpose. (Jan. 13, 1936, Ex. Ses., c. 7, §5.)

1664-81. Water terminals—acquisition of land.—That any city in the state located upon navigable boundary waters which now has or may hereafter have a population of not less than 20,000 and not more than 50,000 inhabitants shall have the power to acquire and hold in fee simply by purchase or condemnation land for the establishment of docks, quays, levees, wharves, landing places, railroads and other land transportation loading and unloading places, land and water freight and passenger stations, terminals and terminal buildings for any and all kinds of transportation and necessary equipment and appurtenances thereon on any navigable stream within the limit of such city and may set aside such portion of said land when acquired as the public may require for use for public travel and shall devote the remainder thereof to uses hereinbefore provided for required by the United States government. (Jan. 13, 1936, Ex. Ses., c. 8, §1.)
cured by mortgage or deed of trust, as aforesaid, or in the payment of the interest thereon when due, and the same shall have continued for a space of 12 months after notice thereof has been given to the mayor and financial officer of the city issuing such certificates, it shall be lawful for any such mortgagee or trustee, upon the request of the holder or holders of a majority in amount of the certificates issued under such mortgagee or trustee, to declare the whole of the principal of such certificates as may be outstanding, to be at once due and payable, and to proceed to foreclose such mortgage or trust deed in any court of competent jurisdiction. At a foreclosure sale, the mortgagee or the holders of such certificates may become the purchaser or purchasers and the rights and privileges sold, if he or they be the highest bidders. Any public utility acquired under any such foreclosure shall be subject to regulation by the corporate authorities of the city to the same extent as if the right to construct the building depends upon whether the new Ordinance goes into effect state officers granted permit under old Code, SI.

1664-84. Same—accounts—publication of financial reports.—Every such city owning, or owning and operating any such public utility shall keep the books of account for such public utility distinct from other city accounts, and in such manner as to show the truth and complete financial results of such city ownership and operation and operating expenses of every description. Such accounts shall be so kept as to show the actual cost to such city of such public utilities owned; all cost of maintenance, extension and improvement; all operating expenses of every description, in case of such city operation; the amount set aside for sinking fund purposes. The common council shall cause to be printed annually, for public distribution, a report showing the financial results of such city ownership, or ownership and operation. (Jan. 13, 1936, Ex. Ses., c. 8, §3.)

1664-91. Building and zoning regulations.—That for the purpose of promoting health, safety, order, convenience, prosperity and general welfare, any city of the second class, including those operating under a home rule charter, may by ordinance regulate the arrangement of buildings on lots, and the density of population of such city, may make different regulations thereof; and may acquire or prepare and adopt a comprehensive plan for the future physical development and improvement of such city, in accordance with such regulations, and thereafter, by ordinance adopted by a two-thirds vote of all the members of its governing body, may alter said regulations or plan. (Jan. 13, 1936, Ex. Ses., c. 35, §1.)

Where Zoning Ordinance is passed, but before it goes into effect state officers granted permit under old Code, right to construct the building depends upon whether any substantial part of the building is constructed before the new Ordinance goes into effect. Op. Atty. Gen. (56a-25), July 24, 1936.

1664-92. May enforce regulations.—The governing body of any such city is hereby authorized to pass ordinances for the enforcement of the provisions of this act and of such regulations and to provide therein penalties for the violation thereof. Such city is also hereby authorized to enforce such regulations by mandamus, injunction, or any other appropriate remedy in any court having jurisdiction thereof. (Jan. 13, 1936, Ex. Ses., c. 35, §2.)

1664-93. To be construed as additional to existing laws.—In any such city having a planning commission, the provisions of this act shall be construed as an addition to existing powers and not as an amendment to or a repeal thereof, and the governing body thereof may adopt a plan or plans prepared by such planning commission. (Jan. 13, 1936, Ex. Ses., c. 35, §3.)

1664-94. Certain cities to maintain public playgrounds and skating rinks.—That all cities in the State of Minnesota located on navigable boundary waters having more than 20,000 and less than 60,000 inhabitants are hereby authorized and empowered to establish and maintain public playgrounds and public skating rinks within the corporate limits of such city, and for that purpose to acquire by grant, gift, purchase, lease or otherwise lands within the corporate limits of such city and to maintain public playgrounds and public skating rinks whenever the City Council of such city shall by a majority vote thereof deem the same necessary or advisable. (Apr. 12, 1937, c. 128, §1.)

Sec. 2 of Act Apr. 12, 1937, cited, provides that the Act shall take effect from its passage.

1664-95. Unplatted land to be separated from cities in certain cases.—The owners of seventy-five per cent or more of any contiguous unplatted tracts of land or parcels of land containing not less than forty acres included within the corporate limits of any city in this State located on navigable boundary waters having a population of not less than twenty thousand or more than fifty thousand inhabitants, and used and occupied exclusively for residential purposes, may petition the District Court of the county in which such tracts and parcels of land are situated for a decree detaching such tracts and parcels of land from such city. Upon the filing of such petition, the Court shall fix a time for the hearing thereof which shall not be less than thirty days from the date of the filing of such petition; and the petitioner or petitioners shall serve or cause to be served a notice of such hearing upon the Mayor and City Recorder of such city at least twenty days before the time fixed for such hearing. (Apr. 12, 1937, c. 199, §1.)

1664-96. Same—Court to make order.—If upon the hearing the Court shall find such tracts and parcels of land of the nature and quantity as hereinbefore set forth and that they may be detached from such city without unreasonably affecting the symmetry of the unsettled portion of such city it may grant such decree and said tracts and parcels of land shall thereupon become detached from such city as exclusively as if they had never been a part thereof. (Apr. 12, 1937, c. 199, §2.)

1664-97. Same—Land detached to become part of original townships.—Such tracts or parcels of land which have become detached from such city under the decree of the Court shall thereafter form a part of the township in which such land was originally situated and where there is no organized town or township government in the town from which said lands were detached exclusive of the city government of such city it shall be the duty of the Board of County Commissioners of the county in which said lands are situated to attach any part or all of said lands so detached from such city by the decree of the Court under the provisions of this act to any towns or townships adjoining said land and within said county and thereafter said lands shall at all times be subject to the government of the township to which they are so attached. (Apr. 12, 1937, c. 199, §3.)

Sec. 4 of Act Apr. 12, 1937, cited, provides that the Act shall take effect from its passage.

1664-101. Annexation of territory to city; petition; ordinance.—That when in the majority of the owners in number and area of any property which has been platted into lots and blocks or outlets, or the owner of any tract, piece or parcel of land, abutting upon any city of the second class, whether such city is incorporated under general or special laws, or is operating under the terms and provisions of a home rule charter, shall petition the city council, city com-
mission, or other governing body of said city, to have such property annexed to the city, the city council or other governing body by duly ordinance, and the city commission, acting under a home rule charter, may by resolution, declare the same to be an addition to such city, and thereupon such territory shall become a part of such city, as effectually as if it had been originally a part thereof. (July 15, 1937, Sp. Sess., c. 57, §1.)

1664-102. Same; recording of ordinance; filing with county auditor.—It shall be the duty of the city council, city commission, or other governing body of any such city to which such territory shall be annexed and added under this act, to cause a certified copy of the ordinance or resolution aforesaid to be duly filed and recorded in the office of the register of deeds of the county in which said city is located, or, in the event that said city is located in more than one county, in the office of the register of deeds of the county in which said territory thus annexed to said city is situated, and to also in like manner cause a certified copy of said ordinance or resolution to be filed in the office of the county auditor of said county; provided, that this act shall be construed to be distinct from and not as repealing such law. (July 15, 1937, Sp. Sess., c. 67, §2.)

Sec. 1 of Act July 15, 1937, cited, provides that the act shall take effect from its passage.

1664-103. Candidates to file affidavits.—In all cities of the second class not having a Home Rule Charter, each candidate for nomination at the city primary election shall file his affidavit of candidacy in the manner now provided by law, except that such affidavit may be filed up to and including the 20th day before such primary election. (Act Jan. 17, 1939, c. 2, §2. See §601-3(1)b.)

Sec. 2 of Act Jan. 17, 1939, cited, repeals inconsistent acts and sections, and provides that the act shall take effect from its passage. This provision may be impliedly repealed by the new Minnesota Election Law, being Laws 1939, c. 345. See particularly Pt. 3, c. 1, §3, ante §601-3(1)b.

LAWS APPLICABLE TO CITIES OF SECOND CLASS


Laws 1931, c. 156, provides for redemption from all delinquent property owners of city’s real estate benefited thereby, to be levied, enforced and collected in the manner hereinafter prescribed, except that all or any part of the expense of paving, repaving, graveling, macadamizing, filling and grading of the space occupied by street intersections may, if the city council of such city deems it expedient, be paid out of the general fund of such city. (’01, c. 379, §2.)

1665 to 1676. [Repealed Apr. 21, 1939, c. 845, Pt. 12, §1, ante §601-12, effective Aug. 1, 1939.]

PROVISIONS RELATING TO CITIES OF THIRD CLASS

ANOTATIONS UNDER REPEALED SECTIONS


1667. Fees—Ballots. Reenacted as §601-11(3)c.


1669. Compensation. Reenacted as §601-11(3)e.

1670. General election law to apply. Reenacted as §601-11(3)f.

1671. Cities of third class may hold primaries. Reenacted as §601-11(3)g.

Amended Jan. 30, 1931, c. 2.

Sec. 1 of the third class, and general laws relating to city elections in cities of the third class are now applicable to that city, except as its charter may contain provisions inconsistent therewith. Op. Atty. Gen., Feb. 28, 1931.
Whenever only a portion of a sewerage district, established as in this section provided, shall be constructed and only a part of the territory in such district shall be annexed to the territory in the several bids, then in such event there shall be assessed upon the property benefited thereby, such portion only of the cost of the ejector or pumping chamber and adjoining manhole, if constructed for the ultimate use of the entire district, as was said and described in the furnishing of all material therefor, if required, will be received by said clerk or recorder, and opened in the presence of such council at such meeting.

Notice to state location and nature of improvements. In such cases, when it is determined the lots and parcels of land shall be annexed to the territory in such district, and in each instance such territory, so determined, shall be known as a sewer district in such city, and such city council of such city may deem to the best interest of the property benefited in such sewer district, shall be chargeable to and assessed upon the property benefited thereby, such portion only of the cost of the ejector or pumping chamber and adjoining manhole, as may be deemed just and equitable by said city council, shall be included in the assessment for the cost of such extension, until such sewer district has been fully completed, and each assessment for such portion of such sewer district and manhole shall be returned into said general fund as the same shall be collected from time to time. ('91, c. 379, §6.)

1713-14d. Contract for entire improvement or for work alone; contract for machinery.—Any contract for the making of any improvement designated in this act may be for the entire improvement complete and finished, or may be for the doing of the work alone, such contract may be necessary for the full completion thereof, or may be for the doing of the work alone, such city furnishing the necessary material therefor, as the city council of such city may deem to the best interest of such city; and such council may also, at its discretion, cause the making of any such improvement by separate contracts for different portions thereof or by separate contracts for the labor, material and machinery required for the making of such improvement; and in each such instance the notice, prescribed by section 4 of this act, shall contain a distinct statement of the nature and extent of such separate contracts, and shall definitely describe such separate portions of such improvement.

Whenever any machinery or mechanical appliances shall form a part of any improvement authorized by this act, the city council of such city may award a contract for the same after taking into consideration the efficiency, duty, cost of operation and maintenance and the construction, workmanship and operation generally of the several machines or appliances designated in the several bids, without regard to the amount of such bids. ('91, c. 379, §5.)

1713-14c. Sprinkling district; publication; contract for sprinkling with water or other substance.—Before any proceedings are had by any such city council for the sprinkling of any of the streets, lanes, alleys or public grounds in any such city, such council shall, each year, by resolution in writing, determine what territory in such city shall be sprinkled during such year, and may divide such territory into two or more sprinkling districts, describing the boundary lines of each such district; each district so determined shall be designated by number, and thereafter all reference to such district by number in any notice required by this act, or in any other proceeding having reference thereto, shall be deemed a sufficient designation; said resolutions shall designate what officer or officers of said city shall supervise and inspect said work in accordance with the plans and specifications therefor; such resolution shall be published once in the official paper of such city.

The contract price to be paid by said city for the doing of such work, when such sprinkling is done with water, shall be upon the basis of sprinkling one hundred (100) square feet per week, during the life of such contract; if in the opinion of said council it is deemed impracticable, at the time of letting any such contract, to designate the exact length of time during which any sprinkling may be permitted in any such districts designated during any particular season, said council may let such contract without so designating
the beginning and the end of such sprinkling season; and upon the city so letting such contract, the city council of such city shall have power to order the beginning of said work upon three (3) days' notice to the contractors hereof, and shall likewise order the further work to cease for the season in any or all districts or in any portion of any one district, if in their opinion no necessity therefor exists, and such order and direction shall be final, conclusive and binding upon all parties concerned. When, for the prevention of dust, oil or any substance other than water is employed in such work, the specifications therefor shall designate the number of sprinklings, or applications of the substance, to be applied during the entire season; to the surface of the streets in the district specified, and the contract price to be paid by said city shall be upon the basis of one lump sum for each separate sprinkling or application in the entire district; such sum to include both labor and material or to be for labor alone as the specifications therefor may prescribe.

Any number of districts may be included in one contract and any or all action by the city council with reference to sprinkling may be with reference to the entire territory to be sprinkled. ('01, c. 379, §7; '13, c. 7, §2.)

1713-§f. Council to give interested parties hearing as to proposed work; lowest responsible bid; work undone; city engineer employed; mayor to approve or veto resolution; passage over veto.—At the time and place designated in the notice prescribed by section four (4) of this act, an opportunity shall be given by the city council of such city to any and all interested parties to be heard for or against the proposed work designated in such notice, and the clerk or recorder of such city shall, in the presence of the said council, open and read all sealed proposals which may have been received for the doing of such work or the furnishing of material, if any, therefor, or both, as the case may be, and the city council of such city may then, by an affirmative vote of majority of all its members, by resolution in writing, accept the most favorable proposal (such proposal to be that of the lowest responsible bidder) and by such resolution authorize the doing of the proposed work or any part thereof, by the person or persons whose proposal may have been accepted and direct such contract be made with him or them therefor; or may reject any or all proposals offered and refuse to authorize to do such work or of any particular part thereof; or if it is deemed by said council to be to the best interest of the city, the city's engineer is less than the lowest bid for said work and material, may reject all proposals offered, and authorize the doing of such work under the direction of the city engineer without contract, or may in its discretion, from lack of quorum or any other reason, postpone the consideration and decision of the whole matter, or any branch thereof to a future definite time, of which postponement all parties interested shall be required and deemed to take notice.

Such resolutions, after the same has been duly adopted by the said council, shall be signed by the president of such council and attested by the said recorder or clerk, and on the next day after the adoption thereof the same shall be transmitted by such clerk or recorder to the mayor of such city for his approval. If the mayor approves the same he shall append his signature, with the date of his approval, and return the same to the clerk or recorder within five (5) days, Sunday excepted, from the date of its transmission to him; and if he declines to approve the same he shall, within said period of five (5) days (Sundays excepted), return the same to the clerk or recorder with a statement of his disapproval, to be presented to the said council at its next meeting thereafter.

Upon the return of said resolution to the city council, without the mayor's approval, the question shall again be put upon the passage of the same, notwithstanding the objections of the mayor, and if upon such vote, which has been taken by a call of the ayes and noes, two-thirds (2/3) of all the members of the said council shall vote in favor of the adoption of such resolution, the same shall be declared adopted and shall have the same force and effect as if approved by the mayor.

If such resolution transmitted to the mayor, shall not be returned by him to the said recorder or clerk within said five days (Sundays excepted), after presentation thereof to him, the same shall be deemed to be approved by him, and he shall deliver the same to the clerk or recorder on demand. ('01, c. 379, §8.)

1713-§g. Contracts; how executed.—All contracts authorized by this act for any of the improvements therein designated, shall be executed on behalf of such city by the mayor and attested by the clerk or recorder thereof. ('01, c. 379, §9.)

1713-§h. Contract for paving may include sewer, etc.; assessments.—That each such city is hereby authorized, whenever a contract is let for the paving or macadamizing of any street to include in the contract, when deemed expedient or necessary, the construction and laying, as far as the property lines, of all lateral sewers and drain connections that may deemed expedient or necessary, and that the cost of such work shall be assessed by said council upon the real estate benefited thereby, and enforced and collected in the manner and under the regulations provided by this act for other local improvements in such city. ('01, c. 379, §10.)

1713-§i. Patented appliance and material.—In making any improvements herein authorized, the said council may select patented appliances and material to enter into such construction, if the cost, maintenance and duty thereof is deemed relatively the lowest or most satisfactory, all things considered, and the decision of said council therein shall be final. ('01, c. 379, §11.)

1713-§j. Municipal quarries and works; street commissioner to certify cost.—Each such city is hereby authorized to provide, establish, equip and maintain and cause to be operated under the supervision of the street commissioner of such city, municipal quarries and works, apparatus and other facilities for the manufacture, construction and laying of macadam, asphalt, or other kinds of street pavements and sidewalks, as the city council of such city may determine.

Whenever any material is furnished by or obtained from any such municipal quarries, works, apparatus or other facilities, and employed in the construction of any public improvements provided for in this act, the cost of which is to be assessed upon property benefited thereby, the street commissioner of such city shall immediately upon the completion of said improvement certify the cost of such material so furnished and employed in the making of said improvement, and all work in connection therewith to the city council of such city, and such certificate shall be placed on file with the city recorder for the inspection of all parties interested; the amount so certified shall be deemed a part of the cost of the improvement so to be assessed, and an assessment shall be made therefor, on the file with the city recorder for the inspection of all parties interested, the amount so certified shall be deemed a part of the cost of the improvement so to be assessed, and an assessment shall be made therefor, levied and collected in the same manner as said street commissioner of such city, municipal quarries and works and other facilities shall be levied and collected to the city council of such city, and any deficiency paid for by contract, as hereinafore provided. ('01, c. 379, §12.)

1713-§k. Board of health to report nuisance; report plan for abatement.—Whenever the board of health shall report to the city council of any such city that stagnant or impure water stands upon any lot, lots or parcels of land within such city, thereby creating a
nance injurious to public health, said council shall immediately proceed to investigate the same, and if they shall determine that a nuisance does exist by reason of any stagnant or impure water standing upon any lot, or parcel of land, and the same is injurious to public health, they shall have power, when authorized by resolution of the council, to rescind the contract therefore for the making of any improvement in the same manner, as nearly as may be, as provided in this act for the letting of contracts in the first instance for such improvements, and in every case of such new contract the work shall be carried to completion and shall be paid for in the same manner as contracts for other like improvements, and any and all damages and increased costs of the work to the city, including both labor and material, will be a charge against the original contractor and shall be deducted from any moneys remaining unpaid by him or to become due such contractor and the balance, if any, may be collected by said city freed from his sureties as provided by law. ('01, c. 379, §16.)

1713-Mq. Contractor personally responsible.—Any contractor or person who accepts a contract authorized by this act, under any such city, shall take the same with the condition that he shall be personally and directly responsible for any and all loss, damage or injury which may arise in any way, directly or indirectly, be suffered by said city by reason of any occurrence while the work is going on, and before acceptance thereof by such city, caused by any negligence or misconduct on his part or on the part of his servants or employees in doing the same, and every such contractor shall guard all such work by suitable guards by day and with lights at night, so as to prevent any loss, damage or accident. ('01, c. 379, §17.)

1713-Mp. Contractor to execute bond.—Before any contract whatever for the doing of any work or furnishing any skill or material, contemplated in this act, to any such city for the making of any improvements therein authorized for any and all loss, damage or injury which may arise in any way, directly or indirectly, be suffered by said city by reason of any occurrence while the work is going on, and before acceptance thereof by such city, caused by any negligence or misconduct on the part of such contractor, his servants or employees in doing the same, any contract for the making of any improvement in the same manner, as nearly as may be, as provided in this act for the letting of contracts in the first instance for such improvements, and in every case of such new contract the work shall be carried to completion and shall be paid for in the same manner as contracts for other like improvements, and any and all damages and increased costs of the work to the city, including both labor and material, will be a charge against the original contractor and shall be deducted from any moneys remaining unpaid by him or to become due such contractor and the balance, if any, may be collected by said city freed from his sureties as provided by law. ('01, c. 379, §16.)

1713-Mn. Violating contract; damages and increased cost.—In all cases where the work for any improvement contemplated by the provisions of this act, shall be suspended before final completion, or the contractor shall abandon his work under his said contract or shall fail to perform the same for any cause, or if at any time the work or any part thereof is unnecessarily delayed, or the contractor is violating any of the conditions of his contract or executing any of the same in bad faith, then at the option of such city, the said council shall have power, when authorized by a two-thirds vote of all the members of such council, to rescind the contract therefore, and in such case the work shall have power, when authorized by resolution of said council, to rescind the contract therefor so far as the completed part of the work is concerned, and may, in their discretion, after such rescission, order the work to be relet as other work in like cases is let in the city, and the original contractor in such case shall be entitled to be paid for the portion of the work done by him, ratably, according to contract price, as nearly as the same can be ascertained, and no more. No resolution adopted by virtue of the provisions contained in this section shall require the consent or action of the mayor of such city, but shall be in full force and effect when adopted by the city council, as herein designated. ('01, c. 379, §14.)

1713-Mo. City engineer may complete work, when, etc.—If, in the opinion of the city council and the city's engineer in charge, any work under any contract in such city, authorized by this act, does not proceed each month so as to insure its completion within the time named in the contract, the city's engineer in charge of the work shall have power, when authorized by resolution of such city council, to furnish and use men and materials to complete the work, and charge the expense thereof to the contractor, and the same shall be deducted from any moneys due him or to become due such contractor, or may be collected from him in a suit by said city. ('01, c. 379, §15.)

1713-Mp. Bills accompanied by bond, or certified check.—The council of every such city shall have power to require all bids for the doing of all work or the furnishing of all skill or material, authorized by this act to be accompanied by a bond, the part 346

1713-Mq. Contractor personally responsible.—Any contractor or person who accepts a contract authorized by this act, under any such city, shall take the same with the condition that he shall be personally and directly responsible for any and all loss, damage or injury which may arise in any way, directly or indirectly, be suffered by said city by reason of any occurrence while the work is going on, and before acceptance thereof by such city, caused by any negligence or misconduct on his part or on the part of his servants or employees in doing the same, and every such contractor shall guard all such work by suitable guards by day and with lights at night, so as to prevent any loss, damage or accident. ('01, c. 379, §17.)
of the bidder in such sum and with such surcharges as said council may prescribe, or in lieu of such bond a certified check payable to such city upon a bank located in such city, or cash of the same amount, conditioned that he will enter into a contract with such city for the doing of the work or the furnishing of such material or service for the same price, and in case the bidder fails to furnish the required bond within the time prescribed by such city, the same shall be deemed forfeited, and if a check or cash so deposited the same shall be the property of the city absolutely, and in case of bond the same may be sued and judgment recovered thereon by such city, for the full amount in any court having Jurisdiction of the amount. (1713, c. 379, §19.)

1713-14r. Assessments to be made.—It is hereby made the duty of the city council of such city to make without unnecessary delay, at the proper time or times, all assessments for local improvements authorized by this act. (1713, c. 379, §20.)

1713-14a. Same.—Same objection to assessment statement.—Upon the completion of any improvement authorized under the provisions of this act, the city council of such city shall proceed without delay to appraise and assess the cost of such improvement, when not herein otherwise provided, upon the real estate therein benefited, to the extent of benefits realized, and in proportion, as near as may be, to the benefits resulting therefrom; and it shall constitute no objection to such assessment that the amount thereof either exceeds or falls short of the original estimate of the cost of the improvement submitted to the city council, or that the said city has not fully adjusted all matters with the contractors for said work, or approved his final estimate therefor, or that the council has refused to pay the said contractor from further duties in connection therewith.

In all proceedings and advertisements for the making and collection of any assessment under this act, notices, figures and the usual and customary abbreviations may be used to denote lots, parts of lots, lands and blocks, sections, townships, ranges and parts thereof, the year and the amounts; such assessment shall be in writing, in which shall be given a description of the lots and parcels of land assessed, the name of the owner thereof, if known, and the exact amount assessed thereto. (1713, c. 379, §21.)

1713-14t. Publication of notice of meeting; objections in writing.—Upon the completion of any assessment authorized by this act, the said council shall direct that the same shall be placed on file with the clerk or recorder, and shall appoint a time, not less than ten (10) days distant, and a place where and when it will meet to consider and act upon such assessment, and the clerk or recorder shall thereupon cause to be published in the official newspaper of such city, at least five (5) days prior to the time so appointed for said meeting; in such notice shall be given a brief description of the improvement for which the assessment has been made, and the territory embraced in such assessment, and shall be to the effect that such assessment is to be made upon the real estate benefited; that the city council will then proceed to the inspection of all interested parties, and that all objections to the same must be filed in writing with the clerk or recorder of such city at least one (1) day (Sunday and legal holidays excepted) prior to said meeting, and that unless sufficient cause is shown to the contrary the same shall be considered and provided, that if such assessment be for sprinkling, such notice need not contain a description of the territory embraced in such assessment and a reference therein to the number of the district, for the sprinkling of which the assessment is made, shall be deemed sufficiently definite. (1713, c. 379, §22.)

1713-14c. Construction placed upon word "sprinkling."—That the word "sprinkling" wherever used in this act shall be deemed to include sprinkling, saturating or treating the surface of a highway, street, public way or public ground with water, oil, mineral or any other substance, for the purpose of preventing dust in the atmosphere, or cleansing such public way or ground. (1713, c. 379, §22a, added '13, c. 7, §5.)

1713-14u. Council to hear objections; filing; correct assessment confirmed.—At the time and place so appointed, as provided in the last preceding section (1713-14t), the said council shall proceed to consider said assessment and hear all objections which parties interested may desire to make thereto, and may adjourn as often as deemed expedient to a future definite time and place, and if none of the members are present the recorder may adjourn to some other convenient time and place, and if any postponement is made shall be recorded and filed with the said recorder. All objections to said assessment shall be in writing and filed with said recorder at least one (1) day (Sunday and legal holidays excepted), prior to the time and place of meeting of said council. If the previous notice shall be found imperfect or for any other reason, said council shall, after due consideration, make such correction or changes in said assessment, and may revise the same as they may deem necessary to make it just and fair and equalize the same on the basis of the improvement in this act, and shall confirm and establish the assessment when so corrected and equalized. Said assessment, when so confirmed and established, shall be final, conclusive and binding upon all parties interested, and the said amount, when assessed in such assessment, as so confirmed and established against the several lots and parcels of land therein mentioned, shall be enforced and collected as hereinafter provided. If any assessment be annulled or set aside, the said city council shall proceed de novo to make another new assessment in like manner, and like notice shall be given as herein required in relation to the first, and all parties interested shall have the like rights. (1713, c. 379, §23.)

1713-14v. Portion of cost chargeable to railway company.—When in any case, any portion of the cost and expense of making any improvement mentioned in this act in any such city shall by virtue of any valid law or ordinance, or by virtue of any contract be chargeable upon any railway company in any such city, for the amount or amounts so chargeable may be assessed upon such railway company, and the balance only upon the real estate benefited thereby, and such city may collect the amount so assessed upon the real estate benefited, and the balance from the said railway company, by distress and sale of personal property, or by suit brought for that purpose; provided, however, that any real estate belonging to such railway company subject to assessment under the General Laws of this state or any valid ordinance or contract, and deemed benefited by said improvement, shall be assessed as in other cases. (1713, c. 379, §24.)

1713-14w. Assessment a lien.—All assessments levied under the provisions of this act shall be a paramount lien on the real estate upon which the same may be imposed, from the date of the confirmation of such assessment. (1713, c. 379, §25.)
1713-3/4. Record of assessment.—The clerk or recorder of such city shall keep in his office, in books to be provided for that purpose, a correct record of all assessment confirmed by the city council and authorized by this act; the said books to be properly ruled and headed so as to show at all times the date of the original assessment and history of each assessment on each lot and parcel of ground, whether payable in installments as hereinafter provided, and whether paid to the city or county treasurer or whether remaining unpaid. ('01, c. 379, §26.)

1713-3/4. Warrant for collection.—When any special assessment, authorized by this act shall be confirmed and established by the city council of any such city, as herein provided for, it shall be the duty of the clerk or recorder of such city to issue a warrant for the collection thereof, which shall be under the seal of said city and signed by the mayor and clerk or recorder thereof, and shall contain a printed or written copy of the assessment roll as confirmed as aforesaid, or so much thereof as describes the real estate and the amount of the assessment in each case. ('01, c. 379, §27.)

1713-3/4. Same; to whom delivered.—All warrants issued for the collection of any special assessment in any such city, and herein authorized, shall be delivered by the clerk or recorder of such city as soon as practicable after the said warrant has been confirmed and established, excepting for assessment for the cost of repairing sidewalks, which shall be delivered to the county auditor of such county as hereinafter designated; the recorder shall in each instance take a receipt for such warrants and place the same on file. ('01, c. 379, §28.)

1713-3/4. Same; notice by publication.—Upon the receipt of any warrant for the collection of any special assessment authorized by this act, the city treasurer of such city shall forthwith give notice by publication in the official newspaper of such city, that such warrant is in his hands for collection, briefly describing its nature and the improvements for which such assessment has been made, and the territory embraced in such assessments; provided, when such assessment is for sprinkling, a reference in such notice to the number of the sprinkling district for the sprinkling of which such assessment has been made, shall be deemed a sufficient reference to the territory embraced in such assessment. Such notice shall require all persons interested to make payments within thirty (30) days from the date of such notice, at his office, or at the option of said treasurer, at some bank in said city, acting as such treasurer. ('01, c. 379, §29.)

1713-3/4. Assessments not paid, certified lists returned to clerk; penalty; transmitted to county auditor; collected as other taxes.—If the assessments charged in any special assessment warrant, made for any improvement whatever under the provisions of this act, shall not be paid within thirty (30) days after the publication of the notice by the said city treasurer that he has received such warrant for collection, said treasurer shall return to the recorder or clerk of the county, or to the city auditor certified by him, the list of the assessments so made which still remain unpaid, giving in such lists the description of the several lots and parcels on which the assessments have not been paid, with the names of the respective owners thereof, if known, and the several amounts assessed thereto.

Such city recorder or clerk shall thereupon add to each unpaid assessment a penalty and ten (10) per cent, and before the first day of November following, transmit a duly certified list of such unpaid assessments, with a description of the several lots and parcels on which the same are respectively payable, and the names of the respective owners thereof, if known, to the auditor of the county in which such city is located, who shall enter the several amounts of said unpaid assessments on the tax list for such city for the next ensuing year, and levy the same upon the several lots and parcels of ground on which the same are respectively payable, and the same shall be enforced and collected as other taxes on real estate and enforced and collected under the general laws of this state. ('01, c. 379, §30.)

1713-3/4. Assessment not set aside or held invalid.—No assessment in this act provided for shall be set aside or held invalid by reason of any irregularity in the proceedings pursuant to the same, or for any defect in the tax list by the auditor of said county, as hereinafter required, unless it shall appear that by reason of such irregularity or irregularity substantial injury has been done to the party or parties claiming to be aggrieved. ('01, c. 379, §31.)

1713-3/4. New assessment.—If for any cause the proceedings of the city council of any such city, or any of its officers, may be found irregular or defective, whether jurisdictional or otherwise, the said council may make a new assessment from time to time, and as often as needs be, upon all real estate benefited and on which no payment has been made for improvements, and may provide that such assessment may be paid in annual installments until all the benefits assessed have been realized from the real estate benefited by such improvement. ('01, c. 379, §32.)

1713-3/4. Extension of payment on assessment; annual installments.—The city council of any city shall have power and authority and may by resolution in writing, adopted by an affirmative vote of a majority of all its members, extend the time for the payment of any assessment made and confirmed by it for the purposes and as in this act designated, against any lot or parcel of land, and may provide that such assessment may be paid in annual installments of any number, not exceeding ten. When such assessment is fully completed and has been confirmed and established, the said city council shall, by resolution, determine the number of annual installments, if any, in which such assessment may be paid, which resolution shall be attached to and form a part of such assessment roll. ('01, c. 379, §33.)

1713-3/4. City treasurer to give notice.—If such council shall adopt the resolution, specified in the foregoing section, the city treasurer shall in his notice of such resolution, specify In the warrants for collection, and the terms of payment of any assessment made and confirmed by the city council, and shall also state the number of annual installments in which such assessment shall be paid, if any, and in which such assessment may be paid, which resolution may at his election and written request pay the sum assessed in installments, as designated in said resolution. ('01, c. 379, §34.)

1713-3/4. Notice of election to pay in installments; dividing assessments.—Any person desiring to so pay such assessment in installments, as a condition precedent to the exercising of such right, shall file, in duplicate, a written notice of such his election and request for permission to so pay in annual installments, within thirty (30) days after such publication and before such assessment becomes delinquent, with the city treasurer of such city, and at the same time pay the first installment due and payable. Upon failure to so file such notice and request and pay said first installment, the whole amount of such assessment shall be due and payable the same as though no extension of time for payment had been provided for.

Upon the filing of such notice and request by any person interested, the said treasurer shall divide the said assessment into the proper installments, and make proper record of the same, and transmit one of the duplicate notices of the city council, along with a note such fact in his record book of assessments. ('01, c. 379, §35.)

1713-3/4. Council may waive neglect to elect.—The city council of such city may at any time after an assessment becomes delinquent, upon a written
application to it waive the neglect to so elect within the proper time, and permit any assessment which has been divided into installments as herein provided. (‘01, c. 379, §36.)

1713-4/4. Installments to bear interest.—Each of said installments so extended shall bear interest payable annually at a rate to be determined in and by such resolution, not exceeding five (5) per cent per annum from the expiration of such thirty (30) days after the time of payment of the last installment provided in section 29 of this act. (‘01, c. 379, §37.)

1713-4/3. Installments may be of different amounts: when due.—No assessment of less than ten (10) dollars against any one lot or parcel of land shall be divided into installments, and no assessment shall be divided so that the amount of any of the installments into which it is divided shall be less than five (5) dollars, and the several installments may be of different amounts as the said council may determine.

The time for the payment of the installments, and for the enforcement of the same against the property affected by the assessment, shall be extended so that the several amounts shall become due and payable as follows: The first installment at the time the assessment would have been payable if the time of payment had not been extended, as provided in section 29 of this act; the second installment on October 1st of the succeeding year, the third installment on October 1st of the second succeeding year, and so on; each installment, except the first, shall be made due and payable on the first day of October in the year when payable. (‘01, c. 379, §38.)

1713-4/4. Extended installments not paid; certified as special tax to county auditor; collected as other taxes.—After the time of payment of any assessment has been so extended as divided into installments, if any installment so extended shall not be paid when it becomes due and payable, together with the interest to that time on all future installments, the city treasurer of such city shall on the first day of October, in each year, certify to the city recorder or clerk of such city, such extended installment which has become due and payable on the first day of October in that year, and which has not been paid, together with all interest then due and unpaid on such assessment, as a special tax on said property, in the same manner as other delinquent assessments in his hands for collection; and said city recorder shall thereupon certify the same to the county auditor of the county in which the city is situated, at the same time and with the same penalty added thereto as in cases of other delinquent assessments, and in all respects as provided in and by section 30 of this act; the said county auditor, on receipt thereof, shall enter and carry out the same upon the proper tax list for that year, in the same manner as in other cases of unpaid assessments certified to him under the provisions of this act, and the same shall be collected and payment thereof enforced as the same as other taxes on real estate are collected and enforced, and when collected paid over to the treasurer of said city. (‘01, c. 379, §39.)

1713-4/5. Council may extend time for payment; collection.—Upon application in writing of any owner or other party interested in any lot or parcel of land as to which any assessment has been heretofore made, and has heretofore been certified by the city council of such city, such council shall have power and authority and may by resolution in writing, adopted by an affirmative vote of a majority of all its members, extend the time for the payment of such assessment so as to said lot or parcel, and may provide that such assessment may be paid thereafter in annual installments of any number not exceeding ten (10), providing such assessment, so made payable, shall be extended to the date hereof, exceed the sum of twenty (20) dollars, against such lot or parcel of land.

Whenever any assessment, heretofore made, be so divided into installments, and the time of payment thereof extended, in anticipation of extending the time of payment of assessments, shall apply thereto, and control in the collection and enforcement of the same. (‘01, c. 379, §40.)

1713-4/6. Party interested may pay all installments before maturity.—Any owner or party interested in any piece or parcel of land against which an assessment is levied, may, after such assessment has been divided into installments, pay all of the installments at any time before maturity, but in such event shall pay interest thereon to the first day of October immediately following such payment. (‘01, c. 379, §41.)

1713-4/7. A paramount lien.—Every installment, the time of payment of which has been extended under this act, shall continue to be and shall be and constitute a paramount lien in favor of such city and against each of the lots or parcels of land as to which said extension is granted, for the amount so extended for each lot or parcel, and until the same is fully paid. (‘01, c. 379, §42.)

1713-4/8. Application for extension—recognition of validity.—When such application, election or request for an extension of the time of payment: in installments if an assessment shall have been made and filed as herein provided, the owner or person interested and so filing the same, and his or their heirs, personal representatives or assigns, or any lot or parcel of land as to which an extension has been granted, shall be held to have recognized and assented to the validity and regularity of said assessment and of all proceedings thereon prior to the granting of said application, and shall be hereby forever barred from denying the validity of said assessment or the amount thereof. (‘01, c. 379, §43.)

1713-4/9. Council may issue certificates of indebtedness; amount.—Whenever the time of payment of an assessment is extended, and such assessment is divided into installments, in any city as herein provided the city council of such city shall have power and is hereby authorized, in anticipation of the collection and payment of such assessment, and the several installments provided for, to issue and sell from time to time the certificates of indebtedness of such city, in accordance with the provisions of an act of the Legislature of the State of Minnesota entitled “An act to create in cities in the State of Minnesota having no more than fifteen thousand inhabitants, a local improvement fund, and to empower such cities to issue their bonds and certificates of indebtedness for certain purposes therein mentioned,” approved March 8, 1897.

Such certificates shall be issued from time to time in such amounts as the city council of such city may determine as necessary for that purpose, not exceeding in the aggregate at any time the aggregate amount of unpaid installments and shall be issued for such length of time as the said council may determine and as the extended time of times for paying such installments may require. (‘01, c. 379, §44.)

1713-4/10. Proposals for sidewalks to be published; plans and specifications.—The city council of each such city shall annually cause proposals to be published, in the same manner and for the same length of time as in the case of other public improvements provided for in this act for the construction and laying of such sidewalks as may be ordered built and laid by said city council prior to the first day of November in each year. General plans and specifications applicable to all sidewalks that may be ordered built and laid during such year by said council shall be made, approved and filed before such publication of proposals, as in the case of other public improvements; such plans and specifications shall classify the different kinds of walks required by the conditions existing in the different portions of such city, ac-
Order to build sidewalks by resolution; copy to contractor; construction other than by contract.—Whenever the city council shall order the construction and laying of any sidewalk or sidewalks such order shall be by resolution, written, accurately describing the location of such walk included in such order, and such resolution shall require the same formality, vote and approval for its adoption as resolutions of like nature designated in section 8 of this act; any number of walks, in different portions of the city, and belonging to different classes under the general specifications therefor, may be included in one order.

After the publication of such resolution the city recorder or clerk shall without delay transmit a copy of such order to the person or persons having the control of the construction and laying for the time being, who shall within the time designated in the specifications therefor, if no time be designated in such order, cause the sidewalk or sidewalks so ordered constructed and laid by the said council, to be constructed and laid.

When for any reason no contract is awarded by the city council for the construction of sidewalks, as authorized by section forty-five (45) of this act, then the council may from time to time authorize the construction of sidewalks in such city in the same manner as the making of other improvements are authorized by such council under the provisions of this act; and any number of walks on one or more streets may be included in one contract. ('01, c. 379, §46.)

City engineer to issue permit to owner; bond; ordinance to regulate; supervision of city engineer; when owners may not construct.—Any person desiring to construct, lay or relay his or her own sidewalk shall first obtain a permit therefor from the city engineer of such city, such permit shall state the location of such walk, the material out of which the same is to be constructed, laid or relaid, and the time when the same shall be completed, and such permit shall also be attached to such permit a general plan and specifications for the doing of the work.

No work shall be begun thereon until the contractor therefor, or the owner thereof, if he shall do the work himself, shall first execute a bond to such city, with two or more sufficient sureties, to be approved by the mayor in the penal sum of not less than one thousand (1,000) dollars, conditioned that he will do said work, subject to the supervision and approval of the city engineer of said city, and as required by the ordinances of such city, and will indemnify and hold harmless such city against any damage or loss which may result directly or indirectly, by reason of any occurrence while the work is in progress, and before acceptance thereof by the city engineer, caused by any negligence or misconduct on the part of such contractor or owner, as the case may be, or his or her servants or employees in doing the same; such bond shall be filed with the city recorder or clerk, and may be enforced by said city the same as other bonds of a like nature, as required by law.

The city council of each such city may by ordinance regulate the manner of constructing, laying, relaying and repairing sidewalks by the owners of property in such city, and may authorize the filing of a like bond as hereinbefore in this section provided, in such penal sum as the council may direct, by persons engaged in and carrying on the business of constructing or laying sidewalks, to include and cover the construction and laying of all walks for property owners in such city, for a period of one year, and such bond shall have the same force and effect as though given for each walk separately, as above provided.

When an owner constructs, lays or relays his or her own walk, the same shall be constructed, laid or relaid under the supervision and direction of the city engineer, and such engineer shall upon the full and satisfactory completion of such walk, deliver to the contractor certificate of his acceptance, if demanded.

No property owner shall have any authority whatsoever to construct or lay his or her own walk after the city council shall have ordered its construction by resolution, as hereinbefore provided, and the said city council shall not order the building of any walk after a permit has been issued therefor by the city engineer, and before the expiration of the time designated therein within which the same is to be built. ('01, c. 379, §47.)

Cost of sidewalks assessed upon real estate benefited.—The city council of such city shall, as soon as practicable after the construction, laying or relaying of any sidewalk, the same being completed, and placed under contract in the same manner and upon the same regulations as in the case of other improvements provided for in this act, so far as the provisions referring thereto may be made applicable herein Similarly, the assessments for the cost of any number of walks adjacent to any number of lots or parcels of land may be combined in one assessment roll. ('01, c. 379, §48.)

Failure to build sidewalks.—Whenever the said contractor shall fail to build or relay any sidewalk, as provided in his contract the same shall be built or relaid as provided in sections 15 and 16 of this act. ('01, c. 379, §49.)

Same; street commissioner to build; repair; record; assessment.—Whenever the street commissioners of any such city shall report to the city council the necessity of repairing certain walks in such city, not deemed dangerous to pedestrians or vehicles, the same do not extend beyond the street line of the said owner, the city council shall order the said walk to be repaired by the city, not less than ten (10) dollars adjacent to any one lot or parcel of land, the said council may authorize the street commissioner to make such repairs, if the owner or agent thereof fails to make such repairs selected and enforced and all steps taken in connection therewith as otherwise provided in this act for collecting and enforcing other assessments authorized by this act; the assessments for the cost of any number of walks adjacent to any number of lots or parcels of land may be combined in one assessment roll. ('01, c. 379, §49.)

In case any sidewalk shall become so out of repair or broken as to become dangerous, it shall be the duty of the street commissioner to immediately repair the same in a good and substantial manner.

The said street commissioner shall keep a written record of all such repairs, and shall at least once in each month report and certify to the city council the cost in each case of all repairs made to sidewalks in such city, as specified in this section, with a description of the lot or parcel of land abutting each case of repairs.

Each such report shall be filed and preserved by the city recorder for the inspection of all parties interested; the city council shall cause in each year, as near as conveniently may be to the time of the annual tax levy for said city, assess and levy the cost of making such repairs upon the lots or parcels of land found benefited by such repairs in the same manner and under the same regulations as in the case of other improvements herein designated. In each case such assessment, for all such repairs within the year, and since the making of the last assessment for
such repairs, may be combined in one assessment roll. Such assessment shall be collected and enforced in the same manner as other assessments provided for in this act, except that the same shall not first be transmitted to the city treasurer for collection, but shall be directly certified to the county auditor of such county by said recorder to be placed upon the tax list for that year by said auditor. ('01, c. 379, §50.)

1713-3/4v. Owner or interested party may pay assessment; city treasurer to certify to city recorder.—Any owner of, or party interested in, any piece or parcel of land against which an assessment is levied, as herein provided, may pay such assessment to the treasurer of such city at any time before the first Monday in January following the date on which the same has been certified to the city recorder or county auditor, as hereinbefore provided, and said treasurer shall thereupon give his receipt in duplicate for the amount so paid, and the same must be paid to the county treasurer the same as other state or county taxes.

Upon the presentation of one of said duplicate receipts, or personal affidavit of the owner or person interested, to the county auditor or county treasurer of such county, as the case may be, he shall cancel such assessment on his books, or if the same has not yet been transmitted to the county auditor by the city recorder of such city, said recorder shall thereupon cancel such assessment on the delinquent list containing the same, and after that time the lien on such land shall cease to the amount of such payment, and the said county auditor, if such receipt be filed with him, shall report the same in the next settlement thereafter with the said city treasurer, for taxes collected and payable to such city treasurer.

On the first Monday of each year the city treasurer shall certify to the city recorder of such city all payments made to him, such treasurer, of assessments certified to the county auditor for collection, and such recorder shall enter all such payments in the proper record for the city. ('01, c. 379, §51.)

4713-3/4w. Affidavit proof of publication evidence.—When any notice is required to be published in any newspaper, under the provisions contained in this act, an affidavit of the publisher or printer of such newspaper, or of the foreman or clerk of such publication, that he or they deposited with him or them a true and complete copy of such notice taken from the paper in which it was published and specifying the time when, and the paper in which such notice was published, shall be evidence in all cases and in every court of judicial proceeding of the facts contained in such affidavit. ('01, c. 379, §52.)

4713-3/4x. Auditor not to certify if delinquent.—The county auditor shall not issue his certificate that taxes are paid on any piece or parcel of land upon which any delinquent assessment authorized by this act, or any portion thereof, has been certified to him, but failure to name all or any part of such property, and such report may contain any other pertinent statement which the engineer deems best. The common council, or other governing body of any such city may cause such plat and survey to be made and presented to the common council, or other governing body, and when satisfied with said plat and survey, may adopt the same and direct the city attorney to take the proper proceedings in the proper court for the condemnation of the same, and direct the city engineer to make and present to the common council, or other governing body, a plat of said real estate as will show the property to be taken, and the owner of each parcel thereof according to the records in the office of the register of deeds of such county, and to accompany such plat and survey with such report as will fully explain the situation of such property, and such report may contain any other pertinent statement which the engineer deems best.

The city attorney shall thereupon apply to the district court in and for such county for the appointment of three commissioners to appraise the property so to be taken and the damage for such taking.

He shall give a notice of such application in which shall specify the time and place of application, and in a general way describe the property proposed to be taken, and shall name the owners of such property so far as known to him, but failure to name all or any of the owners correctly shall in no wise affect the proceedings.

Such notice shall be served by one publication of the same in the official paper of the city at least 20 days prior to the date fixed for such application, and when such notice shall be served upon any person or corporation in possession of any parcel therein described, and upon each person or corporation who appears by the records in the office of the register of deeds of the county in which such city is situated, to be interested in any of said parcels, and who can be found in such county, in the same manner as a summons is served in a civil action. (Act Mar. 24, 1939, c. 75, §5.)
1713-34 c. Court to appoint commissioners.—At the time and place named in said notice, or at a duly adjourned time and place, upon or after the publication of said notice as aforesaid, the court shall appoint three commissioners, all of whom shall be freeholders and electors of the county in which said city is situated, who shall have cognizance of all cases named in such application, and shall have power to appraise the value of all property therein described, and the damages for the taking of the same.

The city attorney shall forthwith by written notice, notify said commissioners personally of their appointment, and request them to attend at his office on the day and date fixed by him, and two days after the service of such notice, to qualify and enter upon their duties, and if any commissioner shall refuse or neglect to attend as aforesaid, the mayor of the city shall in writing appoint one or more commissioners in the stead of the said absentees, and shall file such appointment with the clerk of the court which appointed such original commissioners.

Said commissioners shall thereupon, and before entering upon the duties of their office, severally take and subscribe an oath that they are freeholders and electors of the county in question and in no wise interested in any property to be affected by said proceedings, and that they will faithfully perform their duty as such commissioners without partiality and to the best of their knowledge and ability, which oath shall be filed in the office of the clerk of said court.

The commissioners shall thereupon give at least 20 days' notice, by one publication in the official paper of the city, of the time and place where they will attend to make an assessment of damages in said proceedings.

Such meeting may be adjourned from time to time without further publication of notice.

It shall be the duty of the city attorney to serve a copy of such notice at least four days before the date named in such notice upon all persons or corporation over whom the court shall acquire jurisdiction, and who shall serve notice upon the city attorney of their appearance in such proceedings.

Such notice shall be served in the manner provided by statute for the service of notices and other papers in civil actions, and may be made upon the party or his attorney.

At the time and place named in said notice, or at an adjourned time and place, the said commissioners, or a majority of them, after viewing the property involved and hearing the evidence offered, shall make their report of their partial appraisement and award of compensation and damage to be paid for each tract or parcel of land to be taken or damaged, but if the remainder of any parcel or piece of property of which a part only is to be taken or damaged shall be benefited by such proposed improvement, then the commissioner in considering and awarding such compensation and damages, shall consider, determine and offset the proportionate benefits which will accrue to the remainder of such parcel not so taken and belonging to the same owner as does the part taken, and shall award only the excess, if any, of the compensation or damages over or above the benefits.

Such report shall be in writing, signed by the commissioners, or a majority of them, and filed with the clerk of the court as soon as completed.

Upon the filing of such report, the commissioners shall give notice thereof by one publication in the official paper of the city.

Such published report shall contain a description of the several parcels of land taken or damaged for such public use and the respective awards therefor.

1713-35 d. Service of notices.—A copy of such notice shall within ten days thereafter be served upon the city attorney and upon all parties who have appeared in said proceedings, and such notice shall be served in the manner provided by statute for the service of notices and other papers in civil actions, and may be made upon the party or his attorney.

Any person or corporation interested in any property described in said report or the city in question may appeal from any award therein at any time within 30 days after the publication of said notice by filing with the clerk of the district court, which appointed said commissioners, notice of appeal, signed by the party or his attorney taking the same, and describing the party, the property in which he is interested, and the award to which he objects.

An appeal made from any award shall in no wise affect an award not appealed from.

The clerk shall enter the appeal as an action in said court; there shall be no pleadings therein and such appeal shall be tried as other causes originally commenced in said court are tried and judgment rendered therein.

From such determination an appeal may be taken to the supreme court of the state. (Act Mar. 24, 1939, c. 75, §8.)

1713-35 e. Compensation for commissioners.—After said commissioners shall file said report and publish said notice thereof as aforesaid the court shall allow the commissioners such reasonable compensation for their services as it shall deem just and proper to be paid by the city seeking to condemn said property as aforesaid. (Act Mar. 24, 1939, c. 75, §8.)

1713-35 f. Award to be final.—When.—Whenever an award of damages shall be made and filed as aforesaid, and not appealed from, in any proceedings for the taking of property, under this act, or whenever the court shall render final judgment in any appeal from any such award, the rights of all parties shall be finally fixed and determined thereby and the same shall constitute a lawful and sufficient condemnation and appropriation to the public use of the land for which damages are so awarded and every right, title and interest therein and thereto, and every other lien thereon shall be thereby directed and such city shall become vested with the title to, and become the owner of, the property taken or condemned absolutely for all the purposes for which said city may ever use the same; and such city shall be bound to, and shall within one year of the time of such final determination pay the amount of such award with interest thereon at the rate of five per centum per annum from the time of the final award or judgment of the court, as the case may be, and if not so paid judgment therefor may be had against the city.

In case there shall be any doubt as to who is entitled to such compensation or damages, or any part thereof as may be awarded, the amount so awarded, and in doubt or dispute shall be by the common counsel or other governing body of such city appropriated and set apart in the city treasury for whoever shall establish his right thereto by some judicial proceedings.

Before payment of any such award the owner of such property, or the claimant of the award, shall furnish satisfactory evidence of his right of such award. (Act Mar. 24, 1939, c. 75, §7.)

1713-35 g. City may abandon proceedings.—Any such city may by ordinance passed by a three-fourths vote of all the members of its common council or other governing body, at any time within 20 days after any commissioners appointed by the court hereunder shall file their report with the clerk of said court, or in case of an appeal within 20 days after final determination thereof, abandon such proceedings and shall thereupon pay the costs thereof. (Act Mar. 24, 1939, c. 75, §8.)

1713-35 h. To prepare statement of damages.—Upon the completion of any proceedings under this act for the acquisition of any property by any such city, the mayor or other executive head of such city shall cause
an accurate description of the property so taken to be prepared, together with a statement of the amount of damages, if any, awarded or paid, or to be paid to each owner thereof and signed and acknowledged the same as such mayor or executive head, and cause the same to be recorded in the office of the register of deeds of the county in which such property is situated, and it is hereby made the duty of such register of deeds, upon being paid his statutory fees, to record such statement in some appropriate book in his office. Such record or duly authenticated copy thereof shall be prima facie evidence that the city in question is the owner of the property described therein by good and perfect title. (Act Mar. 24, 1939, c. 75, §9.)

1713 Application of act.—This act shall be applicable to any city of the third class existing under a charter framed under and pursuant to the Constitution of the state of Minnesota, Article 4, Section 36. (Act Apr. 22, 1933, c. 423, §2.)

1713-1 Division of assessments.

This act held to apply with as affecting liability of city under water works special improvement fund. Judd v. C., 1935, 272 N.W. 977. See Dun. Dig. 6579a.


Section is constitutional and city in determining rate not limited to basing rate only on the capital investment. Op. Atty. Gen., July 17, 1933.

Sections 1714 to 1716 were not intended to apply where city becomes electric utility. See Dun. Dig. 594c-10, Aug. 19, 1935.


1716-1 Certain cities may establish information bureau. —The city council, city commission, or other governing body of any city of the third class having a population of not less than 10,000,000, exclusive of moneys and credits, may establish and maintain a bureau of information and publicity for the purpose of furnishing tourist information and for the purpose of preparing, publishing and circulating information and facts concerning the recreational, industrial and business opportunities of the community. For this purpose it may, within the limits herein provided, employ a manager for such bureau, and such clerical and stenographic assistance as shall be deemed necessary, and may incur expense for rentals, publication, postage, and other necessary charges incidental to such purpose. (Act Apr. 22, 1933, c. 425, §1.)

1716-2 Tax levy for expenses. —The city council, city commission, or other governing body of such city may each year at the time tax levies are made for the general revenues of the city, for the purpose of defraying the expense incurred in the establishment and maintenance of such information and publicity bureau, levy its new net assessed valuation of all taxable property of such city, the amount of such tax not to exceed in the aggregate the sum of $5,000.00 per annum, which levy shall be transmitted, and when received the monies derived therefrom shall be credited to a special fund for the purposes of this act. (Act Apr. 22, 1933, c. 425, §2.)

1716-3 May designate agency. —The city council, city commission, or other governing body of such city may designate the chamber of commerce, commercial club, or any other civic body organized within such city to promote the public welfare, as its agency for the expenditure of such special fund for the purposes herein designated. (Act Apr. 22, 1933, c. 423, §3.)

1716-4 Application of act. —This act shall apply to every city of the third class, whether governed by home rule charter or otherwise, having an assessed valuation of more than $10,000,000. In the event any city shall at any time come under the terms of this act it shall continue thereunder notwithstanding any subsequent change in classification or valuation. (Act Apr. 1, 1935, c. 92, §2.)


1716-5 Police department may be incorporated. —The police department in any such city is hereby authorized to become incorporated pursuant to the provisions of any laws of the State of Minnesota and to adopt articles of incorporation and by-laws as a relief association. All members of such department at the time of the taking effect of this act and all persons subsequently becoming members of such department shall be members of such association, except municipal court officers and persons appointed for temporary service or for probationary periods. After such date no officer of such police department shall be considered to be temporary or probationary. All such members of the department shall be assessed for entrance fee and dues of the association as fixed by the by-law, which entrance fee and dues together with the assessment made hereunder shall be paid by such member and paid into the proper fund of the association. (Act Apr. 1, 1935, c. 92, §2; Apr. 12, 1937, c. 197, §1.)

1716-6 Termination of membership. —Every person shall cease to be a member of said association upon the termination, from any cause, of his employment in said police department, except as he may be entitled to receive benefits hereunder or under the by-laws of said association subsequent to such termination. (Act Apr. 1, 1935, c. 92, §3.)

1716-7 Pensions. —When any member of said association shall have reached the age of 55 years he may retire and shall be entitled to receive a pension as long as he shall live, at the following rates:

(a) $75.00 per month when such member shall have served as a member of such police department after the age of 55 years. The total amount of pension hereunder shall be in no event exceed $100.00 per month.

(b) An additional five dollars per month for each year of service over 20 that said person may have served as a member of such police department after the age of 55 years. The total amount of pension hereunder shall in no event exceed $100.00 per month.

(c) In the event such members shall retire after reaching the age of 55 or more and after having served a member of said department for at least ten years, but before having served 20 years in said department, the amount of pension which he shall receive shall be that proportion of $75.00 per month which the years of service in said department prior to retirement bear to 20 years, major fractions of years of service to be treated as one year and minor fractions to be disregarded.

(d) In no event shall temporary employment or employment for probationary period, as hereinbefore defined, be considered in computing pension allowances hereunder.

(e) In the event any member shall be discharged from the service of said police department after having served 20 years or more and before such member has reached the age of 55, he may, upon a vote of a majority of the members of the relief association, be permitted to continue as a member of such association.
vided further that the applicant may submit reports to such examinations as often as requested by the association. The amount of such examination shall be paid to any person who is receiving compensation under the Workmen’s Compensation Act for the injury causing such disability. (Act Apr. 1, 1935, c. 92, §4; 1937, c. 92.)

§1716-8. Retirement not to be compulsory.—Retirement at the age of 55 years shall not be compulsory, but when such members shall have reached the age of 60 years the board or commission charged with the administration of the department in said city shall have the right to insist upon the retirement of such member at the age of 60 years, regardless of the provisions of any civil service laws. (Act Apr. 1, 1935, c. 92, §5.)

§1716-9. Tax levy.—For the support of the fund from which such pensions are paid the city council or other governing body of such city shall at the time the tax levies are made for the general revenues of the city, levy within the limits then permitted by law, a tax on all taxable property of such city in the sum of $100.00 per annum, which levy shall be transmitted to the county auditor of the county in which the city is located at the time the other tax levies are transmitted and shall be collected and the payment enforced in the same manner as other taxes of such city. In addition thereto, each member of said association shall be required to contribute to such fund each month one per cent of his monthly pay, such sum to be deducted at the time of the payment of his salary or wages by the city and transferred to such fund. In addition thereto, such relief association may transfer to such fund money raised from other sources and under the control of such association. (Act Apr. 1, 1935, c. 92, §6.)

§1716-10. Tax levy may be omitted.—If at any time the balance on hand in such fund, together with interest or other earnings accrued therein, exceeds the sum of $50,000.00 then as often as this shall occur the levy of taxes for said fund shall be omitted for said year, and if at any time the whole amount of $10,000.00 from taxation is not needed for the maintenance of said fund at $50,000.00 then the sum to be raised by taxation shall be proportionately reduced to such amount as will be sufficient to keep said fund at $50,000.00 or more. (Act Apr. 1, 1935, c. 92, §7.)

§1716-11. Articles of incorporation and by-laws.—The articles of incorporation or by-laws of such relief association shall provide for a board of directors to consist of five members, to be elected by the members of said police department for a term of ten years and shall have been discharged or shall have resigned from said police department by reason of said disability, he shall be entitled to and paid a pension in the amount of which pension shall be that proportion of $100.00 per month, which the years of service in said department prior to retirement bear to 25 years, major fractions of years of service to be treated as if they were complete years. No such pension for disability shall commence until the date of the injury causing such disability. (Act Apr. 1, 1935, c. 92, §8.)

§1716-12. Custodian of funds.—The city treasurer shall be the custodian of all funds of such relief association. All monies raised by taxation as provided hereunder shall be paid and all other funds of such association shall be paid to the city treasurer and shall be kept in the same separate fund called “Police Pension Fund”; upon the written direction of the board of directors of said association, the city treasurer shall invest said funds in such interest-bearing securities as are specified from time to time by the board of directors; provided, that the same shall be such securities as may be prescribed for time to time by the laws of Minnesota as permissible investments for trust funds of the State of Minnesota. (Act Apr. 1, 1935, c. 92, §10.)

§1716-13. Board to file report.—The board of directors of said association shall file annually, on or before the first day of September of each year, a detailed report of the amount of money received, expended and remaining on hand to the credit of said fund. The books and records of said board shall be open to inspection and audit by any taxpayer of said city or his duly authorized representative, and shall be audited with other books and records of the city at the time of the making of any general city audit. (Act Apr. 1, 1935, c. 92, §11.)

§1716-14. Expenses may be paid.—Actual expenses in connection with the making of investments may be paid from said fund upon authorization by the board of directors, but no salaries or fees shall be paid to any officer or agent therefrom. (Act Apr. 1, 1935, c. 92, §12.)

§1716-15. Members may receive amount paid in.—Whenever a member of said association shall cease to be a member of said department for any reason other than death or retirement he shall be paid, on demand, the full amount of the accumulated deductions from his salary hereinbefore provided for,
the full amount of said accumulated deductions, less such pension payments, if any, as have been paid to said member, shall be paid in one lump sum to the beneficiary or beneficiaries designated by such member or, if none, to the legal representatives of such member; provided, however, if no valid claim is made therefor, such accumulated dividends shall remain with and become the property of said association. No member shall be entitled to interest upon deductions under the provisions of this paragraph. (Act Apr. 1, 1935, c. 92, §12.)

1716-16. May pay health or accident benefits.—In addition to the pension fund and pension payments provided thereunder, the said relief association may by proper by-laws provide for the payment of additional health or accident benefits to members of said association and to widows or dependents of deceased members thereof. For the payment of such additional benefits such relief association may assess all members of said police department an additional amount not to exceed 2 1/2 % of the monthly pay of such members. The plan and schedule of such benefits and the amount of such additional assessments upon members must be approved by a majority vote of the members of the department and may be changed by a majority vote of said members. Such additional payments shall be made from a fund to be known as the "Police Relief Fund," which shall be kept separate from all other funds of the city and separate from the police pension fund before provided. Such police relief fund shall not be supported by taxation, but shall be supported by the additional assessments herein provided for and in such other ways as the by-laws of such association may from time to time provide. (Act Apr. 1, 1935, c. 92, §18.)

1716-17. Payment of pensions.—Limitations.—No pension payments shall be made hereunder to any person to whose heights the employment of such class shall cease either by reason of his own incapacity or while he is an employee of the State of Minnesota, or while he is receiving a pension from any public fund, including contributions to which he is entitled hereunder, from any source. Provided, however, that if such person is in the employ of the city or of the state, or is receiving pension from any public funds, and the amount of his monthly compensation or pension is not equal to the monthly pension to which he is entitled hereunder, the difference shall be paid to him. (Act Apr. 1, 1935, c. 92, §10.)

1716-18. Police pensions in certain cities.—Members of such relief association shall not be compelled to become members of the Public Employees Retirement Association established by Laws 1931, Chapter 207, or acts amendatory thereof, and if already members thereof shall upon the establishment of the relief association hereunder, cease to be members thereof and shall be entitled to receive from such association the amount of accumulated deductions of pay contributed to said association in the same manner, and in the same amount, as they would be entitled to upon ceasing to be employees of said municipality. (Act Apr. 1, 1935, c. 92, §15; Apr. 24, 1935, c. 92, §15.)


1722. Existing indebtedness.—[Repealed]. The parenthetical credit at the end of this section as it appears in G.S. 1935, c. 92, should read "(C. c. 521, §3; amended '11. c. 197, §1)."


1726-1. Detachment of unplatted land from city and special or independent school district in such city. This act is invalid as special legislation. 179M238, 229NW349.

1729-1. Scope of act.—This act shall only apply to the cities of the fourth class which also constitute a separate school district, and which are located wholly within one county. (As amended Apr. 24, 1931, c. 318, §1.)

1727. Taxes for general purposes. In addition to levy authorized by section, city of Hastings may make a levy for its valid bonded indebtedness and interest thereon incurred prior to 1932. State v. Brown, 193M357, 245NW822. Section superseded provision in home-rule charter of city of Hastings in regard to limitation upon total tax levies and that city may levy the tax not to exceed five mills for general city and municipal purposes. State v. Brown. 10.


1729. To what cities applicable. General laws operating in all cities are not limited by a provision in a special charter that the general laws of the state shall not be considered as repealing the provisions of the charter. Op. Atty. Gen., Feb. 26, 1930, Feb. 6, 1930.

1730. To what cities applicable. General laws operating in all cities are not limited by a provision in a special charter that the general laws of the state shall not be considered as repealing the provisions of the charter. Op. Atty. Gen., Feb. 26, 1930.

1731. Parks and golf courses.—That any city of the fourth class of the state, whether said city is acting under general or special law or home rule charter, is hereby authorized and empowered, in addition to the other powers conferred upon it by law, to acquire by gift, purchase, devise, condemnation or lease, lands within or adjacent to the city, and lying outside of its corporate limits, not exceeding one hundred acres in extent of area, for use by the public for a park or a golf course, and for park purposes, and by gift, purchase, contract or lease, for the improvement thereof by the planting and preservation of trees and shrubs, by inclosing, ornamenting and protecting the same, and in such other ways as may be necessary to make such lands suitable for the uses of a public
park, golf course. ("05, c. 335, §1; G. S. '13, § 1745; Apr. 24, 1925, c. 203, §1.)

Sec. 2 of Act Apr. 24, 1925, cited repeals inconsistent acts, and §3 provides that the act shall take effect from its passage.


City of fourth class may pay money to a hockey club maintaining a skating ring and city is not liable for injury to person or property. Op. Atty. Gen. (719a-11) Nov. 13, 1933.

City of North Mankato had power to establish and maintain a playground and park, and could grant a ball park to a band provided the band guaranteed to the city the use of the ground and charge for admission to ball park, general public to have full use of playing field during six days of the week, and Sundays on only. Op. Atty. Gen. (59b-11) Mar. 18, 1937.

City may operate a skating rink and is not liable for injuries received thereon where no charge is made, being a governmental function. Op. Atty. Gen. (84b-1), Feb. 11, 1936.

City may erect a building or arena to be used as an indoor skating ring and bathhouse, and issue bonds therefor. Op. Atty. Gen. (719a-9), July 28, 1936.

City of North Mankato had power to establish and maintain a playground and park, and could grant a ball park to a band provided the band guaranteed to the city the use of the ground and charge for admission to ball park, general public to have full use of playing field during six days of the week, and Sundays on only. Op. Atty. Gen. (59b-11) Mar. 18, 1937.

1782. Park board—Powers and duties.—That the city council of every such city may by a majority vote create a park board for such city, to be composed of not less than three members, to be chosen by said council for terms of one, two and three years respectively, all of whom shall be freeholders and residents of such city, and who shall serve without compensation. Such park board shall have power to lease, purchase, hold, and to the best interest of the public preserve any lands exceeding 50 acres in area and lying outside city to turn waters of irrigation or drainage system into lake, and creation of state park of part of city lying on lake does not change boundary of city so as to prevent improvements. Op. Atty. Gen. (891a-1) Feb. 5, 1935.

City council cannot levy a tax for band purposes without submitting the question to the voters in the city. City of Worthington v. Bd. of Freeholders, 214 Minn. 167, 7 N. W. 2d 972, decided Aug. 20, 1943.

City council cannot levy a tax for band purposes without submitting the question to the voters in the city. City of Worthington v. Bd. of Freeholders, 214 Minn. 167, 7 N. W. 2d 972, decided Aug. 20, 1943.

City of Worthington under its home rule charter may transfer surplus moneys from water and light fund to musical entertainment fund in such amount as is necessary to subserve public purpose. Op. Atty. Gen. (65b-10) May 15, 1932.

Powers of commission.

Fourth class cities may appropriate funds for improvement of parks golf courses, etc., not located within corporate limits. Laws 1939, c. 192, §1.


Powers of commission.

Fourth class cities may appropriate funds for improvement of parks golf courses, etc., not located within corporate limits. Laws 1939, c. 192, §1. Offices of county attorney and park district attorney are incompatible. Op. Atty. Gen. (858a-1), May 15, 1932.

Powers of commission.


City council cannot levy a tax for band purposes without submitting the question to the voters in the city. City of Worthington v. Bd. of Freeholders, 214 Minn. 167, 7 N. W. 2d 972, decided Aug. 20, 1943.

Powers of commission.


Powers of commission.


Powers of commission.


Powers of commission.


Powers of commission.

Statute is prospective and does not operate retro- 


1746-8. Inconsistent acts repealed.—All acts or 

parts of acts inconsistent with the provisions of this 

act are hereby repealed. (Act Apr. 10, 1939, c. 192, 
§2.) 

1753-1. Waterworks and light plants. 
The property owner and not the city should defray the 
expense of removing an obstruction in a service pipe 
running from water main in street to basement, under 

An outline of municipal bond procedure in Minnesota. 20 Minn.Law Rev 583. 

1754. Waterworks and light plants. 
On expiration of franchise of power company, voters 
may vote upon alternative proposition: granting of new 

Water and light department may purchase equipment 
and supplies and recall the same to consumers, but it can- 
not finance cost of installation of equipment by a dealer. 

City may use surplus earnings derived from city owned 
utilities for general city purposes. Op. Atty. Gen. (624a- 
8), Oct. 10, 1934. 

City owned power plant cannot arbitrarily refuse to furnish power to one desiring to consume it, at a rate to be set by the city, which has recognized as 
legitimate, and which it has granted to others. Op. Atty. 
Gen. (624a-14), Oct. 11, 1934. 

An agreement for sale or lease of equipment is not to 
limit or modify powers granted to city of Stillwater in its city charter with 
reference to issuing bonds to pay cost of construc-

Irrevocable future pledging of profit of electric power 
plant may impair the payment of bonds used in pur-
chasing and constructing power plants by city of Eveleth. 

Majority vote of electors is sufficient to authorize is-
Atty. Gen. (71a-7), May 4, 1938. 

City may proceed to construct a municipal light plant 
and enter into an agreement for purchase of equipment 
provided by city charter or under §1774 to 1700. id. 
An outline of municipal bond procedure in Minnesota. 20 Minn.Law Rev 583. 

1755. Powers of council, etc. 
Elections in City of St. James are to be called and held 
Gen., June 28, 1933. 

Amount of bonds which may be issued by city of 
Madison for making improvements to municipal utility 
plant is not confined to limitations contained in this 
section. Northern States Power Co. v. C., 186M209, 
2442NW714. See Dun. Dig. 6683. 

The property owner and not the city should defray the 
expense of removing an obstruction in a service pipe 
running from water main in street to basement, under 

An outline of municipal bond procedure in Minnesota. 20 Minn.Law Rev 583. 

1762-1. Certain cities may extend, execute or re-

move mortgages.—Whenever any city of the fourth 
class has obtained title to any real estate subject to 
real estate mortgages, but otherwise the same shall 
not finance cost of installation of equipment by a dealer. 

City may use surplus earnings derived from city owned 
utilities for general city purposes. Op. Atty. Gen. (624a- 
8), Oct. 10, 1934. 

City owned power plant cannot arbitrarily refuse to furnish power to one desiring to consume it, at a rate to be set by the city, which has recognized as 
legitimate, and which it has granted to others. Op. Atty. 
Gen. (624a-14), Oct. 11, 1934. 

An agreement for sale or lease of equipment is not to 
limit or modify powers granted to city of Stillwater in its city charter with 
reference to issuing bonds to pay cost of construc-

Irrevocable future pledging of profit of electric power 
plant may impair the payment of bonds used in pur-
chasing and constructing power plants by city of Eveleth. 

Majority vote of electors is sufficient to authorize is-
Atty. Gen. (71a-7), May 4, 1938. 

City may proceed to construct a municipal light plant 
and enter into an agreement for purchase of equipment 
provided by city charter or under §1774 to 1700. id. 
An outline of municipal bond procedure in Minnesota. 20 Minn.Law Rev 583. 

1765. Obligation not indebtedness. 
Contract to purchase electricity held authorized under 
the charter of city of Staples. Northern States Power Co. v. C., 186M209, 
2422NW714. See Dun. Dig. 6683. 

Providing electricity for its inhabitants is a proprietary 
function of a municipality, and its contracts relating 
thereto are governed by same rules of contract law, re-
fering to laches and estoppel, as those of private corpo-
ations or individuals. City of Staples v. M., 195M267, 256 
NW411. See Dun. Dig. 6683. 

A city may not finance the cost of distribution to rural custom-
ers of the corporation, was not a "private consumer." 

City selling electricity outside its limits under contract may discriminate in favor of residents of 
the city. Guth et al. v. City of Staples, 183M552, 237 
NW411. See Dun. Dig. 6683. 

City may make conditional sales purchase of electric-
line outside city limits for purpose of distributing sur-

A city may supply electricity to a nearby village with the 

City may sell electricity to cooperative corporation at 
city limits to be distributed by such corporation as such 
energy shall be sold at a rate which might be fixed by 
the cooperative corporation at lower rates than to consumers in municipality. 

City of Waasea, through its water and light board, has 
authority to enter into contract with an electric con-
struction company to sell electricity, to be delivered 
in substantiality in city and used by the purchaser outside 
limits of city, without a vote of electors, though city pur-
pursuant to current at wholesale from a public utility. Op. 

1768. Heating plants. 
General of city of Bismarck could not cancel heating 

Police and fire departments civil service commissions 

Village may not expend funds for payment of taxes 
on property that it does not own. Village may not 
sell private property furnishing heat for municipal 
Sept. 29, 1934.
1774. Expenditure of money for road, bridges and streets in cities situated in two or more counties.—In a city or village of the third class in two or more counties, except such cities of the fourth class as are situated in two or more counties, each of which contains no more than 17 full or fractional townships, the common council or other governing body shall have exclusive power to expend all moneys arising from taxation levied upon the real and personal property within the corporate limits of such cities, except as herein provided. (13, c. 183, §1; '26, c. 300, §1; Mar. 9, 1933, c. 69.)

In any city or village in which any law of the state prescribing or fixing any limit or requirements to be observed in the issuance of all moneys raised from taxation levied upon the real and personal property within the corporate limits of such cities, except as herein provided. (13, c. 183, §1; '26, c. 300, §1; Mar. 9, 1933, c. 69.)

In any city or village in which the tax levy is required to pay over any of the corporate funds of the city to the state to the extent that it is not inconsistent with Laws 1870, c. 31.

Chapter 131, Laws 1913, as amended by chapter 390, Laws 1925, now §§1774, 1775, violates the provision of §1, article 9, of the constitution of this state, requiring the full faith and credit of any charter adopted pursuant to Section 36, Article 4, of the state constitution. See Dun. Dig. 9130.

The proceeds of any and all bonds issued and sold under authority of this act shall be used only for the purpose herein designated, to issue the negotiable bonds of such village or city to the amount authorized by such city council; said bonds to be made in such denominations and payable at such places and at such times, not exceeding thirty years from the date thereof, as may be deemed best, to mature serially, and to bear interest at the rate not to exceed six per cent per annum, payable semi-annually, with interest coupons attached, payable at such places as may be designated therein. Provided that no such bonds shall be sold for less amount than the par value thereof and accrued interest thereon.

Provided also that such bonds shall be issued, negotiated and sold in accordance with the particular method prescribed by the laws governing villages or by the charter of the city so issuing such bonds, provided that this act and all proceedings taken hereunder shall be done pursuant to the provisions of Chapter 131, General Laws 1927 (§§1338-3 to 1338-15).

Provided further also, that the bonds authorized by this act or any portion thereof may be issued and sold by any such village or city, notwithstanding any limitations contained in the charter of such city or in any law of the state prescribing or fixing any limit upon the bonded indebtedness of such city or village. (77, c. 56, §1; Apr. 10, 1929, c. 244, §1.)

Cities of third or fourth class under home rule charter located in counties having 24 to 25 townships and 34,000 to 35,000 population, who have installed sewage disposal plants, may create a supervision commission. Laws 1929, c. 146.

Villages having populations of over 10,000 may issue bonds to complete sewage disposal plants. Laws 1929, c. 146, §1.

This act does not apply to the city of Cloquet with respect to building a sewage disposal plant, and its powers are as given by Laws 1936, c. 132. Op. Atty. Gen. (387B-9), Aug. 7, 1936.


ANNOTATIONS UNDER REPEALED SECTIONS

1805. Elections. This act was enacted as 1605-114(a).


1805. Municipalities may impose license on all producers and dealers selling, handling, or maintaining and operating a sewage purification plant and having a state institution, operated under the direction of the state board of control, located partly within and partly without the boundaries of such city. The state board of investment authorized and empowered to contract with the state of Minnesota for purification treatment of sewage produced at such state institution, upon such terms and for such period of time as the governing body of such city may determine and authorize. (Act April 29, 1935, c. 346.)

CITIES OF THIRD OR FOURTH CLASS: DOMESTIC RULES—(1835-43)

1799-7. Certain cities may contract for treatment of sewage. Any city of the fourth class, having a population of less than 3,000 inhabitants, operating under a home rule charter and maintaining and operating a sewage purification plant and having a state institution, operated under the direction of the state board of control, located partly within and partly without the boundaries of such city, may be authorized and empowered to contract with the state of Minnesota for purification treatment of sewage produced at such state institution, upon such terms and for such period of time as the governing body of such city may determine and authorize. (Act April 4, 1939, c. 146, §1.)


1805. Municipalities may impose license on all producers and dealers selling, handling, or maintaining and operating a sewage purification plant and having a state institution, operated under the direction of the state board of control, located partly within and partly without the boundaries of such city, may be authorized and empowered to contract with the state of Minnesota for purification treatment of sewage produced at such state institution, upon such terms and for such period of time as the governing body of such city may determine and authorize. (Act April 29, 1935, c. 346.)


1805. Municipalities may impose license on all producers and dealers selling, handling, or maintaining and operating a sewage purification plant and having a state institution, operated under the direction of the state board of control, located partly within and partly without the boundaries of such city, may be authorized and empowered to contract with the state of Minnesota for purification treatment of sewage produced at such state institution, upon such terms and for such period of time as the governing body of such city may determine and authorize. (Act April 29, 1935, c. 346.)


Provision requiring candidate to file not less than 15 days prior to election is not applicable to election in Shakopee to elect alderman to fill vacancy. Op. Atty. Gen., Sept. 7, 1933.


The improvement of an alley cannot be made unless 35 per cent of the abutting owners petition for it, along with a number of the owners equal to 1 per cent of all owners and 15 per cent of all owners petition. 177M28, 224NW254. Section 251-2 to city of New Ulm, under its General Law, control over its streets may reasonably prescribe a 20-foot boulevard in the middle of a residence street 120 feet wide. Op. Atty. Gen. (396d-20), Sept. 10, 1936.

Where bonds were sold pursuant to authority vested by law, and all these bonds have been paid and there is a surplus in the special street improvement fund, such surplus shall go to any other city fund. Op. Atty. Gen., July 2, 1931.

Old assessments prior to 1921 were not outlawed because city council passed ordinance in that year providing to bring city within provisions of this act. Op. Atty. Gen., Mar. 15, 1934.


Affecting petition for paving street. City of Worthington has the option of proceeding under its home rule charter, Mason's Statutes, §1815, or under §1817-18. Op. Atty. Gen. (396d-10), May 12, 1933.

A city cannot institute paving improvement under this act and then follow procedure under city charter relating to notice, resolution, voting on project and to call new election under different statute. Op. Atty. Gen. (396c-18), June 30, 1933.


Property owned by city is not to be included in giving required number of signatures to petition. Op. Atty. Gen. (396d-1), June 30, 1933.

A village operating under Laws 1885, c. 145, has option of proceeding under that law or under Laws 1919, c. 65 (§1815 et seq.), or under Laws 1924, c. 382 (§1815-10 et seq.), in making improvements referred to in several such acts. Op. Atty. Gen. (396c-7), May 21, 1937.

Several streets may be improved upon one petition. Op. Atty. Gen. (396b-1), Nov. 4, 1938.

1815. Street and alley improvements of cities of fourth class or villages—Definitions. In any city of the fourth class or village of this state, whether said city or village is acting under general or special law, or home rule charter, the council shall have power to improve any street, streets, alley or streets, or parts thereof, by laying and maintaining pavements, gutters and curbs thereon of any material which it may deem suitable, or by grading, grating, or subjecting the same to bituminous or other treatment, when, petitioned for by the owners of not less than thirty-five per cent (35%) in frontage of the real property abutting on such street, streets, alley or streets, or parts thereof, or by grating the petition as the location for such improvement. By the word "council" as used in this Act is meant the governing body; by the word "mayor," the chief executive officer, and by the word "owner" the bond owners, or persons acting for the owners of any real property abutting on the work to be done, with the directors of the locations thereof, of such municipality, by whatever title they may be respectively denominated. (19, c. 65, §1; '21, c. 419, §1; '27, c. 185, §1; Apr. 10, 1933, c. 200, §1.

Laws 1931, c. 317, legalizes proceedings previously had under this act. Feb. 11, 1933, c. 20, legalizes proceedings had under this section and sections 1816 to 1828, but not to affect pending actions or appeals. March 6, 1933, c. 277, extends to special laws 1929, c. 20.

A change in the petition or in the number of petitioners is not applicable to one improvement and 35 per cent of all petitioners own property. 177M28, 224NW254. See Dun. Dig. 1677.

Where bonds were sold pursuant to authority vested by law, and all these bonds have been paid and there is a surplus in the special street improvement fund, such surplus shall go to any other city fund. Op. Atty. Gen., July 2, 1931.

Old assessments prior to 1921 were not outlawed because city council passed ordinance in that year providing to bring city within provisions of this act. Op. Atty. Gen., Mar. 15, 1934.


Affecting petition for paving street. City of Worthington has the option of proceeding under its home rule charter, Mason's Statutes, §1815, or under §1817-18. Op. Atty. Gen. (396d-10), May 12, 1933.

A city cannot institute paving improvement under this act and then follow procedure under city charter relating to notice, resolution, voting on project and to call new one under different statute. Op. Atty. Gen. (396c-18), June 30, 1933.


Property owned by city is not to be included in giving required number of signatures to petition. Op. Atty. Gen. (396d-1), June 30, 1933.


A village operating under Laws 1885, c. 145, has option of proceeding under that law or under Laws 1919, c. 65 (§1815 et seq.), or under Laws 1924, c. 382 (§1815-10 et seq.), in making improvements referred to in several such acts. Op. Atty. Gen. (396c-7), May 21, 1937.

Several streets may be improved upon one petition. Op. Atty. Gen. (396b-1), Nov. 4, 1938.


A number of streets all connecting with same main street may be included in one project. Op. Atty. Gen. (396d-6), Sept. 26, 1936.


Village may not separate one improvement into several projects in order to avoid advertising for bids. Op. Atty. Gen., (396c-7), Oct. 6, 1938.


Village may not separate one improvement into several projects in order to avoid advertising for bids. Op. Atty. Gen., (396c-7), Oct. 6, 1938.


1821. Assessment. After a contract is let, or after the work is ordered done by day labor as herebefore provided, the clerk with the assistance of the engineer or other person selected by the council to perform the duties of engineer, shall forthwith calculate the proper amount to be specially assessed for such improvement against every assessable lot, place or parcel of lands or improvements thereby affected, with regard to cash valuation, in accordance with the provisions of Section 3 of this act, and the proposed as-
street within said city by a resolution adopted by a
majority vote of the council after a meeting at which
all persons interested had been notified to be present
by a notice of such meeting published in the official
newspaper and has caused plans and specifications
for such improvement to be made and has advertised
for bids for such improvement and has entered into
contracts for the construction thereof subject to the
approval of the federal emergency administration
of public works, the United States of America having
previously offered a grant to aid in financing such
improvement which said offer has been duly accepted
by the city council, the council hereby legis-
lated and declared to be valid and of full force and ef-
tect and the city council of such city is hereby au-
torized to proceed with the making of said improve-
ment, with the levy and collection of assessments and
the issuance of certificates of indebtedness for all
as provided by Mason's Minnesota Statutes of 1927,
Sections 1820, 1821, 1822, 1823, 1824, 1825, 1826,
1827 and 1828. (Jan. 13, 1936, Ex. Ses., c. 9, §1.)

1829. Tax sales. — These sales shall be at public
sale in the city, or at some convenient place therein,
upon the petition of all the owners of any property
adjoining the street or streets upon which such sale
shall be made, or failure to pay the whole or any
installments thereof, or if the owner so desire, at
public sale in any other city or county, in the same
manner as the same property would have been sold
under the requirements of law if such property
had been situated within the city limits.

1829-1. Same—pending actions not affected.—
This act shall not apply to or affect any action or ap-
peals now pending in which the validity of any such
proceedings is in question. (Jan. 14, 1936, Ex. Ses.,
c. 9, §2.)

1829-2. Extension or repair of pumping plants,
reservoir systems or water mains.

1829-3. City Council may vacate street, water
or sewer line or public right of way; and in
any city of the fourth class organized under a
home rule charter, the council thereof shall have
power, by a majority vote of the council to vacate
any street or highway or any part of any street or high-
way herein, upon the petition of all the owners
of any lands abutting both sides of any such street or high-
way or part thereof proposed to be vacated wherein
one end of any such street or highway or part thereof,
proposed to be vacated, does not connect with any
other street or highways. Except as herein provided
all other provisions of such home rule charter shall
apply to and govern any such vacation proceeding.
(Act Mar. 20, 1933, c. 95, §1.)

1829-9 1/4a. Application.—This act shall apply to
any proceeding now pending before the city council
of any such city wherein the conditions set forth
in Section 1 of this act exist. (Act Mar. 20, 1935, c.
95, §2.)

1829-9 1/4b. Not to affect pending actions.—The
provisions of this act shall not affect any action or pro-
ceeding now pending in any of the Courts of this State
in which the validity of such street vacation by the
council of any such city is involved. (Act Mar. 20, 1933,
c. 95, §3.)

1829-10 1/2. Certain cities may establish police re-
tirement fund—Tax levy.—That any city of the fourth
class now or hereafter having property, exclusive of
moneys and credits of an assessed valuation of more
than $4,000,000.00, may, at the discretion of the city
council or other governing body, establish and pro-
vide by ordinance for the accumulation, administra-
tion and distribution of a police pension fund, and for
the payment direct from current funds of pensions, for
the benefit of all police officers retired or honorably
discharged at or after reaching the age of 65 years,
the last preceding 25 years of which time has been
or shall have been spent as a police officer in the serv-
ce of such municipality. Provided, however, that
no such pension shall in any case exceed 40 per cent of
the salary of such officer at the time of retirement,
and any case except, however, an amount or portion
in case be paid after the death of such officer to any de-
pendent or other person whomsoever, nor be subject
to garnishment, attachment or other legal process.

1828-9 1/2. Certain cities may establish police re-
tirement fund—Tax levy.—That any city of the fourth
class now or hereafter having property, exclusive of
moneys and credits of an assessed valuation of more
than $4,000,000.00, may, at the discretion of the city
council or other governing body, establish and pro-
vide by ordinance for the accumulation, administra-
tion and distribution of a police pension fund, and for
the payment direct from current funds of pensions, for

taxable property of such municipality, and may pro-
vide for the use of said purposes of some portion of 
of the fines and penalties collected by said municipality 
from time to time. (Act Apr. 20, 1929, c. 278.)

1828-10 34. Application of act.—This act shall ap-
ply to every city of the fourth class, whether governed 
by home rule charter or otherwise, having an assessed 
value of more than $8,000,000, in which the city 
council shall have or hereafter may have adopted, 
by majority vote, a resolution electing to come under 
the provisions hereof. In the event any city shall at 
any time subsequently determine not to continue 
thereunder notwithstanding any subsequent 
change in classification or valuation. (Act Apr. 13, 
1935, c. 170, §1.)

Act is constitutional. Nichols v. C., 204 Minn., 283 NW 
539.

Resolution of city council adopted October 22, 1935, 
to take effect as of July 1, 1936, became operative at 
once upon adoption, and it is doubtful whether council 
may suspend or rescind the resolution by July 1, 1936. 


1828-10 34a. Police department may incorporate. 
—The police department in any such city is hereby 
authorized to become incorporated pursuant to the 
provisions of any laws of the State of Minnesota and 
to incorporate and by-laws as a relief association. 
All members of such department at the time of the 
taking effect of this act and all persons subsequently 
becoming members of such department shall be members 
of such association, and all municipal court officers and 
persons appointed for temporary service or for probationary 
periods; provided that for purposes of this act no employment 
after six months shall be considered to be temporary or 
probationary. (Act Apr. 13, 1935, c. 170, §2.)

1828-10 34b. Termination of membership.—Every 
person shall cease to be a member of said association 
upon the termination, from any cause, of his employ-
ment in said police department, except as he may be 
entitled to receive benefits hereunder or under the by-
laws of said association subsequent to such termina-
tion. (Act Apr. 13, 1935, c. 170, §3.)

1828-10 34c. Retirement.—Pension.—When any 
member of said association shall have reached the age 
of 55 years he may retire and shall thereupon be 
entitled to a pension as long as he shall live, at the 
following rates:

(a) $75.00 per month when such member shall 
have served as a member of the said police depart-
ment for at least 20 years and for 20 years 
temporary employment or probationary periods, as 
hereinbefore defined.

(b) An additional five dollars per month for each 
year served after 20 that such person may have 
have served as a member of such police department after 
the age of 55 years. The total amount of pension 
hereunder shall in no event exceed $100 per month.

(c) In the event such member shall retire after 
reaching the age of 55 or more and after having 
been a member of said department for at least ten years, 
but before having served 20 years in said department, 
the amount of pension which he shall receive shall 
be that proportion of $75.00 per month which the years 
of service in said department prior to retirement bear 
to 20 years, major fractions of years of service to be 
treated as one year and minor fractions to be disre-
garded.

(d) In no event shall temporary employment or 
employment for probationary period, as hereinbefore 
defined, be considered in computing pension allow-
ance as seconded.

(e) In the event any member shall be discharged 
from the service of said police department after hav-
ing served 20 years or more and before such member 
has reached the age of 55, he may, upon a vote of a 
majority of the members of such association, be 
permitted to continue as a member of such associ-
ation, notwithstanding that he is no longer a member 
of said police department, and upon reaching the age 
of 55 years, shall be entitled to a pension at the rate 
of $75.00 per month; provided that in such event 
said member shall make application to said associa-
tion for such privilege within six months from the 
time he is discharged and shall contribute each month 
after said discharge, and until reaching the age of 55 
years, to the pension fund of said association an 
amount of money equal to 3/4% of the then average 
monthly pay of members of said department holding 
the rank held by said member at the time of dis-
charge. In the event the association approves such 
application, such member shall be paid by the city 
monthly pay into said association for the pension fund 
the monthly installments herein provided for the pe-
riod between his discharge and the time of said first 
payment. Therefore the event of his discharge is 
default in the payment of such monthly installments 
and such default shall continue for a period of sixty 
days, all rights hereunder shall cease. (Act Apr. 13, 
1935, c. 170, §4.)

1828-10 34d. Retirement not compulsory.—Retire-
ment at the age of 55 years shall not be compulsory, 
but when such member shall have reached 55 years 
of age the police civil service commission, if one 
exists in such city, or if not the board of commission 
charged with the administration of the department 
of police of said city shall have the right to insist upon 
the retirement of such member at the age of 55 years, 
regardless of the provisions of any civil service laws. 
(Act Apr. 13, 1935, c. 170, §5.)

Civil service commission of city of Eveleth has right 
to insist upon retirement of members of the depart-
ment, who are over sixty years of age, even over objec-

1828-10 34e. Tax levy for fund.—For the support 
of the fund proper, such as have retroactive effect 
the city council or other governing body of such city shall 
each year, at the time the tax levies are made for the 
general revenues of the city, levy within the limits per 
annum the tax on the general revenues of the city in the sum of $10,000.00 per annum, which levy shall be transmitted to the county auditor 
of the county in which the city is located at the time 
the other tax levies are transmitted and shall be col-
llected and the payment enforced in the same manner 
as other taxes of such city. In addition thereto, each 
member of said association shall be required to contri-
bute to such fund each month one per cent of his 
monthly pay, such sum to be deducted at the time of 
his employment or the payment of his salary or wages by the city 
and transferred to such fund. In addition thereto, such 
association may transfer to such fund moneys 
raised from other sources and under the control of 
such city. In the event the act is constitutional. Nichols v. C., 204 Minn., 283 NW 
361.
members also provided for. Members of such board and the officers thereof shall hold their terms of office for such times as may be provided in the articles of Incorporation or by-laws of such association. (Act Apr. 13, 1935, c. 170, §8.)

1828-16 §5b. Police pension fund.—The city treasurer shall be the custodian of all funds of such relief association. All moneys raised by taxation as provided for and all other funds received by such association shall be paid to the city treasurer and shall be kept by him in a separate fund called "Police Pension Fund;" upon the written direction of the board of directors of said association, the city treasurer shall invest said fund in such interests as shall be determined by the board of directors; provided that the same shall be such securities as may be prescribed from time to time by the laws of Minnesota as permissible investments for trust funds of the State of Minnesota by the State Board of Investment, except that in addition thereto such funds may be invested in first mortgages upon improved real estate located in said city. (Act Apr. 13, 1935, c. 170, §9.)

1828-16 §5c. Report—Filing.—The board of directors of said association shall file annually, on or before March first of each year, in the office of the clerk of said city, a detailed report of the amount of money received, expended and remaining on hand to the credit of said fund. The books and records of said board shall be open to inspection and audit by any taxpayer of said city or his duly authorized representative, and shall be audited with other books and records of the city at the time of the making of any general city audit. (Act Apr. 13, 1935, c. 170, §10.)

1828-16 §5j. Expenses.—Actual expenses in connection with the making of investments may be paid from such fund or by any authorized agent in the business of the board of directors, but no salaries or fees shall be paid to any officer or agent thereof. (Act Apr. 13, 1935, c. 170, §11.)

1828-16 §5k. Deductions from pay to be repaid in certain cases.—Whenever a member of said association shall cease to be a member of said department for any reason other than death or retirement, he shall be paid, on demand, the full amount of accumulated deductions from pay standing to his credit. Whenever any member shall die without having received the full amount of accumulated deductions from his salary hereinbefore provided for, the full amount of said accumulated deductions, as the same shall have been paid to said member, shall be paid in one lump sum to the beneficiary or beneficiaries designated by such member or, if none, to the legal representatives of such member; provided, however, if no valid claim is established thereof, such accumulated dividends shall remain with and become the property of said association. No member shall be entitled to interest upon deductions under the provisions of this paragraph. (Act Apr. 13, 1935, c. 170, §12.)

1828-16 §5l. Health and accident benefits.—In addition to the pension fund and pension payments provided hereunder, the said relief association may by proper by-laws provide for the payment of additional health or accident benefits to members of said association, or to any member thereof, his widow, or of deceased members thereof. For the payment of such additional benefits such relief association may assess all members of said police department an additional amount not exceeding two per cent of the monthly pay of such members. The plan and schedule of such benefits and the amount of such additional assessments upon members shall be approved by a majority vote of the members of the board, and the same shall be paid by all members of the board or by the officers of said association. Such additional payments shall be made from a fund to be known as the "Police Relief Fund," which shall be kept separate from all other funds of the city and separate from the police pension fund herebefore provided. Such fund shall not be supported by taxation, but shall be supported by the additional assessments herein provided for and in such other ways as the by-laws of such association may from time to time provide. (Act Apr. 13, 1935, c. 170, §13.)

1828-16 §5m. Limitations.—No pension payments shall be made hereunder to any person while he is in the employ of such city or of any capacity or while he is an employee of the State of Minnesota, or while he is receiving a pension from any public funds; provided that if any such person is in the employ of the city or of the state, or is receiving pension from any public funds, and the amount of his monthly compensation or pension is not equal to the monthly pension to which he is entitled hereunder, the difference shall be paid to him. (Act Apr. 13, 1935, c. 170, §14.)

1828-16 §5n. Membership.—Members of such relief association shall not be compelled to become members of the Municipal Employees Retirement Association established by Laws 1828, Chapter 307, or any amendatory thereof, and if already members of said association shall, upon the establishment of the relief association hereunder, cease to be members thereof or to receive from said association any pension payments, an amount equal to the total amount of accumulated deductions of pay contributed to said association in the same manner as they would be entitled thereto upon ceasing to be employees of said municipality. (Act Apr. 13, 1935, c. 170, §15.)

1828-16 §5o. Retirement pensions for firemen in certain cities.—In any city of the fourth class having a population in excess of 6,000 and not more than 10,000 and a valuation in excess of $3,000,000.00, exclusive of money and credits, and an area of more than 120 square miles, having the boundaries of the Municipal Employees Retirement Association organized under the laws of this State and authorized to pay pensions under Mason's Minnesota Statutes of 1927, Sections 1919 and 1920 and Sections 3723 to 3725, inclusive, or any amendments thereof, such Fire Department Relief Association may pay retirement pensions in excess of the amounts authorized by said statutes, but not in excess of the following total amounts:

Seventy-five dollars per month to each member of the association who shall have reached the age of 55 years and shall have served 20 years or more as a member of the paid municipal fire department in such city. The monthly payments of $75.00 may be increased by adding thereto an amount not exceeding 25 percent of such sum for each year of service in excess of 20 years of service before retiring; provided, that no such pension or payment hereunder shall exceed the sum of $96.00 per month. No such pension shall be paid to any person while he remains a member of the Fire Department. (As amended Apr. 2, 1937, c. 132; Apr. 17, 1937, c. 253, §1.)

1828-10 §4a. Who may receive pension.—No pension authorized by this act shall be paid to any person receiving a pension in any form or sick benefits from any state, county, city, village, township or other political subdivision of the State, or to any person after he removes his residence from the United States, or to any person who shall have been convicted of a felony for which sentence has been imposed or who is a habitual drunkard, or to any person receiving a pension or sick relief from any other public relief association, and no person receiving such pension shall be entitled to any other relief from the association. (Act Apr. 17, 1935, c. 208, §2.)

1828-10 §4b. May pay benefits.—Nothing herein shall be construed as preventing any such association from paying any benefits other than service pensions which they may be authorized to pay to members of the association under the General Laws of this State or of the Statutes hereinafore referred to, except that such benefits shall not be paid to any member
while he is receiving a pension hereunder. (Act Apr. 17, 1935, c. 208, §3.)

1828-16¾c. Not to be subject to process.—No pension allowed or to be allowed by any Firemen's Relief Association under this act, and no accumulated contributions of members to the fund hereinafter referred to shall be liable to judgment, garnishments, or executions or other legal process, and no person entitled thereto shall have any right to assign, nor shall the association have the power to recognize any attempted assignment or pay over any sum which has been assigned or attempted to be assigned. (Act Apr. 17, 1935, c. 208, §4.)

1828-16¾d. Deductions from pay—Tax levies.—In addition to the moneys in the special fund of said association or provided to be raised therefor under existing laws for the payment of pensions and other benefits, revenues from the following sources shall be paid to said special fund, to-wit: It shall be the duty of the city clerk, treasurer or other disbursing officer of such city to deduct each month from the monthly pay of each member of the fire department, who is a member of the association, a sum equal to three and one-half per cent of such monthly pay, and to place the same to the credit of said special fund. The city council or other governing body of such city, at any time the tax levies are made for the general revenues of the city, levy within the per capita or mill limitations now permitted by law, a tax of $5,000.00 on all of the taxable property of such city, which levy shall be transmitted to the county in which the city is situated at the time the other levies are transmitted and shall be collected, and the penalties therefore shall be enforced. In the same manner as the other levies of such city, the city treasurer, when the moneys derived from such tax are received by him, shall pay the same to the treasurer of the fire department's relief association, together with all penalties and interest collected thereon, in the following manner: Of the first levy made after the passage of this act and its adoption by said city, an amount not to exceed one-half of such levy may, at the discretion of the board of trustees of said relief association, be placed to the credit of the general fund of said association. The balance of said levy, as well as all subsequent levies, shall be credited to the special fund of said association, and shall not be withdrawn from said fund or transferred to any other fund except for the purpose of this act; provided however, that said board of trustees may, in its discretion, pay premiums upon the bond of the treasurer and secretary from said special fund. (Act Apr. 17, 1935, c. 208, §5; Mar. 31, 1939, c. 124.)

1828-16¾f. Tax levies to be omitted in certain cases.—If at any time the balance on hand of the fund so raised by taxation as in this section provided, together with other resources in said special fund, shall exceed the sum of $50,000.00 or more, then as often as this shall occur, the levy of said sum shall be omitted for any year in which said condition shall exist; if at any time the whole amount of the sums that may be raised by taxation in any year is not needed for the purposes of this act and the maintenance of said fund at the amount prescribed herein, then such sum so to be raised by taxation in any such year shall be proportionately reduced to such amount as will be sufficient to carry out the provisions hereof. (Act Apr. 17, 1935, c. 208, §6.)

1828-16¾g. Treasurer to invest funds.—The treasurer shall upon written direction of the governing body or board of directors thereof, invest said funds in such interest-bearing securities as are specified, from time to time, by said board of directors; provided same shall be such securities as are approved by the Board of Minn. time, as securities for investments, of the State Board of Investment. (Act Apr. 17, 1935, c. 208, §7.)

1828-16¾h. Must file report.—The said governing board of said association shall file an annual report on or before the first day of January of each year, the same to be filed with the City Clerk of said City a detailed report of the amount of money or property so received, expended, and still remaining on hand to the credit of said fund. The books and records of said board shall be open to inspection and audit by any taxpayer of said City or its duly authorized representative. (Act Apr. 17, 1935, c. 208, §9.)

1828-16¾i. Deductions refunded in certain cases. Whenever a member of said association shall cease to be a member of said department, for any reason other than death or retirement, he shall be paid, on demand, the full amount of the accumulated deductions from pay standing to his credit. Whenever any member shall die without having received a pension, or without having received in pension payments an amount equal to the total amount of the accumulated deductions from his salary heretofore provided for, the full amount of such accumulated deductions, less the amount paid in pension payments, if any, as have been made to said member shall be paid in one lump sum to the beneficiary or beneficiaries designated by such member, or if none, to the legal representatives of such member; provided, however, if no valid claim is presented therefor, the treasurer, in his discretion, shall remain with and become the property of said association. Provided however that if any member shall pay any regular (or monthly) payment for sick relief or hospitalization while a member of any department, under any plan approved by the association, such amount may be deducted from the 3½ per cent of the member's salary heretofore mentioned. No member shall be entitled to interest upon deductions under the provisions of this paragraph. (Act Apr. 17, 1935, c. 208, §10.)

1828-16¾j. Same.—Change in value, area or population not to affect pensions. Whenever any city shall come under the provisions of this act it shall continue subject to the provisions of this act notwithstanding any subsequent change in the valuation, area or population. (Act Apr. 2, 1937, c. 132, §2; Apr. 17, 1937, c. 253, §2.)

Sec. 3 of Act Apr. 2, 1937, cited, provides that the Act shall take effect from its passage.

Sec. 3 of Act Apr. 17, 1937, cited, provides that the Act shall take effect from its passage.

GENERAL INCORPORATION ACT FOR CITIES AND TOWNS

1828-17. Incorporation—petition—first election.—That inhabitants of contiguous territory not organized as a city and having not less than one thousand
§1828-17  
CH. 9—VILLAGES AND CITIES

(1000) inhabitants nor more than ten thousand (10,000) inhabitants, may become incorporated as a city of the Fourth Class as hereinafter provided:

(a) A petition addressed to the County Board of the county in which the whole or the larger part of said territory is located, which territory had theretofore been organized into one or more adjoining boroughs or villages, or not, which is signed by one-fourth of the number of legally qualified voters residing in the territory proposed to be incorporated as a city, that voted in said territory at the last preceding general election for state officers, may be filed with the County Auditor of said county praying that a city of the Fourth Class be established in said territory, and that an election be called to determine whether or not such city shall be incorporated. Such petition shall set forth the metes and bounds of the proposed city and of the several wards thereof, and the population thereof, and the number of voters voting in said territory at the last general election for state officers. The residence of each signer shall be stated opposite the signature, but the signatures to the petition need not be appended to one paper. The petition shall be verified by the oaths of at least three of the petitioners, declaring the statements made in said petition to be true. In addition thereto the petition shall be prima facie evidence, the County Board in said resolution shall designate the time and place of holding a special election upon said proposition, and in said resolution shall designate the time and place of holding of said election and conduct the same in accordance with law. State v. City of Chisholm, 199 M. 403, 273 NW 235. See Dun. Dig. 6545.

(b) If it shall appear that such petition is in due form, complies with the provisions hereof, and is signed by the proper number of electors residing in the territory sought to be incorporated in the proposed city, of which latter fact the affidavit of the petitioners procuring signatures on such paper and the signatures to the petition need not be appended to one paper, the petition shall be verified by the oaths of at least three of the petitioners, declaring the statements made in said petition to be true. In addition thereto the petition shall be prima facie evidence, the County Board shall adopt a resolution approving said petition, and in said resolution shall designate the time and place of holding a special election upon said proposition, which election shall take place not less than 30 nor more than 40 days from the time of said petitioning and filing said petition with the County Auditor; and the County Board in said resolution shall specify the location of the polling place in each ward, and that the polls will be open from 8 A. M. to 8 P. M., and shall prescribe a form of notice of such special election, a copy of which shall be attached to the resolution, in which notice shall be stated the time of such special election, the location of the polling place in each ward, the hours during which the polls shall be open, together with a statement of the question to be voted upon. Thereupon the County Auditor shall cause a copy of said petition, resolution and notice to be posted in at least five conspicuous places in said proposed city, at least 20 days prior to the date of such election, and shall cause said notice to be published in some legal newspaper published in the proposed city at least once each week for two consecutive weeks, and if there be no newspaper published therein, then in a newspaper published in the same county.

(c) The County Board in its resolution shall also name three legally qualified voters residing in said proposed city to act as Inspectors of Election, not more than one of whom shall be a resident of any single ward if there be three or more wards, who shall act as Inspectors of Election, who shall supervise the holding of said election and conduct the same in accordance therewith as applicable to the election of village officers in such territory. The County Board in its resolution shall also name and appoint three judges and two clerks of election for each ward who shall be legally qualified voters residing within the precincts of such ward. The said judges and clerks of election prescribed by the general election laws. When the polls have been closed they shall correctly count and record the results of the election, tabulating the same and delivering said results and tabulations to the Inspectors of Election. Thereupon the Inspectors of Election shall certify the results of election and forthwith make and file with the County Auditor a certificate declaring the time and place of holding of the election, that they have canvassed the ballots cast thereat, and the number cast, both for and against said proposition, and the final results thereof. The certificate shall be signed and verified by at least two of said Inspectors to the effect that statements thereof are true. The Inspectors shall preserve all ballots, tally sheets, and tabulations pertaining to said election, and forward the same in sealed containers to the County Auditor as soon after said election as conveniently may be to be by him kept according to law.

(d) At such special election only the proposition of incorporation of the proposed city shall be submitted to the voters for acceptance or rejection. The ballots shall bear the words "For Incorporation of the City of , Yes—No," with a square after each of the last two words, in one of which the voter may make a cross to express his choice. In the blank space shall be filled in the name of the proposed city, of which latter fact the affidavit of the person administering oaths, that each signature is the genuine signature of the elector whose name purports to be thereunto subscribed, and that three-fifths of the votes cast on the proposition were in the affirmative, he shall forthwith make and transmit to the Secretary of State a certified copy of the original poll and tabulations to be voted upon. Thereupon the County Auditor shall attach said certificate of Inspectors of Election to the original petition, with a copy of the resolution of the County Board, and notice calling the election and naming the officers of election, and the original proofs of posting and publishing of the election notice, and file the whole as being a part of the record of the incorporation of the proposed city. Only voters having complied with the laws applicable to voting in the territory where they reside shall have the right to vote.

(e) The County Auditor shall attach said certificate of Inspectors of Election to the original petition, with a copy of the resolution of the County Board, and notice calling the election and naming the officers of election, and the original proofs of posting and publishing of the election notice, and file the whole as being a part of the record of the incorporation of the proposed city. Only voters having complied with the laws applicable to voting in the territory where they reside shall have the right to vote.

(f) In determining whether territory beyond mined areas is fit for municipal government, motive in reaching out for it so as to derive revenue therefrom is proper to consider. Id.

An admission of a town in its pleading does not preclude interveners from that town to prove that facts are to contrary in proceeding involving validity of organization and boundaries of a city. Id.

In proceeding involving validity of organization and boundaries of a city, defense of laches, waiver, and estoppel is not made out from loans obtained from state board of investment, nor from fact that it vanced a road within its territory or has functioned as a city in other respects. Id.

Adoption of a home-rule charter does not preclude court from determining whether territory included in city is lawfully lawful for city as churches, waiver, and estoppel is not made out from loans obtained from state board of investment, nor from fact that it vanced a road within its territory or has functioned as a city in other respects. Id.

A water, light, power and building commission can only be abolished in the manner provided by §1826-15, and that village commission has become incorporated as a city of the fourth class. Op. Atty. Gen. (484a-2), Nov. 7, 1924.

Where village was established as city of fourth class by election held on Sept. 1, 1924, and Oct. 8, city officials were elected and served all the duties of a city except that no home rule charter was adopted, which was to take effect 30 days after election to incorporate village as city pursuant to new home rule charter, though such levy may be a city. Op. Atty. Gen. (484a-2), Nov. 7, 1924.
1828-18. Corporate powers in general.—Upon filing of the petition aforesaid, with the Secretary of State as aforesaid, the inhabitants within the metes and bounds therein described shall thenceforth be a body politic and corporate subject to and with the power to act under the authority of all the provisions of this act. They shall have power to sue and be sued, complain and defend in any court, make and use a seal and keep the same; and at all times name, purchase, lease and convey any real or personal or mixed estate as the purpose of the corporation may require, within or without the limits aforesaid; shall be capable of contracting and being contracted with; and shall have the general powers possessed by the city of St. Paul, in the exercise of the police power, and in addition thereto shall possess the powers hereinafter specifically granted and shall have and possess all the powers granted and applicable to cities of the Fourth Class not existing or operating under a Charter adopted in pursuance of Section 36, Article 4, of the Constitution of the State of Minnesota, or a special Charter, and the authorities thereof shall have perpetual succession. (21, c. 462, §2; Apr. 21, 1931, c. 239, §2.)

City of New Ulm, regardless of charter provisions, has the power to open and deepen the channel of the Minnesota River below the city to facilitate the flow of the water and prevent the contamination of city water. Op. Atty. Gen., Aug. 11, 1931.


On incorporation of city of fourth class with home rule charter right of those holding position under special charter to retain their position subject to whether or not the change of rights depends upon whether departments in which they are employed are continued or discontinued under the new government. Op. Atty. Gen. (484a-2), Nov. 7, 1934.

1828-10. First election.—Within 15 days after the completion of the incorporation of such city as aforesaid, the Board of Trustees shall by resolution, set the time and place of holding the first election of officers therein, which shall be not less than 30 days or more than 40 days after filing of the incorporation papers with the Secretary of State. The County Board shall in the same resolution appoint three judges and two clerks of election for each ward, who shall be a legally qualified voter residing in their respective wards, and in addition thereto shall appoint three legally qualified voters in said city, but not more than one from each ward thereof, if there be three or more wards, who shall conduct the said first election of officers in said city and who shall be the inspectors thereof, and shall take the usual oath or affirmation in the general laws of the State to be taken by the judges and inspectors of elections, and shall have the power to administer the necessary oaths; and the persons so named as inspectors of the election, shall hold and conduct the same in the manner and under the same penalties as provided by the laws of this State regarding elections and shall have power to fill vacancies in the board of inspectors, and among the judges and clerks of election.

When said city election is closed and the number of votes for each person voted for shall have been counted and ascertained, the judge and clerks of election shall make return thereof stating the number of votes for each person for each and every office and shall deliver or cause to be delivered such returns to one of the said inspectors within two (2) days after such election, and the said inspectors (or majority thereof) shall meet and canvass said returns and declare the result within one (1) day thereafter. The inspectors canvassing said returns and declaring the result shall forthwith notify the officers elected of their election by written notice served upon such officers in person or left at their usual place of abode within ten days after election. (21, c. 462, §2; Apr. 21, 1931, c. 289, §3.)


A registration act would not apply to first election of officers for newly incorporated city where it would result in disfranchisement of some of the residents of the new city. 1d.

1828-20. Terms of office of officers.

Term of village municipal judge may not be changed by a city incorporated in accordance to the laws of this state regarding elections and shall have perpetual succession. (21, c. 462, §3; Apr. 21, 1931, c. 289, §3.)


1828-23. Vacancies. Whenever a vacancy shall occur in the office of Alderman by death or removal or resignation or otherwise, the common council shall have power and it shall be their duty to declare the vacancy vacant by resolution entered upon their minutes. Such vacancy shall be filled by a new election, held on in the ward which has been deprived of representation on the council by the creation of such vacancy, which shall be ordered by the common council within 10 days after such vacancy is declared, and shall be held within 20 days after such declaration. Any reasonable notice of such election shall be given. Any vacancy occurring in any other office shall be filled by a resolution of the common council adopted by a majority vote of the remaining members of the council within 15 days after such vacancy occurs unless otherwise provided for. A person elected or appointed to fill a vacancy shall hold his office and discharge the duties thereof, for the unexpired term of the office in the office of Alderman by death or removal or resignation or otherwise, and his successor is elected or appointed and is entitled to compensation therefor. Op. Atty. Gen. (785d), Jan. 31, 1938.


Special election on bond issue for parks and playgrounds may be held a day other than primary election or general election, but a special ballot box must be provided. Op. Atty. Gen. (641), Apr. 5, 1938.

1828-28. Qualifications of electors and candidates for office, etc.


1828-31. Special election. [Repealed.]

Repealed by Act Apr. 21, 1931, c. 345, Pt. 12, §1, ante 661-12, effective Aug. 1933.

Amended Apr. 10, 1933, c. 203, §1.

Procedure under this subdivision may be followed by city of St. James as regards notice of special elections. Op. Atty. Gen., June 24, 1933.


DUTIES OF OFFICERS

1828-32. Officers vacated, when.

An officer appointing or directing a vacancy or one elected to city office must qualify within ten days after receiving notice. Op. Atty. Gen., Oct. 19, 1933.

1828-35. Oaths of office—Bonds.

A city treasurer is guilty of malfeasance by depositing or removing money lost through failure of the newly elected treasurer was entitled to books and records of former village treasurer's office. Op. Atty. Gen. (651), Nov. 14, 1934.

1828-20. Terms of office of officers.

Term of village municipal judge may not be changed by a city incorporated in accordance to the laws of this state regarding elections and shall have perpetual succession. (21, c. 462, §2; Apr. 21, 1931, c. 289, §2.)


1828-24. Elective officers.—The elective officers of each city shall be Mayor, Treasurer, Recorder, and one Justice of the Peace, who shall be styled City Justice, all of whom shall be qualified voters of the city and two aldermen in each ward who shall be qualified voters therein. All officers for said city shall be appointed by the Common Council unless otherwise provided and all said officers shall hold their offices for two years and until their successors are elected and qualified. (21, c. 462, §8; Apr. 10, 1933, c. 203, §1.)

Where at end of two year term mayor reappoints chief of police, and other employees of city, the practice of not paying such officer, such officer holds over until his successor is elected or appointed and is entitled to compensation therefor. Op. Atty. Gen. (785d), Jan. 31, 1938.

1828-26. Qualifications of electors and candidates for office, etc.


1828-31. Special election. [Repealed.]

Repealed by Act Apr. 21, 1931, c. 345, Pt. 12, §1, ante 661-12, effective Aug. 1933.

Amended Apr. 10, 1933, c. 203, §1.

Procedure under this subdivision may be followed by city of St. James as regards notice of special elections. Op. Atty. Gen., June 24, 1933.


DUTIES OF OFFICERS

1828-32. Officers vacated, when.

An officer appointing or directing a vacancy or one elected to a city office must qualify within ten days after receiving notice. Op. Atty. Gen., Oct. 19, 1933.

1828-35. Oaths of office—Bonds.

A city treasurer is guilty of malfeasance by depositing city funds in an undesignated bank of which he is stockholder, director, and in which his bond is liable for money lost through failure of the
bank, notwithstanding stipulation in bond relieving
safety from liability for loss caused by failure of any
bank or other depository, and there is liability under a
bond for funds wrongfully deposited during its term,
though bank does not fail until afterwards. City of

1828-36. Duties of Mayor.—The mayor shall pre-
side at all council meetings at which he is present
and shall have a vote. He shall have a seat among the
members of the council on any matter coming before that body.
He shall have no veto power.

He shall take care that the laws of the state and the
by-laws of the city are duly observed and enforced,
and that the business of the city is conducted in such a
manner as to be advantageous to the city. The mayor shall be the
chief executive officer and head of the police of the city,
and shall appoint such police officers and watch-
men, except when otherwise provided for.

And in case of a riot or other disturbances, he may
appoint as many special or temporary constables as
he may deem necessary; and any police officer or
constable may renew or refund such mortgage. Laws 1939, c. 190.

Laws 1870, c. 31, and General Statutes 1804, §1195, under which city of Marshall was established were
repealed by the city, and may be applied to cities incorporated thereafter, as modified by later enactment, and a city assessor may be

1828-33. Officers—Other duties—Compensation.

The mayor may not be interfered with in his discharge of duties as a police officer or watchman, appointed by the mayor as aforesaid, may be
appointed by the city, and shall appoint such police officers and watch-
discharged from office by him whenever in his
time give the common council such informa-
tion and recommend such measures as he may deem
advantageous to the city. The mayor shall be the
chief executive officer and head of the police of the
city, and shall appoint such police officers and watch-
men, except when otherwise provided for.

And in case of a riot or other disturbances, he may
appoint as many special or temporary constables as
he may deem necessary; and any police officer or
constable may renew or refund such mortgage. Laws 1939, c. 190.

Laws 1870, c. 31, and General Statutes 1804, §1195, under which city of Marshall was established were
repealed by the city, and may be applied to cities incorporated thereafter, as modified by later enactment, and a city assessor may be

1828-33. Officers—Other duties—Compensation.

The mayor may not be interfered with in his discharge of duties as a police officer or watchman, appointed by the mayor as aforesaid, may be
appointed by the city, and shall appoint such police officers and watch-
discharged from office by him whenever in his
time give the common council such informa-
tion and recommend such measures as he may deem
advantageous to the city. The mayor shall be the
chief executive officer and head of the police of the
city, and shall appoint such police officers and watch-
men, except when otherwise provided for.

And in case of a riot or other disturbances, he may
appoint as many special or temporary constables as
he may deem necessary; and any police officer or
constable may renew or refund such mortgage. Laws 1939, c. 190.

Laws 1870, c. 31, and General Statutes 1804, §1195, under which city of Marshall was established were
repealed by the city, and may be applied to cities incorporated thereafter, as modified by later enactment, and a city assessor may be

1828-33. Officers—Other duties—Compensation.

The mayor may not be interfered with in his discharge of duties as a police officer or watchman, appointed by the mayor as aforesaid, may be
appointed by the city, and shall appoint such police officers and watch-
discharged from office by him whenever in his
time give the common council such informa-
tion and recommend such measures as he may deem
advantageous to the city. The mayor shall be the
chief executive officer and head of the police of the
city, and shall appoint such police officers and watch-
men, except when otherwise provided for.

And in case of a riot or other disturbances, he may
appoint as many special or temporary constables as
he may deem necessary; and any police officer or
constable may renew or refund such mortgage. Laws 1939, c. 190.

Laws 1870, c. 31, and General Statutes 1804, §1195, under which city of Marshall was established were
repealed by the city, and may be applied to cities incorporated thereafter, as modified by later enactment, and a city assessor may be

1828-33. Officers—Other duties—Compensation.

The mayor may not be interfered with in his discharge of duties as a police officer or watchman, appointed by the mayor as aforesaid, may be
appointed by the city, and shall appoint such police officers and watch-
discharged from office by him whenever in his
time give the common council such informa-
tion and recommend such measures as he may deem
advantageous to the city. The mayor shall be the
chief executive officer and head of the police of the
city, and shall appoint such police officers and watch-
men, except when otherwise provided for.

And in case of a riot or other disturbances, he may
appoint as many special or temporary constables as
he may deem necessary; and any police officer or
constable may renew or refund such mortgage. Laws 1939, c. 190.

Laws 1870, c. 31, and General Statutes 1804, §1195, under which city of Marshall was established were
repealed by the city, and may be applied to cities incorporated thereafter, as modified by later enactment, and a city assessor may be

1828-33. Officers—Other duties—Compensation.

The mayor may not be interfered with in his discharge of duties as a police officer or watchman, appointed by the mayor as aforesaid, may be
appointed by the city, and shall appoint such police officers and watch-
discharged from office by him whenever in his
time give the common council such informa-
tion and recommend such measures as he may deem
advantageous to the city. The mayor shall be the
chief executive officer and head of the police of the
city, and shall appoint such police officers and watch-
men, except when otherwise provided for.

And in case of a riot or other disturbances, he may
appoint as many special or temporary constables as
he may deem necessary; and any police officer or
constable may renew or refund such mortgage. Laws 1939, c. 190.

Laws 1870, c. 31, and General Statutes 1804, §1195, under which city of Marshall was established were
repealed by the city, and may be applied to cities incorporated thereafter, as modified by later enactment, and a city assessor may be

1828-33. Officers—Other duties—Compensation.

The mayor may not be interfered with in his discharge of duties as a police officer or watchman, appointed by the mayor as aforesaid, may be
appointed by the city, and shall appoint such police officers and watch-
discharged from office by him whenever in his
time give the common council such informa-
tion and recommend such measures as he may deem
advantageous to the city. The mayor shall be the
chief executive officer and head of the police of the
city, and shall appoint such police officers and watch-
men, except when otherwise provided for.
1933.

13,
maintaining skating rink and warming house in consid-
eration of the place being thrown open to the public

Whether a reasonable appropriation by city council
for a proposed tree and furnishing an entertainment for
children at Christmas time is for a public purpose is a
question of fact to be passed upon by the court body.
Id.

City may accept a deed from abutting property owners
on a narrow avenue conditioned that no assessments be
levied against grantor's property by reasoning of widen-
ing and grading of the avenue and that city carry cost
of sewer and water improvements, but city may not
waive its right to compel abutting property owners to
(38c-6), June 12, 1935.

License fee of $100 for three years for commercial
1932.

1933.

This paragraph controls §1828-61, the words "appro-
priating money" having reference to original incurring
of obligation, while §1828-61 is to be limited to authoriza-
tion of the expenditure of the appropriation thus made.

1828-01. Ordinances, regulations, etc.

This section is controlled by §1828-57, par. 73, and
the provision as to majority vote has reference to the
exclusion of the vote by a three-fourths vote under such

A resolution abandoning and closing hospital in city of
City says that the city council in submitting the
resolution to its constituents, did not have before it
all the facts as to whether the hospital was neces-
§1828-57.

An affirmative vote of a majority of members of the
city council of Hastings was sufficient for the closing
of a hospital, and a two-thirds vote was unnecessary.

Where charter of city of Columbus Heights provided
procedure to be followed in case of recall, it was not
with the city council in submitting the ordinance for
repeal thereof, but with the city council in submitting
an ordinance to the people to attach burdensome condi-
Feb. 5, 1934.

Under Jackson City Charter, an ordinance cannot be
regularly adopted unless it has been read at three
successive meetings of the council and also at least
one week apart, and it may not be read at a reg-
ular meeting and two adjournments of that meeting.

1828-03. Audit of accounts by council.

Audits of accounts are subject to audit by the Mayor
at any time during the sessions of the council.

1828-04. Borrowing money and issuing bonds—
Tax levies—Passage of ordinances, etc.

Method of determining whether or not warrants may
be issued for a special purpose for which money may be
borrowed is that on hand and taxes due and likely to
be paid should be added together and from this
amount the amount that will take to pay outstanding
indebtedness and warrants which have been before any
new money is to be received from amounts levied this
year, and if there is a balance, it may be used to
pay new warrants, but city council has no authority to
vote in case of a tie, but in such case only. (Act Apr.
10, 1933, c. 193.)

Inconsistent acts repealed.—All Acts or parts of Acts inconsistent herewith are hereby repealed.
(Act Apr. 10, 1933, c. 203, §2.)

Present terms of office extended.—This Act is
supposed to affect the terms of office of a number of
officials who have served past the terms of office of the
former chief unless he has resigned, or a vacancy has

Office of Mayor and Chief of Police combined in
certain cities of the fourth class.—In any city of the
fourth class, organized under any special or
general law and having a population of not less than
500 or more than 1,000, excepting, however, any city
organized under any special or general law and having a
population of not less than 6,000 nor more than
10,000, the Mayor shall take effect and be in force from
3, 1933.

In the city of North Mankato there is no power to
levy for the printing and distribution of pamphlets, news-
papers, literature, and other printed matter or for
road signs or for community celebrations and con-

367
ventions which encourages the industrial, agricultural or recreational facilities of said city or the area in which it is located. The governing body may either directly undertake the preparation and distribution of such written or printed matter and the work hereinafter authorized or may authorize any chamber of commerce agency to carry on the preparation and distribution thereof. All monies necessary to carry out the enabling provisions of this act may be spent from the general revenue fund of the city and within the limitations of law now existing. (Act July 14, 1937, Sp. Sess., c. 11, §1.)

1828-105. Same—change in classification of city. — If under the provisions of this act and avails itself of the plans and privileges herein provided, it shall thereafter continue within the classifications provided herein notwithstanding any subsequent change in valuation or population. (Act July 14, 1937, Sp. Sess., c. 12, §2.)

The title of Act July 14, 1937, cited, purports to authorize the creation of a "bureau of information and publicity for the purpose of furnishing tourist information, and advertising the recreational, agricultural and industrial opportunities and facilities of the community." This section is applicable to injuries to property as a result of a fall on an icy sidewalk.

The notice to the municipality of the injury was sufficiently definite to apprise defendant of the place of the accident. 173M450, 219NW774.

Evidence held not to warrant finding that defect in way was not liable for ruts near rails caused by plowing with the consent of the chief of the fire department. 171M391, 214NW656.

Liability of city and abutting owner for injuries caused by defects in sidewalks. 172M35, 214NW671.

The notice to the municipality of the injury was sufficient to entitle a plaintiff to a new trial on the ground of error in admitting evidence of cleanliness and health regulations. Op. Atty. Gen., Gen. Atty., 299, 1939.

1831. Damages—notice of claim—limitation. — This section is applicable to injuries to property as a result of a fall on an icy sidewalk. 172M367, 152NW647.

City held not liable for injury to one who negligently broke a fire alarm wire, though at the time of his injury, he was repairing the wire with the consent of the chief of the fire department. 171M391, 214NW656.

Liability of city and abutting owner for injuries caused by defects in sidewalks. 172M35, 214NW671.

This section is applicable to injuries to property as a result of a fall on an icy sidewalk. 172M367, 152NW647.

The notice to the municipality of the injury was sufficient to entitle a plaintiff to a new trial on the ground of error in admitting evidence of cleanliness and health regulations. Op. Atty. Gen., Gen. Atty., 299, 1939.

A notice stating that accident happened on sidewalk in front of No. 2127 on First avenue, was sufficient although it stated the distance from a cross street. 175M35, 215NW493.

Whether village was negligent in not removing ice and snow from sidewalk, held for jury. 175M361, 221NW205.

This section does not apply to an action to enjoin, or to recover damages for, an invasion upon private property, or to remove thereon and creating a nuisance. 175M457, 225NW898.

Depression of cement blocks in sidewalk held such a danger as to warrant substantial judgment. 175M457, 225NW898.

Evidence held not to warrant finding that defect in walk on bridge was cause of injury to pedestrian struck by automobile. 176M352, 227NW203.

Action for death must be commenced within one year from the occurrence of the loss or injury. 176M485, 227NW652.

City held negligent in permitting dangerous condition from accumulation of snow and ice. 179M553, 230NW549.

Evidence held not to show negligence of village in maintaining sewer or that damage was caused by negligence of its employees. 175M485, 227NW652. See Dun. Dig. 6844(58).

Damage from overflow of a sewer, caused by an extraordinary rainfall was reason why there had been anticipated or guarded against, where there was no negligence on the part of municipality and evidence of maintenance of the sewer, cannot be recovered on the theory of trespass or nuisance. Power v. Village of Hibbing. Itasca Bazaa Co. v. Same, 182M68, 233NW937. See Dun. Dig. 6664(51).

Evidence held not to show negligence of village in maintaining sewer or that damage was caused by negligence of its employees. 175M485, 227NW652. See Dun. Dig. 6844(58).

In action for injuries received when stepping into open ditch, hole in walk, negligence and contributory negligence held for jury. 181M87, 233NW826. See Dun. Dig. 6844(58).

Evidence held to show city was negligent in paving and constructing a street, causing flooding of basement. National Weeklies, Inc. v. J., 183M160, 236NW965. See Dun. Dig. 6814.

Whether paving contractors were negligent in placing and maintaining an iron pipe two inches in diameter along and upon a public sidewalk in front of an entrance to an apartment house was a question of fact for the jury. Dougherty v. C., 191M446, 261NW466. See Dun. Dig. 6845a.

Evidence upon mayor of city of St. Paul of a claim against that city for damages for injuries sustained because of an alleged defective sidewalk held negligent. Aronson v. City, 197M403, 254NW346. See Dun. Dig. 6793, 6794.

City and abutting owner may have no responsibility, as to highways after they have been taken over by state highway department and have become part of trunk system, and village is not liable for injuries to property as a result of defendant's maintenance. Lundstrom v. G., 193M453, 251NW465. See Dun. Dig. 6818.

Duty of keeping sidewalk in a reasonably safe condition for travel is placed on city and not upon abutting owner. City of Duluth v. C., 187M420, 239NW785.

Evidence held to show city was negligent in paving and constructing a street, causing flooding of basement. National Weeklies, Inc. v. J., 183M160, 236NW965. See Dun. Dig. 6814.

Whether or not thirteen year old plaintiff was guilty of contributory negligence held for jury. 191M527, 260NW148. See Dun. Dig. 6814.

City is liable for negligence of its employees while engaged in repair of its streets by operating road grader. Massie v. C., 201M276, 276NW1. See Dun. Dig. 6818.

A city is under legal obligation to exercise reasonable care to keep and maintain streets in a safe condition for public use. Id.

Whether or not thirteen year old plaintiff was guilty of contributory negligence held for jury. 191M527, 260NW148. See Dun. Dig. 6814.

Duty of keeping sidewalk in a reasonably safe condition for travel is placed on city and not upon abutting owner. City of Duluth v. C., 187M420, 239NW785.

Evidence held to show city was negligent in paving and constructing a street, causing flooding of basement. National Weeklies, Inc. v. J., 183M160, 236NW965. See Dun. Dig. 6814.

Whether or not thirteen year old plaintiff was guilty of contributory negligence held for jury. 191M527, 260NW148. See Dun. Dig. 6814.

City is liable for negligence of its employees while engaged in repair of its streets by operating road grader. Massie v. C., 201M276, 276NW1. See Dun. Dig. 6818.

A city is under legal obligation to exercise reasonable care to keep and maintain streets in a safe condition for public use. Id.

Whether or not thirteen year old plaintiff was guilty of contributory negligence held for jury. 191M527, 260NW148. See Dun. Dig. 6814.
1835. Codification of charter, etc.

A single ordinance may be enacted for purpose of numbering old village ordinances which may be obsolete or superseded by other inter ordinances, and it is not necessary to republish old ordinances. Op. Atty. Gen., Mar. 21, 1934.

1841. Deposit of public funds.

Where city treasurer has made deposits in excess of collateral securities given by bank in lieu of a depository bond under §1973-1, city did not have a pre-existing claim on the collateral securities for a criminal offense. 172M324, 215NW174.

Where a bank is required to advance collateral securities for a continuing one, no date being fixed for its payment, the sureties are not released by renewals made without their consent. 844b-5, Aug. 27, 1934.


A city or village maintaining a public park is disqualified from maintaining a park along a state trunk highway by operating snow plow. Op. Atty. Gen., Aug. 20, 1931.


sent to its filing, lies in sound discretion of court, and that discretion should be exercised favorably, and leave granted where one municipal corporation, on grounds that discretion should be exercised favorably, and leave sent to its filing, lies in sound discretion of court, and court from determining whether territory included in road within ita territory or has functioned as a city in obtaining against city, nor from fact that it vacated a toppel ia not made out from loans obtained from state...


1846. Petition for election.

Signers of petition for annexation of territory to village cannot withdraw their names after it has been accepted and approved by a vote of council. Op. Att'y. Gen., Apr. 23, 1932.

1847. Duty of governing body.


1848. Election, how conducted—Ballots.


1849. Veto, may be exercised—Oath—Veto in certain Municipalities—powers—duties—

The term "veto" as used in the provision of -Chapter 8, General Laws 1895, the commission, provided, that in cities organized under the provision of Chapter 8, General Laws 1895, the city clerk shall be the secretary of said commission; and the case may be, and at once pay the same into the treasury of said municipality and he shall make a charge from patrons for the said city or village as charges.

1850. Water, light, power and building commission created.—There may be created in all villages regardless of population and in every city in the State of Minnea-...
will faithfully perform all the duties of his office as is required of him by law and promptly pay over to the treasurer of said city or village all moneys and deliver up all property to the council of said city or village, belonging to said municipality, that he may have in his possession. Said bond shall be approved by the said commission and filed with the city or village treasurer, as the case may be.

All moneys and deliver up all property to the council of said city or village, belonging to said municipality, that he may have in his possession. Said bond shall be approved by the said commission and filed with the city or village treasurer, as the case may be.


A city accepting water from well for six years was liable for contract price, though contract was let without proper call for bids and contained terms not included in call and purported to bind city to abandon plant. Op. Atty. Gen., Apr. 22, 1934.

A city accepting water from well for six years was liable for contract price, though contract was let without proper call for bids and contained terms not included in call and purported to bind city to abandon plant. Op. Atty. Gen., Apr. 22, 1934.

A city accepting water from well for six years was liable for contract price, though contract was let without proper call for bids and contained terms not included in call and purported to bind city to abandon plant. Op. Atty. Gen., Apr. 22, 1934.

A city accepting water from well for six years was liable for contract price, though contract was let without proper call for bids and contained terms not included in call and purported to bind city to abandon plant. Op. Atty. Gen., Apr. 22, 1934.

A city accepting water from well for six years was liable for contract price, though contract was let without proper call for bids and contained terms not included in call and purported to bind city to abandon plant. Op. Atty. Gen., Apr. 22, 1934.

A city accepting water from well for six years was liable for contract price, though contract was let without proper call for bids and contained terms not included in call and purported to bind city to abandon plant. Op. Atty. Gen., Apr. 22, 1934.

A city accepting water from well for six years was liable for contract price, though contract was let without proper call for bids and contained terms not included in call and purported to bind city to abandon plant. Op. Atty. Gen., Apr. 22, 1934.

A city accepting water from well for six years was liable for contract price, though contract was let without proper call for bids and contained terms not included in call and purported to bind city to abandon plant. Op. Atty. Gen., Apr. 22, 1934.

A city accepting water from well for six years was liable for contract price, though contract was let without proper call for bids and contained terms not included in call and purported to bind city to abandon plant. Op. Atty. Gen., Apr. 22, 1934.


Power and building commission may not furnish hydroelectric power to a class of users free of charge with the purpose of permitting the village to recoup its finances so that it may be able to purchase a fire truck. If, by act of the legislature, a tax of five mills be laid on water and light fund to pay bills and expenses properly chargeable against the general fund and the road and bridge fund. Op. Atty. Gen. (624a-6), May 18, 1939.


City may enter into agreement with water and light commission fixing rates which city is to pay for water and light, provided such rates do not exceed rates charged to private parties. Op. Atty. Gen., June 13, 1932.

Claims in connection with obligations of village water, light, heat, power and gas commission are to be paid by the treasurer and allowed by the commission and must be verified and identified. Op. Atty. Gen., Aug. 12, 1932.


Commission may not compromise settlement by accepting less than amount actually owing by consumers if in judgment of commission it is for best interest of commission and village to accept less. Op. Atty. Gen. (469b-6), Mar. 2, 1935.

Commission may consent to sell council may not cancel delinquent accounts as this would amount to gratuity contrary to public policy. Op. Atty. Gen. (624c-4), Sept. 29, 1934.

Where a tax has been levied for water and light purposes, the city council may fix rates and collect for water furnished to residents of village, and can refuse to furnish water to persons owing delinquent accounts. Op. Atty. Gen. (624e-11), June 13, 1932.

Notice shall be given and such election, whether general or special, shall be conducted, ballots counted and canvassed, returns made, and results declared in the same manner as in the case of other propositions submitted to the electors. (Act Apr. 17, 1931, c. 190, §2.)

Commission may fix water rates different from those stated in special election intended or supplemental thereto, if the same is submitted to the electors. Op. Atty. Gen. (624e-11), June 13, 1932.


Water and light commission in exercise of its judgment and discretion, may furnish heat to a particular class of users, such as churches, at less than rates charged to consumers generally so long as it does not arbitrate for fixed rates which are unjust and unreasonable. Op. Atty. Gen. (624e-11), Apr. 1, 1933.

Commission may not furnish water free to a class of inhabitants, even though they are in outlying districts and water is transmitted to them in village sprinkler. Op. Atty. Gen. (469b-6), Apr. 21, 1933.

City charter permits water bills to be assessed against real estate, they become liens thereon of which purchasers of lands must take notice, although not filed against real estate, they become liens thereon of which purchasers of lands must take notice, although not filed against real estate, they become liens thereon of which purchasers of lands must take notice, although not filed against real estate, they become liens thereon of which purchasers of lands must take notice, although not filed.

Where village prior to organization under this act operated its own public utilities and fixed rates by ordinance, village council may not change rates, and if there is existing at the present time a water, light, heat, power, and gas commission enlarged in certain cases.—In any election to be held not less than 30 days nor more than 45 days thereafter, if any, the following question: "Shall the action of this municipality in availing itself of the provisions of Laws 1907, Chapter 412, be rescinded?"

Yes ........................
No ......................

Where a tax has been levied for water and light purposes, the city council may fix rates and collect for water furnished to residents of village, and can refuse to furnish water to persons owing delinquent accounts. Op. Atty. Gen. (624e-11), June 13, 1932.

If two-thirds of the votes cast upon the proposition be in the affirmative, the provisions of the laws 1907, Chapter 412 [§§1852 to 1860], by the adoption of a resolution as therein provided, may rescind such action in the manner hereinafter provided. (Act Apr. 17, 1931, c. 190, §1.)


Water and light commission adopted under §1852, et seq. is the same only be abolished as provided in this act, and it is immaterial that village has been incorporated as a city of the fourth class under §1828-17, et seq. (Act Apr. 17, 1931, c. 190, §2.)

If there is no general election to be held, the council shall call a special election in the manner provided by law to be held not less than 30 days nor more than 45 days thereafter, and shall submit such question at such special election.

Notice shall be given and such election, whether general or special, shall be conducted, ballots counted and canvassed, returns made, and results declared in the same manner as in the case of other propositions submitted to the electors. (Act Apr. 17, 1931, c. 190, §2.)

Commission may not furnish water free to a class of inhabitants, even though they are in outlying districts and water is transmitted to them in village sprinkler. Op. Atty. Gen. (469b-6), Apr. 21, 1933.

City charter permits Water and light commission in exercise of its judgment and discretion, may furnish heat to a particular class of users, such as churches, at less than rates charged to consumers generally so long as it does not arbitrate for fixed rates which are unjust and unreasonable. Op. Atty. Gen. (624e-11), April 1, 1933.

Commission may not furnish water free to a class of inhabitants, even though they are in outlying districts and water is transmitted to them in village sprinkler. Op. Atty. Gen. (469b-6), Apr. 21, 1933.

City charter permits Water and light commission in exercise of its judgment and discretion, may furnish heat to a particular class of users, such as churches, at less than rates charged to consumers generally so long as it does not arbitrate for fixed rates which are unjust and unreasonable. Op. Atty. Gen. (624e-11), July 29, 1938.

Proceedings are published after they have been taken, and not public notices, not petition of any order. Op. Atty. Gen. (624e-4), May 15, 1939.

Resolution fixing water and light rates and providing for discontinuance of service of delinquent consumers may not be published in a newspaper before going into effect. Id.

372
tion thereof out of the said "Water and Light Fund." The said commission shall, out of the said "Water and Light Fund," purchase all necessary material and employ all necessary help in the general management, operation, and conduct of its business, including extensions to these systems from other funds. (Act Mar. 27, 1933, c. 111, §2.)

1860-¾c. To create reserve fund.—It shall be the duty of the said commission, on the first day of each month, to set aside out of the proceeds of the business of the Water and Light Department, a sum equal to one-twelfth of not less than two per cent of the replacement value of the fixed assets, which sum shall, in any event, be equal to ten per cent of the gross receipts collected by the said commission during the preceding month. Said "Reserve Fund" shall be used by said commission only for the purpose of replacing existing buildings, plants, systems, and stationary equipment for which the reserve is established. The said commission is hereby prohibited from using any such "Reserve Fund" for any other purpose.

Provided, however, the fixed assets of the commission for the purpose of this section shall not include buildings used by other departments of the village, and no reserve shall be set aside in connection with the replacement of any such buildings. Only such buildings as are principally used and necessary in the operation or administration of water, light, power, gas, and heating plants may be replaced from said reserve fund, and no reserve shall be created for the replacement of any such buildings used by other departments of the village.

The commission shall have authority to invest, and it shall invest, the "Reserve Fund" and operating surpluses, in amounts to be determined by the commission, in such securities as permitted, by the State board of investments of the State of Minnesota or in certificates of indebtedness and duly authorized bonds of said village. All income earned by such securities shall belong to and become a part of the "Reserve Fund." When such fund equals a total of seventy-five per cent of the replacement value of the fixed assets of the commission, it will no longer be necessary to add the monthly sum specified above. When the reserve equals seventy-five per cent of the replacement value of the fixed assets, the commission will thereupon renew the placing into such "Reserve Fund" the monthly payments specified above. The reserve shall be invested by the bank in which its funds are deposited to give bond as required of banks acting as depositaries of municipal funds. (Act Mar. 27, 1933, c. 111, §3.)

Commission can invest reserve fund in bonds or warrants.—In this act shall be construed to limit or extend the powers of the village to levy as provided by Mason's Minnesota Statutes of 1927, Sections 1245 to 1247 inclusive, or to be in lieu of such levies, nor shall it be construed to limit or extend the powers of the village to levy as provided by the commission for the operation of the Water and Light Department, or for replacements, additions or extensions to such system from such funds. Provided, further, that nothing in this act shall be construed to limit the power of the village to make levies in excess of the present per capita limitations for indebtedness to the extent thereof out of the said "Water and Light Fund." The said commission shall, out of the said "Water and Light Fund," purchase all necessary material and employ all necessary help in the general management, operation, and conduct of its business, including extensions to these systems from other funds. (Act Mar. 27, 1933, c. 111, §4.)

1860-¾g. Effective October 1, 1933.—This Act shall take effect commencing October 1, 1933. (Act Mar. 27, 1933, c. 111, §5.)

1860-¾h. Pension fund for superintendent of water works.—In every city of the fourth class in the state of Minnesota, now having or hereafter having a population of not less than 7,500 inhabitants, and not more than 11,000 inhabitants, and an assessed valuation, more than 50% of which valuation consists of iron ore, there may be created a superintendent of water works pension fund, which shall be managed, controlled and distributed in accordance with the provisions of this act. (July 14, 1937, Sp. Ses., c. 31, §1.)

1860-¾i. Same; powers of water and light commission.—The water and light commission of such city may, by a two-thirds vote of its membership, cause to be pensioned the superintendent of such city water works, at a salary not to exceed one-half of his average salary during the three or more years in which he served in that capacity for such city or its predecessor a village. (July 14, 1937, Sp. Ses., c. 31, §2.)

1860-1. Electric light and power plants in cities of fourth class, etc.—Any village or water and light plant could be used to take up indebtedness originally represented by water and light bonds though such bonds have been refunded and the sales proceeds used to refund such bonds. (Act Mar. 19, 1932, c. 27, §3.)

City of Laverne could enter into contract for purchase of electric generating plants, or other electric plant or power plant only, without calling for bids. Op. Atty. Gen., 707d-e, Aug. 12, 1932.


1932. Certain municipality may not exact more from one charged with an assessment for extension of its gas and water mains than is permissible under terms of ordinance under which extension was made, and where excess payments made have been exacted, municipality may be held as negocio in restitutio. (July 27, 1932, c. 31, §6.)

1936. Repeal of section 1491-2. (Act Mar. 22, 1936, c. 244, §1.)

1937. Removal of any village or city plant from one charged with an assessment for extension of its gas and water mains, may be done by ordinance of its governing body, passed and adopted in the manner specified in such ordinance, which may provide in any manner that the village or city or any other person or corporation, shall sell, lease or abandon the village or city plant or any specific part thereof, or discontinue wholly or in part the operations thereof; if a specific part of such plant is to be so sold, leased or abandoned, or the operation thereof discontinued, such resolution shall state the specific part to be so sold, leased or abandoned, and shall provide in any manner the words "yes" and "no" on separate lines and every voter desiring to vote in favor of such proposition shall thereon make his cross (X) mark opposite the word "yes" and every voter desir-
ing to vote against such proposition shall make such mark opposite the word "no." In case of villages such election shall be conducted and the votes cast therein shall be canvassed and the result thereof certified in like manner as in case of an election for village officers, and in case of cities of the fourth class, such election shall be conducted in the presence of the governing officers of such city, and the votes cast therein shall be canvassed and the result thereof certified in like manner as in case of an election for city officers in the respective cities of the fourth class according to the law or charter governing such city. (Op. Atty. Gen. 374, 1933, ch. 316, §1.)


Village may enter into contract with electric company to sell electricity, to be delivered at rates as deemed equitable by governing body, though at such time as a public utility. Op. Atty. Gen. (556h-12), June 30, 1937.

Village has no authority to enter into an agreement for the purchase of natural gas to distribute to the people of the village through village gas mains unless there has been an action against the same to enjoin the operation of the gas plant of the village. Op. Atty. Gen., Apr. 23, 1930.


City of Alexandria having a contract with private corporation furnishing light and power to a village cannot acquire the plant of such private corporation without the vote of the people of the village, being silent as to extension of lines out of city. Op. Atty. Gen. (624c-5), Nov. 21, 1924.


City of Alexandria having a contract with a power company covering the sale of power to a village can not extend its lines beyond such village. Op. Atty. Gen. 1867-2, Aug. 15, 1937.

Where the cost of meters and transformers is to be computed as part of cost of extension within limitation fixed by voters in question of fact for officials. Op. Atty. Gen. (414a-7), Sept. 14, 1936.

City of Waseca, through its water and light board, has authority to enter into contract with an electric construction company to sell electricity, to be delivered at substations in city and used by the purchaser outside limits of city, without a vote of electors, though city purchases its current at wholesale from a public utility. Op. Atty. Gen. (624c-12), Jan. 29, 1932.


Village council owning its own distributing system but purchasing its electric power from a public utility company outside limits and sells and dispenses of electric energy and current to persons residing outside limits, but only upon vote of electors. Op. Atty. Gen. 1867-2, Aug. 15, 1937.

Village may require utility lines extending outside village without vote of electors to pay a royalty on all poles and wires used in said village. (Op. Atty. Gen. 1867-2, July 24, 1928.)
1867-3. Provisions separable.—The various provisions of this Act, and the clauses, phrases and sentences thereof, shall be severable, and if any part or provision thereof shall be held to be invalid, it shall not be construed as invalidating any other portion thereof. (Act Apr. 1, 1933, c. 141, §5; Apr. 29, 1935, c. 63, §$.)

1867-4. Proceedings and contracts legalized.—In all cases where the council or other governing body of any village or borough, however organized, has prior to January 1, 1892, erected poles, wires and cables without the corporate limits of such village or borough for the purpose of procuring electrical current and in a manner not in violation of the statutes or any corporate limits, or has prior to January 1, 1892, entered into contracts of purchase and sale of electric transmission lines already built or incurred indebtedness or obligations by reason thereof, all proceedings taken, contracts made and indebtedness or obligations incurred are hereby legalized and made valid and effectual for all purposes, providing this Act shall not effect any action or proceeding now pending. (Act Apr. 4, 1932, c. 51, §1.)

1869. Park boards.—A park board may not be abolished in absence of statute, and abolition does not result from reincorporation of a village into a city of the fourth or fifth class. (624-11, 1932.)


1871. Powers and duties of park board.—Said park board shall have full, absolute and exclusive control of, and power over, all real estate now or hereafter acquired by said municipality and set apart for park or boulevard purposes therein or in adjoining territory in which the property has been acquired. Said board shall have power and authority to maintain the same, and to beautify and improve any and all such lands and ways approaches thereto for the benefit of the general public; to erect and construct therein such roadways and paths, buildings, fountains, toilet rooms, or other improvements necessary to meet the requirements of the visiting public; to buy all necessary material and fuel required to carry out the provisions of this Act; to make such reasonable rules and regulations for the government of the same as may be deemed necessary and proper; to employ such help in and about the conduct of such parks and boulevards as may be found necessary; to provide musical and other free entertainment for the general public; to employ a secretary at a salary not exceeding five hundred dollars per annum, whose duty it shall be to keep a full and complete record of all the transactions of said board, attend its meetings, and do and perform such other duties as may from time to time be required of him, by said board; to employ an attorney if found necessary to assist the board at a salary not exceeding five hundred dollars per annum; to fix the compensation of any and all persons employed by said board; to audit and allow all just claims for labor, services or material furnished by order of said board, and endorse its approval thereof and may not be refunded by issuing bonds. Op. Atty. Gen., Sept. 1, 1932.

Powers and duties of park board.—Said park board shall also have power and authority to receive public subscriptions and other contributions for the purpose of procuring public park lands or other property for the purpose of taking therefrom ice. Said board shall also have power and authority to receive on behalf of said municipality any proper donations of statuary, shrubbery, trees, material, or other personal property for use in and about the said parks and boulevards. Said board shall make detailed report of all its doings and proceedings to the council at its next regular meeting. (Op. Atty. Gen., Jan. 16, 1894.)

1876. Cities and villages may construct sewage disposal plants.—In any city of this state having a population of 10,000 or less, and in all villages and boroughs of this state, whether organized under the General Laws or a special law, and in all such cities organized under home rule charters which do not provide a method of constructing sewers and assessing the cost thereof to benefited property, the city, village or borough council shall have power to maintain and extend any existing sewer system, to relay, alter or extend any existing sewer system therein, and to establish and maintain a general system of sewers, to create sewer districts, and change, diminish or enlarge the boundaries thereof from time to time; to establish and maintain sewage treatment plants when deemed necessary. (460-11, 1935.)


Sewer warrants issued by town or village and disposed of by lease are not obligations of town or village and may not be refunded by issuing bonds. Op. Atty. Gen., Sept. 1, 1932.


are available or taxes have been levied and are in process of collection, without vote of electors. Op. Atty. Gen. (387g-2), Oct. 14, 1938.

1885. Spreading of assessments.
District sewers are to be assessed against property benefited and not otherwise. Such warrants may be used in payment of taxes, special assessments, or for other purposes. Op. Atty. Gen. (387g-2), Dec. 30, 1936.

1891. Amount of special assessment.
Cost of sewer improvement is to be assessed against property benefited and not otherwise. Such warrants shall be payable solely out of the proper sewer fund and it shall be the duty of any city, village or borough treasurer to pay such warrants and interest coupons as they mature out of any funds on hand in the proper sewer fund and not otherwise. Such warrants may be used in making payments on contracts for the improvements or may be sold by the city, village or borough for not less than par and the proceeds thereof used in making such payments. Village of Lake City may enter into contract with company to supply water to lake city and pay for same out of general fund. Op. Atty. Gen., Feb. 13, 1935; note under 1883.

1892. Supplemental assessment.

1893. Fund for each proposed sewer.—All money collected on any such special assessments shall constitute a fund for the payment of the cost of improvement. All moneys collected for same shall be credited to the proper sewer district fund under the designation: "Fund of Sewer District No. —" and in anticipation of the collection of such special assessment the city, village or borough may provide for which warrants shall bear interest at a rate not to exceed five (5) per cent per annum, payable annually, and may have coupons attached representing each year's interest. Each warrant to be paid out of funds of particular sewer district when the moneys on hand in the proper sewer fund and It shall be the duty of any city, village or borough treasurer on presentation to pay such warrants and interest coupons as they mature out of the general fund as a temporary loan, but must replace the moneys taken with interest. Op. Atty. Gen., June 26, 1933.

1894. Right of eminent domain.

1903. Connections to be made on periphery.
All sewers are to be laid on periphery of village in order to provide for future growth. Op. Atty. Gen. (387g-8), Nov. 17, 1934.

1918. Same.—Certificates of indebtedness.
Certificates of indebtedness are direct and general obligations of municipalities issuing them; and no subscription to voters for authority to issue is required. Bergman v. V., 201 Minn. 28, 275 N.W. 297. See Dun. Dig. 6671.

1918. Water mains and appurtenances in cities of fourth class. —Definitions.
Where village establishes a limited water system extending its water mains along main street, and permits private oil tank on side street, and permits oil tank on side street to connect with private pipe, in absence of a water line connecting with main street, village has no authority to permit any oil tank on side street to connect with private pipe, in absence of a water line connecting with main street. Op. Atty. Gen. (624d-11), Mar. 30, 1936.

Village operating under laws 1885 may extend water main for limited purpose to law of city, village, etc. §1917, or §1918-1, et seq. Op. Atty. Gen. (624d-11), Aug. 28, 1936.

376
1918-2. Same.—Assessment of cost of improvements against abutting owners.

City may accept a deed from abutting property owners on condition that no assessments be levied against grantor's property by reasoning of widening bids, certificates may be sold to a bid later made, and the city may not waive its right to compel abutting property owners to connect with sewer and water main. Op. Atty. Gen. (1908-6). June 12, 1935.

1918-7. Same.—Assessments against property.—After a contract is let or work ordered done by day labor is provided, the clerk, with the assistance of the engineer or superintendent of the work, shall forthwith calculate the amount proper and necessary to be especially assessed for such improvement against every assessable lot, piece or parcel of land within the district affected, without regard to-cash valuation, in accordance with the provisions of Mason's Minnesota Statutes of 1927, Section 1918-2. The proposed assessment so made shall be filed with the clerk, for public inspection. Thereupon the clerk, under the direction of the council, shall cause notice of the time and place when and where the council will pass upon such proposed assessment. Such notice shall be published in the official paper at least one week prior to the hearing on such proposed assessment. Such hearing may be had at a regular or special, or adjourned regular or special, meeting of the council. The council shall hear and pass upon all objections, if any, and may amend the proposed assessment of any lot or lots; and upon the adoption of such assessment by resolution of the council, the same shall become and constitute the special assessments against the lots, pieces and parcels of land therein described. Such assessment, together with the interest accruing on the total amount thereof, from the adoption of the same to the first day of June, following, at such rate of interest per annum, not to exceed six per cent, as the council may determine by resolution, shall be assessed against the property described therein, and all thereof, which lien shall be concurrent with that of the general taxes assessed against such properties. The amount of such assessment and accrued interest shall be payable in equal annual installments, extending over such period, not exceeding twenty years, as the council may determine by resolution. The first of said installments shall be payable on or before the first day of June, following the adoption of the assessment, and all deferred payments shall bear interest from the first day of June, following the adoption of the assessment, and, at such rate of interest per annum, not to exceed six per cent, as the council may determine by resolution. It shall be the duty of the clerk, immediately after the advertisement of such assessment by the council, to transmit a certified duplicate thereof to the county auditor, by whom the same shall be extended on the proper tax lists, and such assessment shall be collected, accounted for, and paid over in the same manner as other municipal taxes. Provided, that the owner of any lot, piece or parcel of land so assessed may, at any time, pay the whole of such assessment, or any installment thereof, with accrued interest. (As amended Apr. 1. 1939, c. 135, §2.)

1918-10. Same.—Certificates of indebtedness.

City may accept a deed from abutting property owners on condition that no assessments be levied against grantor's property by reasoning of widening bids, certificates may be sold to a bid later made, and the city may not waive its right to compel abutting property owners to connect with sewer and water main. Op. Atty. Gen. (1908-6). June 12, 1935.

1918-12. Assessments for water mains.—Whenever any such city, village or borough shall have caused water mains to be laid under a general bond issue and no assessment is made for the same, the council may cause such existing mains, if they are of cast iron, to be examined by a competent engineer and if same are of suitable size and condition for continued use, such existing mains may be assessed against the lots or parcel of land so benefited in such proportion as the engineer or superintendent of the work shall determine. The amount of such assessment shall be by resolution of the council and provision made for its collection as in the case of new mains.

A hearing shall be held on old main assessments and may be at the same time as a hearing of the assessment of new mains, if new mains are at that time being laid, and in all respects the action shall be the same as provided for new mains. (425, §111 1/2; '23, c. 380, §1; Apr. 25, 1931, c. 346.)


City may not assess abutting property owners where old water mains laid by a private corporation were pur chased and paid for under payment for laying mains to be laid under a general bond issue, and the corporation has not sold certificates of indebtedness. Op. Atty. Gen. (1934-7), May 8, 1934.

City council, if operating watersworks system under its charter, has legal right to pay for material to be used in extension of water main, and is not obliged to levy a tax against property to be benefited. Op. Atty. Gen. (1924d-11), Mar. 18, 1934.

1918-144b. Governing body may construct and reconstruct sewers.—Whenever the governing body of any village or city of the fourth class, whether operating under home rule charter or not, having power to maintain sewer and water systems within its limits, shall deem it necessary and shall so determine by resolution, it may construct, reconstruct or repair any sanitary connection or connections between its water or sewer mains or pipes, in a street or other public ground, and the abutting property served by its main or mains. (Act Apr. 11, 1929, c. 157, §1.)

1918-144b. May assess benefits.—Within sixty days after such municipality shall have completed such work and improvement, its governing body shall adopt a resolution fixing the time and place for the hearing of all persons interested in such construction or reconstruction or repair and the cost thereof and for ascertaining and determining the amount of benefit to the property for which such connection or connections or reconstruction or repair and the cost thereof and for ascertaining and determining the amount of benefit to the property for which such connection or connections are constructed, reconstructed or repaired, and such resolution shall be published once in a legal newspaper in said municipality or posted in three of the most public places therein. At the time and place named in said resolution the governing body shall hear all persons interested in said work and improvements and the cost thereof. Thereupon, by resolution, such governing body shall determine and fix the amount of the benefits caused by said work and improvements to each lot, or parcel of ground for which such connection or connections are constructed, reconstructed or repaired and assessed the amount of such costs, including the expense of giving said notice, against the lots or parcel of land so benefited in proportion to the benefit to the abutting property. A complete record thereof shall be kept by the clerk of such municipality in a separate book, which record shall contain a description of the property so benefited and charged with all the costs of such work and improvement, including the cost of giving such notice. (Act Apr. 11, 1929, c. 157, §2.)

1918-144b. Assessments may be collected with tax. —The amount of the benefit to each lot or parcel of ground so determined, shall, together with part of the expenses of the work, be charged to the owners of the lots or parcels of ground on which such connection or reconstruction or repair is made, and such charge shall be a lien on the property so charged and bear interest at the rate of six per cent per annum, which charge shall be certified to the county auditor and extended upon the tax roll and levied.

377
against such property and collected as in case of county
and state taxes. (Act Apr. 11, 1929, c. 157, §3.)

1918-14½c. Public improvements proceedings to
be consolidated.—Whenever two or more petitions
for public improvements signed by the percentage of
abutting owners required by Mason's Minnesota Statutes of 1927, Sections 123, 1918-1 to 1918-11, inclusive, and Sections 1918-12 to 1918-20 were filed and by the 1938 Supplement to
Mason's Minnesota Statutes of 1927, Section 1918-16 and
1918-12, or proceedings for any public improvement
are instituted under any other law authorizing the
same, and all thereof are presented or instituted to
the governing body of such municipality at substan-
tially the same date and said governing body may
by resolution determine that such various improve-
ments, although separately petitioned for or institu-
ted, can be more economically completed if consolidat-
ed and joined as one project, and said governing body
shall have the power by resolution to consolidate
said various petitions and proceedings for such sep-
parate improvements, and after such consolidation all
subsequent proceedings shall be conducted in all re-
spects as if such various separate proceedings had
originally been instituted and conducted as one pro-
ceeding. (Act Apr. 8, 1939, c. 156, §1.)

1918-14½d. Proceedings validated.—In all in-
stances where such governing body of any municipal-
ity has heretofore by resolution determined that se-
parate proceedings pending before such governing
body involving such improvements under and pursue-
ant to any such law could be more economi-
cally conducted and completed by consolidating the
same, and pursuant to resolution did so consolidate
the same and all subsequent proceedings had accord-
ingly and if said various proceedings were one project, such acts, resolutions and proceedings are hereby
validated and declared lawful. (Act Apr. 8, 1939, c. 156, §2.)

1918-15. Public improvements in villages, bor-
oughs, and cities of fourth class.

Municipalities may consolidate improvement projects
petitioned for separately. Laws 1929, c. 156.
City has the option of proceeding under this act though
City of Lake City may establish sewer disposal plant
City council, if operating waterworks system under its
City of Owatonna may proceed for financing and con-
struction of a sewerage disposal plant other than its
governing body authorized to proceed with a street improvement by day labor without
concurring with the street improvement by day labor under this act. Op. Atty. Gen. (396g-7), May 21, 1937.

1918-16. Same—Making of improvements and as-
essment of costs.

Villages as well as all over 500 inhabitants, located in coun-
ties having 11,000 to 14,000 population and valuation of
$1,000,000 to $2,000,000, may make special assessments for
improvements. Laws 1932, c. 234.

Special benefits from storm sewers may be assessed

Assessments may be made under certain circumstances
not only against abutting properties but also against

1918-17. Same—Petition for improvement.

Petition signed by 51% of abutting owners upon
streets where storm sewers are to be laid is sufficient,

As to villages organized and operating under Laws 1885, ch. 145, previal to Laws 1918-14 and by the 1938 Supplement to

Property owned by city is not to be included in giving

Village operating under Laws 1885, ch. 145, previal to Laws 1918-14, and Laws 1918-17, or §1918-17,

City of Fairmont cannot widen a street entering busi-
ness section without a petition signed by requisite number

In view of §1918-56 village council may under §1918-20 proceed with a street improvement by day labor without

1918-19. Same—Hearings by council.

The village of Harmony organized under the 1885 law
and reincorporated under Revised Laws of 1905, may
extend water main from park to sewage disposal plant either under its home rule charter or under this act. Op. Atty. Gen., (476g-7), May 21, 1937.

Assessments may be made under certain circumstances
not only against abutting properties but also against

1918-20. Same—Orders and contracts for improve-
ments.

The city of Lake City may proceed for financing and con-

Municipalities may consolidate improvement projects
petitioned for separately. Laws 1929, c. 156.
City council, if operating waterworks system under its
City of Lake City may establish sewer disposal plant
City council of Sleepy Eye may, on its own initiative,
authorize sewer to be extended from park to sewage system and pay for same out of general revenue fund

City may pay cost of improvement at street inter-
sections and at intersections between streets and alleys.

Warrants, may be issued without submitting question

Assessments may be made under certain circumstances
not only against abutting properties but also against

1918-21. Same—Cost of certain improvements
paid by municipalities

City council of Sleepy Eye may, on its own initiative,
authorize sewer to be extended from park to sewage system and pay for same out of general revenue fund

City may pay cost of improvement at street inter-
sections and at intersections between streets and alleys.

Village may construct curbing and gutters for trunk
highways and pay for the same with certificates of
indebtedness, but if it issues bonds there must be vote

1918-25. Same—Assessments—Etc.

Purchaser at foreclosure sale of part of property subject to special assessment, held entitled to division of

1918-29. Same—Disposition of funds received from
assessments—Etc.


Property for payment of which is chargeable to village of Grand Rapids in making street improvement is
deemed part of the general corporation tax, and is subject to statutory limitation of 5% of assessed valuation

Warrants, may be issued without submitting question

Assessments may be made under certain circumstances
not only against abutting properties but also against

Improvement warrants are not and cannot be given a
good faith lien of city. id.

1918-35. Sidewalks and sewers in villages and
cities, etc.

Where petition for sidewalk is signed by two owners

Assessments incorporated with purchase prices, at
filing of petition for sidewalk and serving of notice, in no way affected proceed-

Property owner on one street cannot compel owners

As to villages organized and operating under Laws 1885, ch. 145, previal to Laws 1918-14 and by the 1938 Supplement to

Procedure for issuing bonds or warrants for water
works and sewer systems payable from earnings or
1918-37. Same—Work, how done—Assessment of benefits.

The City Council may remove such tree as may be necessary to build sidewalk. Op. Atty. Gen., July 5, 1932.

1918-42. Same—Assessment of benefits on property benefited, etc.


1918-54. Municipalities emergency act of 1935.—This act may be cited as "The Municipalities Emergency Act of 1935." (Act Apr. 5, 1935, c. 125, §1.)


A county board has authority to sponsor works on township WPA project, to be paid for by township, but it must have co-operation and express consent of township itself. Op. Atty. Gen. (125a-2), Sept. 28, 1936.

1918-55. Definitions.—The following terms wherever used or referred to in this act shall have the following meaning unless a different meaning appears from the context:

(a) The term "municipality" shall mean a county, a city of any class, including a city organized under a charter framed pursuant to Section 36, Article 40 of the Constitution, a town, a village, a borough, or a school, road, sanitary or drainage district, or a county or district agricultural society.

(b) The term "governing body" shall mean the board of supervisors, council, board of trustees, board of directors, or other body, board, commission, or other authority charged with governing any municipality.

(c) The term "law" shall mean any act or statute, general, special or local, of this State, without being limited to, the charter of any municipality.

(d) The term "bonds" shall mean bonds, interim receipts, certificates, or other obligations of a municipality issued or to be issued by its governing body for the purpose of financing or aiding in the financing of any work, undertaking or project for which a loan or grant, or both, has heretofore been made or may hereafter be made by any Federal agency.

(e) The term "Recovery Act" shall mean the National Industrial Recovery Act, being the Act of the Congress of the United States of America, approved June sixteenth, nineteen hundred thirty-three, entitled "An Act to encourage national industrial recovery, to foster fair competition, and to provide for the construction of certain useful public works, and for other purposes," and any amendments thereto, and any acts supplemental thereto, and revisions thereof, and any further Acts, or Joint Resolutions of the Congress of the United States of America to reduce and relieve unemployment.

(f) The term "Federal Agency" shall include the United States of America, the President of the United States of America, the Federal Emergency Administrator of Public Works, Reconstruction Finance Corporation, or any agency, instrumentality or corporation of the United States of America, which has heretofore been or hereafter may be designated, created or authorized by or pursuant to any Act or Acts of the Congress of the United States of America, to make loans or grants.

(g) The term "public works project" shall mean any work, project, or undertaking which any municipality, is authorized or required by law to undertake or any lawful purpose for which they are authorized or required by law to make an appropriation.

(h) The term "contract" or "agreement" between a municipality and a municipality shall include contracts and agreements in the customary form and shall also be deemed to include an allotment of funds, resolution, unilateral promise, or other commitment by a Federal Agency by which it shall undertake to make a loan or grant, or both, upon the performance of specified conditions or compliance with rules and regulations theretofore or thereafter promulgated, prescribed or published by a public agency. In the event of such an allotment of funds, resolution, unilateral promise, or other commitment by a Federal Agency, the terms, conditions and restrictions therein set forth and the rules and regulations theretofore or thereafter promulgated, prescribed or published shall, for the purpose of this act, be deemed to constitute a contract that is to be performed by the municipality, if the municipality accepts any money from such Federal agency. (Act Apr. 5, 1935, c. 125, §2; Jan. 27, 1936, Ex. Sess. c. 114.)


1018-56. Powers of municipalities.—Every municipality shall have power and is hereby authorized:

(a) To accept from any Federal agency grants for the purpose of financing or aiding in the construction of any public works project.

(b) To make contracts and execute instruments containing such terms, provisions, and conditions as in the discretion of the governing body of the municipality may be necessary or advisable for the purpose of obtaining grants or loans, or both, from any Federal agency pursuant to or by virtue of the Recovery Act; to make all other contracts and execute all other instruments necessary, proper or advisable in or for the furtherance of any public works project and to carry out and perform the terms and conditions of all such contracts or instruments.

(c) To subscribe to and comply with the Recovery Act and any rules and regulations made by any Federal agency with regard to any grants or loans, or both, from any Federal agency.

(d) To perform any acts authorized under this act through, or by means of its own officers, agents and employees, or by contracts with private corporations, firms or individuals.

(e) To award any contract for the construction of any public works project or part thereof upon any day at least fifteen days after one publication of a notice requesting bids upon such contract in a newspaper of general circulation in the municipality.

(f) To sell bonds at private sale to any Federal agency without any public advertising.

(g) To exercise any power conferred by this act for the purpose of obtaining grants or loans or both, from any Federal agency pursuant to or by virtue of the Recovery Act independently of any other power or powers conferred by this act or heretofore or hereafter conferred by any other law.

(h) To do all acts and things necessary or convenient to carry out the powers expressly given in this act. (Act Apr. 5, 1935, c. 125, §3.)

1918-57. Same—Assessment of benefits on property benefited, etc.


Governing body of each municipality has authority to acquire land and easements necessary to execution of work and to take over, maintain and operate completed work. Op. Atty. Gen. (928c-7), Sept. 12, 1936.


There was no necessity for receiving new bids because of an error in making the specifications. Opinion submitted to voters after bids were received. Op. Atty. Gen. (70a-12), Jan. 28, 1936.


County board in a county operating under town system may incur incidental expenses of national emergency, public work offices and WPA offices and reemployment offices and such bonds necessary in order to render relief to needy and destitute persons and for such other purposes as shall be necessary or required by law. (Act Apr. 5, 1935, c. 125, §9.)


Any municipality, including a county, may make contracts in cooperation with Federal Government under WPA project without vote of electors, so long as issuance of bonds is not required and so long as war, national emergency or other circumstances shall not be affected thereby. Op. Atty. Gen. (44E-12), April 19, 1939.

City of Luverne may purchase property and construct swimming pool in cooperation with Federal Government without issuing bonds or certifying of other temporary obligations may be issued by legalized, and all such pledge orders, warrants, bonds or certificates issued or to be issued are hereafter enacted; nor to authorize the levy or expenditure of taxes for any purpose, or in any amount, in excess of the limits provided under any existing or hereafter enacted law of this state, nor for any public works project until such project shall be authorized in the manner now or hereafter provided by law. (Act Apr. 5, 1935, c. 125, §10.)


Cost of public works determined.—In determining the cost of any public works project, the cost of such public works project and financed by the issuance of bonds: (a) Engineering, inspection, accounting, and other similar expenses; (b) The cost of issuance of the bonds, including engraving, printing, advertising, accounting and other similar expenses; (c) Any interest cost on money borrowed or estimated to be borrowed during the period of construction of such project and for six months thereafter. (Act Apr. 5, 1935, c. 125, §4.)


Acts must be approved.—The provisions of this Act shall not operate to dispense with the approval of a public works project by a state department, board, officer, commission, or a vote of the electors or freeholders where such approval or vote is necessary or required by law. (Act Apr. 5, 1935, c. 125, §5.)


Certificates of indebtedness may be issued.—Pending the preparation or execution of definitive bonds for the purpose of financing the construction of such public works project, certificates of temporary obligations may be issued by the municipality to the purchaser of such bonds. Such interim receipts, certificates or other temporary obligations shall be in such form and contain such terms, conditions and provisions as the governing body of the municipality issuing the same may determine. (Act Apr. 5, 1935, c. 125, §6.)

Bonds legalized.—Bonds bearing the signatures of officers in office on the date of signing thereof shall be valid and binding notwithstanding that before the delivery thereof any or all the persons whose signatures appearing thereon shall have ceased to be the officers of the municipality issuing the same. (Act Apr. 5, 1935, c. 125, §7.)
1918-07. Pledges validated.—In all cases where the governing body or utility commission or other similar body of any such village or city has heretofore pledged itself to charge sufficient rates so as to pay interest and principal on such pledge orders, warrants, bonds or certificates, such pledge is hereby legalized and declared to be valid. (Act Apr. 4, 1939, c. 137, §2.)

1918-08. Act remedial.—It is hereby expressly found and determined that this act is remedial in nature and necessary to preserve the financial integrity of such villages and cities, and this act shall take effect and be in force from and after its passage. (Act Apr. 4, 1939, c. 137, §3.)

1918-09. Not to apply to pending actions.—This act shall not apply to any action or proceeding now pending in any courts in the State of Minnesota. (Act Apr. 4, 1939, c. 137, §4.)

1918-71. Certain cities may install sewage systems and pumping stations.—Any city, other than cities of the first class, and cities of the second class organized under a home rule charter, however organized, and any village which has installed or may hereafter install, a system of sewers, sewage pumping station or sewage disposal plant, or a system of sewers, sewage pumping station, or a sewage disposal plant for public use, in addition to all other powers granted to it shall have authority, by an ordinance duly adopted by the governing body thereof, to charge just and equitable rates, charges or rentals for the use of such facilities and for connection therewith by every person, firm or corporation whose premises are served by such facilities either directly or indirectly. Such charges shall be as nearly as possible equitable and in proportion to the service rendered, and shall take into consideration the quantity of sewage produced and its concentration, strength of river, lake, bay or other body of water pollution qualities in general and the cost of disposal. The charges shall be based on the basis of water consumed, or on any other equitable basis said governing body may deem appropriate, and if the council so directs may be established as a surcharge on the water bills of all water consumers in the municipality on the grounds that said sewage treatment is for the purpose of preventing pollution of sources of water supply, or on some other basis considered by the council aforesaid, such rates, charges or rentals may also be levied in the form of an annual charge or in independent operations. (Act Apr. 20, 1935, c. 221, §1.)

City organized under Laws 1895, c. 8, may issue bonds without vote of electors if the city's indebtedness will not be raised in excess of 5% of taxable property of city. Op. Atty. Gen., (39a-7), Oct. 16, 1935.

In case of arrangements with other municipalities, districts or private parties for the supplying of sewers aforesaid, such rates, charges or rentals may also be levied in the form of an annual charge or in independent operations. Op. Atty. Gen., (387b-2), Sept. 6, 1938.

1918-72. Moneys received shall be placed in special fund.—The moneys received from the rates, charges or rentals aforesaid may be kept separate from the general or other revenues of the political subdivision, and when so collected shall be placed in a separate general sewer fund, or in the water fund in any such city, village or borough. Also, any moneys received from the sale of any by-products arising out of sewage treatment or disposal shall be credited to this fund. The moneys so received shall be accounted for, invested, and paid out as the governing body of the political subdivision are; provided, that upon establishing and fixing the charges aforesaid the receipts therefrom shall be used first to meet the costs of operating and maintaining the said facilities, and any additional sums collected shall be applied to capital charges represented by bonds, certificates of indebtedness, or otherwise, and to the reasonable requirements for replacements and obsolescence. In determining the amount of capital costs to be met, the unappropriated charges aforesaid shall be applied, and any amount of such cost properly chargeable to other than sanitary sewers, shall be deducted therefrom; and no such rate, charge or rental shall include any amount thereof or be applied toward the same. (Act Apr. 20, 1935, c. 221, §2.)

1918-73. Charges to be against the owner, lessee or occupant.—The rates, charges or rentals for the aforesaid sewer service may be made a charge against the owner, lessee or occupant of the premises, duly charged and billed for the services hereunder, or against any or all of them; and any such claim for unpaid rates, charges or rentals built or assessed, properly billed to the occupant of the premises may be collected in a civil action in any court of competent jurisdiction, or, in the discretion of the governing body of the municipality, may be certified to the county auditor (or auditors of the counties) with the taxes against such property served and shall be collected as other taxes are collected. Payments of delinquent rentals shall be credited to the same fund as current funds for that purpose are, deducting therefrom any cost of collection assessed for the purpose of political subdivision. (Act Apr. 20, 1935, c. 221, §3.)


1918-74. Cities of third class and villages may establish sewers and sewage disposal plants—charges for use of—service to other municipalities.—Any city of the third class organized under a home rule charter or sewer ordinance, and any village, may build a system of sewers, sewage pumping station, or a sewage disposal plant for public use, and any such municipality which has installed or may hereafter install, a system of sewers, sewage pumping station, or a sewage treatment or disposal plant or plants for public use, in addition to all other powers granted to it shall have authority, by an ordinance duly adopted by the governing body thereof, to charge just and equitable rates, charges or rentals for the use of such facilities and for connection therewith by every person, firm or corporation whose premises are served by such facilities either directly or indirectly. Such charges shall be as nearly as possible equitable in proportion to the service rendered, and shall take into consideration the quantity of sewage produced and its concentration, strength of river, lake, bay or other body of water pollution qualities in general and the cost of its disposal. The charges shall be fixed on the basis of water consumed, or any other equitable basis said governing body may deem appropriate, and if the council so directs may be established as a surcharge on the water bills of all water consumers in the municipality on the grounds that said sewage treatment is for the purpose of preventing pollution of sources of water supply, or on some other basis considered by the council aforesaid, such rates, charges or rentals may also be levied in the form of an annual charge or in independent operations. (Act Apr. 20, 1935, c. 221, §1.)

City organized under Laws 1895, c. 8, may issue bonds without vote of electors if the city's indebtedness will not be raised in excess of 5% of taxable property of city. Op. Atty. Gen., (39a-7), Oct. 16, 1935.


Provision of city charter requiring water and light commissioners to shut off water in cases of delinquent payments applies to a surcharge made by council for use of sewage disposal plant, even as to water users who have sewer connections. Op. Atty. Gen., (387b-9), Apr. 5, 1933.

1918-77. Uses and conditions of bonds—sinking fund—rates for service—project self-liquidating.—Any such municipality may issue and sell bonds for the construction of any such system of sewers, sewage pump-
ing stations or sewage treatment or disposal plant or plants for public use when authorized so to do by an ordinance or resolution adopted by a vote of two-thirds of the members of the governing body of said municipality; provided that any bonds shall be sold at such rates and charges as will provide for the payment of the reasonable expense and operation and depreciation charge.

The governing body of such municipality shall have full power and authority, and it is hereby declared to be the duty of said governing body to fix and establish, on the basis of water consumed or any other equitable basis, by ordinance or resolution, and collect rates and charges for the services and facilities afforded by the system.

The rates and charges established for the services and facilities afforded by this system shall be sufficient in each year to provide income and revenues adequate for the payment of the reasonable expense and operation, repair and maintenance and for the payment of the sums required to be paid into the sinking fund and for the depreciation charge.

After any municipality has issued and sold revenue bonds under this act, it must keep all income and revenues derived from the operation of the system separate and distinct from all other revenues and costs of operation and must keep books and accounts for such system separate and distinct from all other books and accounts.

That any such bonds and interest thereon shall be a valid claim of the holders thereof only against the sinking fund and the net income and revenues of the system pledged thereto and shall not constitute an indebtedness of the municipality within the meaning of any charter, statutory or constitutional limitation upon the incurring of indebtedness.

Any municipality issuing bonds under this act shall have the right to covenant with the holders of the bonds as to (a) the purpose to which the proceeds received from the sale of the bonds shall be applied and the use and disposition thereof; (b) the use and disposition of the income and revenues derived from the operation of the system, including the sinking and the net income and revenues of the system, in enforcing the lien of said bonds for the payment of the principal and interest of such additional bonds payable from the income and revenues of the system; (c) the operation and maintenance of the system; (d) the insurance to be carried thereon and the disposition of the insurance moneys; (e) the books of account; (f) the accounting methods; (g) rates and charges for the services and facilities afforded by the system, and any other matters pertaining to the manner of handling this system and rates and manner of paying the revenues on the bonds and interest thereon.

No person, firm or corporation shall be permitted to use said system, except they pay the full and established rate for said service.

Nothing contained in this act shall be construed to prevent the municipality to incur, under the provisions thereof, any obligation for the payment of which taxes may be levied.

Any bonds issued under this act may be registered with the City Treasurer or the fiscal agent with whom the sinking fund is deposited.

All acts and parts of acts inconsistent herewith are hereby repealed. (Mar. 2, 1937, c. 57, § 2.)


1919. **Tax for fire department relief fund.** The village or city council or other governing body of every village and city in this state, other than cities of the first class, and other than any city or village operating under Chapter 153, 192 and 208—Laws of Minnesota—1936, or acts amendatory thereof, which has a regularly organized fire department, may each year, at the time the tax levies are made for the support of the village or city, and in addition thereto, levy a tax of one-tenth of one mill on the taxable property of each and every such village or city. The tax so levied shall be transmitted to the auditor of the county in which the village or city is situated at the time all other tax levies are transmitted, and shall be collected and payment thereof enforced in like manner as state and county taxes are collected and the payment thereof enforced. The village or city treasurer, when the tax is received by him, shall pay the same over to the treasurer of the department of the village or city and to the association so organized in any such village or city, or in the case of such association not organized, together with all penalties and interest collected thereon; but if there is no firemen’s relief association so organized, any amount paid over to the treasurer of the village or city may be spent by the village or city council for a village as far as funds received under section 51919. Tax for fire department relief fund.—The village or city council of any village or city in this state which now has or hereafter may have a population of less than 50,000 inhabitants is hereby authorized and empowered, when in its discretion it deems it necessary or desirable so to do, to levy on the taxable property of such village or city an additional amount not to exceed nine-tenths of one mill; such additional tax to be collected and disbursed as herein provided. (As amended Apr. 22, 1937, c. 349, § 1.)


FIREMEN’S RELIEF ASSOCIATION.—The firemen’s relief association may expend money from its special fund for the purchase of fire apparatus. Opinion of the Atty. Gen., Feb. 28, 1930.


Firemen's relief association had no authority to pay any money under this section to an attorney employed by it to enforce the levy. Op. Atty. Gen., July 28, 1920.

City may not limit membership in association to older members of fire department so as to exclude younger members. Op. Atty. Gen., April 3, 1936.

Funds acquired from taxes cannot be used to purchase group insurance, but may be levied on individuals. Op. Atty. Gen. (1910-10, d), Nov. 1, 1935.

Funds received from a fund may be turned over to treasurer of such association upon his filing a proper bond. Op. Atty. Gen. (1915-11), Oct. 21, 1936.


Section 159 is still in force and was not repealed by §722, 1d.


Where active member of International Falls fire department became ill and was placed on "disability list," and was dropped as an "active member," and no longer paid any dues, his widow on her death was not entitled to benefits as widow of "active member". Op. Atty. Gen. (1910-1), Apr. 22, 1938.

Under bylaw of relief association limiting benefits to 12 weeks in any 52 weeks, one receiving a single disability, who was on his department a year before for 12 weeks every year during disability. Op. Atty. Gen. (1910-1), April 18, 1939.

1910-1. Municipalities to authorize to fight fires outside of limits.—The council or any other body of any municipality having control of its fire department may by resolution adopt by a five-sevenths vote authorize its fire department or any portion thereof to attend and serve at fires outside of the limits of the municipality, either within or without the state. In case the fire department is controlled by an individual such authorization shall be by written notice posted at the headquarters of the fire department. (Act Apr. 18, 1910, c. 232, §1.)

City furnishing services of fire department outside limits is acting in governmental capacity as affecting individual as well as public interest. Op. Atty. Gen., (688a), March 28, 1939.

A city is not liable for negligent acts of its fire department members, and there is no necessity for a contract of indemnity as between municipalities involved in fire protection agreement. Op. Atty. Gen. (688a), May 4, 1939.

1910-2. Municipalities to arrange for compensation at outside fires.—The person having control of a municipal fire department shall have authority to contract with other municipalities or private groups for compensation for services rendered in fighting fires as herein provided. The compensation agreed shall be at fixed rates to be determined and collected by the municipality rendering such service in any court of competent jurisdiction. (Act Apr. 18, 1929, c. 232, §2.)


1910-2. Firemen serving on outside limits in line of regular duties.—All municipal firemen attending and serving at fires outside of the limits of the municipality as authorized in this act shall be considered as serving in their regular line of duties as fully as if they were serving within the limits of their own municipality. (Act Apr. 18, 1929, c. 232, §3.)

1910-4. Cities and villages to pay expenses to conventions in certain cases.—The governing body of any village or city of this state, however organized, may appropriate such reasonable sums of money as it may deem proper to defray the expenses of members of such municipality's regularly organized fire department in attending the state convention of the Minnesota State Fire Department Association and/or the Northwest Fire School. (Act Apr. 13, 1931, c. 150.)

1920. Board of Trustees of firemen's relief associations.—The board of trustees of any firemen's relief association of this state shall be composed of the following persons, to wit: six trustees elected annually by such firemen's relief association from its own members and also the following ex-officio members taken from the officers of the municipality in which the relief association is located or from the mayor, village president, or city recorder or clerk, the treasurer and chief of the fire department thereof, and any such board of trustees of a duly incorporated relief association shall have exclusive control and management of all funds received by such treasurer under the provisions of this act, funds derived from the State of Minnesota, and all moneys or property donated, given, granted or devised for the benefit of said funds, and such funds when received shall be kept in a special fund on the books of the secretary and treasurer of such corporation for the time never to be disbursed for any purpose whatever except the following viz.: (1) For the relief of sick, injured and disabled members of any fire department in such village or city; (2) for the payment of pensions to disabled firemen and the widows and orphans of firemen; (3) for the payment of pensions to retired firemen pursuant to the laws of the state; (4) for the payment of the fees, dues and assessments in the Minnesota State Volunteer Firemen's Relief Association so as to entitle the members of any fire department to membership in and benefits of such state association; (5) for the equipment and maintenance of such department and for construction, acquisition or repair of buildings, rooms and premises for fire department use or otherwise; (6) for the payment of fees, dues and assessments in the Minnesota State Volunteer Firemen's Relief Association; (7) for the payment of the fees, dues and assessments in any volunteer firemen's relief association organized by the Minnesota State Volunteer Firemen's Relief Association; (8) for the payment of the salaries of the secretary and treasurer of any such corporation.

The term "widow" shall mean a woman who was the wife of the fireman or pensioner during the time he was an active fireman, provided that she was married to him three years prior to the time when such fireman retired as a service pensioner. The term "widow" shall not include the surviving wife who has deserted a fireman or pensioner, or who has not been dependent upon him for support.

Provided, that the funds received by any relief association from dues, fees, fines, and entertainments shall be kept in a fund called the general fund, and may be disbursed for any purposes authorized by the articles of incorporation and by-laws of said corporation, provided, further, that said relief association is hereby authorized and empowered to invest its funds in such income paying properties and securities as the council of the village or city in which such organization is located shall from time to time authorize. Provided, further, that benefits shall in all cases be within the limits authorized by state law and in accordance with the articles of incorporation and by-laws of the association. (As amended 26, c. 165; 30, c. 71; '36, c. 136; Apr. 22, 1937, c. 349, §12.)

City is without power to pay expenses of delegates from its fire department to state firemen's association convention. Op. Atty. Gen., June 2, 1936.

The funds created by this section and section 3726 should be kept separate so that investment thereof could be approved by the proper authority. Op. Atty. Gen., Mar. 12, 1931.


The special tax of one-tenth of a mill levied under this section creates a fund which may be invested only as approved by the village or city council. Op. Atty. Gen., February 8, 1931.

Fireman is entitled to benefit however he received his injuries. Op. Atty. Gen. Mar. 22, 1929, c. 81, §2;
Apr. 29, 1935, c. 338, §3.

Salaries of officers of association may not be paid out of appropriated funds, but may be paid out of general funds derived from dues, fines, etc., and one receiving attention may receive a salary as an officer of association. Id.

In lump sum payment to widows of firemen if such provision is made in certificate or by-laws of association, but should be limited to funds derived from the one-tenth of a mill tax levied. Op. Atty. Gen. (1986-60(a)), Feb. 24, 1936.

Funds may be invested in village warrants, but a village may provide for pensions to widows of firemen whose death does not occur in line of service. Op. Atty. Gen. 1931-10(a), Mar. 11, 1936.

52% tax paid by fire insurance companies may be used under §372fi for improvement of firemen's quarters, but act does not authorize the operation or carrying on of any itinerant carnival, street show, fair, side show, circus, or any similar enterprise, within one mile of the corporate limits of any city of the fourth class in this state, without having first obtained in writing the consent of the council or other governing body of such city. (25, c. 366, §1.)


52-1. Same—Definition.

This act was not intended to amend or modify §5940, relating to fire marshals. A city may apply for and obtain a license for an itinerant motion picture exhibition. Op. Atty. Gen. (1986d), June 25, 1934.

1933-4. Municipal forests.


1933-5. Public rest rooms in certain municipalities.

That all incorporated boroughs, villages, and cities of the fourth class in this state may provide a public rest room of their respective governing bodies provide and maintain in or near the business center of the village or city a public rest room; such rest room shall be furnished with a suitable number of chairs and a table or tables; shall be heated and lighted between the hours of ten o'clock in the forenoon and six o'clock in the afternoon; the entrance thereto shall be from a public street and there shall be placed upon or over the entrance thereto a sign bearing the words "PUBLIC REST ROOM." (21, c. 294, §1; Apr. 8, 1933, c. 159.)

Expense of establishment of rest room may be paid from general fund, provided the entire levy is made upon the land owned by the village or city. Op. Atty. Gen. Feb. 28, 1930.

A village would have power to provide a public rest room in a building to be erected jointly by the American Legion and the band of the village, such rest room to be provided on the first floor and to be kept and maintained by the village at public expense. Op. Atty. Gen. Mar. 25, 1931.


Members of volunteer fire department receiving compensation for their services are not "employees," but if they receive a stated compensation they are, and the village is liable in event such pension is provided policy for injuries of a motor vehicle while in the performance of his duties, and to defend in the name and on behalf of such employee any suit brought against him to enforce a claim, whether groundless or not, arising out of the operation of a motor vehicle by him while in the performance of his duties. (Mar. 22, 1929, c. 81, §1; Apr. 29, 1935, c. 338, §1.)

Act Apr. 29, 1929, c. 338, §1, amends the title of Laws 1929, c. 81, §1, to read as follows: "An act authorizing towns school districts having assessed valuation of over $2,000,000,000 and cities to acquire title to land for firemen's quarters, but such title to be held by the governing body of such city, and thereby authorized to carry insurance against liability of employees of any departments thereof by reason of the operation of a motor vehicle while in the performance of his duties, and to defend in the name and on behalf of such employee any suit brought against him to enforce a claim, whether groundless or not, arising out of the operation of a motor vehicle by him while in the performance of his duties. (Mar. 22, 1929, c. 81, §1; Apr. 29, 1935, c. 338, §1.)

This section merely places a limitation on expenditure of funds of relief association which are derived from 52% tax paid by fire insurance companies may be used under §372fi for improvement of firemen's quarters, but act does not authorize the operation or carrying on of any itinerant carnival, street show, fair, side show, circus, or any similar enterprise, within one mile of the corporate limits of any city of the fourth class in this state, without having first obtained in writing the consent of the council or other governing body of such city. (25, c. 366, §1.)


52-2. Governing bodies may pay premium.

Such governing body may in its discretion pay the premium on insurance policies insuring individuals or groups of the employees referred to in Section 1 hereof against liability for injury to person or property, within the limitations of Section 1 [1920-1] hereof, and such payment of insurance premiums shall be in no way impose upon any municipality any liability to whatever extent the per capita limit does not exceed the per capita limit. Op. Atty. Gen.: Dec. 15, 1934.

This section merely places a limitation on expenditure of funds of relief association which are derived from 52% tax paid by fire insurance companies may be used under §372fi for improvement of firemen's quarters, but act does not authorize the operation or carrying on of any itinerant carnival, street show, fair, side show, circus, or any similar enterprise, within one mile of the corporate limits of any city of the fourth class in this state, without having first obtained in writing the consent of the council or other governing body of such city. (25, c. 366, §1.)

1933-9a. Municipalities may acquire and operate recreational facilities.—Any city, however organized, or any village, borough, town, county, school district, or any board thereof may operate a program of public recreation and playgrounds; acquire, equip and maintain land, buildings or other recreational facilities; and expend funds for the operation of such program pursuant to the provisions of this act, provided, however, that the provisions of this act shall not apply for mowing or maintenance of lawns in the program of chapter 29 extra session laws of 1935. 

[§§1263-4 to 1263-7]. (Apr. 15, 1937, c. 233, §1.)


City of Le Sueur is authorized to construct a municipal swimming pool and playground, and may issue bonds therefor in an unlimited amount so long as total bonded indebtedness does not exceed 10% of assessed valuation of property. Op. Atty. Gen. (59b-11), Apr. 27, 1928.

City of St. James is not permitted to construct a municipally financed pool and playground, and may issue bonds therefor in an unlimited amount so long as total bonded indebtedness does not exceed 10% of assessed valuation of property. Op. Atty. Gen. (59b-11), Apr. 27, 1928.

City may establish qualifications for local recreation directors and instructors; (2) Prepare or cause to be prepared, published and distributed adequate and appropriate manuals and other materials which may be necessary or suitable to carry out the provisions of this act. (Apr. 15, 1937, c. 233, §4.)

State board may prescribe reasonable qualifications for recreation directors and instructors, and may require that they hold a teacher's certificate and such additional qualifications as board may prescribe. Op. Atty. Gen. (172E), June 21, 1939.

1933-9e. Same—Recreation program to be for educational purposes.—The facilities of any school district operating a recreation program pursuant to the provisions of this act, shall be used primarily for the purpose of conducting the regular school curriculum and related activities, and the use of school facilities for recreation purposes authorized by this act shall be secondary. (Apr. 15, 1937, c. 233, §5.)

1933-10. Memorial buildings, etc. 

Village may erect a building or arena to be used as an indoor skating rink and bathhouse, and issue bonds therefore. Op. Atty. Gen. (59b-11), Nov. 21, 1935.


Village council has power to construct a village hall with or without vote of electors. Id.


City or town may operate a recreation building, hall, or auditorium, or a combination of the same, for educational purposes. Op. Atty. Gen. (59b-11), Nov. 21, 1935.


School district may sell surplus real estate in connection with the sale of school buildings, subject to payment of purchase price in cash or bonds being necessary. Op. Atty. Gen. (476b-10), June 13, 1938.

1933-12. Same—Construction of law. 

This act amends and superscedes Laws 1921, c. 257 (Ch. 930-1 and 1710-2). Id. 


School district may sell surplus real estate in connection with the sale of school buildings, subject to payment of purchase price in cash or bonds being necessary. Op. Atty. Gen. (476b-10), June 13, 1938.
1933-15. Licensing restaurants, etc., in villages and boroughs.

Village, may, within reasonable limitations, regulate closing and opening hours of restaurants, and such regulations shall be reasonable upon which vendors may sell non-intoxicating beverages. Op. Atty. Gen., July 28, 1932.

A village may within reasonable limitations regulate the closing and opening hours of restaurants, and such regulations shall be reasonable upon which vendors may sell non-intoxicating malt liquors. Op. Atty. Gen., Apr. 24, 1934.

Villages can regulate closing hours of restaurants but not drug stores, etc., and may extend closing hours, and hours of closing a board for municipal purposes; provided, however, that in the event taxes shall exceed in any one year the sum of $10.000.00 nor as now provided by law shall have decided not to end taxes and special fund, shall have been discontinued or the city, village, or township shall have been levied and collected for the maintenance of a fund for the purpose of furnishing a band. (As amended Mar. 23, 1937, c. 8, § 2.)

Transfer of funds for maintenance of band.—Cities of the second, third and fourth class, boroughs or townships, however organized, may when authorized as hereinafter provided, levy each such city or village a tax not to exceed two mills for the purpose of furnishing a band fund. Op. Atty. Gen. (479b-3), July 23, 1937.

This act did not repeal §1737 in so far as appropriating money for band purpleses is concerned. Op. Atty. Gen., Feb. 15, 1933.


Villages, boroughs or townships, however organized, when authorized as hereinafter provided, may when authorized as hereinafter provided, levy each such city or village a tax not to exceed two mills for the purpose of furnishing a band fund. Op. Atty. Gen. (479b-3), July 23, 1937.

Time within which levy may be made by village for band or other purposes is directory and not mandatory. Op. Atty. Gen. (509h), Mar. 25, 1933.

City may pay salary of band director out of entertainment fund, but a city may not transfer money from general fund or any other fund to band fund. Op. Atty. Gen. (509b-3), July 23, 1936.

City council of Worthington under its home rule charter, may transfer surplus unexpended and unappropriated money to the entertainment fund in such amount as is necessary to subserve public purpose. Op. Atty. Gen. (519b), May 18, 1937.

City council of Worthington under its home rule charter, may transfer surplus unexpended and unappropriated money to the entertainment fund in such amount as is necessary to subserve public purpose. Op. Atty. Gen. (519b), May 18, 1937.

City council of Worthington under its home rule charter, may transfer surplus unexpended and unappropriated money to the entertainment fund in such amount as is necessary to subserve public purpose. Op. Atty. Gen. (519b), May 18, 1937.

City council of Worthington under its home rule charter, may transfer surplus unexpended and unappropriated money to the entertainment fund in such amount as is necessary to subserve public purpose. Op. Atty. Gen. (519b), May 18, 1937.

City council of Worthington under its home rule charter, may transfer surplus unexpended and unappropriated money to the entertainment fund in such amount as is necessary to subserve public purpose. Op. Atty. Gen. (519b), May 18, 1937.

City council of Worthington under its home rule charter, may transfer surplus unexpended and unappropriated money to the entertainment fund in such amount as is necessary to subserve public purpose. Op. Atty. Gen. (519b), May 18, 1937.

City council of Worthington under its home rule charter, may transfer surplus unexpended and unappropriated money to the entertainment fund in such amount as is necessary to subserve public purpose. Op. Atty. Gen. (519b), May 18, 1937.

City council of Worthington under its home rule charter, may transfer surplus unexpended and unappropriated money to the entertainment fund in such amount as is necessary to subserve public purpose. Op. Atty. Gen. (519b), May 18, 1937.

City council of Worthington under its home rule charter, may transfer surplus unexpended and unappropriated money to the entertainment fund in such amount as is necessary to subserve public purpose. Op. Atty. Gen. (519b), May 18, 1937.

City council of Worthington under its home rule charter, may transfer surplus unexpended and unappropriated money to the entertainment fund in such amount as is necessary to subserve public purpose. Op. Atty. Gen. (519b), May 18, 1937.

City council of Worthington under its home rule charter, may transfer surplus unexpended and unappropriated money to the entertainment fund in such amount as is necessary to subserve public purpose. Op. Atty. Gen. (519b), May 18, 1937.

City council of Worthington under its home rule charter, may transfer surplus unexpended and unappropriated money to the entertainment fund in such amount as is necessary to subserve public purpose. Op. Atty. Gen. (519b), May 18, 1937.

City council of Worthington under its home rule charter, may transfer surplus unexpended and unappropriated money to the entertainment fund in such amount as is necessary to subserve public purpose. Op. Atty. Gen. (519b), May 18, 1937.

City council of Worthington under its home rule charter, may transfer surplus unexpended and unappropriated money to the entertainment fund in such amount as is necessary to subserve public purpose. Op. Atty. Gen. (519b), May 18, 1937.

City council of Worthington under its home rule charter, may transfer surplus unexpended and unappropriated money to the entertainment fund in such amount as is necessary to subserve public purpose. Op. Atty. Gen. (519b), May 18, 1937.

City council of Worthington under its home rule charter, may transfer surplus unexpended and unappropriated money to the entertainment fund in such amount as is necessary to subserve public purpose. Op. Atty. Gen. (519b), May 18, 1937.

City council of Worthington under its home rule charter, may transfer surplus unexpended and unappropriated money to the entertainment fund in such amount as is necessary to subserve public purpose. Op. Atty. Gen. (519b), May 18, 1937.

City council of Worthington under its home rule charter, may transfer surplus unexpended and unappropriated money to the entertainment fund in such amount as is necessary to subserve public purpose. Op. Atty. Gen. (519b), May 18, 1937.

City council of Worthington under its home rule charter, may transfer surplus unexpended and unappropriated money to the entertainment fund in such amount as is necessary to subserve public purpose. Op. Atty. Gen. (519b), May 18, 1937.

City council of Worthington under its home rule charter, may transfer surplus unexpended and unappropriated money to the entertainment fund in such amount as is necessary to subserve public purpose. Op. Atty. Gen. (519b), May 18, 1937.

City council of Worthington under its home rule charter, may transfer surplus unexpended and unappropriated money to the entertainment fund in such amount as is necessary to subserve public purpose. Op. Atty. Gen. (519b), May 18, 1937.

City council of Worthington under its home rule charter, may transfer surplus unexpended and unappropriated money to the entertainment fund in such amount as is necessary to subserve public purpose. Op. Atty. Gen. (519b), May 18, 1937.

City council of Worthington under its home rule charter, may transfer surplus unexpended and unappropriated money to the entertainment fund in such amount as is necessary to subserve public purpose. Op. Atty. Gen. (519b), May 18, 1937.

City council of Worthington under its home rule charter, may transfer surplus unexpended and unappropriated money to the entertainment fund in such amount as is necessary to subserve public purpose. Op. Atty. Gen. (519b), May 18, 1937.

City council of Worthington under its home rule charter, may transfer surplus unexpended and unappropriated money to the entertainment fund in such amount as is necessary to subserve public purpose. Op. Atty. Gen. (519b), May 18, 1937.

City council of Worthington under its home rule charter, may transfer surplus unexpended and unappropriated money to the entertainment fund in such amount as is necessary to subserve public purpose. Op. Atty. Gen. (519b), May 18, 1937.

City council of Worthington under its home rule charter, may transfer surplus unexpended and unappropriated money to the entertainment fund in such amount as is necessary to subserve public purpose. Op. Atty. Gen. (519b), May 18, 1937.

City council of Worthington under its home rule charter, may transfer surplus unexpended and unappropriated money to the entertainment fund in such amount as is necessary to subserve public purpose. Op. Atty. Gen. (519b), May 18, 1937.

City council of Worthington under its home rule charter, may transfer surplus unexpended and unappropriated money to the entertainment fund in such amount as is necessary to subserve public purpose. Op. Atty. Gen. (519b), May 18, 1937.

City council of Worthington under its home rule charter, may transfer surplus unexpended and unappropriated money to the entertainment fund in such amount as is necessary to subserve public purpose. Op. Atty. Gen. (519b), May 18, 1937.

City council of Worthington under its home rule charter, may transfer surplus unexpended and unappropriated money to the entertainment fund in such amount as is necessary to subserve public purpose. Op. Atty. Gen. (519b), May 18, 1937.

383-23. Civil Service Commission for Firemen created in certain cities.—There may be created in every city except cities of the first class, and in villages having a population of 2,000 inhabitants or more, and having a fire department consisting of two or more regularly employed and paid firemen, a firemen's civil service commission with powers and duties as hereinafter provided. (Act Mar. 11, 1929, c. 57, §1; Jan. 13, 1936, Ex. Sess. c. 13.)

This act is constitutional. State v. McDonald, 186M157, 246NW300. See Dun. Dig. 6659.

Laws 1929, c. 57, held not violative of Const. Art. 4, §§33, 34. 189M352, 230NW300(2).

The purpose of Laws 1921, c. 341, was to make operative §§4268, 4269, and it operated as an amendment to Laws 1929, c. 57, Id.


383-24. Last Federal census to control.—In determining the population of any such municipality, the last federal census or the last census taken there in, in the State of Minnesota, shall be conclusive as to the population thereof, for the purpose of this act. (Act Mar. 11, 1929, c. 57, §2.)

383-25. City or Village Council to adopt resolution.—Any city or village in the class mentioned in Section 1 (§1933-23) of this act which may wish to avail itself of the provisions of this act, shall do so by a resolution of its common council, expressly accepting the provisions hereof, which resolution shall be adopted by a vote of a majority of all the members thereof, and be approved by the mayor of such city or the president of such village council, and this act shall not apply to any such city or village until the adoption as aforesaid of such resolution. (Act Mar. 11, 1929, c. 57, §3.)

Resolution adopting this act is in nature of a legislative act required to have three readings under charter of city of Hastings. Op. Atty. Gen. (682b), May 2, 1934.

383-26. Membership—Duties—terms of office.—Said commission shall consist of three members who shall be elected by the city council of such city or village, and shall be appointed by the council of said city or village, as the case may be, and when first created one commissioner shall be appointed for the term of one year, who shall be president of the commission for the term of one year, and one for the term of three years, and all said commissioners shall hold their office until their successors are appointed and qualified. No commissioner shall at the time of his appointment or while serving, hold any other office or employment under the city or village, the United States, the State of Minnesota, or any public corporation or political division thereof, other than the office of notary public. Each commissioner, before entering upon his duties, shall subscribe and file with the city clerk or village recorder, an oath before entering upon his duties, shall subscribe and file with the city clerk or village recorder, an oath for the faithful discharge of his duties. There shall be appointed each year thereafter by the said council one member of the said commission whose term of office shall be for three years, and each member of said commission shall be president of the term for which he is appointed. (Act Mar. 11, 1929, c. 57, §4.)

383-27. Meetings.—The commission shall first meet and organize at its first regular meeting and thereafter on the first Monday in February of each year at which said meetings it shall select from its members a secretary who shall serve until his successor is elected. The commission shall from time to time fix the times of its meetings, and adopt, amend, and alter rules for its procedure. (Act Mar. 11, 1929, c. 57, §5.)

383-28. Members to serve without pay.—Each commissioner shall serve without pay but the council may allow the secretary such compensation, not exceeding one hundred dollars per year, as it shall deem commensurate with the additional services rendered by said secretary. The council shall pay from the municipal treasury any other expenses of the commission in connection with the performance of its duties and shall furnish said commission with all supplies, stationery and equipment it may require, but all bills and accounts shall be audited and approved by the president and secretary of said commission before being paid by the council. (Act Mar. 11, 1929, c. 57, §6.)


383-29. Powers and duties of Commission.—The commission shall have absolute control and supervision over the employment, promotion, discharge and suspension of all officers and employees of the fire department of any city or village in the class mentioned in §1933-23. Civil Service Commission for Firemen created in certain cities. The powers and duties of such department of such city or village and the powers and duties of the commission over the employment, promotion, discharge and suspension of such officers and employees shall extend to and include the chief and assistant chief of such, and all inspectors, fire wardens, electricians, engineers, auto mechanics, clerks and other persons in said city or village engaged in the prevention and protection service in said city or village.

The commission shall immediately after its appointment and organization grade and classify all of said employees of the fire department of said city or village, and shall adopt and enforce a set of rules and regulations for the government of the said department and their employees, and to carry out the purposes of this chapter. The rules shall provide among other things for:

(a) The classification of all offices and employments in the fire department.

(b) Public competitive examinations to test the relative fitness of applicants.

(c) Public advertising of all examinations at least ten days in advance in a newspaper of general circulation in said city or village and posting said advertisement for ten days in the city or village hall and at each station house.

(d) The creation and maintenance of lists of eligible candidates after successful examination in order of their standing in the examination and without reference to the time of examination. Such lists shall

387
§1933-31

CH. 9—VILLAGES AND CITIES

be embraced in an eligible register. The commission
may by rule provide for striking any name from the
eligible register after it has been two years thereon.
(e) The rejection of candidates or eligibles who,
after the entry of their names shall fail to comply
with the requirements rules and requirements of the
commission, either in respect to age, residence, physical condi-
tion or otherwise, or who have been guilty of crim-
inal, infamous, or disgraceful conduct, or of any will-
ful misrepresentation, deception or fraud in connec-
tion with the examination or in connection with their
applications for employment.
(f) The certification of the name standing highest
on the appropriate list to fill any vacancy.
(g) Temporary employment without examination,
with the consent in each case of the commission. In
cases of emergency, but no such temporary employ-
ment shall continue more than 30 days nor shall suc-
cessive temporary employments be permitted for the
same position.
(h) Promotion based on competitive examination
and upon records of efficiency, character, conduct, and
seniority.
(i) Suspension with or without pay, for not long-
er than 60 days and for leave of absence, with or
without pay.
(j) Such other rules not inconsistent with the provisions
of this act as may from time to time be
found necessary to secure the purposes of this act.
Copies of such rules shall be kept posted in a con-
spicuous place at each fire station house and no rules
of general application with reference to employment,
promotion, discharge or suspension shall be effective
until so posted. (Act Mar. 11, 1929, c. 57, §8.)

§1933-31. Removal or discharge—Hearings.—No
officer or employee after six months' continuous
employment shall be removed or discharged except for
cause, upon written charges and after an opportunity
of being heard in his own defense as in this chapter
hereinafter provided. Such charges shall be investi-
gated and trial by the civil service commission. The
findings and decision of such commission shall be
forthwith certified to the chief or other appointing
or superior officer, and will be forthwith enforced by
such officer. In this section the power of any officer to suspend a subordinate for a reason-
able period not exceeding 60 days for the purpose of
discipline, or pending investigation of charges when
he deems such suspension advisable. (Act Mar. 11,
1929, c. 57, §9.)

The commission shall ascertain the duties of each office,
position and employment in the fire protection serv-
ces of such city or village, and designate by rule as
examiners or assistant examiners. (Act Mar. 11,
1929, c. 57, §11.)

1933-34. Notice of examinations.—Notice of the
time, place and scope of each examination shall be
published by publication and posting as specified in Sec-
tion 8, and by mailing such notice to each applicant
upon the appropriate list of the eligible register ten
days in advance. The names of those found eligi-
ble upon examinations after giving credit for char-
acter and previous successful experience, shall be en-
tered with their addresses and percentages on the
eligible register. No name shall remain upon the eligi-
able register more than two years without a new
application and, if the rules of the commission so re-
quire, a new examination. When a vacancy has been
filled or new appointment made the names selected
shall be stricken from the eligible register and trans-
ferred to the service register. (Act Mar. 11, 1929,
c. 57, §12.)

1933-35. Charges to be filed—Trial.—Charges of
insufficiency or misconduct may be filed with the sec-
cretary of the commission by a superior officer or by
any member of the commission of his own motion, and
thereupon the commission shall try the charges as
soon as it shall be convenient for the purpose.

§1933-36. Suspension or removal.—If after investi-
gation and trial by the civil service commission as
herein provided an employee is found guilty of ineffi-
ciency, breach of duty, or misconduct, he may be
removed, reduced or suspended, and his name may
be stricken from the service register. If the board shall
determine that the charges are not sustained, the ac-
cused, if he has been suspended pending investiga-
tion, shall be immediately reinstated and shall be paid
all back pay due for the period of suspension.

Findings and determinations hereunder and orders of
suspension, reduction, or removal, shall be in writing
and shall be filed within three days after the close of
such hearing, into the file of the records of the com-
mision and it shall be the duty of the secretary to
notify such employee of said decision in writing. Any
person suspended, reduced, or removed by the com-
mision may appeal therefrom in writing to the com-
mision after investigation may appeal therefrom in
writing to the district court by serving written notice
thereof upon the secretary within ten days after the
filing of said order or the receipt by said employee of
written notice of said order as above provided.

388
Within five days thereafter, the secretary shall certify to the clerk of the district court, the record of the proceedings, including all documents, testimony and minutes. The case shall then be at issue and shall be placed on the calendar by the clerk to be tried before the court without jury in the next legal term thereof to be held in the county where said city or village is located at the place nearest said city or village. The question to be determined by the court shall be: "Was the evidence was the order of the commission reasonable?" After trial in the district court an appeal may be taken from the decision thereof to the supreme court by the employee or the commission in the same manner as provided for other court cases.

1933-37. Certain acts to be misdemeanors.—An applicant for examination, appointment or promotion in the fire department, when operated under civil service, may promote or indirectly or directly, give, render or pay any money, service or other thing to any person, for or on account of or in connection with his examination, appointment or proposed appointment or promotion shall be guilty of a misdemeanor and shall also be subject to suspension or removal. (Act Mar. 11, 1929, c. 57, §14.)

1933-38. Same.—Any officer or employee of the fire department, when operated under civil service in accordance with the provisions of this chapter, who shall, either directly or indirectly, give, render or pay or promote to give, render or pay any money, service or other thing to any person, for or on account of or in connection with his examination, appointment or proposed appointment or promotion shall be guilty of a misdemeanor and shall also be subject to suspension or removal. (Act Mar. 11, 1929, c. 57, §15.)

1933-39. Same.—Any person who shall solicit or receive directly, or indirectly, or be in any manner concerned in soliciting, receiving or paying any assessment, subscription or contribution for any party or political purpose whatsoever from any officer or employee in a fire department operated under civil service as in this chapter provided for, shall be guilty of a misdemeanor. (Act Mar. 11, 1929, c. 57, §16.)

1933-40. Commission may be abolished.—Any firemen or any other commission hereafter created, pursuant to the provisions of this act, except where under such civil service commission has been continuously in operation for eight years or more, may be discontinued and abolished as follows: A petition signed by 25 percent of the number of legal voters voting at the last general municipal election, shall be filed with the governing body of such city or village, and such request, that the following question be submitted to the voters, to wit: "Shall the Firemen's Civil Service Commission be abolished?" (Laws 1929, c. 57, §18; Apr. 13, 1931, c. 152, §1; Apr. 21, 1939, c. 379.)

1933-41. Elections.—When such petition is filed, the governing body of such city or village shall said question to be submitted to the voters at the first following general municipal election. Such commission shall be deemed to be abolished if two-thirds of the votes cast in said election be in favor of such abolition; and the status of the fire department and all of the employees thereof shall thereafter be the same as if said commission had not been created. (Laws 1929, c. 57, §19; Apr. 13, 1931, c. 152, §2.)

1933-42. Municipalities may pass zoning ordinance. — That for the purpose of promoting health, safety, order, convenience, prosperity, and general welfare, and for the purpose of preventing class or any village in this state, acting by or through its governing body, may by ordinance regulate the location, size, use and height of buildings, the arrangement of buildings on lots, and the density of population within such city or village; may make different regulations for different districts thereof; and may acquire or prepare and adopt a comprehensive plan for the future development, annexation and development of said city or village, in accordance with the regulations made as aforesaid, and may thereafter alter said regulations or plan, such alterations, however, to be made only by a two-thirds vote of all the members of the governing body of such city or village. Provided that after the adoption of an ordinance hereunder and within ten days after its publication such ordinance may be suspended in effect upon the filing of a petition signed by resident freeholders of the municipality in a number equal to at least ten percent of the legal voters of the municipality requesting that the question of permitting the council to zone the city to be submitted to the voters at a general or special election, and the said ordinances shall not again become effective until a majority of the voters voting on the question approve the proposition permitting the governing body to zone the municipality. (Act Apr. 12, 1929, c. 176, §1; Apr. 22, 1935, c. 235, §1; Apr. 13, 1935, c. 376, §1.)

1933-43. Zoning ordinance may be adopted by petition. — If a majority of the legal voters of the city or village who shall have voted in any election held within the city or village in any general or special election, petition the city council to adopt a zoning ordinance, the city council shall consider and pass an ordinance for the purpose of zoning the city or village. The same shall be published in a newspaper of general circulation in the city or village. Provided that such ordinance shall be published at least once in an open court of record at the whole of such city or village, before adoption thereof. (Act Apr. 13, 1935, c. 376, §2.)

1933-44. Zoning ordinance may be adopted by special referendum. — Any city or village may adopt a zoning ordinance by petition. Provided that any petition shall be in writing and have attached thereto proof of the number of signatures thereon, which proof shall be signed by at least ten percent of the legal voters voting in any prior general or special election held in such city or village. Said petition shall have attached thereto a copy of the proposed ordinance, duly certified by the city clerk. Provided that such petition shall be filed within thirty days after the last day of the last general or special election held within such city or village. Upon the filing of said petition, the city council shall cause an ordinance for the purpose of zoning the city or village to be adopted. Provided that such ordinance shall be published at least once in an open court of record at the whole of such city or village, before adoption thereof. (Act Apr. 13, 1935, c. 376, §3.)

1933-45. Zoning ordinance may be adopted by city charter. — Any city may adopt a zoning ordinance under the city charter. Provided that the same shall be published at least once in an open court of record at the whole of such city, before adoption thereof. (Act Apr. 13, 1935, c. 376, §4.)

1933-46. Zoning ordinance may be amended. — Any city or village may amend the provisions of the zoning ordinance in the manner provided for the original adoption thereof. Provided that said ordinance shall be published at least once in an open court of record at the whole of such city or village, before adoption thereof. (Act Apr. 13, 1935, c. 376, §5.)

1933-47. Zoning ordinance may be imposed by the state. — Any city or village may impose a zoning ordinance upon any body corporate or politic situated within the same by petition, provided that the same shall be published at least once in an open court of record at the whole of such city or village, before adoption thereof. (Act Apr. 13, 1935, c. 376, §6.)

1933-48. Zoning ordinance may be abolished by petition. — Any city or village may abolish any zoning ordinance by petition. Provided that any petition shall be in writing and have attached thereto proof of the number of signatures thereon, which proof shall be signed by at least ten percent of the legal voters voting in any prior general or special election held within such city or village. Said petition shall have attached thereto a copy of the proposed ordinance, duly certified by the city clerk. Provided that such petition shall be filed within thirty days after the last day of the last general or special election held within such city or village. Upon the filing of said petition, the city council shall cause an ordinance abolishing the zoning ordinance to be adopted. Provided that such ordinance shall be published at least once in an open court of record at the whole of such city or village, before adoption thereof. (Act Apr. 13, 1935, c. 376, §7.)

1933-49. Zoning ordinance may be adopted by special referendum. — Any city or village may adopt a zoning ordinance by petition. Provided that any petition shall be in writing and have attached thereto proof of the number of signatures thereon, which proof shall be signed by at least ten percent of the legal voters voting in any prior general or special election held within such city or village. Said petition shall have attached thereto a copy of the proposed ordinance, duly certified by the city clerk. Provided that such petition shall be filed within thirty days after the last day of the last general or special election held within such city or village. Upon the filing of said petition, the city council shall cause an ordinance for the purpose of zoning the city or village to be adopted. Provided that such ordinance shall be published at least once in an open court of record at the whole of such city or village, before adoption thereof. (Act Apr. 13, 1935, c. 376, §8.)
§1033-43  CH. 9—VILLAGES AND CITIES

Any city or village in the class mentioned in this Act which may wish to avail itself of the provisions hereof, shall do so by a resolution of its governing body, expressly accepting the provisions hereof, which resolution shall be passed by a vote of all the members of said governing body, and be approved by the mayor of such city or the president of such village governing body, and this Act shall not apply to any such city or village until the adoption as authorized by such resolution. (Act Apr. 22, 1935, c. 299, §1; Apr. 10, 1933, c. 197, §1; Mar. 1, 1935, c. 34, §1.)

Statute is not unconstitutional as special legislation, and acting, uniform, or local in its operation, embraces a subject not expressed in title. Nelson v. V. I., 245 N.W.2d 242 N.W.2d 601, See Dun. Dig. 1091.

This act did not affect the general power of supervision of the Mayor of Eveleth over the police department. Op. Atty. Gen., Nov. 25, 1930.


An ordinance creating a police civil service commission cannot provide that it may be repealed and the resolution abolishing the commission cannot be adopted by a vote of the electors. Op. Atty. Gen., Jan. 21, 1931.

A city council of Eveleth had authority to place juvenile officer within the Police Department under the direction of the Police Civil Service Commission. Op. Atty. Gen., Nov. 25, 1930.


This act applies to all cities within the class, including cities having an established fire department or a fire chief appointed by the governing body. (Act Apr. 22, 1935, c. 299, §2.)


1939-40. Membership—Appointment—Oath. — Said commission shall consist of three members who shall be citizens of the state and residents of such city or village, and shall be appointed by the mayor or president of said city or village, as the case may be, and the appointment of each of said commissioners, to be confirmed by a majority vote of the governing body immediately after election or appointment, and whose term of office shall be appointed for the term of one year, who shall be president of said commission, one for the term of two years, and one for the term of three years, and all said commissioners shall hold their office until their successors are appointed and qualified. No commissioner shall at the time of his appointment or while serving hold any other office or employment under the city or village, the United States, the State of Minnesota, or any public corporation or political division thereof, other than the office of Notary Public.

Each commissioner, before entering upon his duties, shall subscribe and file with the city clerk or other officer thereof, a record of his appointment and oath of office. There shall be appointed each year thereafter by the said mayor or president one member of the said commission whose term of office shall be for three years, and each member of said commission shall be president pro tern of such commission for the last year of the term for which he is appointed. (Act Apr. 23, 1929, c. 299, §2.)


When a term of office of commissioner has expired and no successor is appointed to fill such vacancy, the commissioner shall remain in office for such time thereafter as such vacancy may exist. Op. Atty. Gen., Mar. 14, 1934.

President of council of city of Marshall, in absence of mayor who is in distant hospital and unable to act, may call special meeting of council and appoint a police civil service commissioner to fill a vacancy, and may also vote on question of confirmation of such appointment. Op. Att'y Gen. (614A), May 14, 1938.

Police civil service commissioner may not hold office of member of city council or appointed officer of police. Op. Att'y Gen. (785e), July 18, 1933.

As affecting residence of commissioner, a person's place of residence is that place in which his habitation is fixed and to which, whenever he is absent he intends to return. Op. Att'y Gen. (786e), Aug. 10, 1934.


A secretary who shall serve until his successor is appointed and from time to time thereafter, make, amend, and alter rules for its procedure. (Act Apr. 23, 1929, c. 299, § 1.)

Commissioners to serve without pay.—Each commissioner shall serve without pay but the council may allow the secretary such compensation, not exceeding $100.00 per year, as it shall deem necessary and useful. The council shall be named with the additional service rendered by said secretary. The council shall pay from the municipal treasury all expenses incurred by the commission in connection with the performance of its duties and any connection with all bills and accounts shall be audited and approved by the president and secretary of said commission before being paid by the council. (Act Apr. 23, 1929, c. 299, § 3.)

Duties of commission.—The commission shall have absolute control and supervision over the employment, promotion, discharge and suspension of all officers and employees of the police department of such city or village, and shall determine his hours and the offices or employments they seek. All applications shall be upon forms prescribed by the commission and shall contain such data and information as the commission shall deem necessary and useful. (Act Apr. 23, 1929, c. 299, § 4.)


The only powers of the police civil service commission are in connection with employment, promotion, discharge, suspension, removal of employees, police civil service commissioner to fill a vacancy, and may also vote on question of confirmation of such appointment. Op. Att'y Gen. (614A), May 14, 1938.

Police civil service commission may not hold office of member of city council or appointed officer of police. Op. Att'y Gen. (785e), July 18, 1933.

As affecting residence of commissioner, a person's place of residence is that place in which his habitation is fixed and to which, whenever he is absent he intends to return. Op. Att'y Gen. (786e), Aug. 10, 1934.


A secretary who shall serve until his successor is appointed and from time to time thereafter, make, amend, and alter rules for its procedure. (Act Apr. 23, 1929, c. 299, § 3.)

Commissioners to serve without pay.—Each commissioner shall serve without pay but the council may allow the secretary such compensation, not exceeding $100.00 per year, as it shall deem necessary and useful. The council shall be named with the additional service rendered by said secretary. The council shall pay from the municipal treasury all expenses incurred by the commission in connection with the performance of its duties and any connection with all bills and accounts shall be audited and approved by the president and secretary of said commission before being paid by the council. (Act Apr. 23, 1929, c. 299, § 3.)

Duties of commission.—The commission shall have absolute control and supervision over the employment, promotion, discharge and suspension of all officers and employees of the police department of such city or village, and shall determine his hours and the offices or employments they seek. All applications shall be upon forms prescribed by the commission and shall contain such data and information as the commission shall deem necessary and useful. (Act Apr. 23, 1929, c. 299, § 4.)


The only powers of the police civil service commission are in connection with employment, promotion, discharge, suspension, removal of employees, police civil service commissioner to fill a vacancy, and may also vote on question of confirmation of such appointment. Op. Att'y Gen. (614A), May 14, 1938.

Police civil service commission may not hold office of member of city council or appointed officer of police. Op. Att'y Gen. (785e), July 18, 1933.

As affecting residence of commissioner, a person's place of residence is that place in which his habitation is fixed and to which, whenever he is absent he intends to return. Op. Att'y Gen. (786e), Aug. 10, 1934.


A secretary who shall serve until his successor is appointed and from time to time thereafter, make, amend, and alter rules for its procedure. (Act Apr. 23, 1929, c. 299, § 3.)

Commissioners to serve without pay.—Each commissioner shall serve without pay but the council may allow the secretary such compensation, not exceeding $100.00 per year, as it shall deem necessary and useful. The council shall be named with the additional service rendered by said secretary. The council shall pay from the municipal treasury all expenses incurred by the commission in connection with the performance of its duties and any connection with all bills and accounts shall be audited and approved by the president and secretary of said commission before being paid by the council. (Act Apr. 23, 1929, c. 299, § 3.)

Duties of commission.—The commission shall have absolute control and supervision over the employment, promotion, discharge and suspension of all officers and employees of the police department of such city or village, and shall determine his hours and the offices or employments they seek. All applications shall be upon forms prescribed by the commission and shall contain such data and information as the commission shall deem necessary and useful. (Act Apr. 23, 1929, c. 299, § 4.)


The only powers of the police civil service commission are in connection with employment, promotion, discharge, suspension, removal of employees, police civil service commissioner to fill a vacancy, and may also vote on question of confirmation of such appointment. Op. Att'y Gen. (614A), May 14, 1938.

Police civil service commission may not hold office of member of city council or appointed officer of police. Op. Att'y Gen. (785e), July 18, 1933.

As affecting residence of commissioner, a person's place of residence is that place in which his habitation is fixed and to which, whenever he is absent he intends to return. Op. Att'y Gen. (786e), Aug. 10, 1934.


A secretary who shall serve until his successor is appointed and from time to time thereafter, make, amend, and alter rules for its procedure. (Act Apr. 23, 1929, c. 299, § 3.)

Commissioners to serve without pay.—Each commissioner shall serve without pay but the council may allow the secretary such compensation, not exceeding $100.00 per year, as it shall deem necessary and useful. The council shall be named with the additional service rendered by said secretary. The council shall pay from the municipal treasury all expenses incurred by the commission in connection with the performance of its duties and any connection with all bills and accounts shall be audited and approved by the president and secretary of said commission before being paid by the council. (Act Apr. 23, 1929, c. 299, § 3.)

Duties of commission.—The commission shall have absolute control and supervision over the employment, promotion, discharge and suspension of all officers and employees of the police department of such city or village, and shall determine his hours and the offices or employments they seek. All applications shall be upon forms prescribed by the commission and shall contain such data and information as the commission shall deem necessary and useful. (Act Apr. 23, 1929, c. 299, § 4.)

$1933-54  CH. 9—VILLAGES AND CITIES

(i) Suspension with or without pay for not longer than 60 days and for leave of absence, with or without pay.

(ii) Such rules not inconsistent with the provisions of this act as may from time to time be found necessary to secure the purposes of this act.

Copies of such rules shall be kept posted in conspicuous place at each police station house and no rules of general application with reference to employment, promotion, discharge or suspension shall be effective until so posted. (Act Apr. 23, 1929, e. 299, §6.)


(majority vote may at any time adopt a rule as to retirement aid though it affects a police officer who has been steadily employed since establishment of commission.)

(e)


1933-54. Officers discharged only after hearing.—No officer or employee after six months' continuous employment shall be removed or discharged except for cause upon written charges and after an opportunity to be heard in his own defense as in this chapter hereinafter provided. Such charges shall be investigated by or before such civil service commission. The finding and decision of such commission shall be forthwith certified to the chief or other appointed or superior officer and will be forthwith enforced by such officer. Nothing in this act shall limit the power of the board to suspend a subordinate for a reasonable period not exceeding 60 days for the purpose of discipline, or pending investigation of charges when he deems such suspension advisable. (Act Apr. 23, 1929, c. 299, §7.)

Police c. 195M558, 270NW577; note under §1939-52. Police civil service commission had power of summarily removing police officer who had been steadily employed for six months prior to the creation of the commission. Saholt v. C., 185M510, 242NW4; note under §1933-69.

1933-58. Charges to be filed with Secretary of Commission.—Charges of inefficiency or misconduct may be filed with the secretary of the commission by a superior officer or by any member of the commission of his own motion, and thereupon the commission shall try the charges after no less than ten days' written notice to the accused. Such notice shall set forth the charges as filed. In the event that the charges are filed by a member of the commission the complaining commissioner shall not sit. The trial of said charges shall be open to the public and each commissioner shall have the power to issue subpoenas and to administer oaths and to compel the attendance and testimony of witnesses and the production of books and papers relevant to the investigation. The commission shall require by subpoena the attendance of any witness requested by the accused who can be found In the county in which such city or village is located. The commission may make complaint to the district court of disobedience of its subpoenas or orders under this section, and the court shall prescribe notice to the defendant and affirm that the commission's subpoena and order, if found within the lawful powers of the commission, and punish disobedience as a contempt of court. Witnesses shall be entitled to the same fees and mileage as for attendance upon the District Court, except that any officer, agent, or employee of said city or village who receives compensation for his services, shall not be entitled to fees or mileage. (Act Apr. 23, 1929, c. 299, §11.)


1933-59. Suspension and removal.—Reinstatement.—If, after investigation and trial by civil service commission as herein provided, an employee is found guilty of inefficiency, breach of duty, or misconduct, he may be removed, reduced, or suspended and his name may be stricken from the service register. If the board shall determine that the charges are not sustained, the accused, if he has been suspended pending investigation, shall be immediately reinstated and shall be paid all back pay due for the period of suspension.

Findings and determinations hereunder and orders of suspension, reduction, or removal, shall be in writing and shall be filed within three days after the completion of such hearing with the secretary of the commission and it shall be the duty of the secretary
to notify such employee of said decision in writing. Any person suspended, reduced, or removed by the commission after investigation may appeal from the order to the district court by serving written notice thereof upon the secretary within ten days after the filing of said order or the receipt by said employee of written notice of said order. The appeal shall be tried without jury by the court without jury at the next general term and shall be subject to suspension or removal. (Act Apr. 23, 1929, c. 299, §12.)

1933-60. Certain acts a misdemeanor.—An applicant for examination, appointment or promotion in the police department service of said city or village who shall, either directly or indirectly, give, render or pay or promise to give, render or pay any money, service, or contributions or anything of or in connection with his examination, appointment or proposed appointment or promotion shall be guilty of a misdemeanor and shall be subject to suspension or removal. (Act Apr. 23, 1929, c. 299, §13.)

1933-61. Certain acts a misdemeanor.—Any officer or employee of the police department, when operating under civil service in accordance with the provisions of this chapter, who shall in any manner directly or indirectly solicit, receive or pay, or be in any manner concerned in soliciting, receiving or paying, any assessment, subscription or contribution for any party or political purpose, shall be guilty of a misdemeanor and shall be subject to suspension or removal. (Act Apr. 23, 1929, c. 299, §14.)

1933-62. Certain acts a misdemeanor.—Any person who shall solicit or receive directly or indirectly, or be in any manner concerned in soliciting or receiving any contribution or payment for any political purpose whatever from any officer or employee in a police department operated under civil service as in this chapter provided for, shall be guilty of a misdemeanor. (Act Apr. 23, 1929, c. 299, §15.)

1933-63. Commission to be vested with powers in certain cities or village. When an officer or employee in a police civil service commission, the council may provide that such commission be vested with the powers and duties of the police civil service commission, as set forth herein. (Act Apr. 23, 1929, c. 299, §16.)

1933-63a. Officers to come under commission.—Any officer or employee regularly employed at the time of the creation of the civil service commission shall automatically come under the jurisdiction of the civil service commission. (Added to Act Apr. 23, 1929, c. 299, §17.)

1933-63b. Discontinuance of commission.—Any police civil service commission hereafter created, pursuant to the provisions of this Act may be discontinued and abolished as follows: A petition signed by 25 per cent of the number of legal voters voting at the last general municipal election shall be filed with the governing body of such city or village and shall request that the following question be submitted to the voters, to-wit: "Shall the police civil service commission have power to summarily remove employees who shall hereafter be duly established in the manner prescribed by law, the governing body of any village coming within the classification as set forth in Section 1 of this act, shall continue without any change in the manner as heretofore provided by said Chapter 57 of the Laws of 1929, and Chapter 299, Laws of 1929, and the acts amendatory thereof. when any such village adopts the provisions of a Home Rule Charter, or becomes incorporated as a city of the second, third, or fourth class. (Act Mar. 8, 1933, c. 64, §2.)

Sec. 21 of Act Apr. 10, 1933, cited, repeals all inconsistent acts.

1933-63m. Civil service commissions continued. Whenever a board or boards of civil service commissioners have been established for police or fire departments, under and pursuant to Chapter 57, Laws of 1929, and Chapter 299, Laws of 1929, and the acts amendatory thereof, in any village having a population of 5,000 inhabitants or more and having an assessed valuation of $8,000,000.00 or more, exclusive of money or credits, such board or boards are hereby authorized and empowered to continue to act in carrying out the duties of said commission and shall be pursuant to such laws and adoption of said commission by the governing bodies of such villages, whether incorporated or unincorporated may now or hereafter be incorporated as a city of the second, third, or fourth class, or adopt the provision of a Home Rule Charter. (Act Mar. 8, 1933, c. 64, §1.)

Power to purchase fire truck and equipment is vested in the council and not in the civil service commission. Op. Att'y Gen. (G88c-l), Mar. 5, 1937.

1933-63n. Policeman and Fireman Civil Service continued.—Any policeman's civil service commission or fireman's civil service commission, which has been or which shall hereafter be duly established in the manner prescribed by law, the governing body of any village coming within the classification as set forth in Section 1 of this act, shall continue without any change in the manner as heretofore provided by said Chapter 57 of the Laws of 1929, and Chapter 299, Laws of 1929, and the acts amendatory thereof. when any such village adopts the provisions of a Home Rule Charter, or becomes incorporated as a city of the second, third, or fourth class. (Act Mar. 8, 1933, c. 64, §2.)

Sec. 3 of Act Mar. 8, 1933, cited, provides that the act shall take effect from its passage.
1933-04. Villages and townships may cooperate in support of said assessment. When any such village or township owns and maintains an established cemetery or burial ground, the owners of at least 75% of the outstanding warrants shall file their consent to the postponement of the payment of said warrants and the consent to such extension of time of payment by the owners of said warrants shall take the place of and have the effect of invalidating any resolutions theretofore passed for the collection of any unpaid installments of said assessments not yet extended and placed upon the tax roll against the property affected by said improvement.

1933-05. Limit to appropriations.—Such appropriation by each municipality shall not exceed the per capita amount paid by any other municipality sharing therein, based on the populations of the respective units; provided, also, that any arrangement hereunder shall not alter the management, control of ownership of any cemetery. (Act Apr. 20, 1931, c. 262, §1.)

1933-06. Certain assessments to be paid in twenty installments.—Wherever any city of this state having a population of ten thousand or less, or any village or borough of this state, whether organized under a general law or a special law, shall have heretofore under and pursuant to said section 1880 to 1906, inclusive, General Statutes of Minnesota for 1923, and acts amendatory thereof, extended any existing sewer system or relayed, altered or extended any existing sewer system or established a general system of sewers or created sewer districts, or changed, diminished or enlarged the boundaries of any existing sewer plants under and pursuant to the provisions of Sections 1880 to 1906, inclusive, General Statutes of Minnesota for 1923, and acts amendatory thereof, and shall have heretofore issued warrants under and pursuant to said sections, as amended or supplemented, which warrants were used in making payments on contracts for any of the improvements hereinbefore referred to or were sold by the city, village or borough and the proceeds thereof used in paying for any of such improvements, and the Council of any such city, village or borough shall have heretofore under and pursuant to said sections, as amended or supplemented, adopted a resolution assessing each lot, piece or parcel of land therein described, and such amounts, together with the interest thereon, which shall have been levied or appropriated by each municipality shall not exceed a total of $1,000.00 in any one year. (Act Apr. 20, 1931, c. 262, §2.)

Any amount of said unpaid and unextended assessments not included in said statement filed by the said clerk of any city, village or borough with the County Auditor and not included in such extension agreement or such warrants and the consent to such extension of time of payment provided by the owners of said warrants shall be paid in accordance with the provisions of this section and the resolution of the council of said city, village or borough, or in the official acts of said council, of the County Auditor, affecting the collection of said unextended portions of said assessments.
1933-67. Cities, etc., may indemnify police and fire department employees.—That all cities, villages and boroughs in this state are hereby authorized to indemnify employees of the police and fire departments thereof against any liability arising out of any claim or suit for bodily injuries, death or property damage made upon any such employee because of his operation of a motor vehicle while in the performance of his duties, and to defend in the name and on behalf of such employee any suit brought against him to enforce a claim, whether groundless or not, arising out of the operation of a motor vehicle by him while in the performance of his duties, and to compromise and release such claim or claims and the amount of such settlement or compromise, or the amount of any judgment rendered against him on any such claim, without first requiring such employee to pay same. (Act Apr. 1, 1933, c. 138.)

1933-68. Municipalities may carry on city planning activities.—Any municipality in the state is authorized to carry on city planning activities and adopt a plan for the future physical development of the municipality and to prepare and adopt an official map of all proposed alteration or expansion of streets or other public uses which are not yet within the corporate limits of such municipality. The adoption of said map shall not be required in such cases, and it shall not be required in such cases that the map be adopted and published as the official map of that portion of the municipality. (Act Apr. 1, 1933, c. 138.)

395
and with such surety and conditions satisfactory to it, providing for the securing to the municipality the actual construction and installation of such improvements and utilities within a period specified by the governing body and expressed in the bond; and the municipality is hereby granted the power to enforce such bonds by all appropriate legal and equitable remedies.

In appropriate plots of subdivisions to be developed for residential uses (where the plot or subdivision is ______ acres or more in extent) the governing body of any municipality shall have the power to require such subdividers to conform to the building lines established. (Apr. 19, 1937, c. 287, §5.)

1933-73. Same—Public utilities must have permits.—No utility, municipal service or improvement shall be constructed on any street, highway, alley, or other public way until the said street, highway, alley, or other public way has been approved and accepted or properly indicated upon an official map of the municipality as required by law. No permit to construct any building shall be issued unless it shall be located upon a street or highway giving access thereto which has been duly approved and placed on the official map, and shall conform to the building line established upon such street or the lines therein established. (Apr. 19, 1937, c. 287, §6.)

1933-75. Same—Application of Act.—The governing body may create and dissolve planning commission. The governing body of any city or village may by ordinance or resolution create and, by unanimous vote thereof dissolve a planning commission consisting of resident citizens who may or may not be officials to be advisory to that body, which commission when established, shall have the power to carry on the duties conveyed to the municipality hereunder, under direction of the city or village council. The council shall also adopt such penalties as it deems advisable, and impose them upon the violation of any of the provisions of a municipal ordinance or resolution adopted pursuant hereto as a misdemeanor, and may recover or compel such payment of the actual expenses of defending such suit, including witness fees and disbursements, as may be necessary. (Apr. 19, 1937, c. 287, §7.)

1933-75. Same—Application of Act.—The powers conveyed under this act shall be in addition to all powers now possessed by any municipality subject to the provisions of this act, but this act shall not apply to or hereafter regulate any governmental subdivision containing a population of 50,000 or more inhabitants. (Apr. 19, 1937, c. 287, §8.)

Sec. 8 of Act Apr. 19, 1937 cited, provides that the Act shall take effect from its passage.

1933-76. Bids for purchase of supplies.—Whenever any county, township, city, borough, village or school district in this state calls for bids for the purchase of any supplies or equipment, no bid submitted shall be accepted unless competitive bids have also been submitted. (Apr. 24, 1937, c. 416, §1.)


Term “supplies or equipment”, does not refer to contract for construction or repair of sidewalks, sewers, water mains and similar improvements involving work and labor as well as material, but does apply where city purchases of labor and materials have been done. Id.


Where not only purchase of equipment but an installation under a contract requiring a substantial amount of labor, the contract was concerned by this section and if bids were advertised for properly, even though there was only one bid, it was lawful to award contract. Id.


1933-77. Same—Bids shall not be exclusive.—Specifications for supplies and equipment shall not be prepared and advertised for all but one type or kind but shall include competitive supplies and equipment. (Apr. 24, 1937, c. 416, §2.)

1933-78. Same—Application of act.—The provisions of this act shall not apply to non-competitive types and kinds of supplies and equipment. (Apr. 24, 1937, c. 416, §3.)

1933-79. Same—Violation a gross misdemeanor.—The violation of any of the provisions of this act shall be a gross misdemeanor. (Apr. 24, 1937, c. 416, §4.)

1933-81. Municipalities to furnish counsel to defend public officials.—On and after the passage of this act, every city, village, borough, township or county of this State employing sheriffs, police officers or peace officers shall be required to furnish competent legal counsel to defend any sheriff, deputy sheriff, police officer or peace officer employed by any such governmental subdivision in all actions brought against such officer to recover damages for alleged false arrest, when such alleged false arrest was made by such officer in good faith and in the performance of his official duties, and shall pay reasonable costs and expenses of defending such suit, including witness fees and counsel fees, notwithstanding any contrary provisions in the laws of this State or in the Charter of any such governmental subdivision. (Apr. 24, 1937, c. 442, §1.)

1933-82. Same—Cost and disbursements to be assigned to municipalities.—If, at the termination of such suit, judgment is rendered in favor of the defendant and against the plaintiff, such judgment for costs and disbursements shall be assigned to such governmental subdivision by such officer, and all moneys collected thereon shall be paid to such governmental subdivision by such officer, and all moneys collected thereon shall be paid to such governmental subdivision. If judgment be rendered in favor of the defendant in such action against such officer, such governmental subdivision so employing such officer is hereby authorized to appropriate moneys from any funds available to pay such judgment, if, in the discretion of the governing body of such governmental subdivision, it seems fitting and proper to do so. (Apr. 24, 1937, c. 442, §2.)

INCORPORATION ACT FOR CITIES

ACT OF 1870, AS AMENDED

There is no statute regarding deposits which is applicable to the City of Marshall. Op. Atty. Gen., June 18, 1951.

ACT OF 1895, AS AMENDED


Laws 1895, c. 8, §42.

Laws 1895, c. 8, §53.

Laws 1895, c. 8, §51.

Laws 1895, c. 8, §53.

Laws 1895, c. 8, §51.

Laws 1895, c. 8, §53.

Laws 1895, c. 8, §51.

Laws 1895, c. 8, §52.

Laws 1895, c. 8, §53.

Laws 1895, c. 8, §53.

Laws 1895, c. 8, §53.

Laws 1895, c. 8, §53.

Laws 1895, c. 8, §53.

Laws 1895, c. 8, §53.

Laws 1895, c. 8, §53.

Laws 1895, c. 8, §53.

Laws 1895, c. 8, §53.

Laws 1895, c. 8, §53.

Laws 1895, c. 8, §53.

Laws 1895, c. 8, §53.

Laws 1895, c. 8, §53.

Laws 1895, c. 8, §53.

Laws 1895, c. 8, §53.

Laws 1895, c. 8, §53.

Laws 1895, c. 8, §53.

Laws 1895, c. 8, §53.

Laws 1895, c. 8, §53.

Laws 1895, c. 8, §53.

Laws 1895, c. 8, §53.

Laws 1895, c. 8, §53.

Laws 1895, c. 8, §53.

Laws 1895, c. 8, §53.

Laws 1895, c. 8, §53.

Laws 1895, c. 8, §53.

Laws 1895, c. 8, §53.

Laws 1895, c. 8, §53.

Laws 1895, c. 8, §53.

Laws 1895, c. 8, §53.

Laws 1895, c. 8, §53.

Laws 1895, c. 8, §53.
CHAPTER 10
Public Indebtedness

1934. Scope of chapter.


Fourth class cities, villages or boroughs, located in counties having 250 to 400 sq. miles area, 12,500 to 16,000 population and $1,000,000 to $9,000,000 valuation, and an area of 285,000 to 280,000 acres, may levy 3 mills for municipal bond purposes. Laws 1935, c. 421.

Village may issue bonds to pay for power house and distributing system and enter into valid conditional sales contract for purchase of generating equipment to be paid for solely out of warrants of village issued for the purpose. Mills v. V., 187 M.N.W.2d 792, 241 Minn. 2d 472, 701. See Dun. Dig. 6579, 6701.

City treasurer cannot pay interest on orders presented for payment and not paid for want of funds, becomes payable as soon as there is money available, but such warrants should be paid in order of their presentation. Op. Atty. Gen., Mar. 28, 1932.


City of Winona may use city sinking fund, which it has no present intention of immediately using, to meet unemployment crisis by lending it to general fund. Op. Atty. Gen., May 23, 1932.


May 23, 1936.


Neither members of board of equalization of Red Lake Falls nor assessor of the city are entitled to compensation other than compensation for their services as members of the board of equalization and assessor. Op. Atty. Gen. (4056), Aug. 3, 1934.

Warrants issued under this section are not included in determining bond limit under §124. Laws 1935, c. 8, §887.

Unsecured rent is not a debt or present obligation of a city. Ambrosich v. C., 260 Minn. 472, 274 N.W.2d 835. See Dun. Dig. 6579, 6701.

Public service contracts calling for payment in installments or by work are not a debt or present obligation of a city. United States v. Minnesota, 283 U.S. 230, 51 S. Ct. 402, 75 L.Ed. 925.

Each city of the first class in the state is hereby authorized, in calculating net indebtedness, to deduct from the gross indebtedness thereof, in addition to deductions otherwise authorized by statute, the amount then outstanding of all loans in anticipation of the collection of general ad valorem taxes therefo receivable for city purposes, provided that the amount so deducted shall not exceed fifty per cent (50%) of such taxes which are due and