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Containing the text of the acts of the 1941 Session 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 Law Review Articles and digest of all common law decisions.

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and permitted him to take police civil service examination with regular force, and then erroneously certified him at head of list of eligible appointees for position of "regular" policemen, commission has authority to revise its list and strike his name from it, without formality of notice or hearing, but this would not affect preferential position arising from his status as a veteran if and when a position as regular policeman is open. Op. Atty. Gen., (785E-2), May 17, 1940.

1933-58. Charges to be filed with Secretary of commission.

If mayor is head of department, he is authorized to file charges, but a member of city council may not do so. Op. Atty. Gen. (785E-2), June 11, 1940.

Misconduct of police officers while on duty may be grounds for removal by commission in exercise of its judgment. Op. Atty. Gen. (785-E-2), July 29, 1940.

1933-63. Commission to be vested with powers in certain cases.

Council may not provide that firemen's civil service commission act also as police civil service commission. Op. Atty. Gen. (785E-2), June 11, 1940.

1933-65. Limit to appropriations.

Act Apr. 17, 1941, c. 296, provides that any village having assessed valuation in excess of \$70,000, located in a county having 70 to 80 congressional townships may levy a tax of 2 mills to maintain and improve cemeteries.

1933-71. Same—To approve plats, etc.

Law is an enabling act, and if a village has not adopted a city plan it is not necessary that council be governed by provision with reference to approval of plats, before they may be filed. Op. Atty. Gen. (59a), Dec. 10, 1940.

All plats of territory within 2 miles of village limits must be approved by village council before they may be filed, providing that village has adopted a plan for future growth of city. Id.

Council has power to approve a plat outside of city or village and within 2-mile limit though it fails to conform to map described in preceding section, but it was contemplated by legislature that plat filed would conform to city plan. Id.

If village has not adopted a city plan, provision requiring approval of city council as a condition precedent to filing of a plat is not applicable. Id.

Filing of plats and holding of public hearings are mandatory. Id.

1933-76. Bids for purchase of supplies.

School district may accept sole bid for installation of pianos, victrolas, and music stands, specifications providing that contractor must furnish labor, supervision and work in setting up and installing equipment, and that pianos shall then be correctly tuned to 440 pitch, and left in perfect condition. Op. Atty. Gen. (707a-12), Oct. 27, 1939.

Where all eight bids for coal are identical city council may divide the purchases among bidders, if there is no collusion among bidders, but eight identical bids is a suspicious circumstance. Op. Atty. Gen. (707), July 5, 1940.

This section does not apply to contracts for printing proceedings of county commissioners for ensuing year. Op. Atty. Gen., (707a-7), Jan. 16, 1941.

1933-78. Same—Application of act.

City desiring to use only natural gas as a fuel in operation of sewage disposal plant must call for bids though there is only one company in vicinity able to furnish such gas, but city council may award contract to one bidder. Op. Atty. Gen., (707a-4), March 18, 1940.

Whether or not a snow plow is of a non-competitive type of supply so as to do away with necessity of accepting competitive bids, is a question of fact for determination of county board. Op. Atty. Gen., (707a-7), Jan. 21, 1941, Jan. 30, 1941.

INCORPORATION ACT FOR CITIES

ACT OF 1895, AS AMENDED

Laws 1895, c. 8, §41.

Laws Mar. 11, 1941, c. 55, authorizes reorganization of wards in cities organized and existing under this act.

Laws 1895, c. 8, §51.

City cannot enter into a contract with a cooperative society in which councilman is a stockholder, and member of board of directors. Op. Atty. Gen., (90e), Jan. 15, 1940.

CHAPTER 10

Public Indebtedness

1934. Scope of chapter.

Borrowing of funds for poor relief. Laws 1941, c. 403.

1935. Net indebtedness defined.

Village organized under 1905 Act can issue bonds to defray cost of new water tank upon a five-eighths vote for an amount not in excess of net indebtedness, fixed by law. Op. Atty. Gen. (44B-17), Aug. 22, 1940.

(4).

A sewage disposal plant upon which a village imposes charges for use of sewage disposal is a "public convenience" within this section. Op. Atty. Gen., (928a-8), May 11, 1940.

Bonds used for hospital are not deductible from gross debts. Op. Atty. Gen. (44a-4), July 18, 1940.

1938-2½. Interest rates on municipal obligations.

Interest rates may vary from year to year. Op. Atty. Gen. (43B-3), July 8, 1940.

1938-3. Obligations of cities, villages, boroughs, counties, towns, and school districts—Definitions.

In determining debt limit, the following are to be deducted: pavement bonds payable out of special assessments; water main bonds constituting an integral part of water works system; municipal light and power bonds; and certificates of indebtedness issued to finance purchase of light plant equipment made deductible by §1824. Op. Atty. Gen., (1001h), April 2, 1940.

Procedure for issuing bonds to state for a loan of state trust funds must be had under §1962, et seq., while procedure for issuance of bonds to general public is prescribed by §1938-3, and the procedures cannot be combined so that a town may sell to the state for individuals as its interests may dictate. Op. Atty. Gen. (43B-3), July 8, 1940.

Issuance of bonds to refund floating indebtedness in a township requires affirmative vote of electors. Op. Atty. Gen. (43B-3), Aug. 21, 1940, overruling Op. Atty. Gen. Jan. 25, 1932, and Op. Atty. Gen., July 8, 1940.

(C).

Bonds used for hospital are not deductible from gross debts. Op. Atty. Gen. (44a-4), July 18, 1940.

1938-4. Same—Amount of limitation on net indebtedness—Etc.

Village incorporated under 1885 village act may issue general obligation bonds to extent of 10% of last assessed

valuation as finally equalized, less net debts, and in computing net debts general obligation water bonds and municipal light plant bonds are not to be considered. Op. Atty. Gen., (476a-3), Oct. 10, 1939.

1938-6. Same—Obligations—Etc.

Laws 1939, c. 137, a curative act, did not intend to amend or repeal this section, but only to validate certain bonds issued in violation of it. Vorbeck v. C., 288NW4. See Dun. Dig. 6683.

City may purchase land contiguous thereto for a municipal golf course or airport without approval of voters, but cannot issue bonds without approval. Op. Atty. Gen., (59B-11), May 24, 1940.

Issuance of bonds to refund floating indebtedness in a township requires affirmative vote of electors. Op. Atty. Gen. (43B-3), Aug. 21, 1940, overruling Op. Atty. Gen. Jan. 25, 1932, and Op. Gen. July 8, 1940.

Where court house has become crowded and relief offices and various county offices are scattered in various rented buildings, it is discretionary with county board to purchase a building without a vote of electors and pay for the same from the "courthouse building fund." Op. Atty. Gen. (125a-20), Sept. 13, 1940.

Approval of voters is not required in case of refunding bonds at maturity where city charter does not require it, but a vote of electors would be necessary for issuance of bonds presently for purpose of later retiring old bonds. Op. Atty. Gen., (36I), Feb. 28, 1941.

City cannot legally issue refunding bonds to retire old bonds before their maturity, but this would not prevent a city from issuing a new bond issue for purpose of retiring old issue in the future when it shall mature. Id.

Village of Hawley, organized under 1885 Village Laws, has authority to issue bonds to fund outstanding floating indebtedness, but a favorable vote of electors is necessary, except warrants issued prior to Sept. 1, 1927. Op. Atty. Gen., (44B-12), Mar. 13, 1941.

1938-11. Same—Sinking funds—Investment of surplus.

School district may invest its sinking fund surplus in warrants issued by a municipality having a definite maturity date. Op. Atty. Gen. (159a-13), June 12, 1940.

City of Northfield may invest funds of library in special improvement certificates of the city. Op. Atty. Gen. (285), Oct. 11, 1940.

1938-21. Limitation of tax levies.

There is no distinction as to limitation on issuing warrants for poor relief whether county is under town system or county system of poor relief. Op. Atty. Gen., (107a-10), Dec. 4, 1939.

In determining amount of warrants to be issued for poor relief county auditor may anticipate aid from the state, but of \$10,000.00 levied for direct relief he may only issue such warrants as are limited by this section. Id.

Although section places a limitation of warrants to be issued on each separate fund, school board by resolution can transfer any excess and unincumbered portion of general revenue fund to building fund and thereafter issue warrants thereon, and in determining average collection of taxes for school purposes during three years, amount levied by state auditor to retire state bonds should be excluded. Op. Atty. Gen., (159c-6), March 20, 1940.

An independent school district building an addition to schoolhouse under a WPA project may issue warrants in anticipation of taxes only after levy of taxes has been made for building purposes and is in process of collection. Op. Atty. Gen. (159c-1), June 11, 1940.

1939. Bonds.

Warrants may not be issued in payment of a well unless there are funds on hand or taxes levied and in process of collection sufficient to cover them. Op. Atty. Gen. (476c-1), Feb. 1, 1940.

1941. Vote required.

Laws 1941, c. 113, authorizes certain common school districts to issue bonds to retire their floating indebtedness, without an election.

Op. Atty. Gen., (476B-8), May 13, 1940; note under § 1942(1).

A five-eighths vote is necessary to authorize construction of water works system by a village, notwithstanding that only a majority vote would be necessary to authorize sale of bonds to the state. Op. Atty. Gen. (44B-17), Nov. 10, 1939.

No vote is required where bonds are to be issued for refunding other bonds. Op. Atty. Gen., (44B-12), Jan. 17, 1941.

A majority of all votes cast is all that is required to authorize a village to borrow money from the state, but a five-eighths vote of those voting on question is required in case village intends to negotiate bonds to persons other than the state. Op. Atty. Gen. (44a), Dec. 12, 1939.

Approval of five-eighths of those voting at village election is required before bonds may be issued for a municipal hospital. Op. Atty. Gen., (1001h), April 2, 1940.

Majority vote only is required if bonds are to be sold to the state. Id.

It is unnecessary for school district resolution to state or for electors to vote upon terms and maturity of bonds, but having included amount and maturity dates in ballot, district is probably bound thereby. Op. Atty. Gen., (159a-5), May 9, 1940.

Issuance of bonds to refund floating indebtedness in a township requires affirmative vote of electors. Op. Atty. Gen. (43B-3) Aug. 21, 1940, overruling Op. Atty. Gen. Jan. 25, 1932, and Op. Atty. Gen. July 8, 1940.

Village organized under 1905 Act can issue bonds to defray cost of new water tank upon a five-eighths vote for an amount not in excess of net indebtedness, fixed by law. Op. Atty. Gen. (44B-17), Aug. 22, 1940.

1942. Bonds—For what purposes.

Source of county board's authority to erect a new jail is §668(3), but authority for issuance of bonds is found in §1942, which requires majority vote of electors, notwithstanding provisions of §10871, though §10869 to 10874 must be complied with. Op. Atty. Gen. (37B-3), Jan. 18, 1940.

Mere fact that a jail has been condemned does not vest authority in county board to defray cost of a new jail by issuing bonds without authorization by voters. Op. Atty. Gen. (37B-3), Jan. 29, 1940.

Village organized under Laws 1885, may issue bonds for establishment and maintenance of a municipal hospital. Op. Atty. Gen., (1001h), April 2, 1940.

Village organized under 1905 Act can issue bonds to defray cost of new water tank upon a five-eighths vote for an amount not in excess of net indebtedness, fixed by law. Op. Atty. Gen. (44B-17), Aug. 22, 1940.

(1).

A building to house municipal liquor store, fire truck, public rest room, jails, council rooms, and auditorium or general assembly room for a village is a "needful public building". Op. Atty. Gen., (476B-8), May 13, 1940.

An independent school district may issue bonds for equipping and improving an athletic field, including construction of a field house. Op. Atty. Gen. (622B), Nov. 28, 1939.

(4).

School busses, purchase on installment payment plan, §3156-6(6)a.

(5).

A city or village may issue bonds for purpose of refunding outstanding bonds which have not matured, if bondholders are willing. Op. Atty. Gen., (44B-12), Jan. 17, 1941.

Village of Hawley, organized under 1885 Village Laws, has authority to issue bonds to fund outstanding floating indebtedness, but a favorable vote of electors is necessary, except warrants issued prior to Sept. 1, 1927. Op. Atty. Gen., (44B-12), Mar. 13, 1941.

Village having power to issue bonds to fund outstanding orders or warrants may sell them by popular subscription. Op. Atty. Gen., (476c-5), Mar. 26, 1941.

1943. Sale of bonds.

It is exceedingly doubtful that bonds based on proceedings looking to their sale to the state may be sold to private bidders. Op. Atty. Gen. (44a), Nov. 1, 1939.

Certificate of indebtedness issued by Water and Light Commission for maintenance and replacement purposes should be offered for sale on bids after published notice. Op. Atty. Gen., (476a-4), Mar. 11, 1941.

1944-1. Certain municipalities to sell evidences of public indebtedness by popular subscriptions.

In determining amount of warrants to be issued for poor relief county auditor may anticipate aid from the state, but of \$10,000.00 levied for direct relief he may only issue such warrants as are limited by §1938-21, being average collections in county for past three years plus 10 per cent, and where such limitations have been exhausted county may issue bonds or other evidences of indebtedness. Op. Atty. Gen. (107a-10), Dec. 4, 1939.

Form prescribed by attorney general for notice of public sale of bonds. Op. Atty. Gen. (44a), Aug. 22, 1940. There is no law which would permit so-called sale of master warrants to take up registered warrants, but banks sometimes cash registered warrants and hold them under an agreement with county at a 3 or 4 per cent interest rate. Op. Atty. Gen., (107a-5) Feb. 1, 1941.

Section does not add further right to power to issue bonds, but merely authorizes the sale of evidences of indebtedness by popular subscription, and authority of village to fund its floating indebtedness must be found in some other statute. Op. Atty. Gen., (476c-5), Mar. 26, 1941.

1946-3. Refunding bonds authorized in certain cases.

Village having power to issue bonds to fund outstanding orders or warrants may sell them by popular subscription. Op. Atty. Gen., (476c-5), Mar. 26, 1941.

1946-12a. Certain bonds validated.—In all cases where the governing body or other similar body of any city or village has adopted proceedings for the issuance and sale of revenue bonds payable solely from the earnings of an electric light and power plant furnishing electric service to the inhabitants thereof and adjacent thereto owned by the city or village issuing the same for the purpose of refunding outstanding revenue obligations in order to affect an interest saving, such contract or proceedings are hereby legalized, and all such bonds to be issued, when sold at public sale under competitive bidding after public advertising of such sale, are hereby legalized and declared to be valid and binding obligations of said city or village, payable solely from the revenues of such public utility or utilities. (Act Apr. 24, 1941, c. 420, §1.)

1946-12b. Act is remedial.—It is hereby expressly found and determined that this is remedial in nature, being necessary to protect the financial credit of such villages and cities. (Act Apr. 24, 1941, c. 420, §2.)

Sec. 3. Act Apr. 24, 1941, c. 420, provides that the Act shall not effect pending actions.

1946-22. Must receive majority of all votes cast.

Act Apr. 10, 1941, c. 212, relates to financial affairs and tax levies of certain counties and authorizes the funding of certain indebtedness and provides penalties for the violation thereof.

1946-50. Refunding bonds for unorganized territory.

Bonds issued by county board of education for unorganized territory to refund bonds of a dissolved district under Laws 1931, c. 140, may not be refunded without further legislation. Op. Atty. Gen. (40c-1), Nov. 26, 1940.

1946-51. Certificates of indebtedness may be issued in certain cases renewal.

Opinion of August 11, 1934, printed as No. 106 in report of 1934, holding that a village has no authority to issue warrants beyond 60% provision of §2066-4, has been superseded by Laws 1935, c. 10, §2. Op. Atty. Gen., (5191), May 17, 1940.

1949. Investing of sinking funds in school districts. School district may invest its sinking fund surplus in warrants issued by a municipality having a definite maturity date. Op. Atty. Gen. (159a-13), June 12, 1940.

1957. Limit of debt—Authorization, etc.

Though state board of investment may purchase bonds of a village not exceeding 15% of assessed valuation of property, village at all times remains subject to limitations of §1938-3. Op. Atty. Gen., (1001h), April 2, 1940.

1961. Where vote of electors is not required—Procedure.

City of Albert Lea has authority to improve Fountain Lake, an unmeandered artificial lake within city limits, issue bonds therefor and sell them to the state. Op. Atty. Gen. (928a-8), Oct. 17, 1939.

1962. Where vote of electors is required; etc.

Procedure for issuing bonds to state for a loan of state trust funds must be had under §1962, et seq., while procedure for issuance of bonds to general public is prescribed by §1928-3, and the procedures cannot be combined so that a town may sell to the state for individuals as its interests may dictate. Op. Atty. Gen. (43B-3), July 8, 1940.

1964. Election, how held, etc.

A five-eighths vote is necessary to authorize construction of water works system by a village, notwithstanding that only a majority vote would be necessary to authorize sale of bonds to the state. Op. Atty. Gen. (44B-17), Nov. 10, 1939.

A majority of all votes cast is all that is required to authorize a village to borrow money from the state, but a five-eighths vote of those voting on question is required in case village intends to negotiate bonds to persons other than the state. Op. Atty. Gen. (44a), Dec. 12, 1939.

1965. Purchase of bonds by state.

State board of investment may not invest in bonds of a school district if total indebtedness of district will exceed 15% of actual assessed valuation, and legislature is powerless to provide otherwise. Op. Atty. Gen. (928a-11), March 21, 1940.

1968-32. Village street improvements—Works Progress Administration programs—validation of bonds.—All bonds heretofore voted upon at any special or general village election for street improvements under a Works Progress Administration program are hereby declared to be, when issued and sold, legal and binding obligations of the village, provided the net indebtedness of the village, exclusive of bonds issued for water or sewer purposes, does not exceed 10 per cent of the assessed valuation of taxable property as last finally equalized, and the proposition to issue such bonds received at least a majority of all votes cast thereon at such election, and all other requirements of law in the issuance and sale of such bonds have been complied with. (Act Feb. 13, 1941, c. 6 §1.)

1968-33. Same—Application to pending actions.

This act shall not apply to or affect any actions or appeals now pending in which the validity of any such proceeding is called in question. (Act Feb. 13, 1941, c. 6, §2.)

POWER OF CITIES OF THE FOURTH CLASS WITH RESPECT TO BONDS

Laws 1941, c. 5, validates issuance for street improvements of certificates of indebtedness by cities of fourth class operating under home rule charter. Laws 1941, c. 5.

Laws 1941, c. 50, legalizes proceedings of the councils of certain cities of the fourth class in connection with the construction of water mains and sewers and the issuance of bonds for such construction.

Act Mar. 28, 1941, c. 100 validates certificates of indebtedness and sewer improvement warrants, in certain cities of fourth class having home rule charters.

POWER OF COUNTIES WITH RESPECT TO BONDS

Act Jan. 30, 1941, c. 3, legalizes certain proceedings for funding bonds for liquidating outstanding warrant indebtedness in counties containing not less than 15 nor more than 20 congressional townships, having a population of not less than 15,000 nor more than 17,000, and with an assessed valuation of not more than \$3,000,000.

Act Mar. 28, 1941, c. 105, authorizes certain counties having population of between 39,000 and 41,000, to issue master warrants or certificates of indebtedness for funding outstanding warrants, and to levy taxes for retirement and payment.

Act Apr. 14, 1941, c. 224, authorizes issuance of bridge bonds by counties in certain cases, and validates prior proceedings for authorization and issuance of bridge bonds.

POWER OF VILLAGES WITH RESPECT TO BONDS

Laws 1941, c. 6, legalizes bonds that have been voted upon by villages for street improvements under a Works Progress Administration program. Laws 1941, c. 6.

Act Mar. 28, 1941, c. 94, authorizes certain villages having population of over 5,000, assessed valuation of less than \$6,000,000, and water supply system, to issue revenue bonds to finance purchase or construct wells and equipment.

Villages having population of over 4,800, and assessed valuation of less than \$850,000, may issue bonds to pay existing indebtedness and obligations. Act Apr. 9, 1941, c. 146.

Act Apr. 10, 1941, c. 207, validates bond issues for construction of sewage disposal systems in villages of 1,000 to 2,000 population, pursuant to agreement with Works Progress Administration.

Act Apr. 16, 1941, c. 277, authorizes villages with population from 1,750 to 2,000, and assessed valuation of \$2,000,000 to \$2,500,000 which have commenced construction of a sewage disposal plant as a Works Progress Administration project to issue bonds for the completion of such project.

POWER OF SCHOOL DISTRICTS WITH RESPECT TO BONDS

Act Apr. 1, 1941, c. 113, authorizes any common school district comprising more than 60 congressional townships, with an assessed valuation of less than \$3,000,000, to issue bonds to fund its floating indebtedness without submitting question to electors of district.

Act Apr. 16, 1941, c. 263, authorizes independent school districts, with territorial limits which coincide with territorial limits of any city of the first class, and the government of which district is not provided for in charter of such city, to issue refunding bonds to refund outstanding bonds, and bonds hereafter issued, which do not mature serially in annual installments, and to levy taxes to pay such refunding bonds, and validates such outstanding bonds which do not so mature.

Act Apr. 18, 1941, c. 297, provides for relief of certain school districts by creating a School District Relief Fund.

CHAPTER 10A**Depositories of Public Funds****1973-6. Depositories—Bank delinquent in payment of taxes on stock shares.**

National bank delinquent in payment of taxes assessed on stock shares cannot remain a county depository. Op. Atty. Gen. (140a), March 20, 1940.

1973-10. Depositories insured under federal act excluded from giving security to extent of insurance coverage.

An unincorporated volunteer fire department and an incorporated fire department relief association should be considered as separate depositories, though membership of both organizations is the same. Op. Atty. Gen. (198B-2), Dec. 14, 1939.