

## CHAPTER 477

## REFUNDING

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**477.01 REFUNDING BONDS AUTHORIZED IN CERTAIN CASES.** Any village, town, or school district in this state whose existing bonded, judgment, and valid floating indebtedness exceeds 15 per cent of the assessed valuation of all taxable property, exclusive of money and credits, in the village, town, or school district, may issue, negotiate, and sell its bonds for the purpose of funding and refunding such indebtedness, or any part thereof, and for the other purposes stated in sections 477.02 to 477.09 in the manner and under the conditions therein prescribed.

[1927 c. 331 s. 1; 1931 c. 100 s. 1; 1935 c. 148 s. 1] (1946-3)

**477.02 RESOLUTION FOR ISSUE OF BONDS; LISTS OF INDEBTEDNESS; ELECTION TO DETERMINE BOND ISSUE.** The governing body of such village, town, or school district, at any regular or duly called special meeting thereof, may adopt, by majority vote, a resolution stating the authority of law under which the right is claimed to issue such bonds, the purpose for which it is proposed to issue the same, the number and the face value of each thereof, and the time when each bond to be issued thereunder shall mature, and direct that the same be issued, negotiated, and sold as provided in sections 477.02 to 477.09. A list of the items of indebtedness so to be funded and refunded may be made and certified by the presiding and recording officers and the treasurer of the village, town, or district and kept on file for public examination in the office of the recording officer, and may be referred to in the resolution so adopted. The resolution may be published not less than one, nor more than three, weeks successively in a legal newspaper published in the village, town, or district, or in the county-seat of the county, if there be no such newspaper in the village, town, or district, and proof of the publication thereof filed in the office of the recording officer. The governing body may and, on petition of ten or more voters and taxpayers of the village, town, or district, filed with the recording officer within ten days after the first publication of such resolution, or prior thereto, shall submit to the legal voters of the village, town, or district, at a regular or special election, the proposition so to issue, negotiate, and sell these bonds, and, in such case, the affirmative vote of a majority of those voting on the proposition shall be sufficient to authorize the same. In any case, no bonds sold by authority of sections 477.01 to 477.09 more than 30 days after the publication of the governing body's authorizing resolution, or after the vote of the electors author-

izing same, shall be questioned by reason of the invalidity of any indebtedness included in the list aforesaid funded or refunded thereby nor of any informality, irregularity, or defect in the proceedings.

[1927 c. 331 s. 2] (1946-4)

**477.03 MATURITY; INTEREST, AND SALE OF BONDS.** The bonds authorized under sections 477.01 to 477.09 shall be payable serially, in annual instalments, as determined by the governing body, the first thereof to become due and payable in not more than three years from the date thereof, and the last instalment thereof to become due and payable not more than 50 years from their date. No annual maturing instalment of principal shall be more than two and one-half times the amount of the smallest instalment thereof maturing in any one year; provided, in the discretion of the governing body, exercised by resolution at any time before the issuance and sale of these bonds, any or all thereof may be made payable on or before their respective maturity dates; and bids for the bonds may be in the alternative for such bonds with or without the "on or before" privilege. None of these bonds shall be sold for less than their full face value, nor bear interest in excess of six per cent per annum, payable annually or semiannually. The procedure for advertising for, receiving and accepting bids for these bonds shall be that provided for in section 475.15.

[1927 c. 331 s. 3] (1946-5)

**477.04 BONDS MAY BE SOLD BY PUBLIC SUBSCRIPTION.** In lieu of, or in addition to, receiving bids for such bonds, or any thereof, the governing body may cause the same to be offered for and sold by public subscription from time to time; and, in any case, the holder of outstanding bonds or other indebtedness of the village, town, or district may use and apply the same and any interest or other items legally accrued thereon in payment, in whole or in part, for bonds herein authorized purchased by him. Such village, town, or school district may fund or refund all or any part of such indebtedness, but no bonds shall be issued under sections 477.01 to 477.09 unless such indebtedness to be funded or refunded is due or unless the holders thereof shall have consented to accept payment thereof, with interest and other items legally accrued thereon, and surrender and satisfy the same, such consent to be by written instrument filed with the recording officer, provided that the maturities of any indebtedness not funded or refunded thereunder shall be considered in determining the maturities of the bonds issued hereunder, as prescribed by section 477.03.

[1927 c. 331 s. 4; 1931 c. 100 s. 2] (1946-6)

**477.05 TAX LEVY FOR INTEREST AND SINKING FUND.** In each year in which bonds are sold pursuant to sections 477.01 to 477.09 the governing body shall levy and certify to the county auditor a direct annual tax in an amount not less than five per cent in excess of the sum required to pay the principal and interest thereof, when and as the same mature, which tax shall be irrevocable until all such indebtedness shall be paid. No further authority for the extending and collection of such tax shall be required, and no part of the proceeds shall be diverted to any other use until all obligations therein authorized shall have been fully paid.

[1927 c. 331 s. 5] (1946-7)

**477.06 REVOLVING FUND.** The governing body, in its discretion and with the approval of the state board of investment, may include in the amount of these bonds a sum not exceeding ten per cent of the obligations to be funded and refunded, and use the proceeds of such excess fund as a revolving fund for the following purposes. From time to time the same, or any part thereof, with the approval of the state board of investment, may be used to purchase taxable real property in the village, town, or school district, at any tax sale thereof, or state assignment certificates thereof, and to pay subsequent delinquent taxes thereon, and to take proper proceedings to cause elimination of the right to redeem from such tax sales, in the same manner and with the same rights as in case of a private purchaser, except that no law limiting the time for giving notice of expiration of redemption or recording the tax certificate or deed, as conditions for keeping alive the validity and lien of any such certificate or deed, shall apply. The proceeds of any such certificate or deed, whether upon redemption or otherwise, as well as of any property acquired by virtue thereof, may be likewise invested; but all such certificates, deeds, property, and proceeds shall be held and dealt with by the village, town, or district as trustee,

as additional security for each and all of the bonds issued and sold by virtue of sections 477.01 to 477.09, so long as the same or any thereof remain unpaid.

[1927 c. 331 s. 6] (1946-8)

**477.07 STAY OF PROCEEDINGS WHERE MUNICIPALITY IS IN DEFAULT ON BONDS OR OTHER INDEBTEDNESS; PROCEDURE IN DISTRICT COURT.**

If heretofore or hereafter, prior to the issuance and sale of the bonds authorized by sections 477.01 to 477.09, default shall have occurred in the payment or in any of the conditions of any of the outstanding bonded indebtedness of such village, town, or school district, or of any of the interest thereon, or any personal judgment for money shall have been obtained against such village, town, or district, and the welfare of the village, town, or district and the security of its creditors shall be jeopardized thereby, the village, town, or district, through its presiding and recording officers, by authority of the governing body, may apply to the district court of the county and district in which such village, town, or district is situated, for the relief therein authorized, whereupon the court may forthwith, on such conditions as to it shall seem proper, order that any and all proceedings, pending or otherwise, to enforce the obligations of such village, town, or district be stayed until further order of the court, and may fix a time and place for hearing on the question whether such stay be continued, and the supervision and control hereinafter mentioned exercised, during the embarrassed financial condition of the village, town, or district, and such other relevant questions as to it shall seem proper, and shall cause notice of such hearing to be given, at least ten days prior to the date thereof, by publication for at least one week in a legal newspaper published in the village, town, or district, or, if there be none in such village, town, or district, in the county-seat, and by mailing to each creditor whose name and address are known. Upon such hearing the court may award such relief, or so much thereof as to it shall seem proper. During any proceedings authorized by sections 477.01 to 477.09 the affairs of the village, town, or district shall be conducted under the supervision and control of the court, consistently with the reasonable protection of the interests of all the creditors and with the performance of such public duties and functions of the village, town, or district as shall be feasible. Such proceedings shall not preclude the issuance and sale of the bonds, nor the exercise of any of the other powers and functions authorized, but, during the pendency of such proceedings, the same shall be done and performed under the supervision of the court, and that of the state board of investment shall not be required. Any final order of the court in proceedings authorized by sections 477.01 to 477.09 shall be subject to appeal and review as in other like cases.

[1927 c. 331 s. 7] (1946-9)

**477.08 COMPROMISE OR SETTLEMENT WITH CREDITORS.** Nothing contained in sections 477.01 to 477.09 shall be construed to prohibit any such village, town, or district's agreeing with its creditors, or any of them, to a compromise and settlement of any or all of its indebtedness for less than the amount thereof, nor its borrowing money, to effect such settlement, under any statute authorizing the borrowing of money by villages, towns, or school districts.

[1927 c. 331 s. 9] (1946-11)

**477.09 CONSTRUCTION OF EXISTING OR FUTURE LAWS.** No statute heretofore or hereafter enacted shall be construed to prohibit or impair the right to issue and sell the bonds with the maturities herein authorized, unless the purpose so to do shall be expressly declared.

[1927 c. 331 s. 10] (1946-12)

**477.10 MUNICIPALITY.** The term "municipality," as used in sections 477.10 to 477.28, shall include any county, town, school district, city, village, or borough, and any unorganized territory in any county governed by the provisions of sections 123.33 to 123.41, 123.43 to 123.48, 123.52, 123.53, and 123.55 to 123.57.

[1929 c. 351 s. 1; 1931 c. 155 s. 1] (1946-17)

**477.11 WHO MAY ISSUE BONDS.** Any municipality whose bonded, judgment, and floating indebtedness exceeds 25 per cent of the assessed valuation of all taxable property therein, exclusive of money and credits, or in which taxes on more than 25 per cent of the lands on the tax lists have been delinquent for three years or more, may issue, negotiate, and sell its bonds, at one time or from time to time, for the purpose of funding or refunding such indebtedness, or any part thereof, or of

paying its outstanding obligations, in the manner and under the conditions prescribed in sections 477.10 to 477.28.

[1929 c. 351 s. 1; 1931 c. 155 s. 1] (1946-17)

**477.12 MAY VOTE TO ISSUE BONDS FOR CERTAIN PURPOSES.** The governing body of any municipality may, by resolution, of its own motion, and shall, on petition of voters thereof to the number of ten per cent of those who voted at the last preceding general or municipal election, submit to the voters thereof a proposition to fund or refund or pay its existing indebtedness and obligations, or any part or class thereof, and may include therein outstanding warrants or orders, and outstanding bonds or certificates or other evidence of indebtedness or liability, whether due or to become due, and the interest thereon, or any thereof. Upon the adoption of such resolution or filing of such petition, there shall be prepared forthwith by the recording officer, by direction of the governing body, and kept on file in his office a complete, itemized list of all warrants, orders, bonds, certificates, and other indebtedness and liability so to be funded or refunded, specifying the dates, names of payees, and holders, if known, purposes, amounts, maturities, rates of interest, and dates from which interest remains unpaid, of each item thereof, with such other information as the governing body shall prescribe, classifying these items according to the purposes for which tax levies may be made and indebtedness incurred. Such list shall be at all times open to public inspection and copies thereof shall be furnished on request, certified if desired on payment of a fee not exceeding five cents per folio.

[1929 c. 351 s. 2] (1946-18)

**477.13 BONDS.** The proposition shall contemplate the issuance of bonds payable serially in annual instalments, as specified therein, the first thereof, except in cases of bonds to be sold to the state, to become due and payable in not more than three years from the date thereof, and the last instalment thereof to become due and payable not more than 50 years from their date. No annual maturing instalment of principal, except such as are payable within five years from the date of issue, and except as hereinafter provided, shall exceed the instalment of principal payable in any preceding year; but, in the discretion of the governing body, exercised by resolution at any time before the issuance and sale of the bonds, any or all thereof may be made payable on or before their respective maturity dates, with such provisions as to calling and notice thereof as shall be deemed advisable; bids for the bonds may be in the alternative for such bonds with or without the "on or before" privilege, and the most favorable bids may be accepted. None of the bonds shall be sold for less than their full face value and accrued interest, nor bear interest in excess of six per cent per annum, payable annually or semiannually.

[1929 c. 351 s. 3] (1946-19)

**477.14 OBLIGATIONS NOT MATURED TO BE TAKEN INTO CONSIDERATION.** If there be any outstanding bonds or other evidences of indebtedness or contract obligations not yet due and not refunded or to be refunded by the proceedings herein authorized, the amounts and maturities of such outstanding bonds and other evidences and obligations shall be taken into consideration in determining the maturities of the bonds issued hereunder, so that, as nearly as may be, after the issuance of the bonds authorized in sections 477.10 to 477.28, the maturities of the instalments of all such indebtedness of the county, town, school district, or municipality shall comply with the provisions thereof. The funding or refunding or payment of any or all of such indebtedness or obligations, not yet due, may be contemplated in the proposition, in which event the issuance and sale of at least so much of the bonds as equal such items not yet due shall be deferred until required from time to time to pay the same.

[1929 c. 351 s. 4] (1946-20)

**477.15 BOND ELECTION TO BE CALLED.** Upon the completion and filing of such list, it shall be approved or revised by the governing body, which shall thereupon cause notice to be given of an election to vote on the proposition, specifying that such election is called pursuant to and for the purposes of sections 477.10 to 477.28, and that such list, and the approval or revision thereof, are on file, open to public inspection, and otherwise complying in detail with the procedure otherwise required by law for an election to authorize funding bonds of such municipality; provided, if the purpose, amount, maturities, and other incidents of such proposed bond issue be of the character of such bonds which may be purchased by the State

of Minnesota, the notice, in addition to the details specifically above provided, and the further procedure thereon may comply with the provisions of law applicable to bonds issued to the state; provided, the governing body, in its discretion, may submit the proposition at the next election or meeting thereafter regularly held for the election of officers of such municipality, for which notice thereof may be given in the manner so required by law.

[1929 c. 351 s. 5] (1946-21)

**477.16 MUST RECEIVE MAJORITY OF ALL VOTES CAST.** If the proposition so submitted to the voters shall receive the affirmative votes of a majority of the qualified electors voting on the same, the bonds may be advertised for sale and issued and sold in accordance with the provisions of section 475.15. In lieu of, or in addition to, receiving bids for such bonds, or any thereof, if the proposition submitted to the voters shall have specifically so authorized, the governing body may cause same to be offered for and sold by public subscription from time to time, and may permit the holder of outstanding bonds or other indebtedness herein contemplated to use and apply same and any interest or other items legally accrued thereon in payment, in whole or in part, for bonds herein authorized, purchased by him.

[1929 c. 351 s. 6] (1946-22)

**477.17 MAY ISSUE BONDS WITHOUT VOTE IN CERTAIN CASES.** In lieu of submitting such proposition to the voters, the governing body, at any regular or duly called special meeting thereof, after the proceedings, other than the elections hereinbefore contemplated, may adopt by majority vote a resolution reciting the proceedings theretofore taken, stating the authority of law under which the right is claimed to issue such bonds, the purpose for which it is proposed to issue the same, the number and the face value of each thereof, and the time when each bond to be issued thereunder shall mature, and any further details with respect thereto in sections 477.10 to 477.28 authorized to be contemplated by such proposition, and directing that such bonds be issued, negotiated, and sold, as in sections 477.10 to 477.28 and the resolution provided. Such last mentioned resolution may be published not less than one, nor more than three, weeks successively in a legal newspaper published in such municipality, or in the county-seat of the county, if there be no such newspaper in the municipality, and proof of the publication thereof filed in the office of the recording officer. If, within ten days after the first publication of the last mentioned resolution, or prior thereto, there be filed with such recording officer a petition of ten per cent of the voters of such municipality, determined as provided in sections 477.10 to 477.17, praying that such proposition and the details thereof be submitted to the voters of the municipality, the same shall thereupon be so submitted to the legal voters of such municipality, and favorably voted upon by them, before it shall be authorized to take effect.

[1929 c. 351 s. 6½; 1931 c. 155 s. 2] (1946-22½)

**477.18 TAX LEVY.** Before the issuance of any of the bonds authorized by sections 477.10 to 477.28, except in cases of bonds sold to the state, the governing body shall levy for each year, until the principal and interest are paid in full, a direct annual tax in an amount not less than five per cent, in excess of the sum required to pay the principal and interest thereof and of the other outstanding indebtedness and obligations mentioned in section 477.14, when and as such principal and interest mature. Thereupon and thereafter the other provisions of sections 475.26, 475.27, 475.28, 475.29, 475.30, and 475.32 shall apply.

[1929 c. 351 s. 7] (1946-23)

**477.19 OUTSTANDING WARRANTS.** Any and all outstanding warrants, orders and other indebtedness and obligations of any such municipality which shall be funded or refunded in the manner authorized by sections 477.10 to 477.28, and which have been issued or incurred for purposes for which public moneys thereof might lawfully be expended, are hereby declared to have been valid and enforceable obligations thereof; and the favorable action of the voters at the election on the funding or refunding proposition shall finally and conclusively bind the municipality to the validity of the items in the list provided for in section 477.12, approved or revised as provided in section 477.15; provided, if at the time of the election an action is pending involving or affecting the validity of any or all of such indebtedness, the item or items in controversy shall not be paid unless and until the validity thereof is upheld. In any case, no bonds sold by authority of sections 477.10 to

477.28 more than 30 days after such election shall be questioned by reason of the invalidity of any indebtedness included in the list aforesaid, nor of any informality, irregularity, or defect in the proceedings.

[1929 c. 351 s. 8] (1946-24)

**477.20 LEVY TO BE FIXED BY VOTERS.** The proposition submitted to the voters may contemplate and specify that the amount which may be included by any such municipality in its annual tax levy in the year in which the bonds herein authorized shall be issued, and in each year thereafter, shall not in the aggregate exceed the amount otherwise authorized by law, less all, or such part as is in such proposition specified, of the amount hereinbefore required to be levied for the same year to pay principal and interest on bonds herein authorized, or that the amount levied for any of the classes of purposes for which the funded or refunded indebtedness was incurred shall not exceed the amount otherwise authorized by law for that class of purposes, less all, or such part as is so specified, of that proportion of the amount levied for the same year to pay such principal and interest which is chargeable, pro rata, to funded or refunded indebtedness incurred for that class of purposes; provided the amount of principal of such bonds payable in each of the first five years after the issuance thereof which is in excess of the average amount of principal payable in each of the years thereafter shall not be deducted from the amount of such authorized tax levies for current purposes, unless the proposition approved by the voters shall expressly so require.

[1929 c. 351 s. 9] (1946-25)

**477.21 GOVERNING BODY TO MAKE BUDGET.** The governing body of each municipality issuing bonds under sections 477.10 to 477.28 shall annually at its first meeting in each fiscal year determine the amount of funds which will be available during the current year for all and each of its public purposes, from the proceeds of the tax levy lawfully made therefor in the preceding year, and from state aid and from other sources known or reasonably anticipated to be due and payable into its treasury during such year, and thereupon at such meeting make and spread on its minutes a definite budget of the expenditures made and to be made and indebtedness incurred and to be incurred by it for all and each of such purposes during such year, which expenditures and indebtedness shall in no case exceed the aggregate amount of revenues so determined to be available for all and each of such purposes for such year. Such budget shall first allot, and there shall be first set aside and payable, out of the receipts for such year, the amount required to meet principal and interest due in that year on the bonds herein authorized and on any outstanding bonds and items not funded or refunded, contemplated by section 477.14. There shall then be allotted, respectively, such amounts as shall be required and appropriate to pay outstanding warrants or orders and for each of the necessary current purposes, and such amount as shall be deemed necessary for an emergency fund, and what remains may be allotted to be expended on new undertakings of construction, improvement, extension, or otherwise to which it is lawfully appropriate. As nearly as may be a specific program of expenditures shall be determined upon and the amount to be expended on each item determined and allotted; and no change in such program shall be made, nor additional expenditures made nor indebtedness incurred, which shall cause to be diverted to other purposes any part of the amount herein required to be allotted for payment of principal and interest, and for payment of outstanding warrants or orders and for necessary current purposes and for the emergency fund, nor which shall cause the expenditures made or indebtedness incurred in any year to exceed the total revenues determined to be available for such year. The emergency fund may be used to pay extraordinary items of lawful expenditures occasioned by emergency which could not be anticipated when the budget was made.

[1929 c. 351 s. 10] (1946-26)

**477.22 MAY APPLY TO COURT FOR AUTHORITY TO ISSUE BONDS.** If in any year it shall become actually necessary to incur indebtedness or expend funds for the purpose of meeting court expenses, mothers' pension allowances, poor relief, and other items, the amounts of which are beyond the control of the governing body of such municipality and could not be reasonably and definitely anticipated and fixed at the time of making the budget contemplated by section 477.20, the governing body of such municipality may apply to the proper district court for an order permitting the incurring and payment of such additional expenditures. Such application shall be publicly heard by the court at the county-seat of the county, after two

weeks' published notice thereof; and, if the court shall find such additional indebtedness or expenditures to be actually necessary and within the terms of this section, and that the amount thereof could not have been reasonably and definitely anticipated at the time of making the budget, and could not be reasonably met by or out of allotments in the budget to such purposes, or by or out of the emergency fund, the court may make an order permitting and authorizing such additional indebtedness or expenditures, or so much thereof as it shall find to be proper.

Any such municipality, by resolution of its governing body and without submitting the proposition to the electors thereof, may issue and sell its tax-anticipation notes which may pledge the general obligation of the respective municipality, or only a certain fund, or both, or otherwise, in anticipation of and in an amount not exceeding 60 per cent of the uncollected taxes levied for the current year at any time during said year when the governing body shall determine it shall be actually necessary, up to the amount of the budget for such current year, without application to the district court. Such tax-anticipation notes shall mature not later than December thirty-first of the year next succeeding that in which the taxes so anticipated were levied, and shall be in such form and denomination and executed in such manner as the governing body shall determine, provided the same must be sold for cash only in the manner prescribed by section 475.15.

This section shall not apply to any municipality governed by any special law.

[1929 c. 351 s. 10½; 1937 c. 56 ss. 1, 2] (1946-26½) (1946-26½a)

**477.23 RECORDING OFFICER TO KEEP RECORDS.** The recording officer shall keep a record showing accurately the amount allotted to each item of the budget for each year and the amounts incurred and expended from time to time on account of each of such items, which record shall be presented and examined at each meeting of the governing body and show the true condition of affairs at the date of such meeting. No indebtedness shall be incurred for any purpose except pursuant to action of the governing body while in meeting assembled, specifying, as nearly as may be, the purposes and the amount thereof.

[1929 c. 351 s. 11] (1946-27)

**477.24 CLAIMS MUST BE FILED.** All claims against any such municipality must be filed with the recording officer within 30 days after the accrual thereof; if not so filed, no liability shall exist therefor unless and until funds shall be appropriable therefor without disturbing the preferred funds specified in section 477.21 and without increasing expenditures or indebtedness beyond the limits therein prescribed. It shall be the duty of the recording officer after any such claim has been filed with him to present same to the governing body at its next meeting, and at such meeting the claim shall be acted upon; provided, in case of counties, all expenditures for constructing, improving, maintaining, or repairing any public road or bridge by day labor may be paid for by the time check method, as provided by section 162.18; but no such time check shall be honored by the auditor, nor shall any claim thereon be valid against the county, unless the duplicate thereof be duly filed in the office of the county auditor within 30 days after the date of the issuance thereof, or unless and until funds shall be appropriable therefor as provided in the first sentence of this section.

[1929 c. 351 s. 12] (1946-28)

**477.25 VIOLATION A MISDEMEANOR.** Any member of the governing body or other officer or employee of such municipality knowingly authorizing or participating in any violation of sections 477.10 to 477.28 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. Every contract entered into or indebtedness or pecuniary liability attempted to be incurred in violation of the provisions of sections 477.10 to 477.28 shall be null and void in respect to any obligation sought thereby to be imposed upon the municipality; and no claim therefor shall be allowed by the governing body, nor shall any officer issue or pay any warrant, order or other evidence of debt on account thereof. Each member of the governing body or other officer or employee so knowingly participating in or authorizing any violation of sections 477.10 to 477.28 shall be individually liable to the corporation or to any other person for any damages caused thereby; and, for the purpose of enforcing such liability without impairing any other remedy, one-fourth of the salary of each such officer and employee shall be withheld from him and applied toward reimbursing the corporation or any other such person for such damages, until all claims by reason thereof have been paid. Each member of the governing

body 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 the same unless he shall cause his dissent therefrom to be entered on the minutes of the meeting.

[1929 c. 351 s. 13] (1946-29)

**477.26 PROVISIONS MAY BE MODIFIED BY VOTERS.** Except so far as the rights of creditors shall be substantially impaired thereby, the voters of any such municipality may, at any regular or special election, upon due submission of the question to them, modify the application of any provisions of sections 477.10 to 477.28 to the extent that its application in the first instance was discretionary with them; and with like exception as to impairing substantial vested rights, nothing herein shall preclude amendment or repeal of sections 477.10 to 477.28, or any part thereof.

[1929 c. 351 s. 14] (1946-30)

**477.27 CUMULATIVE.** Sections 477.10 to 477.28 shall not be construed to repeal or modify any other act or part of act having similar import or purpose to any part thereof, but shall be deemed to provide an additional cumulative and optional remedy for the financial situation of municipalities within the class defined in section 477.10. No limitations of net indebtedness prescribed in any other act, except as expressly provided in sections 477.10 to 477.26, shall affect the validity of any bonds issued by authority thereof.

[1929 c. 351 s. 16] (1946-32)

**477.28 EXCEPTIONS.** Sections 477.10 to 477.28 shall not apply to any county whose assessed valuation, exclusive of money and credits, is in excess of \$100,000,000, nor to any other municipality whose per capita assessed valuation, exclusive of money and credits, is in excess of \$500.00.

[1929 c. 351 s. 17] (1946-33)

**477.29 REFUNDING BONDS; TAX LEVY.** Bonds issued by any county, city, village, borough, town, school district, or county board of education for unorganized territory for the purpose of refunding outstanding bonds shall be chargeable against all the territory that was chargeable with the payment of the bonds thereby refunded. Any such municipality issuing refunding bonds is hereby empowered to levy taxes for the payment thereof against all the territory that was chargeable with the payment of the refunded bonds, and the county auditor shall extend such levy against the taxable property in all such territory. Where any town or school district has heretofore issued or shall hereafter issue bonds and such town or school district has been or shall be duly divided into two or more towns or school districts while such bonds are outstanding, the indebtedness represented by such bonds may, by written agreements between such towns or school districts and the holders of unmatured bonds, be apportioned between such towns or school districts and thereupon each of such towns or school districts may issue refunding bonds to take up, pay, and retire the outstanding bonds apportioned to and assumed by it and such refunding bonds shall be obligations of and payable only from taxes levied upon the property in the respective towns or school districts issuing such refunding bonds. Such town's refunding bonds may be exchanged for such outstanding bonds without advertised sale thereof, but such refunding bonds shall not bear interest at a rate higher than the rate on the bonds refunded, and upon such exchange the refunding bonds shall be valued at not less than par and the bonds refunded shall be valued at not more than par. Except as herein otherwise specifically provided, the proceedings for the issuance of such refunding bonds and the form and terms thereof shall comply with the provisions of chapters 475 to 477.

[1933 c. 306 s. 1; 1935 c. 152 s. 2; 1939 c. 163] (1946-50)

**477.30 RENEWAL OF CERTIFICATES OF INDEBTEDNESS.** In all villages, cities, towns, and school districts in this state now or hereafter operating on a cash basis system, under and pursuant to the authority of statutes affecting such villages, cities, towns, and school districts, which statutes prohibit the issuance of checks or warrants until there is money in the treasury available to pay the same, and which provide for the issuance of certificates of indebtedness against taxes to be collected, the governing body of such village, city, town, or school district, if unable to sell such certificates of indebtedness in the manner prescribed by such laws, may issue such certificates of indebtedness to the village, city, town, or school district treasurer, or his order, and deposit the same with him. Certificates so issued shall



be held by the treasurer until they may be sold and bear interest at six per cent per annum. The village, city, town, or school district may thereupon, as long as such certificates are on deposit with the treasurer, issue warrants upon the funds against which such certificates were issued, the total 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 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 protected by certificates of indebtedness now held by me." Any such village, municipality, city, town, or school district may issue its certificates of indebtedness against any or all funds up to an amount equal to, but not exceeding, 95 per cent of its tax levy for such fund for such year, notwithstanding any provisions of cash basis laws or cash basis charter provisions fixing a different percentage; provided no such municipality shall during any year anticipate by issuance of certificates of indebtedness more than 50 per cent of its tax levy for any of its funds during the period prior to July first of any calendar year, and not more than the remaining 45 per cent of the tax levy for any of its funds during the period subsequent to July first and prior to December thirty-first of any calendar year; provided that any such municipality may renew any outstanding certificates of indebtedness of any prior year or any prior six months period, or issue new certificates notwithstanding the fact that prior certificates are unpaid, when the inability to pay such outstanding certificates is due to failure to collect sufficient moneys from the tax levy for such year to discharge such certificates; in the event such certificates are renewed, such municipality may pay accrued interest thereon at the time of renewal.

[1933 c. 272 s. 1; *Ex.* 1933 c. 36 s. 2; 1935 c. 10 s. 2] (1946-51)

**477.31 SALE OF CERTIFICATES; DISPOSAL OF PROCEEDS.** Such certificates of indebtedness may be sold by the village, city, town, or school district and the proceeds of such sale shall be used to take up such warrants in the order presented for payment. Such certificates of indebtedness shall be paid at the same time and in the same manner as if they had been issued to a purchaser thereof.

[1933 c. 272 s. 2; *Ex.* 1933 c. 36 s. 3; 1935 c. 10 s. 3] (1946-52)

**477.32 WARRANTS IN EXCESS OF CERTIFICATES VOID.** All warrants attempted to be issued hereunder and all obligations for indebtedness attempted to be incurred hereunder, in excess of the principal amount of the certificates of indebtedness so held by such treasurer, shall be void. Neither the governing body of such village, city, town, or school district, nor any officer, board, or employee thereof, shall have the power, and no power shall exist, to create any indebtedness or obligation of such village, city, town, or school district contrary to the terms of the law regulating the issuance of certificates of indebtedness and the incurring of obligations in such village, city, town, or school district, as amended hereby and by section 477.31.

[1933 c. 272 s. 3; *Ex.* 1933 c. 36 s. 4; 1935 c. 10 s. 4] (1946-53)

**477.33 MUNICIPALITY.** The term "municipality," as used in sections 477.30 to 477.34, includes any village, city, town, or school district operating upon a cash basis system under which certificates of indebtedness are issued, and under which system checks and warrants cannot be issued until there is money in the treasury.

[1935 c. 10 s. 5] (1946-54)

**477.34 SUPPLEMENTARY.** Sections 477.30 to 477.34 shall not be construed as limiting the power of any home rule chartered city, but shall be construed as being supplementary and in addition thereto.

[1935 c. 10 s. 7] (1946-56)

**477.35 EXPENDITURES LIMITED.** The governing body of each village heretofore or hereafter issuing bonds pursuant to the provisions of sections 477.01 to 477.09 shall annually at its first meeting in each fiscal year determine the amount of funds which will be available during the current year for all and each of its public purposes, from the proceeds of the tax levy lawfully made therefor in the preceding year and from state aid and from other sources known or reasonably anticipated to be due and payable into its treasury during such year, and shall thereupon, at such meeting, make and spread on its minutes a definite budget of the expenditures made and to be made and indebtedness incurred and to be incurred by it for all and each of such purposes during such year, which expenditures and indebtedness shall in no case exceed the aggregate amount of revenues

so determined to be available for all and each of such purposes for such year. Such budget shall first allot, and there shall be first set aside and payable, out of the receipts for such year, pursuant to levies therefor, the amount required to meet principal and interest due in that year on the bonds issued pursuant to sections 477.01 to 477.09 and on any outstanding bonds and items not funded or refunded, contemplated by sections 477.01 to 477.09. There shall then be allotted, respectively, such amounts as shall be required and appropriable to pay outstanding warrants or orders and for each of the necessary current purposes, and such amount as shall be deemed necessary for an emergency fund, and what remains may be allotted to be expended on new undertakings of construction, improvement, extension, or otherwise, to which it is lawfully appropriable. As nearly as may be, a specific program of expenditures shall be determined upon and the amount to be expended on each item determined and allotted; and no change in such program shall be made, nor additional expenditures made nor indebtedness incurred, which shall cause to be diverted to other purposes any part of the amount herein required to be allotted for payment of principal and interest, and for payment of outstanding warrants or orders and for necessary current purposes and for the emergency fund, nor which shall cause the expenditures made or indebtedness incurred in any year to exceed the total revenues determined, as aforesaid, to be available for such year. The emergency fund may be used to pay extraordinary items of lawful expenditures occasioned by emergency which could not be anticipated when the budget was made.

[1929 c. 416 s. 1] (1938-16)

**477.36 RECORDING OFFICER TO KEEP RECORD.** The recording officer shall keep a record showing accurately the amount allotted to each item of the budget for each year and the amounts incurred and expended, from time to time, on account of each of such items, which record shall be presented and examined at each meeting of the governing body and show the true condition of affairs at the date of such meeting. No indebtedness shall be incurred for any purpose except pursuant to action of the governing body while in meeting assembled, specifying as nearly as may be the purposes and the amount thereof.

[1929 c. 416 s. 2] (1938-17)

**477.37 FILING OF CLAIMS.** All claims against any such municipality must be filed with the recording officer within 30 days after the accrual thereof; if not so filed, no liability shall exist therefor unless and until funds shall be appropriable therefor without disturbing the preferred funds specified in section 477.35 and without increasing expenditures or indebtedness beyond the limits therein prescribed. It shall be the duty of the recording officer after any such claim has been filed with him to present the same to the governing body at its next meeting, and at such meeting the claim shall be acted upon.

[1929 c. 416 s. 3] (1938-18)

**477.38 VIOLATION A MISDEMEANOR.** Any member of the governing body or other officer or employee of such municipality knowingly authorizing or participating in any violation of sections 477.35 to 477.39 shall be guilty of a misdemeanor, punishable by a fine not exceeding \$100.00 or imprisonment in the county jail not exceeding three months for each offense. Every contract entered into or indebtedness or pecuniary liability attempted to be incurred in violation of the provisions of sections 477.35 to 477.39 shall be null and void in respect to any obligation sought thereby to be imposed upon the municipality; and no claim therefor shall be allowed by the governing body, nor shall any officer issue or pay any warrant, order, or other evidence of debt on account thereof. Each member of the governing body or other officer or employee so knowingly participating in or authorizing any violation of sections 477.35 to 477.39 shall be individually liable to the corporation or to any other person for any damages caused thereby; and, for the purpose of enforcing such liability without impairing any other remedy, one-fourth of the salary of each such officer and employee shall be withheld from him and applied toward reimbursing the corporation or any other such person for such damages, until all claims by reason thereof have been paid. Each member of the governing body 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 the same unless he shall cause his dissent therefrom to be entered on the minutes of the meeting.

[1929 c. 416 s. 4] (1938-19)

**477.39 MODIFICATION BY VOTERS.** The voters of any such village may, at any regular or special election, upon due submission of the question to them, modify the application of any provision of sections 477.35 to 477.39, except so far as vested rights may be substantially affected thereby.

[1929 c. 416 s. 5] (1938-20)

**477.40 BONDS FOR FUNDING FLOATING INDEBTEDNESS; MAXIMUM LIMIT.** Any village in the state is hereby authorized to issue bonds of such village to fund the outstanding floating indebtedness thereof as represented by its orders or warrants outstanding and unpaid on February 1, 1927; provided that the aggregate face value of the bonds which shall be issued by any village under the provisions of this section shall not exceed the sum of \$15,000.

Before any bonds are issued under the provisions of this section, the issuance of such bonds shall be authorized by a resolution adopted by the affirmative vote of all the members of the village council. These bonds shall bear interest at not to exceed six per cent per annum, payable semiannually, mature serially in approximately equal amounts each year, the last of which instalments shall be not more than ten years from the date of issue and the first of which instalments shall be not more than two years from the date of issue, be signed by the president and countersigned by the clerk or recorder and sold for not less than their par value and accrued interest in such manner and the bonds shall be in such form as the governing body shall direct.

No such bonds shall be issued unless the village council issuing such bonds shall pass the resolution authorizing the issuance thereof under this section within 90 days after the passage and approval thereof. Nothing in this section shall be deemed to abridge or repeal existing provisions of law relating thereto. All bonds issued hereunder shall be sold in accordance with the provisions of chapters 275 to 277.

[1927 c. 80 ss. 1, 2] (1264-1) (1264-2)

**477.41 INDEPENDENT SCHOOL DISTRICTS MAY ISSUE BONDS TO FUND FLOATING INDEBTEDNESS.** Any independent school district with territorial limits which coincide with the territorial limits of any city of the first class in the state, and the government of which independent school district is not provided for in the charter of the city, may issue its bonds to an amount not exceeding one per cent of the assessed value, as last determined, of all the taxable property within such district including money and credits, to fund its floating indebtedness or a portion thereof in the manner hereinafter provided, without submitting the question of such issue to the electors of such district and without regard to the amount of any or all other outstanding debts of such district and notwithstanding any existing limitations.

[1933 c. 54 s. 1] (1946-34)

**477.42 FUNDING BONDS TO RETIRE OUTSTANDING OBLIGATIONS IN CERTAIN SCHOOL DISTRICTS.** Such funding bonds shall be the direct and general obligations of the independent school district issuing them and shall be authorized by resolution duly adopted by the governing body of such district, which resolution shall set out the amount of the floating indebtedness to be funded and provide for the details of the bonds to be issued. Such bonds shall bear interest at not to exceed six per cent per annum, payable semiannually, and shall mature in not to exceed 20 years from the date thereof, but otherwise these bonds shall mature in such amounts and at such times and shall be subject to such conditions as to redemption or payment before maturity as may be authorized by resolution duly adopted by the governing body.

[1933 c. 54 s. 2; 1933 c. 383] (1946-35)

**477.43 SALE OF BONDS ADVERTISED.** Such bonds shall be sold in such amounts and at such times as may be determined by the governing body of any such district and pursuant to at least two weeks' notice asking for bids published in a newspaper designated by the governing body. These bonds shall not be sold for less than their par value. The proceeds from all bonds so sold shall be applied by the school district to the payment of its outstanding floating indebtedness set out in the resolution authorizing the funding bonds, but no purchaser or owner of any such bonds shall be under any obligation with respect to the application of the proceeds when received by the school district.

[1933 c. 54 s. 3] (1946-36)

**477.44 TAX LEVY TO RETIRE BONDS.** The governing body of any independent school district issuing bonds under the provisions of sections 477.41 to 477.46 shall, before the issuance thereof, levy for each year, until the principal and interest are paid in full, a direct annual tax in an amount not less than five per cent in excess of the sum required to pay the principal and interest thereof when and as they mature, notwithstanding any existing limitation. After such bonds have been delivered to the purchaser thereof, such tax shall be irrevocable until such bonds have been paid and no further action of the governing body shall be necessary to authorize the extensions, assessments, and collection of such tax. The recording officer of such independent school district shall forthwith furnish a certified copy of such levy to the auditor of each county in which the district is situated, together with full information regarding the bonds for which the tax is levied, and such county auditor shall enter the same in the register provided for such cases and extend and assess the tax so levied.

[1933 c. 54 s. 4] (1946-37)

**477.45 REMEDIAL.** The fact that due to delinquencies in tax collections such independent school districts have outstanding floating indebtedness which should be funded so as to protect the credit of such districts necessitates the passage of sections 477.41 to 477.46, which are hereby declared to be remedial in character. No funding bonds shall be issued under authority thereof unless a resolution authorizing such issuance shall be adopted by the governing body of such independent school district within 90 days after those sections are in force. The term "floating indebtedness," as used in those sections, includes all the outstanding obligations of the independent school districts, with accrued interest, existing at the time those sections are effective, exclusive of bonded indebtedness and interest thereon.

[1933 c. 54 s. 5] (1946-38)

**477.46 CONTROLLING.** The provisions of sections 477.41 to 477.45 shall be paramount and controlling, notwithstanding any other act, or part thereof, which may be inconsistent therewith.

[1933 c. 54 s. 6] (1946-39)

**477.461 INDEPENDENT SCHOOL DISTRICTS IN DULUTH MAY ISSUE REFUNDING BONDS.** At any time within one year prior to maturity of its bonds, now outstanding or hereafter issued, which do not mature serially in annual instalments throughout the life thereof, or within one year prior to the date on which such bonds may be called for payment, any independent school district, with territorial limits which coincide with the territorial limits of any city of the first class in the state and the government of which independent school district is not provided for in the charter of any such city, may issue bonds to refund such bonds without submitting the question of such issue to the electors of such district and without regard to the amount of any or all other outstanding debts of such district and notwithstanding any existing limitations.

[1941 c. 263 s. 1]

**477.462 BONDS.** Such refunding bonds shall be the direct and general obligations of the independent school district issuing same and shall be authorized by resolution duly adopted by the governing body of such district, which resolution shall set out the amount of the bonded indebtedness to be refunded and provide for the details of the bonds to be issued. Such refunding bonds shall bear interest at a rate not to exceed four per cent per annum, payable semiannually, and shall mature serially in not to exceed 20 years from the date thereof, the first maturity to be not more than three years from the date of such bonds, and no annual maturing instalment of principal shall exceed two and one-half times the amount of the smallest instalment thereof maturing in any one year.

[1941 c. 263 s. 2]

**477.463 SALE OF BONDS.** Such refunding bonds shall be sold in such amounts and at such times during the period of one year above provided as may be determined by the governing body of any such district and pursuant to at least two weeks' notice asking for bids published in a newspaper designated by the governing body. Such bonds shall not be sold for less than their par value. The principal amount of such refunding bonds so sold by any such independent school district shall be applied by such independent school district to the payment of its outstanding bonded indebtedness set out in the resolution authorizing the refunding bonds but no purchaser or owner of any such refunding bonds shall be under any

obligation with respect to the application of the proceeds when received by such independent school district.

[1941 c. 263 s. 3]

**477.464 TAX LEVY TO RETIRE BONDS.** The governing body of any independent school district issuing bonds under the provisions of sections 477.461 to 477.465 shall, before the issuance thereof, levy for each year until the principal and interest are paid in full a direct annual tax in an amount not less than five per cent in excess of the sum required to pay the principal and interest thereof when and as same mature notwithstanding any existing limitation. After such refunding bonds have been delivered to the purchaser thereof, such tax shall be irrevocable until such bonds have been paid and no further action of the governing body shall be necessary to authorize the extensions, assessments, and collection of such tax. The recording officer of such independent school district shall forthwith furnish a certified copy of such levy to the county auditor or county auditors of the county or counties in which such district is situated, together with full information regarding the bonds for which the tax is levied and such county auditor or county auditors shall enter the same in the register provided for such cases and shall extend and assess the tax so levied.

[1941 c. 263 s. 4]

**477.465 PROVISIONS PARAMOUNT.** The provisions of sections 477.461 to 477.465 shall be paramount and controlling notwithstanding any law, or part thereof, which may be inconsistent therewith and no proceedings shall be necessary for the issuance of the refunding bonds authorized thereby other than those which are specifically required therein.

[1941 c. 263 s. 6]

**477.47 SINKING FUND COMMITTEE TO INVEST FUNDS.** When, 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 distinguished 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, that all receipts from delinquent taxes which are, at the time of the passage of this section, 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, that pledge is hereby expressly authorized and validated.

[1935 c. 285] (1630-2½x)