

130278

1941 Supplement

To

Mason's Minnesota Statutes

1927

1939 to 1941

(Supplementing Mason's 1940 Supplement)

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.

Edited by
the
Publisher's
Editorial Staff

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St. Paul, Minnesota*

MASON PUBLISHING CO.

SAINT PAUL, MINNESOTA

1941

and aid to dependent children all expenditures, not to be itemized by name of recipient, and requiring protection from public of list of recipients and their confidential communications. Op. Atty. Gen., (277c-1), Oct. 10, 1939.

MISCELLANEOUS PROVISIONS

976. To report fees.

Judge of probate must file annual statement of fees collected. Op. Atty. Gen. (347E), Jan. 3, 1940.

Judge of probate is a "county officer" required to file accounting of receipt of fees and emoluments. Op. Atty. Gen. (347E), March 6, 1940.

990. Officials not to be interested in contracts.

Employment of coroner by county commissioners for medical examination of poor persons, violates this section. Op. Atty. Gen. (103-E), Aug. 9, 1940.

If call for bids for a snow plow is general enough to include all types of equipment of a certain kind, and particular equipment which is desired is among those bid, but is not lowest, purchase may be made of exact equipment desired though bid is not lowest. Op. Atty. Gen. (707-a-7), Jan. 21, 1941, Jan. 30, 1941.

County board may exercise its judgment and discretion as to which one is the "lowest responsible bidder". Op. Atty. Gen. (707a-7), Jan. 21, 1941, Jan. 30, 1941.

It would be illegal for county board to buy a truck from a company whose local dealer was a member of the county board, even though such member would not receive anything out of the sale. Op. Atty. Gen. (90b), Mar. 27, 1941.

991. Contracts in certain counties.

In counties of over 450,000 population county auditor must advertise for bids for purchase of goods and supplies. Laws 1941, c. 348.

It is not necessary for county board to advertise for bids for purchase of public liability insurance. Op. Atty. Gen. (707a-7), March 14, 1940.

Road machinery may not be rented without advertising for bids. Op. Atty. Gen., (707d-2), April 8, 1940.

Where bids were opened at time and place specified in advertisement and lowest bid received two votes, two board members present not voting and fifth member being absent, a majority did not vote and bid did not carry, and board could consider bids at next regular meeting without advertising. Op. Atty. Gen., (707a-7), May 6, 1940.

County auditor is not required to advertise for bids for printing primary election ballots and other election supplies, but must require printer to give bond. Op. Atty. Gen. (707a-7), June 12, 1940.

County board cannot accept a tied bid unless proposal calling for bid permits them. Op. Atty. Gen. (707a-7), June 22, 1940.

Existence of an emergency which would justify dispensing with requirement to advertise for bids is a question of fact for county board, but they should be prepared to defend themselves in court by facts sufficient to show that there was an emergency, and county board

could and should have foreseen requirements and necessity for snow fence delivered in 6 parts between Dec. 17 and Dec. 28, totaling more than \$1000, but each separate bill being less than \$500. Op. Atty. Gen. (707a-8), Jan. 21, 1941.

Whether an emergency exists warranting dispensing with calling for bids is a question of fact within sound judgment and discretion of county board. Op. Atty. Gen. (707a-8), Jan. 22, 1941.

A notice for bids for "one or more Diesel-powered motor patrol graders complete with snow plow and wing as per specifications on file in county engineer's office" is probably too indefinite, but the notice might properly call for separate bids on one motor patrol, on two motor patrols, etc. Op. Atty. Gen. (707a-1), Feb. 28, 1941.

993-1. Purchasing contracts in certain counties.

Election ballots and supplies might be deemed "supplies and materials". Op. Atty. Gen. (707a-7), June 12, 1940.

Act Apr. 21, 1941, c. 348, requires county auditor in counties having population of more than 450,000 to advertise for bids for purchase of goods.

994. Actions against counties.

Where plaintiff by written assignment acquired a claim against county and it was audited and allowed, but through mistake or oversight on part of county officers warrant issued in payment was made payable to original claimant, who cashed it, plaintiff may recover from county as against defendants' claim that statute prevents suit by a claimant to enforce a money demand and that appeal from board's disallowance in whole or in part is only remedy. *Leuthold v. R.*, 238NW165. See *Dun. Dig.* 2295.

997-4. Salary of county officers.

Act Apr. 10, 1941, c. 208, relative to salaries and other compensation of various county officers is, by its descriptive terms, applicable to Lake of the Woods county.

997-4a. Salaries of county officers in certain counties.

Act Apr. 17, 1941, c. 295, §§1 to 11, fixes the salaries of various county officers in counties having 76 to 80 congressional townships and assessed valuation of \$2,000,000 to \$5,000,000.

Laws 1927, c. 392, fixing salaries of members of county board, is limited in application to counties having an assessed valuation of \$250,000,000, and where assessed valuation in St. Louis County fell below that amount that act no longer applied, and Laws 1935, c. 349, freezing salaries of county officials as of 1931 was in effect a new act, and provision in 1927 act that "each member of said board shall devote his entire time to the performance of the duties of his office" no longer governed. Op. Atty. Gen. (104a-9), Jan. 24, 1941.

997-4b. Minimum salaries. [Repealed.]

Repealed. Laws 1941, c. 295.

CHAPTER 8

Towns and Town Officers

POWERS—DUTIES—LIABILITIES

1002. Powers of town meetings.

Unless a town has been given authority to do so by some special act it has no authority to construct sewers. Op. Atty. Gen., (387G), Oct. 12, 1939.

No town board has authority to enter into a town contract obligating it to expend a greater sum of money than is in township treasury plus taxes actually levied and in process of collection, although a town may raise revenue by issuance of orders, which may be stamped "Not Paid" and which bear interest from date stamped, or the issuance of bonds. Op. Atty. Gen., (688c-1), March 25, 1940.

Town board has no authority to license dairy companies or their trucks, where it has no platted portion which would give it additional powers of a village. Op. Atty. Gen., (292c), May 6, 1940.

(3).

In connection with proceedings to establish a town ditch, town board has no authority to employ an attorney not asked for in the petition. Op. Atty. Gen., (151B), Dec. 18, 1939.

Towns may authorize payment of reasonable value of services of attorney in an emergency defense of legal action brought against board for alleged negligence in maintenance of a town bridge. Op. Atty. Gen. (779a-4), Mar. 13, 1941.

(6).

Town board is authorized to appropriate and expend a reasonable sum as assistance for improvements and maintenance of a bridge outside limits of town on a road leading into town, but it may not contribute money to construction of a new bridge. Op. Atty. Gen., (442a-21), March 29, 1940.

(9).

Town has authority at a special meeting to authorize town board to remodel and enlarge town hall and determine amount of money to be raised for such purpose. Op. Atty. Gen., (434c-2), April 23, 1940.

(10).

It would not be improper to include in notice of annual town meeting a statement that a proposal to acquire additional land for a cemetery will be voted upon, but it is not necessary. Op. Atty. Gen. (870d), Feb. 10, 1941.

1002-1. Dissolution of township government, etc.

When a township is dissolved, it is duty of county commissioner to appoint an actuary for town cemetery until it is disposed of. Op. Atty. Gen. (870l), Dec. 10, 1940.

A conveyance to a town "this town to maintain car tracks and wall gate, said land to revert to the party of the first part when ceased to be used by said town", constituted a condition subsequent, upon breach of which, coupled with re-entry, estate of town will be defeated, unless condition has become merely nominal, but such condition is directed toward a particular public use and not against succession of property to county upon dissolution of town, and there is no reverter resulting from failure to use the property unless there is a re-entry or an equivalent act before performance of condition as resumed. Op. Atty. Gen. (441B), Jan. 4, 1941.

Where land was conveyed to a town wherein grantee "agreed that the above described property shall be improved and kept improved, and that said grounds shall be used for a public park and picnic grounds only and for no other purpose whatsoever", property went to county upon dissolution of town by operation of law, including appurtenant rights, privileges and duties, and wheth-

er county could use property for uses other than as a public park or picnic grounds would depend upon whether there was a condition subsequent or language was intended to be merely directory, a question of fact to be determined from all circumstances. *Id.*

1002a. Cutting weeds and grass upon town roads.

Subdivision 1. The town board at the annual town meeting may submit to a vote by ballot the following question: "Shall persons owning or occupying real estate adjoining a town road and not a part of any incorporated municipality be required to cut or remove all weeds and grass growing upon the town road adjacent to their land? Yes— No—"

Subdivision 2. If a majority of the electors voting on such question shall vote "Yes," any person owning or occupying real estate adjoining a town road and not a part of any incorporated municipality, shall cut or remove all weeds or grass growing upon the town road adjacent to his land. Any person who erects or maintains a mailbox on land not owned by him, such person shall cut or remove all weeds or grass within five feet of such mail box. If any such person fails to comply with this provision, the town board of the town in which his real estate is located may, after ten days' notice in writing, order the local weed inspector or other person to cut or remove the weeds or grass, and the expense thus incurred shall be a lien on such real estate. The town board shall certify to the county auditor an itemized statement of the amount of the expense paid by the township, and the county auditor shall enter such amount on the tax books as a tax upon the land, which shall be collected in the same manner as other real estate taxes; provided, however, that no expense paid by the township shall be charged against any land or certified to the county auditor where the right of way adjoining such land is not reasonably accessible to a horse drawn or power propelled mower. (Act Apr. 16, 1941, c. 246, §1.)

1010. Procuring town hall.

A special town meeting to vote on buying of site for a town hall and on building a town hall may be called for day on which general election is to be held, but place of that meeting may not be in polls where general election is being conducted. *Op. Atty. Gen.* (135B-2), Oct. 16, 1940.

Property to be acquired as building site need not be described in detail on ballot. *Id.*

1027-1. Fire protection and apparatus, etc.

Where several towns desire to enter into a contract with a city for fire protection, electors of each town should adopt a resolution at their annual town meeting and vote money to be raised for purpose. *Op. Atty. Gen.* (519o), Feb. 13, 1940.

Statute contemplates that electors shall annually vote amount of money to be raised for maintenance of fire apparatus purchased. *Op. Atty. Gen.* (688c-1), Feb. 23, 1940.

Special meeting may not be called for purpose of voting on question. *Op. Atty. Gen.*, (434B-15), March 25, 1940.

No town board has authority to enter into a town contract obligating it to expend a greater sum of money than is in township treasury plus taxes actually levied and in process of collection, although a town may raise revenue by issuance of orders, which may be stamped "Not Paid" and which bear interest from date stamped, or the issuance of bonds. *Op. Atty. Gen.*, (688c-1), March 25, 1940.

Proposal to authorize town board to provide general fire protection is not required to be determined by ballot and therefore need not be specified in notice of annual town meeting, but matter of an appropriation for the purpose must be determined by ballot and proposal must be shown in notice of meeting. *Op. Atty. Gen.* (618K), Feb. 10, 1941.

Power of electors extends only to authorizing town board to provide fire protection and vote an appropriation, and authority to determine in what manner fire protection shall be provided is vested solely in town board. *Id.*

1027-4. Same—Tax levy contracts with adjacent city or village.

Town board may not donate any sum to a village toward purchase of a fire truck, but town board upon previously granted authority of electors may enter into contract with village for furnishing fire protection to town and pay consideration therefor. *Op. Atty. Gen.* (688k), March 14, 1940.

A town may levy a tax in excess of \$600 per year under a contract with a city for fire protection. *Op. Atty. Gen.* (916B), Oct. 2, 1940.

1027-5. Same—Other laws not affected; etc.

Limit of \$500 on yearly expenditures for forest fire protection, pursuant to §4031-11, is not a limitation on expenditures for general fire protection. *Op. Atty. Gen.* (916B), Oct. 21, 1940.

TOWN MEETINGS

1029. Annual meeting. [Repealed.]

Repealed. Laws 1939, c. 345.
Reenacted as 601-11(1)a.

1031. Special meetings. [Repealed.]

Repealed. Laws 1939, c. 345.
Reenacted as 601-11(1)b.

TOWN BOARD

1049. How constituted—Duties.—The supervisors of each town shall constitute a board to be designated "The Town Board of _____," and any two shall constitute a quorum except when otherwise provided. They shall have charge of all the affairs of the town not by law committed to other officers. They shall draw orders on the treasurer for the disbursement of money to pay the town expenses, and for all money raised by the town to be disbursed for any other purpose. They may prohibit or license and regulate the keeping of billiard, pool, and pigeonhole tables, bowling alleys, and the sale of fireworks, and may license and regulate public dancing places, fix the price and time of continuance of such license, and, whenever in their opinion the public interest requires it, revoke the same. They may appropriate out of the general fund of the town and draw orders on the treasurer for the disbursement of money to pay the annual dues in the National Association of Town Officers, the actual and necessary expenses of such delegates as the town board may designate to attend meetings of such association; provided that the aggregate amount for such purposes so expended by any such town in any one year shall not exceed the sum of \$12.00. They may select and designate a bank as the depository of town money for a time not extending beyond their official term, on the execution by such bank of a sufficient bond to the town, in double the sum deposited, to be approved by the board and filed in the office of the town clerk, and thereupon may require the treasurer to deposit all or any part of the town money in such bank. Such designation shall be in writing, and shall set forth all the terms and conditions upon which the depositors are made, be signed by the chairman and clerk, and filed with the clerk. The town treasurer shall not be liable for the loss of money while so deposited, and all interest thereon shall belong to the town. (As amended Act Apr. 16, 1941, c. 247, §1.)

Town boards of certain towns having population in excess of 6,000 are empowered to print and distribute to electors at annual town meetings copies of town's annual financial statement, as approved by town board of audit. Act Apr. 16, 1941, c. 262, §1.

Town board may by resolution adopt calendar year as fiscal year and require town officers to keep their reports on that basis. *Op. Atty. Gen.* (353a-3), Jan. 11, 1940.

Services rendered by township supervisors as members of national draft registration board are voluntary and uncompensated unless federal government otherwise provides, and may not be made basis of claims against township. *Op. Atty. Gen.* (437a), Oct. 17, 1940.

Offices of village recorder and town clerk are not incompatible. *Op. Atty. Gen.* (358E-7), Mar. 6, 1941.

Township supervisor cannot hire one of their own members to check gravel on roadwork and pay him a salary, even though voters at annual meeting voted to pay supervisor. *Op. Atty. Gen.* (437a-4), Mar. 27, 1941.

1049-6. Application of act.—This act shall apply to all towns in the state of Minnesota having a population of more than 3,000, exclusive of incorporated villages or cities therein, and an assessed valuation of taxable property, exclusive of money and credits, of more than \$10,000,000. (Act Apr. 25, 1941, c. 446, §1.)

1049-7. Telephone lines—Sale or lease.—The board of supervisors of such towns is empowered to lease, sell or otherwise dispose of the town telephone

lines of any such town upon the terms and conditions as the board may agree. (Act Apr. 25, 1941, c. 446, §2.)

1049-8. Validation of expenditures and contracts.—All expenditures made and all contracts heretofore entered into by the board of supervisors of any such town are hereby legalized and made valid obligations of such towns. (Act Apr. 25, 1941, c. 446, §3.)

BOARD OF AUDIT

1055. How constituted—Meetings.

There is no statutory provision determining fiscal year of township, but custom has developed of regarding fiscal year as extending from March to March. Op. Atty. Gen. (353a-3), Jan. 11, 1940.

Public examiner has power to recommend that townships use calendar year as their fiscal year. Id.

1056. Duties.

Services rendered by township supervisors as members of national draft registration board are voluntary and uncompensated unless federal government otherwise provides, and may not be made basis of claims against township. Op. Atty. Gen. (437a), Oct. 17, 1940.

TOWN CLERK

1065. Office in certain villages.

Mere incorporation of an area within a township as a village does not automatically affect a separation of such area from town, but separation must be voted on, and until there is such a vote town clerk residing in village may continue to act as town clerk. Op. Atty. Gen. (440f), June 10, 1940.

TOWN TREASURER

1068. Duties.

Offices of village recorder and town clerk are not incompatible. Op. Atty. Gen. (358E-7), Mar. 6, 1941.

1070. To pay audited accounts.

Town board has no authority to take up a large number of outstanding warrants drawing interest at rate of 6% and issue in exchange therefor one warrant for sum total which will draw interest at rate of 4%. Op. Atty. Gen. (442B-8), March 1, 1940.

1071. Order of payment—Interest.

Town board can enter into written agreement that town order will bear interest at rate of four per cent, and orders may carry notation to that effect. Op. Atty. Gen., (442B-6), Sept. 28, 1939.

Town board may not redeem part of an outstanding warrant. Op. Atty. Gen. (442B-2), Jan. 13, 1940.

1073. Fees.

Treasurer of village organized under 1905 Act is to be paid same fees as a town treasurer, and is entitled to 2% of a loan received from the state to pay outstanding warrants, subject to maximum yearly compensation of \$100. Op. Atty. Gen. (456f), Aug. 28, 1940.

GENERAL PROVISIONS

1075. Town and village assessors. [Repealed.]

Repealed. Laws 1939, c. 345.
Notwithstanding this section, assessor in Mountain Iron, and other villages falling within the class described by Laws 1925, chapter 4, is to be elected every year. Op. Atty. Gen., (12B-2), Nov. 8, 1939.

1081-1. County boards may appoint justices and constables in certain unorganized territory.—In any county in this state, having no organized townships or in which the distance from any full and fractional unorganized townships is more than 20 miles from the nearest organized township or municipality or county seat, and which full and fractional unorganized townships are entirely separated from such organized townships or municipality or county seat by water, the county board of such county may appoint one or more Justices of Peace and one or more constables for such unorganized townships who shall have the same powers and duties as like officers in organized townships in said county. (As amended Act Apr. 15, 1941, c. 234, §1.)

1086. Vacancies.

Where one after election as town clerk fails to qualify within time required by law, a vacancy results to be filled by appointment until next annual town meeting, at which time a successor may be elected for balance of unexpired term. Op. Atty. Gen., (436p), April 30, 1940.

In case of vacancy in town office it is for town supervisors to say whether there shall be a special election or whether they shall fill vacancy by appointment. Op. Atty. Gen. (437-2-21), Jan. 10, 1941.

1089. Compensation; per diem, mileage; annual basis; certain towns; fees; etc.

Compensation of town clerk is \$3.00 per day and mileage, and clerk is not subject to \$90.00 limitation. Op. Atty. Gen., (436c), March 15, 1940.

Township supervisor cannot hire one of their own members to check gravel on roadwork and pay him a salary, even though voters at annual meeting voted to pay supervisor. Op. Atty. Gen. (437a-4), Mar. 27, 1941.

1092. Pounds.

Where lands were annexed to city of Austin by resolution adopted by city council on July 21, and filed for records with register of deeds and county auditor on Sept. 9, county auditor should tax annexed lands in the township and not the city, except that special assessments should be listed in political subdivision of which land was a part at time of levy, notwithstanding that levy of taxes in the city is made during month of October. Op. Atty. Gen., (59a-1), Sept. 27, 1939.

1096. Officers—Contracts.

Town clerk may not enter into a contract with town board to do road dragging, even though sealed bids are submitted and he is lowest bidder. Op. Atty. Gen., (90d), May 2, 1940.

Township supervisor cannot hire one of their own members to check gravel on roadwork and pay him a salary, even though voters at annual meeting voted to pay supervisor. Op. Atty. Gen. (437a-4), Mar. 27, 1941.

1098. Limit of debts, etc.

Town board has no authority to enter into a town contract obligating it to expend a greater sum of money than is in township treasury, plus taxes actually levied and in process of collection and taxes are not in process of collection until county treasurer has received tax list from county auditor. Op. Atty. Gen., (442a-21) Oct. 19, 1939.

1099. Separation from village.

Mere incorporation of an area within a township as a village does not automatically affect a separation of such area from town, but separation must be voted on, and until there is such a vote town clerk residing in village may continue to act as town clerk. Op. Atty. Gen. (440f), June 10, 1940.

1108-15a. Certain towns not to draw orders or warrants without money to pay same.—From and after January 1, 1942, no organized town in the state of Minnesota having a population of more than 3,000 inhabitants, exclusive of incorporated villages or cities therein, and an assessed valuation of taxable property, exclusive of money and credits, of more than \$10,000,000, 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, 1941, c. 447, §1.)

1108-15b. Determination of application of act.—In determining the application of this law to any such town, the population thereof shall be determined by the last preceding state or federal census and the valuation shall be that used as a basis for spreading the 1940 taxes of the town. (Act Apr. 25, 1941, c. 447, §2.)

1108-15c. Indebtedness in excess of limit to be personal claim against officials creating same.—Whenever, from and after January 1, 1942, the expense and obligations incurred, chargeable to any particular fund of such town 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 the prior year or years, no officer or board of such town 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 town, but the additional indebtedness attempted to be created shall be a personal claim against the officer or members of the board voting for or attempting to create the same. (Act Apr. 25, 1941, c. 447, §3.)

1108-15d. May issue certificates of indebtedness.—At any time after January 1, following the making of an annual tax levy, the town board of such town 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 taxes so levied for any fund named in said tax levy for the purpose of raising money for any such fund, but no certificate shall be issued for any of the separate funds exceeding 60 per cent of the amount named in the tax levy as spread by the county auditor, to be collected for the use and benefit of the fund, and no certificate shall be issued to become due and payable later than December 31 of the year succeeding the year in which the tax levy certified to the county auditor as aforesaid, was made. (Act Apr. 25, 1941, c. 447, §4.)

1108-15e. Sale and requisites of certificates of indebtedness.—The 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 annually. Each certificate shall state upon its face for which fund proceeds of the certificate shall be used, the total amount of the certificates so issued, and the whole amount embraced in the 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. The proceeds of the tax assessed and collected, as aforesaid, on account of said fund, and the faith and credit of such town shall be irrevocably pledged for the redemption of the certificates so issued. The certificates shall be paid from the money derived from the levy for the year against which the certificates were issued, or if they be not sufficient for such purpose, from other funds of the town. The money derived from the sale of the certificates shall be credited to the fund or funds for the calendar year immediately succeeding the making of the levy and shall not be used or spent until the 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 the certificates for any one year may, if necessary, be used to redeem unpaid certificates issued in a prior year. (Act Apr. 25, 1941, c. 447, §5.)

1108-15f. Expenditures and contracts validated.—All expenditures made by any such town, all orders or warrants issued and payments made in payment of such expenditures and all contracts entered into prior to the date of this act are hereby legalized and made valid obligations of any such town. (Act Apr. 25, 1941, c. 447, §6.)

1108-15g. Transfer of surplus funds.—The board of supervisors of any such town, by the unanimous vote thereof, may transfer any surplus beyond the needs of the current year in any town fund to any other town fund to supply a deficiency therein. (Act Apr. 25, 1941, c. 447, §7.)

1108-15h. To be on cash basis after January 1, 1942.—From and after January 1, 1942, such town shall be deemed for all purposes to be on a cash basis and shall thereafter remain on a cash basis. All taxes levied in 1941 shall be considered as the tax revenues for the year 1942 and thereafter in any such town taxes shall be levied as now provided by law, but for the succeeding year. (Act Apr. 25, 1941, c. 447, §8.)

1108-15i. Bond issue to retire existing indebtedness.—If any such town, prior to January 1, 1941, had incurred by proper authority an indebtedness, excluding bonds, in excess of its cash on hand not specifically set aside for the retirement of bonds and interest thereon, the town may, for the purpose only of pay-

ing and discharging such indebtedness and interest thereon, issue its bonds in the manner now provided by law, except that the bonds may be issued on a vote of the town board thereof without a vote of the electors of the town; provided, that bonds issued for that purpose shall be payable in annual installments as nearly equal in amount as conveniently may be, the first of which installment shall be due in not more than three years from the date of the issue and the last of which installment shall be due in not more than 18 years from the date of issue, and provided, further, that if the town board wishes to dispose of its bonds to private purchasers, the sale shall be conducted pursuant to the provisions of Mason's Minnesota Statutes of 1927, Chapter 1943. (Act Apr. 25, 1941, c. 447, §9.)

1108-15j. Bond issue to reimburse certain funds.—If any money received from taxes levied in 1940 and payable in 1941, or income from local sources received since January 1, 1941, has been used prior to the passage of this act for the retirement of indebtedness existing January 1, 1941, such bond issue may include the amount of the payments for the purpose of reimbursing the funds from which such money was so paid. (Act Apr. 25, 1941, c. 447, §10.)

1108-15k. Tax levy to retire bonds.—The town board of any town 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 the bonds are paid in full, of a direct annual tax in an amount sufficient to pay the principal and interest thereof when and as such principal and interest become due. The tax levy shall be irrevocable until all of the bonds are paid. The annual tax for the payment of the bonds shall be derived from two sources: (a) 22 per cent of the amount necessary to pay said funding bonds and interest and no more shall be levied as a special tax in addition to the annual tax levy now permitted in said town, under the provisions of Laws 1935, Chapter 133, and other laws, and; (b) 78 per cent of the amount necessary to pay said funding bonds and interest shall be raised by annual tax levies which shall be within the limitations provided by Laws 1935, Chapter 133, and other laws, upon the tax levies of said town. (Act Apr. 25, 1941, c. 447, §11.)

1108-15l. Violation of act a misdemeanor.—Any member of the town board of such town or any other town officer or employee knowingly participating in or 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 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 town, and no claim therefor shall be allowed by the town board of the town; nor shall the board of the town or any other town officer or employee issue or execute, nor shall the town treasurer pay, any warrant or certificate of indebtedness issued on account thereof. Every member of the town board present at a meeting of the board 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. (Act Apr. 25, 1941, c. 447, §12.)

1108-15m. Contracts—manner of letting.—All contracts involving an expenditure of \$500.00 or more, if not to be paid from the road or poll tax, shall be let to the lowest responsible bidder, after public notice of ten days, posted in the three most public places in the town, or published for two weeks in a newspaper generally circulated in the town, of the time

and place of receiving bids. Provided, in case of special emergency, amounts in excess of \$500.00 may be expended without such notice being given. (Act Apr. 25, 1941, c. 447, §13.)

1108-15n. Shall continue under provisions of act.—When a town 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, 1941, c. 447, §14.)

1108-15o. Separability clause.—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, 1941, c. 447, §15.)

1108-31. Certain towns may establish sewage system, sewer districts, etc.

A village within a town and assessed by town may not be considered a part of the town under this section. Op. Atty. Gen., (387G), Oct. 12, 1939.

1108-36. Same—District sewer; special assessments.—Although school district is not liable for a special assessment, and an assessment would not be a lien upon the property, it may pay part of cost of construction of a new sewer and sewage disposal plant to extent that it is benefited thereby. Op. Atty. Gen. (387f-1), Jan. 31, 1941.

1108-56. Same—Town may bear part of cost of sewer system.

Act Apr. 10, 1941, c. 186, §1, amends Laws 1939, c. 187, §1, by authorizing the board of supervisors in any town of this state bordering on any city of the first, second, or third class to regulate construction of buildings and make zoning regulations.

Act Apr. 22, 1941, c. 362, applicable to counties having populations of over 450,000, authorizes the electors of any town within such county to zone the town or parts thereof and make general building regulations for such town or district.

1108-57. Towns may construct sewers and sewage disposal plants.—The board of supervisors of all towns in the State of Minnesota having a population of more than 3,000 inhabitants exclusive of incorporated villages or cities therein and an assessed valuation of taxable property exclusive of moneys and credits of more than \$10,000,000 shall have the power to erect, construct, maintain and operate a system of waterworks and sewage disposal plant, and to lay and construct within the platted area thereof such sewers leading to said plant and such other equipment incidental and necessary to the operation thereof as such board deems necessary and advisable. Such board of supervisors may enter into any contract with any city or village located therein or adjacent thereto for the care, maintenance, and operation of such waterworks, sewage disposal plant, and sewers on such

terms and conditions as mutually may be agreed upon. (As amended Act Apr. 14, 1941, c. 225, §1.)

Act Apr. 14, 1941, c. 225, §4, amends the title to Laws 1939, Chapter 287 to read as follows:

An act to authorize the board of supervisors of certain towns to construct waterworks, sewers and sewage disposal plants; to pay therefor from the general revenue funds of such towns or in case such funds are insufficient, to issue and sell bonds not to exceed \$131,000 for that purpose and to validated contracts and bonds heretofore executed.

Act authorizes towns to make necessary repairs and replacements in water works system if necessary to efficient operation of sewage disposal plant. Op. Atty. Gen., (387g-9), Oct. 26, 1939.

1108-58. Payment of cost—Bonds—Interest.

See §§1108-60 and 1108-61.

A bond election is not necessary and it is not necessary to advertise for bids when bonds are to be sold to the state, and town funds may be legally used to construct a sewer which will benefit only a portion of population. Op. Atty. Gen., (43B-7), May 16, 1940.

1108-59. Tax levy to retire bonds.

See §§1108-60 and 1108-61.

1108-60. Form of bonds.—All bonds issued under the authority of Mason's Supplement 1940, Sections 1108-57 to 1108-62, inclusive, as amended, shall be sealed with the seal of the town issuing the same and signed by the chairman and clerk thereof, except that the signatures to the coupons attached to such bonds, if any, may be lithographed thereon. The sale of such bonds shall be in such manner and in such proportions of the whole amount authorized by Mason's Supplement 1940, Sections 1108-57 to 1108-62, inclusive, as amended, and at such times as may be determined by said board of supervisors of such town, provided that such bonds shall be payable not more than 25 years after the date of their issue; provided further, the total principal amount of bonds issued hereunder shall not exceed \$131,000. (As amended Act Apr. 14, 1941, c. 225, §2.)

1108-61. Proceedings to be used for purposes enumerated.—The proceeds of any and all bonds issued and sold under the authority of Mason's Supplement 1940, Sections 1108-57 to 1108-62, inclusive, as amended, shall be used for the purposes hereinbefore enumerated. All contracts heretofore entered into by any such town board, all expenditures made, and all bonds issued under the provisions of Mason's Supplement 1940, Sections 1108-57 to 1108-62, inclusive, are hereby legalized and made valid obligations of such towns. (As amended Act Apr. 14, 1941, c. 225, §3.)

1108-62. Powers additional.

See §§1108-60 and 1108-61.

CHAPTER 9

Villages and Cities

VILLAGES

1111. What territory may be incorporated.—Any district, section or parts of section not in any incorporated village, and in the state of Minnesota, which has been platted into lots and blocks, also the lands adjacent thereto, when said plat has been duly and legally certified according to the laws of this state, and filed in the office of the register of deeds for the county in which said lands or the larger portion thereof lie, said territory containing a resident population of not more than 10,000 nor less than 100, may become incorporated as a village in the manner hereinafter prescribed. But the unplatted part of such territory must adjoin the platted portions and be so conditioned as properly to be subjected to village government. Provided, that any village, whose incorporation shall hereafter be declared void by judgment of court, may

re-incorporate under this act, notwithstanding the fact that such village does not contain 100 inhabitants, and in such re-incorporation may include all or part of the territory embraced in the original incorporation; provided, however, that any district, section or parts of sections which has been platted into lots and blocks, as herein provided, and which is contiguous to the state line and having a population of not less than 50 inhabitants, may upon a petition of not less than ten voters, residents therein, become incorporated as a village in the manner hereinafter prescribed. (As amended Act Feb. 28, 1941, c. 39, §1.)

In re-incorporation proceedings a petition signed by 25 legal voters of territory comprising foreclosed village is sufficient regardless of number of inhabitants living in such territory. Op. Atty. Gen. (484E-5), Mar. 6, 1941.