

1941 Supplement  
To  
**Mason's Minnesota Statutes, 1927**  
and  
**Mason's 1940 Supplement**

Containing the text of the acts of the 1941 and 1943 Sessions of the Legislature, both new and amendatory, and notes showing repeals, together with annotations from the various courts, state and federal, and the opinions of the Attorney General, construing the constitution, statutes, charters and court rules of Minnesota together with Law Review Articles and digest of all common law decisions.

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## CHAPTER 10

### Public Indebtedness

#### 1934. Scope of chapter.

Borrowing of funds for poor relief. Laws 1941, c. 403. Owners of houses may remove them from village regardless of outstanding bonds, if there is no tax lien. Op. Atty. Gen. (476a-3), Feb. 24, 1943.

#### 1935. Net indebtedness defined.

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

(4).

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

Bonds used for hospital are not deductible from gross debts. Op. Atty. Gen. (44a-4), July 13, 1940.

**1936. Assessed value defined.**—The words "assessed value" as used herein shall mean the latest valuation for purposes of taxation, as finally equalized, of all property taxable within the municipality referred to including therein the valuation of money and credits, as defined in Mason's Supplement 1940, Section 2337, as amended, as assessed and equalized for the year 1942. (Act Apr. 24, 1943, c. 656, §30.)

Laws 1943, c. 656, §30, suspends tax on money and credits. [Mason's Minn. St., 1944, §2337-1.]

Laws 1943, c. 656, §31, provides that this section as amended thereby shall apply to taxable years beginning after December 31, 1942.

#### 1937. Charter powers not modified.

Vote of electors is a necessary condition precedent to issuance of bonds by City of Pipestone for purpose of acquiring golf course or airport lands. Op. Atty. Gen. (59A-22), Sept. 29, 1941.

#### 1938-2½. Interest rates on municipal obligations.

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

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

An act relating to the financial affairs of certain cities, villages, towns and school districts more than 50 per cent of the assessed valuation of which consists of iron ore, prescribing penalties for violation of its provisions, and repealing in part Laws 1929, c. 303; Laws 1931, c. 342; Laws 1933, c. 210; Laws 1933, c. 275; Laws 1933, c. 415; Laws 1935, c. 261. (Laws 1943, c. 526, §§1 to 11.) For annotations see appendix 2.

In determining debt limit, the following are to be deducted: pavement bonds payable out of special assessments; water main bonds constituting an integral part of water works system; municipal light and power bonds; and certificates of indebtedness issued to finance purchase of light plant equipment made deductible by §1824. Op. Atty. Gen., (100th), April 2, 1940.

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

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

This act was not repealed or superseded by Laws 1929, c. 25. Op. Atty. Gen. (551), July 31, 1942.

Act applies to city of Brainerd. Op. Atty. Gen. (551), July 31, 1942.

(C).

Bonds used for hospital are not deductible from gross debts. Op. Atty. Gen. (44a-4), July 13, 1940.

#### 1938-4. Same—Amount of limitation on net indebtedness—Special existing limitations not increased—Elections, where required.

—No municipality, except school districts, shall hereafter incur or be subject to a net debt beyond ten per cent of the last assessed valuation, as finally equalized, of all taxable property therein, including moneys and credits, provided, however, that municipalities receiving special state aid under the provisions of Chapter 259, Laws of 1923, may incur, by a vote of a majority of the electors of such municipality, an indebtedness not to exceed twenty per cent of such assessed valuation, and no school district shall incur or become subject to a

net debt beyond twenty per cent of such assessed valuation. No city of the first class shall be subject to a net debt beyond five per cent of such assessed valuation unless the Charter for such city contains a provision to that effect; but if any such charter permits a net debt in excess of five per cent of its assessed valuation including moneys and credits, such city shall continue to be subject to the debt limitations prescribed in such charter figured in accordance with the provisions of Mason's Supplement 1940, Section 1993, as amended by Laws of 1941, Chapter 436, relating to the determination of net bonded debt limitations established by statute or by charter; and such city shall hereafter also be subject to a net debt limitation of ten per cent of the full and true value of its taxable real and personal property, excluding money and credits; and whichever computed amount is less, shall be the net debt limitation for such city. The county auditor of the county in which any such city is situated, shall annually at time of preparing the tax lists of the city, determine and compile a statement setting forth for such year the total assessed value and the total full and true value of each class of the taxable real and personal property in such city, together with a statement of the assessed value of the money and credits taxable in such city for the same year. (As amended Act Apr. 16, 1943, c. 480, §1.)

Village incorporated under 1885 village act may issue general obligation bonds to extent of 10% of last assessed valuation as finally equalized, less net debts, and in computing net debts general obligation water bonds and municipal light plant bonds are not to be considered. Op. Atty. Gen., (476a-3), Oct. 10, 1939.

Debt limit of a city is ten per cent of last assessed value as finally equalized of all taxable property, including monies and credits, located in city. Op. Atty. Gen. (36G), Sept. 19, 1941.

Applies to villages operating under 1885 laws. Op. Atty. Gen. (476a-4), Nov. 19, 1941.

**1938-4½. Same—Application of act.**—This act shall not be construed as increasing the limit of debt, if any, prescribed by the special law or home rule charter under which any municipality is organized; provided further, that no independent school district located wholly or partly within a city of the first class shall have power to issue any bonds or any evidence of indebtedness unless first thereunto authorized by a two-thirds vote of the legislative body of the city within which such school district is situated in whole or in part; and no such school district shall have power to issue bonds or any evidence of indebtedness running more than two years, wherever the aggregate of the outstanding bonds and evidence of indebtedness of such district equals or exceeds three and one-half per cent of the assessed value of the taxable property within such school district; provided, further, however, that if the net indebtedness of any municipality shall exceed the limit applicable thereto as provided herein, at the time this act takes effect, but was not in excess of the limit of debt prescribed by law at the time the indebtedness was incurred, such municipality may issue and sell, pursuant to the provisions hereof, obligations to refund any of such indebtedness at the time of the maturity thereof, if there are not sufficient funds to pay the same. (Act Apr. 16, 1943, c. 480, §2.)

[475.23]

Laws 1943, c. 480, §3, repeals inconsistent acts.

#### 1938-6. Same—Obligations—Etc.

Laws 1939, c. 137, a curative act, did not intend to amend or repeal this section, but only to validate certain bonds issued in violation of it. Vorbeck v. C., 288NW4. See Dun. Dig. 6633.

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

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

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

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

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

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

Proposition of issuing bonds for construction of a municipal liquor store building must be submitted to a vote of the people of a village. Op. Atty. Gen. (218r), Apr. 10, 1942.

#### **1938-7. Same—Tax levy for payment of obligations.**

Curative act. Laws 1943, c. 264.

Village may establish a sinking fund to pay outstanding bonds when due and levy a tax therefor within statutory tax limits. Op. Atty. Gen. (519-q), June 10, 1941.

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

Any municipal or county funds, not presently needed for other purposes, may be invested in any obligations including War Savings Bonds. Laws 1943, c. 193. See §1938-11a.

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

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

Surplus in village treasury derived from operation of a municipally owned exclusive liquor store should be handled as are other village funds. Op. Atty. Gen. (218R), Mar. 3, 1942.

A school district may invest money in sinking fund in United States Defense Bonds, net return on which is less than  $3\frac{1}{2}\%$  per annum, subject to limitation that enough cash is always retained in sinking fund to provide for annual payments of principal and interest on obligations for which such fund was instituted. Op. Atty. Gen. (159A-13), Mar. 12, 1942.

Library sinking fund may be invested in war bonds of United States, but not in building and loan associations or societies by purchase of their certificates or stock. Op. Atty. Gen. (285a), June 16, 1942.

City of Winthrop has no authority to invest surplus money in its general revenue fund in defense bonds of the United States Government, but it is possible that it might transfer surplus funds to sinking fund and make such investment. Op. Atty. Gen. (551), July 13, 1942.

Where school district raising money by bond issue for construction of a schoolhouse is unable to obtain material with which to build, such money is not a "sinking fund" and cannot be invested in war savings bonds. Op. Atty. Gen. (551), July 29, 1942.

City sinking funds may be invested in war bonds if they mature before outstanding bonds which are to be met. Op. Atty. Gen. (551), July 31, 1942.

Sinking fund surplus of school district may be invested in United States bonds. Op. Atty. Gen. (551), Aug. 18, 1942.

The only authority to buy war bonds out of public funds is found in this section, and they cannot be purchased out of surplus funds in general account of a school district. Op. Atty. Gen. (551), Oct. 2, 1942.

No statute authorizes investment of general funds of a village in war bonds, but a village may so invest sinking funds. Id.

A school district may create a building fund for construction of a building sometime in the future and place therein any surplus moneys not required for operation of school, but such fund is not a sinking fund which may be invested in war bonds or otherwise. Op. Atty. Gen. (159a-14, 159b-2), Oct. 30, 1942.

Money accumulated in permanent improvement fund of the City of Fergus Falls could not be invested, but could be transferred to sinking fund and then be invested in war bonds. Op. Atty. Gen. (551), Nov. 16, 1942.

School sinking fund can be used only for payment of outstanding indebtedness, but the building fund can be transferred to another fund by action of the board. Op. Atty. Gen. (159a-17), Dec. 1, 1943.

**1938-11a. Municipal corporations may invest municipal funds.**—Any municipal funds, not presently needed for other purposes, may be invested in any obligations in which sinking funds are now authorized to be invested pursuant to Mason's Minnesota Statutes 1927, Section 1938-11, including appreciation bonds issued by the United States of America on a discount basis.

The term "municipal funds" as used herein shall include all general, special, permanent, trust, and other funds, regardless of source or purpose, held or administered by any county, city, village or borough, or by any officer or agency thereof, in the State of Minnesota.

Investments of municipal funds shall be made by the officer or agency controlling their disposition.

Such county, city, village, or borough, or official or agency thereof, may at any time sell such obligations purchased pursuant to this act, and the money received from such sale and the interest and profits or loss on such investment shall be credited or charged, as the case may be, to the fund from which the investment was made. Neither such official nor agency, nor any other official responsible for the custody of such funds shall be personally liable for any loss so sustained. Any such obligation may be deposited for safe-keeping with any bank or trust company. (Act Mar. 26, 1943, c. 193, §1; Apr. 20, 1943, c. 532, §1.) [471.56(1) to (4)]

Amounts on hand in fund created by refunding bonds may be invested by village in United States war bonds, notwithstanding that fund was created for use for no other purpose than to pay principal and interest on bonds. Op. Atty. Gen. (551), Apr. 8, 1943.

Municipalities may incur and pay reasonable expenses in connection with war bond drive. Op. Atty. Gen. (551), Aug. 26, 1943.

Where county board has invested \$100,000 of its funds in United States savings bonds, the welfare board, as a separate unit, may invest also up to the amount of \$100,000, but title to the bonds should be taken in the name of the county, as the county welfare board is not an entity entitled to take and hold title to property. Op. Atty. Gen. (107a-6), Nov. 3, 1943.

**1938-11b. Same—Act supplemental.**—This act is supplemental to any other statutory or charter provisions relating to the investment or administration of municipal funds and supersedes such provisions only to the extent that said provisions restrict or prohibit investments now authorized by the provision of this act. (Act Mar. 26, 1943, c. 193, §2.) [471.56(5)]

**1938-11c. Cities of first class may invest funds in United States Bonds.**—Any city of the first class now or hereafter having any sum in its possession in any fund under the control of its governing body not required for immediate expenditure may invest any part, or all thereof, in the bonds, or other interest-bearing obligations, of the United States. (Act Apr. 9, 1943, c. 350, §1.) [426.18]

**1938-11d. Treasurer to invest funds.**—Upon authorization by the governing body of any such city, its treasurer may invest such funds as such governing body may direct in any of the securities enumerated in section 1. (Act Apr. 9, 1943, c. 350, §2.) [426.18]

**1938-11e. Powers additional.**—The powers granted by this act are in addition to any provisions relating to the investment of such funds now contained in the charter of any such city or in any other law of the state. (Act Apr. 9, 1943, c. 350, §3.) [426.18]

#### **1938-21. Limitation of tax levies.**

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

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

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

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

Where county board has incurred obligations in excess of limitations one year, it may pay for materials furnished and services rendered the following year upon a quantum meruit basis, within statutory limitations. Op. Atty. Gen., (104B-4), Jan. 8, 1942.

Levy for poor fund in Itasca County is not controlled by Laws 1941, c. 212, §14. Op. Atty. Gen., (519j), Sept. 2, 1943.

### 1930. Bonds.

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

### 1941. Vote required.

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

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

An election to authorize village to issue bonds to lowest interest bidder and on most advantageous terms to construct sewage disposal plant was not vitiated by fact that posted and published notice of special election inadvertently contained statement that bonds were to be issued to the state. Wester v. Village of Albany, 210M553, 299NW214. See Dun. Dig. 6726.

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

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

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

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

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

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

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

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

Vote of electors is a necessary condition precedent to issuance of bonds by City of Pipestone for purpose of acquiring golf course or airport lands. Op. Atty. Gen., (59A-22), Sept. 29, 1941.

No vote of electors is required to refund outstanding bonds by a school district. Op. Atty. Gen., (40c-1), Apr. 12, 1941.

City may issue bonds for hospital purposes, but only upon vote of electors. Op. Atty. Gen., (1001a), June 12, 1941.

### 1942. Bonds—For what purposes.

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

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

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

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

A school district may refund face value of outstanding bonds and also accrued interest thereon, but interest not yet due may not be treated as "floating indebtedness". Op. Atty. Gen., (40c-1), July 30, 1941.

Village may issue bonds for the purchase and erection of a municipal liquor store building. Op. Atty. Gen., (218r), Apr. 10, 1942.

In absence of a limitation in charter, there is no reason why bonds for acquisition of land need be sold at any particular time, and no reason why proceeding cannot first be had for condemnation of land. Op. Atty. Gen., (234b), Feb. 27, 1943.

(1).

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

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

City may issue bonds for hospital purposes, but only upon vote of electors. Op. Atty. Gen., (1001a), June 12, 1941.

City may issue bonds for purpose of erecting an addition to an existing hospital. Op. Atty. Gen., (1001a), June 17, 1941.

"Oiling streets and other improvements" is not one of purposes for which village may issue bonds. Op. Atty. Gen., (44B-16), Aug. 7, 1941.

Ornamental lamp posts are not "street improvements" or "work incidental and pertinent thereto." Op. Atty. Gen., (44B-16), Aug. 21, 1941.

Village may build, own and operate a hospital, to be paid for out of general fund, and may issue bonds, and county may assist. Op. Atty. Gen., (1001h), Jan. 14, 1943.

(2).

Expenses of holding a special election to vote on issue of bonds for construction of a court house should be paid in same manner as expenses of conducting a general election. Op. Atty. Gen., (37a-1), Apr. 2, 1941.

(3).

Town board may not issue bonds to improve existing town roads. Op. Atty. Gen., (442a-21), Apr. 1, 1941.

While a town is authorized to issue bonds to lay out and open and build town roads and to rebuild existing roads, it is not authorized to issue bonds for purpose of repairing or maintaining existing roads. Op. Atty. Gen., (43b-4), Apr. 19, 1941.

While a town is authorized to issue bonds to lay out, open, and build town roads and to re-build existing roads, it is not authorized to issue bonds for purpose of repairing or maintaining existing roads. Op. Atty. Gen., (43b-4), June 9, 1941.

(4).

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

School district may issue bonds for "building a farm shop" if it means to equip a shop for giving instruction in repair of farm machinery. Op. Atty. Gen., (40C-2), Aug. 7, 1941.

(5).

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

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

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

Issuance of refunding bonds before maturity of outstanding bonds. Op. Atty. Gen., (40c-1), Apr. 12, 1941.

Village has no right to compel a person who holds a bond not yet due to accept a different form of obligation. Op. Atty. Gen., June 11, 1941.

Certificates of indebtedness for paving issued under §1824 may not be refunded by other certificates. Id.

### 1943. Sale of bonds.

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

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

A village extending its street lighting system may sell its improvement warrants either by popular subscription, or to the highest bidder after published notice. Op. Atty. Gen., (476c-4), May 20, 1941.

This section governs sale of bonds by city of Northfield. Op. Atty. Gen., (36G), Sept. 19, 1941.

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

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

Form prescribed by attorney general for notice of public sale of bonds. Op. Atty. Gen., (44a), Aug. 22, 1940.

There is no law which would permit so-called sale of master warrants to take up registered warrants, but banks sometimes cash registered warrants and hold them under an agreement with county at a 3 or 4 per cent interest rate. Op. Atty. Gen., (107a-5), Feb. 1, 1941.

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

A village extending its street lighting system may sell its improvement warrants either by popular subscription, or to the highest bidder after published notice. Op. Atty. Gen. (476c-4), May 20, 1941.

Section applies to sale of bonds and not to issuance of bonds, and issuance of new warrants to refund outstanding warrant is not permitted. Op. Atty. Gen. (107a-10), Oct. 16, 1942.

#### 1945. Tax levy for payment of bonds.

Village of assessed valuation of less than \$500,000 can levy a tax of 2 per cent. for general revenue, 1 per cent. for street and bridge taxes, and sufficient to care for bonds outstanding, but cannot levy a tax for light in addition to 2 per cent. levy for general revenue. Op. Atty. Gen. (519c), Nov. 26, 1941; Dec. 8, 1941.

#### 1946-2. Same—Validity need not be inquired into.

While a court might uphold refunding bonds issued to pay warrants issued in excess of anticipated income, no investment house would buy such bonds. Op. Atty. Gen. (442a-21), Apr. 1, 1941.

#### 1946-3. Refunding bonds authorized in certain cases.

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

Fact that floating indebtedness is approximately one-half of assessed valuation does not prevent issuing of bonds. Op. Atty. Gen. (44B-4), Oct. 6, 1941.

#### 1946-4. Same—Resolution for issue of bonds, etc.

Refunding bonds may be issued without an election. Op. Atty. Gen. (40C-1), Mar. 3, 1942.

**1946-12a. Certain bonds validated.**—In all cases where the governing body or other similar body of any city or village has adopted proceedings for the issuance and sale of revenue bonds payable solely from the earnings of an electric light and power plant furnishing electric service to the inhabitants thereof and adjacent thereto owned by the city or village issuing the same for the purpose of refunding outstanding revenue obligations in order to affect an interest saving, such contract or proceedings are hereby legalized, and all such bonds to be issued, when sold at public sale under competitive bidding after public advertising of such sale, are hereby legalized and declared to be valid and binding obligations of said city or village, payable solely from the revenues of such public utility or utilities. (Act Apr. 24, 1941, c. 420, §1.) [647.40]

**1946-12b. Act is remedial.**—It is hereby expressly found and determined that this is remedial in nature, being necessary to protect the financial credit of such villages and cities. (Act Apr. 24, 1941, c. 420, §2.) [647.40]

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

#### 1946-16. Acts supplemental.

Laws 1943, c. 264, provides that village council of village having assessed valuation of \$200,000 to \$400,000, a population of 1,000 to 2,000, a total debt of 10 to 15% of assessed valuation, the issuance of bonds not in excess of \$20,000 is validated.

#### 1946-17. Definitions—Who may issue bonds.

Fact that floating indebtedness is approximately one-half of assessed valuation does not prevent issuing of bonds. Op. Atty. Gen. (44B-4), Oct. 6, 1941.

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

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

#### 1946-26½. May apply to court for authority to issue bonds.

Revolving fund for financing food stamp plan. Op. Atty. Gen. (339a), May 23, 1941.

#### 1946-50. Refunding bonds for unorganized territory.

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

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

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

#### 1949. Investing of sinking funds in school districts.

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

Profits on sale of bonds should be treated as income of trust funds. Op. Atty. Gen. (454E), Sept. 3, 1941.

School district may not invest surplus funds in United States Defense Bonds, but may so invest sinking fund. Op. Atty. Gen. (159A-13), Oct. 1, 1941.

A school district may invest money in sinking fund in United States Defense Bonds, net return on which is less than 3½% per annum, subject to limitation that enough cash is always retained in sinking fund to provide for annual payments of principal and interest on obligations for which such fund was instituted. Op. Atty. Gen. (159A-13), Mar. 12, 1942.

Laws 1927, c. 131, was not repealed or superseded by Laws 1929, c. 25. Op. Atty. Gen. (551), July 31, 1942.

#### 1957. Limit of debt—Authorization, etc.

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

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

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

#### 1962. Where vote of electors is required; etc.

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

#### 1964. Election, how held, etc.

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

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

**1965. Purchase of bonds by state.**—Upon the approval of such application by the attorney general, as to form and execution, and otherwise by said state board of investment, such governing body and the respective officers thereof shall have authority to issue, execute and deliver to the state of Minnesota the bonds of such municipality, in accordance with the vote of said electors, and said state board of investment shall have authority to purchase the same to an amount not exceeding 15 per cent of the assessed valuation of the taxable property of such municipality, according to the last preceding assessment. Such bonds shall not run for a shorter period than one year, nor for a longer period than thirty years and shall bear interest at a rate not less than two per cent. Forthwith upon the delivery to the state of Minnesota of any bonds issued by virtue thereof, the state auditor shall certify to the respective auditors of the various counties wherein are situated the municipalities issuing the same, the number, denomination, amount, rate of interest and date of maturity of each such bond, and each county auditor shall keep a record thereof in his office in a book to be furnished him by the state auditor, at the expense of the state. (As amended Mar. 20, 1943, c. 162, §1.)

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

State board of investment may not be compelled to accept full payment of bonds before they are due by a county which desires to obtain a lower interest rate by refinancing. Op. Atty. Gen. (37A-7), Aug. 27, 1941.

Where bonds were issued to the state to fund and pay outstanding indebtedness against city, and there was a surplus after paying indebtedness, such surplus may be used solely to retire the outstanding bonds. Op. Atty. Gen. (36), May 15, 1942.

County may not purchase its own bonds held by the state board of investment, since that board has no right to sell bonds which are safe and carry a good rate of interest. Op. Atty. Gen. (37a), Aug. 27, 1943.

**1968. Validity of bonds not to be questioned—Exception—Change of boundaries.**—The validity of any bond issued under the terms of this act shall never be questioned except on the ground that the same and the loan made thereon was not approved by the state board of investment; that the bonds in question made the entire bonded indebtedness exceed 15 per cent. of the assessed valuation of the taxable real property of the municipality issuing such bonds; that such bonds bear a lower rate of interest than 2 per cent.; that such bonds run for a shorter period than one year, or for a longer period than thirty years, or that the principal thereof was never paid by the state to, or received by the officers of the municipality issuing the same; and no change of the boundary lines of any such municipality shall relieve the real property therein at the time of the issuing of such bonds from any liability for taxation to pay for the same. (As amended Mar. 20, 1943, c. 161, §1.)

**1968-3. State board of investment may purchase certain bonds.**

Revolving fund for financing food stamp plan. Op. Atty. Gen. (339s), May 23, 1941.

**1968-32. Village street improvements—Works Progress Administration programs—validation of bonds.**—All bonds heretofore voted upon at any special or general village election for street improvements under a Works Progress Administration program are hereby declared to be, when issued and sold, legal and binding obligations of the village, provided the net indebtedness of the village, exclusive of bonds issued for water or sewer purposes, does not exceed 10 per cent. of the assessed valuation of taxable property as last finally equalized, and the proposition to issue such bonds received at least a majority of all votes cast thereon at such election, and all other requirements of law in the issuance and sale of such bonds have been complied with. (Act Feb. 13, 1941, c. 6 §1.) [647.37]

**1968-33. Same—Application to pending actions.**—This act shall not apply to or affect any actions or appeals now pending in which the validity of any such proceeding is called in question. (Act Feb. 13, 1941, c. 6, §2.) [647.37]

**1972. Laws as to outstanding bonds continued.**

Bonds issued by a city in 1899 to refund bonds issued in 1882 by a city to a railroad, or bearer, were express contract obligations of city to pay a specified sum of money on a certain date, and an action on such bonds accrued to holder on due date and not upon later date when demand for payment was made, notwithstanding that taxes were levied for their payment and turned over to city treasurer for purpose of paying such bonds, as against contention that tax money transmitted to treasurer became a trust fund. *Batchelder v. City of Faribault*, 212M251, 3NW(2d)778. See Dun. Dig. 6723.

Purpose of statute was to leave outstanding municipal bonds wholly unaffected as to validity and enforcement notwithstanding repeal of statutes under which they were issued. *Id.*

#### POWER OF CITIES OF THE FOURTH CLASS WITH RESPECT TO BONDS

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

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

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

#### POWER OF COUNTIES WITH RESPECT TO BONDS

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

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

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

Laws 1943, c. 35, validating proceedings in county having assessed valuation of \$15,000.00 and total bonded indebtedness of less than \$200,000 and has prior to February 1, 1943, determined by resolution to issue bonds for the purpose of funding its floating indebtedness in the sum of \$50,000, are hereby validated, and the sale of such bonds are hereby authorized not to exceed \$50,000.

Laws 1943, c. 213, authorizes counties with population of not more than 22,000, an assessed valuation not exceeding \$4,000,000, bonded indebtedness in excess of \$600,000, and not less than 60 full or fractional townships to complete proceedings for refunding indebtedness.

Laws 1931, c. 102, as amended by Laws 1939, c. 278, places a limitation upon power of county board to increase salaries under Laws 1943, c. 597. Op. Atty. Gen. (104a-9), Aug. 18, 1943.

#### POWER OF VILLAGES WITH RESPECT TO BONDS

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

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

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

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

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

Laws 1943, c. 21, provides that in all cases where the Water, Light, Power and Building Commission of a village has heretofore by resolution duly adopted determined to issue revenue bonds payable solely from the earnings of any village owned electric light and power plant for the purpose of refunding previously issued revenue obligations of said public utility in order to reduce the interest cost and effect a saving to said village, all such proceedings are hereby legalized and declared to be valid, and the commission shall be authorized to issue and sell such revenue bonds in accordance with said resolution and this act. All such revenue bonds shall be payable solely from the net revenues of the public utility but shall otherwise confer on the holders all the rights conferred by a negotiable instrument, and said bonds shall be sold in such manner as the commission shall direct. This act shall not apply to any village having a population of less than 1,600 or more than 1,700, nor to any having an assessed value of taxable property exceeding \$400,000.

#### POWERS OF TOWNS TO ISSUE BONDS

Under Laws 1905, cc. 11 and 64, it is only when repair of an existing road amounts practically to a reconstruction of it that a bond issue is authorized. Op. Atty. Gen. (217j), May 20, 1941.

#### POWER OF SCHOOL DISTRICTS WITH RESPECT TO BONDS

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

Act Apr. 16, 1941, c. 263, authorizes independent school districts, with territorial limits which coincide with ter-

ritorial limits of any city of the first class, and the government of which district is not provided for in charter of such city, to issue refunding bonds to refund outstanding bonds, and bonds hereafter issued, which do not mature serially in annual installments, and to levy taxes

to pay such refunding bonds, and validates such outstanding bonds which do not so mature.

Act Apr. 18, 1941, c. 297, provides for relief of certain school districts by creating a School District Relief Fund. Laws 1941, c. 297, §2. Amended, Laws 1943, c. 436.

## CHAPTER 10A

### Depositories of Public Funds

#### 1973-1. Depository bonds.

**Editorial note:**—The word "or" following "state" should probably be "or."

It is not essential that each individual bond offered as collateral security for deposit of county funds be approved, and it is sufficient if entire issue is approved, as in case of United States bonds or State of Minnesota bonds. Op. Atty. Gen. (140F-3), June 16, 1941, June 20, 1941.

Keeping collateral in a safety deposit box rented from bank furnishing collateral, requiring simultaneous use of two keys, one in possession of county treasurer and other in possession of bank, does not violate section. Op. Atty. Gen. (140F-3), Sept. 4, 1941.

A blanket assignment of F. H. A. mortgages may be used and recorded, but it must describe each individual mortgage. Op. Atty. Gen. (140f-6), Dec. 2, 1941.

Bank need not be a member of the Federal Deposit Insurance Corporation. Op. Atty. Gen. (140f-1), Dec. 3, 1941.

Commodity stamp funds. Op. Atty. Gen. (140a-7), Dec. 22, 1941; note under §3199-114.

Federal reserve bank as custodian of bonds assigned to city as collateral by depository bank has no right to substitute other like bonds for the particular bonds deposited pursuant to city charter of city of Austin, but this is not controlling any other municipality. Op. Atty. Gen. (140a-13), June 25, 1942.

#### 1973-6. Depositories—Bank delinquent in payment of taxes on stock shares. [Repealed.]

Repealed. Laws 1943, c. 202.  
Laws 1937 (Ex. Sess.), c. 64. Repealed. Laws 1943, c. 502.

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

#### 1973-7. Same—National banks—Agreement to pay taxes due on shares of stock. [Repealed.]

Repealed. Laws 1943, c. 202.

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

An unincorporated volunteer fire department and an incorporated fire department relief association should be

considered as separate depositors, though membership of both organizations is the same. Op. Atty. Gen. (198B-2), Dec. 14, 1939.

Commodity stamp funds. Op. Atty. Gen. (140a-7), Dec. 22, 1941; note under §3199-114.

#### 1973-12. Limitation of deposits dependent on capital and surplus.

This section repeals by implication provision in Mason's St., §846, Minn. St. 1941, §395.07, that amount deposited in any banks shall not exceed capital stock and permanent surplus thereof. Op. Atty. Gen. (140a-1), March 15, 1943.

#### 1973-14. Deposit of town and school district funds with county treasurer in certain cases.—

Whenever the town board of any town or the school board of any school district in this state, by a unanimous resolution, deem it advisable, such town board or school board may invest such amount of funds in such town or school treasury as will not, in the opinion of such board, be needed by such town or school district during the fiscal year, in any of the bonds of any county, city, town, village, school district, drainage or other district created pursuant to law for public purposes in Minnesota, Iowa, Wisconsin and North and South Dakota, or in bonds of the United States of America, or in the bonds of any city, county, town, village, school district, drainage or other district created pursuant to law for public purposes in the United States, containing at least 3,500 inhabitants provided that the total bonded indebtedness of any such municipality or district shall not exceed ten per cent of its assessed valuation. (As amended Act Feb. 25, 1943, c. 77, §1.)

School district may not invest surplus funds in United States Defense Bonds, but may so invest sinking fund. Op. Atty. Gen. (159A-13), Oct. 1, 1941.

Proceeds of a bond issue for an addition to a school building may be invested at interest where priorities and the war have prevented building. Op. Atty. Gen. (159a-13), Apr. 24, 1942.

## CHAPTER 11

### Taxes

#### GENERAL PROVISIONS

##### 1974. Property subject to taxation.

###### 1. General rules.

Exercise by the United States of sovereignty over lands within the Dominion of Canada furnished no valid basis for taxation by state of Minnesota. Pettibone v. C., (DC-Minn.), 31FSupp881.

Land taxed is sole source to which state and its subdivisions may look for revenue, and there is no personal obligation on part of owner. State v. Washington County, 207M530, 292NW204. See Dun. Dig. 9281(29, 30).

Real estate taxes operate exclusively in rem and the statutes impose no personal obligation upon anyone to pay them. Spaeth v. Hallam, 211M156, 300NW600. See Dun. Dig. 9114a.

Taxation is primarily a legislative function, and steps taken under authority of legislature are administrative in character, in which judicial assistance may be invoked as a matter of convenience, but legislature may authorize such proceedings to be conducted from beginning to end before or by administrative officers or bodies, and their functions are not "judicial" in the strict sense. State v. Erickson, 212M218, 3NW(2d)231.

A tax, absent clear expression to the contrary should be construed as prospective in operation, but this does not mean that a tax upon an occupation or the receipts from a business may not be computed after the taxing period according to the statutory rate in effect while

taxpayer was engaged in the occupation or in earning the receipts. State v. Casualty Mut. Ins. Co., 213M220, 6NW(2d)800. See Dun. Dig. 9173.

Cases pertaining to possessory and improvement liens which attach to property irrespective of ownership of the property are not applicable or comparable to lien imposed to insure collection of excise taxes, which owe their existence and effect entirely to the statute creating them. State v. Heskin, 213M368, 7NW(2d)1. See Dun. Dig. 9160.

A tax is not a lien upon property except as made so by statute. Id. See Dun. Dig. 9160.

Tax liens owe their duration, force, and effect entirely to the statutes creating them. Id. See Dun. Dig. 9160, 9161, 9162.

Statutes impose a tax upon all personal property of a resident, whether within or without the state. State v. Northwest Airlines, 213M395, 7NW(2d)691. See Dun. Dig. 9128.

Possibility of taxation of same property by more than one state is no longer a constitutional objection. Id. See Dun. Dig. 9146.

Cases characterizing a tax as a "contribution" by the citizen in return for the protection afforded him by the state, set forth an erroneous theory, since the power to tax is not a statutory right, but an incident of sovereignty. S.R.A., Inc., 213M487, 7NW(2d)484. See Dun. Dig. 9114.

Taxes are pecuniary charges imposed by legislative power to raise money for public purposes, a burden imposed to supply the very lifeblood of the state. Id. See Dun. Dig. 9114.