

Public Indebtedness and Borrowing

CHAPTER 475

PUBLIC INDEBTEDNESS

475.01 SCOPE.

HISTORY. R.L. 1905 s. 776; G.S. 1913 s. 1847; G.S. 1923 s. 1934; M.S. 1927 s. 1934.

Without previous action by the board, the voters at a meeting and by majority vote authorized issuance of bonds to construct a school house. The issuance of bonds must be initiated by the board and a resolution declaring the expediency such as is contemplated by section 475.14 must be passed before a vote of the district; and there not having been a compliance with the statute, there can be no legal bond issue. *State ex rel v Bd. of Education*, 139 M 94, 165 NW 880.

Laws 1919, Chapter 65, authorizes the city council of a city of the fourth class, not having a home rule charter, to contract for the pavement of streets and to issue certificates of indebtedness to pay the cost thereof without submitting the proposition of such issue to the electors of the city for approval or rejection. *Pike v City of Marshall*, 146 M 413, 178 NW 1006.

The provision of the home rule charter, section 248, to the effect that no law of the state shall be considered as repealing or amending or modifying the charter, unless expressly set forth, does not prevent proper legislation affecting all municipalities of the state or those of a certain class. *Oakman v City of Eveleth*, 153 M 117, 189 NW 932.

Villages organized under Laws 1885, Chapter 145, may at their option proceed with a street paving improvement in one of three methods: (a) Under Laws 1885, Chapter 145; (b) under Laws 1919, Chapter 65; (c) under Laws 1925, Chapter 382. Laws 1919, Chapter 65, and Laws 1925, Chapter 382, grant powers and are not construed as imposing conditions or limitations on the municipalities therein mentioned to make public improvements. *Borgerding v Village of Freeport*, 166 M 202, 207 NW 309.

A village organized under Laws 1885, Chapter 145, has the power to procure an electric lighting and heating plant, and for that purpose may issue bonds to pay for the power house, distributing system, and enter into a valid conditional sales contract for the purchase of certain equipment; the purchase price to be paid solely from a part of the net profits; and the debt so created is not such obligation of the village as to be included within the provisions defining and limiting the indebtedness of municipalities. *Williams v Village of Kenyon*, 187 M 161, 244 NW 588.

The evidence sustains the finding that the bearer bonds issued, for value received, by defendant July 1, 1899, due July 1, 1904, were owned by plaintiffs when presented by them for payment in February, 1938. There is no suggestion of fraud, concealment, fault, or neglect of duty in respect to the bonds by defendant or its officers that tolls the statute of limitations, so recovery is barred after the expiration of six years from their due date. *Batchelder v City of Faribault*, 212 M 251, 3 NW(2d) 778.

While the original authorization for the issuance of bonds, and the proposed resolution modifying the time of payment are regular, still, since the proceedings relative to such bond issue must be approved by a recognized bond attorney, it might be advisable to have the form of the proposed resolution approved by such attorney prior to its passage. 1934 OAG 64, Jan. 6, 1934 (44a-7).

Town board may not issue bonds to improve existing town roads. OAG Jan. 30, 1939 (43b-4).

MINNESOTA STATUTES 1945 ANNOTATIONS

475.02 PUBLIC INDEBTEDNESS

2640

Municipalities, if they keep within certain limits in re debt limitations, may purchase insurance from mutual companies. OAG Aug. 23, 1939 (487c-1).

Query regarding manner of holding elections to make a legal issue of bonds for the constructing of trunk sewers. 1942 OAG 123, May 13, 1942 (36-B).

Municipal bond procedure; code provisions. 20 MLR 584.

Public corporations; debt limitations; special fund doctrine. 23 MLR 392.

475.02 CHARTER POWERS NOT MODIFIED.

HISTORY. 1893 c. 148 s. 3; G.S. 1894 s. 2224; R.L. 1905 s. 779; G.S. 1913 s. 1850; G.S. 1923 s. 1937; M.S. 1927 s. 1937.

The city of Duluth may sell certain bonds to the state issued pursuant to an ordinance declaring sewage disposal plants to be a public utility and the bonds to be payable out of rentals, and issued without an election. OAG Sept. 23, 1937 (387b-9).

Hastings home rule charter, Chapter 5, Section 3, controls with reference to votes required to authorize a bond issue for constructing a city hall. Section 475.25 does not apply. OAG Aug. 10, 1938 (63b-3).

Power to issue bonds. 20 MLR 586.

475.03 ASSESSED VALUE.

HISTORY. R.L. 1905 ss. 776 to 778; 1913 c. 145 s. 1; G.S. 1913 ss. 1847 to 1849; G.S. 1923 ss. 1934 to 1936; 1927 c. 131 s. 1; M.S. 1927 ss. 1934 to 1936, 1938-3; 1943 c. 656 s. 30.

Certain school district warrants held valid in the hands of bona fide purchaser. *Enkema v School District*, 173 M 94, 216 NW 789.

Neither the words "assessed value" nor "assessed valuation" as used in the statute defining net bonded indebtedness, mean "true and full value". They are phrases of contrast and not identity. In determining the net bonded indebtedness of Minneapolis, the ten per cent rate is to be figured on the assessed valuation of the property in said city as finally equalized. *Phelps v City of Mpls.*, 174 M 509, 219 NW 872.

The treasurer of a school district was managing officer of a bank in which he deposited district funds to his credit as treasurer. He had funds of the district with which he should have paid the warrants, but he cashed them with bank funds and re-sold them as the property of the bank. The holder or purchaser was entitled to recover from the district. *Zolesky v Consolidated*, 175 M 166, 220 NW 428; *First National v School District*, 177 M 30, 224 NW 251.

Unaccrued rent is not a debt or present obligation of a city. *Ambrozich v City of Eveleth*, 200 M 473, 274 NW 635.

The fact that the bonds offered by a bank to secure deposits of the city and school district are the bonds of the city is no reason why they should be refused or excluded. 1934 OAG 57, Feb. 2, 1933 (140c-3).

Certain officers are prohibited from entering into an insurance contract with the city of New Ulm. 1936 OAG 46, June 19, 1935 (707b-6).

Debt limit of city. 1936 OAG 62, May 26, 1936 (519c).

Distinction between "indebtedness" and "net indebtedness" defined. 1936 OAG 28, Nov. 20, 1936 (59a-51).

Manner of issuing valid bonds or certificates for the purchase of fire station or equipment. 1938 OAG 46, June 27, 1938 (688c).

A permanent improvement revolving fund is created that funds may be immediately available for improvements but replenished by special assessments. OAG March 6, 1939 (44a-4).

Bonds used for hospital not deductible from gross debt. 1940 OAG 139, July 18, 1940 (44a-4).

It is permissible to use money in the village water fund for the purpose of buying water tanks or assist in the purchase of them. 1940 OAG 119, Aug. 22, 1940 (44b-17).

MINNESOTA STATUTES 1945 ANNOTATIONS

2641

PUBLIC INDEBTEDNESS 475.04

The right of the village of Osakis to issue bonds for installation of ornamental street lights is doubtful. 1942 OAG 136, Aug. 21, 1941 (44B-16).

A village may exercise the power of eminent domain in acquiring a site for a municipal liquor store. The question need not be submitted to a vote. The property can be paid for by bonds payable out of the profits of the business. Direct bonds of the village cannot be issued except on vote of the electors. 1942 OAG 174, April 8, 1942 (218R).

Computation of net indebtedness; cities of Jackson and Redwood Falls. OAG June 21, 1944 (59a-7); OAG Sept. 13, 1944 (59a-7).

Municipal bond procedure. *20 MLR 583.

Limit of of indebtedness. 20 MLR 587.

475.04 OBLIGATIONS; DEFINITIONS.

HISTORY. 1927 c. 131 s. 1; M.S. 1927 s. 1938-3.

See annotations under section 475.03.

Williams v Village of Kenyon, 187 M 161, 244 NW 558.

See annotations under section 475.01.

Any city may proceed under sections 452.01 to 452.07 and issue bonds or interest-bearing certificates to finance a municipal light plant. 1934 OAG 59, Aug. 24, 1933.

The water, light, power and building commission of North St. Paul may contract for a new well and water equipment and issue and sell bonds to finance the expense. 1934 OAG 158, Sept. 13, 1933 (476b-16).

The village of Winnebago may issue refunding bonds to refund maturing bonds without submitting the question to the electorate. 1934 OAG 63, Sept. 14, 1933 (44b-12).

Right to issue bonds; debt limitations; comparison of special acts, general laws of limited application, and general laws such as Laws 1927, Chapter 131. 1934 OAG 60, March 2, 1934 (442a-5).

The voters of the village having voted in favor of the construction of a sewage and water system, and the issuance of bonds, it is not within the power of the village council to disregard or set aside the action of the voters. 1934 OAG 116, June 12, 1934 (476b-14).

The proposed bond issue for the purpose of establishing an electric light plant in village of Big Fork is not controlled by the debt limitation act of Laws 1927, Chapter 131, Section 2. 1936 OAG 26, July 9, 1935 (44a-4).

If bond issue is to be sold to the state, section 476.08 applies, and on proper application, the 15 per cent provision as to debt limitation, applies; but if bonds are to be sold to private buyers, Laws 1927, Chapter 131, Section 2, controls. 1936 OAG 16, Sept. 18, 1935 (44a-4).

Taxes currently levied cannot be taken into consideration in determining the amount of the debt for tax limitation purposes. 1936 OAG 62, May 26, 1936 (519c).

Provisions of the statutes having been complied with, St. Louis Park may issue certificates for the purchase of a new fire truck, and the fire department relief association may purchase said bonds. 1936 OAG 28, Nov. 20, 1936 (59a-51).

In the instant case, bonds for the repair of school buildings, Laws 1927, Chapter 131, supersedes the requirements of section 475.13. 1938 OAG 202, June 7, 1937 (159a-3).

Water and light bonds are not included as part of net debt. OAG April 5, 1938 (476a-4).

Bonds of a village sold to private purchasers must not bear interest to exceed six per cent, and if sold to the state three per cent. OAG April 6, 1938 (44b-17).

Appraisal of difference in the law and in the ballot when purchasing fire equipment and in purchasing or erecting a fire house. 1938 OAG 46, June 27, 1938 (688c).

Bonds ineligible for purchase by the state. 1940 OAG 140, July 28, 1939 (928a-8).

"Net debt" defined. 1940 OAG 141, Oct. 10, 1939 (476a-3).

MINNESOTA STATUTES 1945 ANNOTATIONS

475.05 PUBLIC INDEBTEDNESS

2642

Procedure for sale of bonds to private parties is found in sections 475.15, et seq. and a separate and distinct procedure is prescribed when bonds are to be sold to the state, section 476.02. 1940 OAG 119, Aug. 22, 1940 (44b-17).

Municipal bond procedure; code provisions. 20 MLR 585.

475.05 EXEMPTION OF TAX-ANTICIPATED LOANS.

HISTORY. 1933 c. 226 s. 1; M. Supp. s. 1935-1.

475.06 LIMIT OF DEBT; EXCESS VOID.

HISTORY. 1870 c. 31 sc. 4 s. 7; 1877 c. 106 s. 1; 1878 c. 1 s. 114; 1878 c. 45 s. 1; G.S. 1878 c. 10 s. 168; G.S. 1878 c. 11 s. 114; G.S. 1878 c. 34 s. 92; 1893 c. 204 ss. 2, 3; 1893 c. 205 s. 1; 1893 c. 208 s. 2; G.S. 1894 ss. 1090, 1092, 1095, 1096, 1441, 1639, 2771; R.L. 1905 s. 780; G.S. 1913 s. 1851; G.S. 1923 s. 1938; M.S. 1927 s. 1938.

Although the amount of tax which a school district may levy is limited to \$600.00 in any one year, the amount the district may expend is not so limited, and it may contract a debt, payable at a future day, and evidence same by issuing promissory notes. *Robbins v School District*, 10 M 340 (268).

The county commissioners entered into a contract with plaintiff for the building of a jail at an agreed price of \$1,300, payable in county warrants. Ten per cent of the grand list of the county would only produce at ten mills on the dollar the sum of \$930.45. Consequently the contract named a sum beyond the statutory limit, and was void. *Johnston v Board*, 27 M 64, 6 NW 411.

In determining the amount of indebtedness to keep within the debt limitation, the par value of the bonds alone is considered and not interest which may subsequently grow due thereon. *Finlayson v Vaughn*, 54 M 331, 56 NW 49.

The county board can contract only from year to year, with reference to the expected annual income; and the board under the statute as of 1893 has no authority to issue bonds. *Rogers v Le Sueur County*, 57 M 434, 59 NW 488.

A contract made by the city council of the city of Minneapolis for lighting the streets of that city for a term of five years is, under the charter of the city, void, unless the funds on hand and the taxes actually levied when the contract was made were sufficient to cover all the liability incurred during the five-year life of the contract and also to cover current expenses and existing liabilities for the fiscal year for which such taxes were levied. *Kiichli v Minnesota Brush Elec. Co.* 58 M 418, 59 NW 1088.

Certain certificates issued by the park board of the city of Minneapolis are not an indebtedness of the city within the meaning of the statute limiting the indebtedness of cities; and the amount of money and bonds in the sinking fund is to be deducted from the outstanding bonds to determine the actual indebtedness under the statute. *Kelly v City of Mpls.*, 63 M 125, 65 NW 115.

The term "certificates of indebtedness" issued for the purpose of a permanent improvement revolving fund, as used in Laws 1899, Chapter 351, Section 10, is equivalent to the term "bonds", as employed in the latter part of the same section, and such indebtedness is without reference to the five per cent limit provided in such act. *Christie v City of Duluth*, 82 M 202, 84 NW 754.

The failure to publish the resolution regarding the issuance of bonds was not fatal, in as much as the statutes were fully complied with by the posting of the notices. *Hamilton v Village of Detroit*, 83 M 119, 85 NW 933.

Laws 1899, Chapter 351, Section 10, limiting the creation of an indebtedness in excess of five per cent in all cities of over 8,000 inhabitants, is valid; as is also the exception authorizing cities framing their own charter to provide for the retiring of certain water or light bonds or floating indebtedness in excess of five per cent; and such limitations are not affected by Ex. Laws 1902, Chapter 33. *Beck v City of St. Paul*, 87 M 381, 92 NW 328.

When the board of trustees of a school district knowingly neglected to interpose a valid defense to a suit brought against the district, allowing judgment by default, the discretion of the court was properly exercised in opening the judgment where the application therefor was made immediately upon a change in the personnel of the board. *Queal v Bulen*, 89 M 477, 95 NW 310.

MINNESOTA STATUTES 1945 ANNOTATIONS

2643

PUBLIC INDEBTEDNESS 475.09

Bonds were authorized by vote of the people, issued by the municipal officers, delivered to the railway company and sold by them to bona fide purchasers. For a period of 13 years taxes were levied and collected and interest paid on the bonds. The plaintiff taxpayer for more than six years paid his tax without protest. The facts related constitute an estoppel against questioning the validity of the bonds. *Schmitz v Zeh*, 91 M 290, 97 NW 1049.

In determining the debt limit of the county, ditch bonds are not to be taken into consideration. *Johnson v Board*, 93 M 290, 101 NW 180.

A bond, in the hands of a bona fide purchaser for value, issued by a township under a statute prescribing a public record as determinative of the amount of authorized issue, which on its face exceeds the limit of the entire issue proper under such record produced, is void as to such excess notwithstanding recitals therein. *Corbet v Town of Rocksbury*, 94 M 397, 103 NW 11.

The provisions of the charter of the city of Waseca adopted under the provisions of Laws 1903, Chapter 238, limiting the indebtedness to ten per cent of the assessed valuation, supersedes the five per cent provisions of the general statutes. *Amer. Electric v City of Waseca*, 102 M 329, 113 NW 899.

Comparison of laws relating to the issuance and sale of refunding bonds. *Hill v Village of Aurora*, 157 M 469, 196 NW 465.

Certificates of indebtedness authorized by Laws 1921, Chapter 425, are direct and general obligations of the municipality issuing them; and under the provisions of the act no submission to the voters for authority to issue same is required. *Bergman v Village of Golden Valley*, 201 M 28, 275 NW 297.

Rights of the village of White to issue certificate of indebtedness and warrants after passage of Laws 1933, Chapter 293 (the cash basis laws). 1934 OAG 860, Nov. 28, 1933 (442b-5).

Rights of villages to purchase personal property on conditional sale contracts. Necessity for bids. OAG Dec. 4, 1934 (707a-15).

State board of investment may purchase bonds of a village, if within the 15 per cent limitation. OAG Feb. 9, 1937 (44a-7).

Money in the water fund may be used to build new water tanks. Bonds may be issued on a five-eighths vote in the village of Monticello if the issue does not exceed the statutory limit. 1940 OAG 119, Aug. 22, 1940 (44b-17).

Limitation on the right of the commissioner to reduce expenditures of state departments. 1940 OAG 279, Sept. 2, 1939 (640a).

Computation of the net indebtedness of the city of Jackson. OAG June 3, 1944 (59a-7); OAG June 21, 1944 (59a-7).

Code provisions relating to municipal bond procedure. 20 MLR 585.

475.07 BONDS.

HISTORY. R.L. 1905 s. 781; G.S. 1913 s. 1852; G.S. 1923 s. 1939; M.S. 1927 s. 1939.

Ex. Laws 1891, Chapter 312, Section 10, authorizing the board of education of Duluth to issue bonds to mature within 30 years, was not repealed by Revised Laws 1905, Section 781, which limits the period to 20 years. *State v Peter*, 101 M 462, 112 NW 866; *Feder v Board*, 123 M 514, 144 NW 161.

An illegal use by the city of the money received from bonds issued for a legal purpose is not ground for an action to enjoin the payment of such bonds; nor is an unauthorized use of the building, constructed as a city hall, ground for enjoining the completion of such building. *White v City of Chatfield*, 116 M 371, 133 NW 962.

Village cannot borrow money on its promissory note. Its indebtedness must be evidenced by bonds or certificates. OAG Dec. 31, 1935 (476a-10).

The amount of warrants which may be issued, the money not being available, is limited to the amount available from tax levies made and in the process of collection. Further obligations must be in the form of bonds or certificates. OAG June 2, 1938 (476b-8).

475.09 DEBT LIMIT INCREASED IN CERTAIN SCHOOL DISTRICTS.

HISTORY. 1939 c. 35 ss. 1 to 3; M. Supp. ss. 3014-8, 3014-9, 3014-10.

MINNESOTA STATUTES 1945 ANNOTATIONS

475.091 PUBLIC INDEBTEDNESS

2644

475.091 LIMITATION ON NET INDEBTEDNESS.

HISTORY. 1945 c. 18 ss. 1 to 3.

475.10 INTEREST RATE ON BONDS IN CITIES OF FIRST CLASS IN EXCESS OF RATE FIXED BY CHARTER.

HISTORY. 1915 c. 53 ss. 1, 2; M.S. 1927 s. 1938-1.

475.11 INTEREST RATES ON MUNICIPAL OBLIGATIONS.

HISTORY. 1933 c. 171 s. 1; M. Supp. s. 1938-2½.

475.12 REGISTERED BONDS.

HISTORY. 1897 c. 22 s. 1; R.L. 1905 s. 782; G.S. 1913 s. 1853; 1923 c. 313 s. 1; G.S. 1923 s. 1940; M.S. 1927 s. 1940.

If the county can qualify under section 164.18 it may construct a bridge without a vote of the electors; but if it cannot so qualify a vote must be taken under the provisions of section 475.13. 1934 OAG 453, Nov. 17, 1933 (642b-3).

475.13 VOTE REQUIRED.

HISTORY. 1877 c. 74 sc. 2 s. 8; 1881 c. 41 s. 4; 1885 c. 80; 1887 c. 21; G.S. 1894 s. 3688; 1895 c. 8 s. 120; R.L. 1905 s. 783; 1905 c. 100 s. 1; 1905 c. 272 s. 1; 1913 ss. 1854, 1968; 1921 c. 209 s. 1; G.S. 1923 s. 1941; M.S. 1927 s. 1941. [Superseded or at least modified by L. 1927 s. 131.]

The recitals in the bonds in question protected by estoppel innocent holders for value against irregularities-in the proceedings that did not go to the power to issue the bonds for the purpose specified. *White v City of Chatfield*, 116 M 371, 133 NW 962.

Laws 1919, Chapter 65, authorizes the city council of a city of the fourth class, not having a home rule charter, to contract for pavements and issue certificates without submitting the proposition to voters. *Pike v City of Marshall*, 146 M 413, 178 NW 1006.

The notice of election stated the school bonds were to be used for "building and equipment, including buses". The ballots stated "building and equipment". The variance does not affect the validity of the election or of the bonds. *Hagen v Consolidated School*, 156 M 268, 194 NW 756.

Laws 1905, Chapter 123, supersedes Revised Laws 1905, Chapter 10, in so far as they relate to issuance of refunding bonds. *Hill v Village of Aurora*, 157 M 469, 196 NW 465.

The legislature has provided an exclusive remedy for contesting the validity of "elections" called and conducted in an illegal manner, section 208.07. Therefore a prayer for equitable relief premised solely upon the alleged invalidity of an "election" was properly denied. *Repsold v Ind. School District*, 203 M 316, 285 NW 827.

Warrants issued by a municipality to pay for addition to and improvement of municipally-owned water works wholly out of income from operation were "revenue warrants" issuable without submission to popular votes and not "bonds" creating a "general obligation" of municipality, though the municipality covenanted to maintain existing water rates until warrants were paid, and made other commitments. *Struble v Nelson*, 217 M 610, 15 NW(2d) 101.

County board of Lake county may issue refunding bonds covering indebtedness of dissolved township without submitting the question to vote of electorate. 1934 OAG 190, Aug. 9, 1933 (37a-10).

Village of Winnébago could issue refunding bonds without submitting the question to the voters. 1934 OAG 63, Sept. 14, 1933 (44b-12).

Where the voters vote in favor of the issuance and sale of bonds, their act cannot be nullified by actions of the council. 1934 OAG 116, June 12, 1934 (476b-14).

Villages operating under Laws 1885, Chapter 145, and those operating under general statutes may issue refunding bonds without an election when the bonds

MINNESOTA STATUTES 1945 ANNOTATIONS

2645

PUBLIC INDEBTEDNESS 475.15

to be retired are payable out of net earnings of a power plant. 1936 OAG 26, July 9, 1935 (44a-4).

Where bonds of a village are being sold to the state, only a majority vote is required. 1936 OAG 15, Oct. 1, 1935 (44b-5).

Laws 1927, Chapter 131 (sections 475.04, et seq.) supersedes section 475.13 and a majority is sufficient to authorize the issuance of bonds by an independent school district. 1938 OAG 202, June 7, 1937 (159a-3).

Delay of two years in issuing bonds after authorization is not such delay as to affect their validity when issued. OAG Sept. 20, 1937 (44a).

Surplus funds in the school operations fund may be used to supplement funds derived from a bond issue for erection of buildings. OAG Nov. 16, 1937 (159b-2).

In an emergency, the school board may use funds or issue warrants to construct a heating plant without referring the matter to a vote. OAG Dec. 3, 1937 (159a-5).

The matter of the issuance of bonds for the construction of storm sewers must be submitted to the voters. OAG Feb. 15, 1938 (387b-10).

Where the council in a city of the third class refuses to call an election for the purpose of voting bonds, there is no way of moving unless the bonds are to be sold to the state, in which case the statute outlines the procedure. 1942 OAG 123, May 13, 1942 (36-B).

Sewer district warrants may issue when in anticipation of special assessments and no vote of the electorate is required. OAG Sept. 15, 1944 (476c-1).

To purchase land to enlarge a school district the vote must be two-thirds of those present if bonds are to be issued, but if purchased without a bond issue a majority is sufficient. OAG Nov. 16, 1944 (627i-4).

475.14 BOND ISSUES; PURPOSES.

HISTORY. 1903 c. 36 ss. 1, 2; 1903 c. 235 s. 1; 1905 c. 11 ss. 1, 2; 1905 c. 19 ss. 1 to 6; 1905 c. 20 ss. 1 to 4; 1905 c. 28 ss. 1 to 3; 1905 c. 58 ss. 1, 2; 1905 c. 64 ss. 1 to 8; 1905 c. 76 s. 1; 1905 c. 91 s. 1; 1905 c. 172 ss. 1 to 5; 1905 c. 293 ss. 1, 2; R.L. 1905 s. 784; G.S. 1913 ss. 1855, 1896 to 1901, 1958 to 1967; G.S. 1923 s. 1942; M.S. 1927 s. 1942; 1939 c. 223 s. 1; M. Supp. s. 1942; 1945 c. 126 s. 1.

See annotations under section 475.13.

The financial condition of counties, as shown by relation between bonded indebtedness and the assessed valuation of property, is a proper basis for classification for the purpose of legislation with reference to the increase of indebtedness by the issue of bonds without a popular vote. Laws 1907, Chapter 130, is constitutional. *Wall v County of St. Louis*, 105 M 403, 117-NW 611.

Vote of electors is not necessary to authorize issuance of school district re-funding bonds. OAG Dec. 7, 1934 (40c-1).

School district which has levied a tax may issue and sell warrants to comply with the cash requirements of the PWA requirements. OAG Dec. 3, 1937 (159a-5).

Authority of village to issue certificates for the purchase of fire apparatus is derived from Laws 1885, Chapter 145, and to erect buildings from section 475.14, but the procedure is governed by sections 475.04, et seq. 1938 OAG 46, Aug. 6, 1938 (159a-5).

A school district may lawfully issue bonds for an athletic field house. 1940 OAG 50, Nov. 28, 1939 (622b).

The village of Osakis is without authority to issue bonds for a "white way" lighting system. 1942 OAG 136, Aug. 21, 1941 (44B-16).

Improvement of existing highways; issuance of town bonds; procedure. OAG Oct. 19, 1944 (43b-4).

475.15 SALE OF BONDS.

HISTORY. 1893 c. 200 ss. 5, 6; G.S. 1894 ss. 1236, 1237; R.L. 1905 s. 785; G.S. 1913 s. 1856; 1923 c. 299 s. 1; G.S. 1923 s. 1943; M.S. 1927 s. 1943.

MINNESOTA STATUTES 1945 ANNOTATIONS

475.16 PUBLIC INDEBTEDNESS

2646

Bonds irregularly issued are valid on the grounds of estoppel if in the hands of a bona fide holder for value and without notice. *St. Paul v Village of Sandstone*, 73 M 225, 75 NW 1050.

A contract by a city for the sale of certificates of indebtedness to be issued under the provisions of Laws 1919, Chapter 65, is enforceable, although the sale was made without complying with section 475.15; and the other party to the contract, after enjoying the benefits of the partial performance thereof by the city, is estopped from asserting that the city had no power to enter into the contract. *City of Marshall v Kalman*, 153 M 320, 190 NW 597.

Ex. Laws 1933-1934, Chapter 45, is not unconstitutional because it provides that unorganized territories as had applied for relief from the United States government on or before a certain date could sell bonds to the government without holding an election, as required of other territories which had not made an application for relief. *County Board v Borgen*, 193 M 525, 259 NW 67.

Where a village sells bonds to the federal government under NIRA it need not advertise. OAG Aug. 21, 1933.

Town board operating under cash basis laws, must publish notice for bids before offering certificates for sale. 1934 OAG 862, Feb. 14, 1934 (442b-5).

If a village advertises for bids, and no bids are received on the appointed date, a bid subsequently received may be accepted without readvertisement. 1934 OAG 55, Oct. 12, 1934 (707a-10).

Directions prescribed by statute as to the time and method of receiving and acting on bids are mandatory, but after the bids are opened the officers have a reasonable time for comparison and survey in order to ascertain who is the lowest bidder. OAG June 7, 1939 (707a).

Town bonds may issue to hard surface roads, when the amount is so great that an appropriation cannot be made. OAG March 13, 1944 (43b-4).

On a school district to construct a drainage ditch. OAG Sept. 5, 1944 (159b-8).
Sale of bonds. 20 MLR 591.

475.16 SELLING BONDS BY POPULAR SUBSCRIPTION.

HISTORY. 1907 c. 462 s. 1; G.S. 1913 s. 1864; G.S. 1923 s. 1946; M.S. 1927 s. 1946.

Published notice of sale of bonds and certificates to a private citizen is required. OAG Jan. 20, 1939 (63b-3).

Cities may not sell its bonds to its own public utilities commission without first advertising for bids. OAG Aug. 9, 1944 (36K).

475.17 CERTAIN MUNICIPALITIES TO SELL EVIDENCES OF PUBLIC INDEBTEDNESS BY POPULAR SUBSCRIPTIONS.

HISTORY. 1935 c. 121 s. 1; M. Supp. s. 1944-1.

Authorized arrangement for administering old age assistance aid when the county funds have been exhausted. 1936 OAG 324, April 21, 1936 (521h-2).

County may sell warrants or certificates of indebtedness issued against poor fund. OAG Aug. 11, 1936 (107a-13).

If old age assistance warrants are sold to local banks under section 475.17, interest may be paid in accordance with the terms of the original resolution. 1938 OAG 330, March 23, 1937 (521b-1).

Where the issue cannot all be sold by popular subscription, the balance cannot be sold except by a new resolution by the school board, and must comply with the statute relating to bids. 1938 OAG 201, Dec. 10, 1937 (159a-5).

Bonds issued under the provisions of section 261.17 may be sold as provided in section 475.17. 1938 OAG 120, May 19, 1938 (37a-11).

If a village desires to sell its bonds at popular subscription it must comply with the proceedings prescribed in section 475.17. 1940 OAG 120, Aug. 22, 1940 (44a).

475.18 DELIVERY; PROCEEDS.

HISTORY. 1893 c. 200 s. 7; G.S. 1894 s. 1238; R.L. 1905 s. 786; G.S. 1913 s. 1857; G.S. 1923 s. 1944; M.S. 1927 s. 1944.

Where electors of a school district voted bonds to build a swimming pool and gymnasium, the board cannot use all the money on one of the projects. Both or none must be built. OAG Oct. 1, 1937 (161b-13).

Proceeds of a bond issue may be used to build a school house on a site different from the site contemplated when the vote was taken. OAG Oct. 11, 1938 (159a-5).

Where a project is discontinued, the money may be used for another lawful public improvement, approved by the voters. The fund cannot be used to pay outstanding warrants. OAG July 24, 1939 (476a-15).

475.19 DEFACED BONDS, DUPLICATES.

HISTORY. 1883 c. 76 ss. 1 to 3; G.S. 1878 Vol. 2 (1888 Supp.) c. 124 ss. 130 to 132; G.S. 1894 ss. 2225 to 2227; 1895 c. 71 s. 1; R.L. 1905 s. 791; G.S. 1913 s. 1893; G.S. 1923 s. 1970; M.S. 1927 s. 1970.

475.20 LOST INSTRUMENTS; INDEMNITY.

HISTORY. 1883 c. 76 ss. 4, 5; G.S. 1878 Vol. 2 (1888 Supp.) c. 124 ss. 133, 134; G.S. 1894 ss. 2228, 2229; 1895 c. 71 s. 2; R.L. 1905 s. 792; G.S. 1913 s. 1894; G.S. 1923 s. 1971; M.S. 1927 s. 1971.

475.21 TAX LEVY FOR PAYMENT OF BONDS.

HISTORY. R.L. 1905 s. 787; G.S. 1913 s. 1858; G.S. 1923 s. 1945; M.S. 1927 s. 1945.

If town fails to make a levy to take care of outstanding obligations, the county auditor must extend the levy. OAG April 8, 1933.

The treasurer of an independent school district must set aside out of the tax receipts sufficient to take care of principal and interest due on bonds. OAG June 8, 1933.

If the levy exceeds the two per cent limit, and unless more than two per cent is needed to meet maturing bonds plus functional expenses, the auditor must reduce the levy. OAG Dec. 5, 1935 (481a-4).

Where a village is dissolved under Laws 1885, Chapter 145, the council in its levy is limited to one year in time and by the statute as to the amount. If there remains a balance to be paid, the auditor may extend the necessary levy the following year. OAG Aug. 20, 1936 (469a-4).

475.22 LIMITATION OF TAX LEVIES; STATEMENT.

HISTORY. 1931 c. 159 ss. 1, 2; 1937 c. 180 s. 1; M. Supp. ss. 1938-21, 1938-22.

A salary schedule adopted by defendant prior to the enactment of the teachers tenure act does not determine the yearly salary to be paid its teachers after said act went into effect. Sutton v Board, 197 M 129, 226 NW 447.

The administration of poor relief is similar to the duty of carrying on governmental functions, an obligation which is absolute, and outweighs statutory limitations as to expenditure of funds or creation of public debt. 1934 OAG 665, Aug. 7, 1934 (339o-5).

Tax anticipation certificates for poor relief purposes may not be sold against delinquent taxes. 1934 OAG 664, Oct. 21, 1934 (339i-4).

Village has no power to issue anticipation warrants bearing four per cent interest to retire warrants bearing six per cent. 1936 OAG 37, Jan. 17, 1935 (476c-4).

Only when there is money on hand, or a tax levy in the process of collection, may the county issue warrants in purchase of land for county fair purposes, but otherwise not. OAG Oct. 17, 1935 (107a-13).

The statute does not limit the amount of a tax levy by the county, but warrants may not issue against the road or bridge fund in excess of the average tax

MINNESOTA STATUTES 1945 ANNOTATIONS

475.23 PUBLIC INDEBTEDNESS

2648

collection. Warrants in anticipation of expected gasoline tax receipts may not issue. OAG May 11, 1937 (107a-13).

475.23 AMOUNT OF LIMITATION ON NET INDEBTEDNESS; SPECIAL EXISTING LIMITATIONS NOT INCREASED; ELECTIONS, WHERE REQUIRED.

HISTORY. 1927 c. 131 s. 2; M.S. 1927 s. 1938-4; 1935 c. 256 s. 1; 1937 c. 285 s. 1; M. Supp. s. 1938-4; 1943 c. 480 s. 1; 1945 c. 549 s. 1.

Minneapolis does not come within the provisions of Laws 1927, Chapter 131, but is controlled by sections 416.08 to 416.15. Phelps v City of Mpls., 174 M 509, 219 NW 872.

Notwithstanding the provisions of this section, the village of North St. Paul may provide a well necessary to maintain its water system. 1934 OAG 158, Sept. 13, 1933 (476b-16).

A municipality may insure in a mutual insurance company provided the liability does not exceed the debt limit. OAG Dec. 26, 1933; 1936 OAG 271, May 23, 1935 (487c-5).

Appraisal, and rules governing debt limitations. 1934 OAG 60, March 2, 1934 (442a-5).

Section 475.23 applies when bonds are sold to private parties. If sold to the state, sections 273.18, et seq. apply. 1936 OAG 16, Nov. 18, 1935 (44a-4); 1936 OAG 26, July 9, 1935 (44a-4).

Valuation for indebtedness limit is not affected by the home-stead exemption. Non-taxable lands are not included. OAG May 31, 1938 (159a-4).

"Debt limit" and "net debt" defined and clarified. 1940 OAG 140, July 28, 1939 (928a-8); 1940 OAG 141, Oct. 10, 1939 (476a-3).

Bonds used for hospital not deductible from gross debt. 1940 OAG 139, July 18, 1940 (44a-4).

Code provisions; municipal bond procedure. 20 MLR 585.

Special fund doctrine. 23 MLR 392.

475.24 OBLIGATIONS; MATURITY.

HISTORY. 1927 c. 131 s. 3; M.S. 1927 s. 1938-5.

Sewer and water system may be voted on as a single system. 1934 OAG 138, Nov. 27, 1933 (44b-14).

If the voters by legal vote authorize the issuance of bonds, their act is mandatory on the council. 1934 OAG 116, June 12, 1934 (476b-14).

The maximum term for a bond issued to a private individual is 30 years. OAG Feb. 7, 1935 (159a-3).

475.25 OBLIGATIONS; ELECTIONS TO DETERMINE ISSUE.

HISTORY. 1927 c. 131 s. 4; M.S. 1927 s. 1938-6.

What the sovereign power can authorize in prospect, it can adopt or validate in retrospect. Laws 1939, Chapter 137, a curative act, covers "all cases" where a city or village utility commission has contracted for the sale of warrants or bonds, payable solely from the earnings of the utility. Vorbeck v City of Glencoe, 206 M 180, 288 NW 4.

Where a township has been dissolved, the county board may issue and sell bonds to refund outstanding orders or warrants of the township. 1934 OAG 190, Aug. 9, 1933 (37a-10).

Bonds of the village of Winnebago may be issued to refund maturing bonds without taking a vote of the electorate. 1934 OAG 63, Sept. 14, 1933 (44b-12).

This section does not authorize the issuance of bonds without the approval of the voters except as authorized by existing laws. OAG Nov. 23, 1934 (44b-12).

Laws 1937, Chapter 62, Section 2, authorizes the issuance of refunding bonds without a vote. OAG June 2, 1937 (44b-12).

If the school bonds are to be sold to the state, and if the statute is complied with, a majority vote is sufficient. 1938 OAG 202, June 7, 1937 (159a-3).

MINNESOTA STATUTES 1945 ANNOTATIONS

2649

PUBLIC INDEBTEDNESS 475.33

The village of New Brighton may exercise the power of eminent domain through its council for the purpose of acquiring a site for a liquor store and, the owners consenting, may pay out of the profits of the store; but if bonds are to be issued, the approval of the electors is necessary. 1942 OAG 174, April 8, 1942 (218-R).

To buy land for an addition to school property only a majority vote is required, but if a bond issue is needed, the vote must be two-thirds in favor. OAG Nov. 16, 1944 (622i-4).

475.26 TAX LEVY FOR PAYMENT OF OBLIGATIONS; SINKING FUNDS.

HISTORY. 1927 c. 131 s. 5; M.S. 1927 s. 1938-7.

Provision must first be made by a municipality to take care of principal and interest on obligations before budgeting running expenses. If, however, the outstanding obligation payments are greater than the amount dedicated to obligation payments, resort may be had to the general fund. OAG May 31, 1935 (59a-7).

Under its home rule charter, Mankato may issue water-works bonds as a general obligation and levy a yearly ad valorem tax to carry and retire them. OAG Feb. 14, 1938 (624d-1).

475.27 COUNTY AUDITOR TO KEEP REGISTER OF OBLIGATIONS ISSUED.

HISTORY. 1927 c. 131 s. 6; M.S. 1927 s. 1938-8.

475.28 CERTIFICATES OF REGISTRATION OF OBLIGATIONS BEFORE DELIVERY TO PURCHASER.

HISTORY. 1927 c. 131 s. 7; M.S. 1927 s. 1938-9.

475.29 TAX LEVIES NOT LIMITED.

HISTORY. 1927 c. 131 s. 8; M.S. 1927 s. 1938-10.

Section 426.04 is not a limitation on cities having home rule charters providing higher levies. 1934 OAG 97, May 11, 1934 (519c).

Tax levies to retire bond issues. 20 MLR 593.

475.30 SINKING FUNDS; INVESTMENT OF SURPLUS.

HISTORY. 1927 c. 131 s. 9; M.S. 1927 s. 1938-11.

A village may invest surplus in the sinking fund in its own warrants having a fixed maturity date. 1934 OAG 105, Jan. 18, 1934 (59a-49); OAG Jan. 23, 1939 (59a-22).

Where the school district is independent of a village, the village may invest surplus funds in the school bonds, but has no power to lend money directly to the district. OAG March 5, 1934.

A city may not invest in credit union securities, nor use the union as a depository. OAG Nov. 21, 1935 (53b).

The surplus funds of public utilities may be invested in the bonds of the municipality. 1936 OAG 36, Dec. 5, 1935 (59a-22).

Surplus sinking fund may be invested in United States defense bonds. 1942 OAG 45, March 12, 1942 (159a-13).

475.31 INCONSISTENT LAWS REPEALED.

HISTORY. 1927 c. 131 s. 11; M.S. 1927 s. 1938-13.

475.32 VIOLATION.

HISTORY. 1927 c. 131 s. 10; M.S. 1927 s. 1938-12.

475.33 REPORTS OF OUTSTANDING BONDS AND WARRANTS ISSUED BY CITIES, VILLAGES, TOWNS, AND SCHOOL DISTRICTS.

HISTORY. 1927 c. 163 ss. 1, 2; M.S. 1927 ss. 1938-14, 1938-15; 1945 c. 187 s. 1.

MINNESOTA STATUTES 1945 ANNOTATIONS

475.34 PUBLIC INDEBTEDNESS

2650

475.34 REFUNDING BONDS OF MUNICIPAL CORPORATIONS; MUNICIPAL CORPORATION.

HISTORY. 1921 c. 185 ss. 1, 2; M.S. 1927 ss. 1946-1, 1946-2; 1935 c. 232 s. 2; M. Supp. s. 1946-2.

The state board of investment may purchase bonds alleged to be for the purpose of retiring outstanding warrants, without inquiring into the validity of the warrants. OAG Aug. 3, 1934 (928a-11).

A school in issuing refundment bonds should adopt the resolution prescribed by section 475.34. OAG June 26, 1939 (40c-1).

475.35 CITIES OF SECOND CLASS MAY ISSUE BONDS FOR SCHOOL BUILDINGS.

HISTORY. 1931 c. 112 ss. 1 to 4; M. Supp. ss. 1973½, 1973½a, 1973½b, 1973½c.

475.39 SCHOOL DISTRICT TAX LEVIES FOR PAYMENT OF INTEREST AND CREATION OF SINKING FUNDS FOR BOND ISSUES IN EXCESS OF 15 PER CENT OF ASSESSED VALUATION.

HISTORY. 1923 c. 195 s. 1; M.S. 1927 s. 1958-1.

In order that a school district invalidate a resolution setting terms of tax levy in a bond issue, it must pass a new resolution and obtain the consent of all bondholders. OAG May 6, 1937 (161a-2).

475.40 APPORTIONMENT OF BONDED INDEBTEDNESS OF DIVIDED TOWN; MAY BRING SUIT TO RECOVER.

HISTORY. 1907 c. 273 ss. 1, 2; G.S. 1913 ss. 1871, 1872; G.S. 1923 ss. 1951, 1952; M.S. 1927 ss. 1951, 1952.

475.41 DIVISION OF BONDED INDEBTEDNESS OF TOWNS AND VILLAGES.

HISTORY. 1909 c. 254 s. 1; G.S. 1913 s. 1873; G.S. 1923 s. 1953; M.S. 1927 s. 1953.

This section relates only when a town and a village are jointly liable. It has no application where a town issued bonds prior to the incorporation of the village. OAG March 25, 1937 (440a).

475.42 BONDS FOR INDEBTEDNESS ASSUMED.

HISTORY. 1909 c. 254 s. 2; G.S. 1913 s. 1874; G.S. 1923 s. 1954; M.S. 1927 s. 1954.

475.43 LAWS AS TO OUTSTANDING BONDS CONTINUED.

HISTORY. R.L. 1905 s. 793; G.S. 1913 s. 1895; G.S. 1923 s. 1972; M.S. 1927 s. 1972.

Laws 1905, Chapter 123, superseded the provisions of Revised Laws 1905, Chapter 10, in so far as they relate to the steps to be taken to issue village bonds to fund floating indebtedness. Laws 1921, Chapter 209, did not by implication repeal General Statutes 1913, Sections 1932, 1933. Hill v Village of Aurora, 157 M 469, 196 NW 465.

There being no suggestion of fraud, concealment, fault or neglect of duty in respect to bonds of the defendant, purchased July 1, 1899, due July 1, 1904, and presented in February, 1938, that tolls the statute of limitations, recovery is barred after expiration of six years from their due date. Batchelder v City of Faribault, 212 M 251, 3 NW(2d) 778.

A city under a home rule charter may elect to come within the provisions of Laws 1913, Chapter 303. OAG Feb. 18, 1937 (36c-9).