

CHAPTER 471

SEVERAL POLITICAL SUBDIVISIONS

471.15 MUNICIPALITIES MAY ACQUIRE AND OPERATE RECREATIONAL FACILITIES.

Under the home rule charter of the city of Eveleth the council had no authority to pay claims against a hockey rink which was to be transferred to the city for no other consideration than for the payment of such claims. Burns v Essling, 156 M 171, 194 NW 404.

The language of the statute is broad enough to authorize a village to purchase a bowling alley for its recreational program. 1944 OAG 208, June 14, 1943 (476-B-8).

Where a village is obliged to abandon the project of furnishing musical entertainment because of the absence of available talent, moneys remaining in the musical entertainment fund should be transferred to the general revenue fund. OAG April 24, 1944 (469-C).

A village incorporated under Sp. L. 1881, c. 21, has power under subsequent legislation to expend money for recreational purposes and acquire real estate for park purposes and use for recreation. The village may acquire the property alone or jointly with the school district. OAG Oct. 17, 1944 (622b).

"Public recreation" does not include school extra-curricular activities. OAG Jan. 4, 1945 (160k).

Villages may rent real estate for recreational purposes. OAG April 10, 1945 (476-B-10).

Money may be appropriated by a village to a recreational board even though the board derives revenues from private sources. OAG April 16, 1945 (476-B-10).

Under the provisions of section 471.15 a village acquiring a tract of land for park purposes, under section 448.01 at a price not exceeding \$4,000, has not exhausted its authority and may acquire additional land for a recreational program under the provisions of section 471.16. OAG Sept. 9, 1946 (469-A-12).

Sections 471.15 to 471.19 authorize municipalities to acquire land for recreational purposes, and when considered in conjunction with home rule charter granting power to acquire land for public grounds by condemnation authorize the city to acquire recreational lands beyond the corporate limits by condemnation for playground and recreational purposes. OAG June 25, 1947 (59-a-40).

471.16 MAY ACT INDEPENDENTLY OR COOPERATIVELY.

See, notes under section 471.15.

There is a limitation on the power of the school board. The expenditure must be authorized in the annual school election by a majority of the vote there cast. 1944 OAG 112, March 13, 1944 (159-B-1).

The electors of a school district may authorize the school board jointly with another municipality to enter upon a recreational program. This authority is not mandatory, and the school trustees may exercise their discretion. OAG April 12, 1944 (159-B-1).

Village funds cannot be appropriated to the American Legion to enable the unit to erect a Legion hall. OAG April 20, 1944 (310-A).

Veterans preference laws are applicable to sections 471.16 to 471.19. OAG Feb. 11, 1946 (85-9a).

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Cooperation of school districts with organizations and corporations is limited to those designated in section 471.16. OAG May 8, 1946 (159-B-1).

Land dedicated as a public park may not be sold or conveyed to the school board; but the school district and the city may cooperate with the school district in operating the tract as a public playground or athletic field, and under its police powers the city may close the street area on prescribed days and during prescribed hours. OAG July 4, 1946 (396-C-3).

The council of a city of the fourth class having a home rule charter is without authority to surrender the management and use of land dedicated on the city plat as a park in favor of the school board so that the park would cease to be a public park and become a school playground only. OAG July 8, 1946 (59-A-40).

School district has the right to enter into agreements with other public corporations for the carrying on of recreational activities only after it has been authorized by a majority vote cast at the annual school election. Such agreement does not modify the statutory method of levying taxes. OAG Dec. 2, 1946 (519-M).

A village and a school district may agree upon a joint program for public recreation, but the school board must first obtain the consent of the electorate. OAG April 10, 1947 (159-B-1).

If authorized by a vote at the annual school election, a school board may enter into a joint recreational program conducted under agreement between the city and the district. OAG June 19, 1947 (159-B-1).

471.17 LOCATION OF ACTIVITIES.

Library service is not included in so-called recreational program, under sections 471.15 to 471.19. 1942 OAG 47, Oct. 2., 1942 (285-D).

471.26 MUNICIPALITIES MAY CARRY ON CITY PLANNING ACTIVITIES.

While the owner of private property must pay the expense of subdividing and planning, the city council has authority to employ a city planning engineer to lay out a new addition to the city. This applies to Granite Falls. OAG Jan. 17, 1946 (59-A).

471.34 BIDS FOR PURCHASE OF SUPPLIES.

It does not appear that the fee of five cents to be charged for parking regulated by meters so much exceeds the cost of installation, maintenance, and regulation as to result in a tax and condemn the whole project as for revenue rather than for regulation. *Hendricks v City of Mpls.* 207 M 151, 290 NW 428.

When public bidding is required the proposals and specifications must be so framed as to permit full and free competition, so that all bidders will have an opportunity to compete for a contract containing substantially the same terms and provisions, and that any substantial and material departure from the specifications, beneficial to the successful bidder, in the contract entered into will render same void notwithstanding the fact that there was only one bidder. In the instant case the contract of the city with the Automatic Voting Machine Corporation was a valid and binding contract. *Rice v City of St. Paul*, 208 M 509, 295 NW 529.

Where a city invites bids for the furnishing and installation of parking meters according to the city's specifications and a bidder makes a bid offering to install the meters according to the bidder's specifications, and where installation according to the bidder's method would give him a substantial benefit or advantage which he would not enjoy if installation were made according to the city's method, there is a material variance between the bid and the city's specifications which requires rejection of the bid. After bids have been received and opened, no material change may be made in any bid. *Coller v City of St. Paul*, 223 M 376, 26 NW (2d) 835.

Section 471.34 does not require a city to call for competitive bids when purchasing supplies or equipment. OAG March 26, 1946 (707-A-4).

"Lowest responsible bidder" does not necessarily mean lowest bidder whose pecuniary ability to perform contract is deemed best. Commission may reject

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lowest bid if, in exercise of honest discretion, another seems better for object to be accomplished. Before variation from specifications will be deemed to destroy competitive character of bid for public contract, variation must be substantial and material, one beneficial to the successful bidder. OAG Oct. 15, 1946 (707-a-4).

The bid containing an escalator clause is not in accordance with the specifications and not a valid bid, and no valid or enforceable contract can be predicated thereon. OAG Nov. 26, 1946 (707-B-7).

The contract must follow the advertisement for bids, and all bids should conform to the proposal set forth in the advertisement; so that, where the advertisement asks for bids on four separate parts of the whole, the bids must conform to the separation of the proposal. OAG June 4, 1947 (707-a-4).

471.38 CLAIMS ITEMIZED, VERIFIED.

The indictment of defendant for conspiring and acting in concert with another to defraud the state emergency relief fund states a public offense even though the forged warrant was not verified. *State v Stuart*, 203 M 301, 281 NW 299.

The language designated in section 465.09, as the method and procedure of presenting claims against municipalities, clearly shows that the legislative purpose was to establish a uniform rule which should apply to all municipalities thus avoiding confusion arising out of many dissimilar provisions contained in various city charters of the state; and a notice of claim required under the cited statute which fails to state amount of compensation demanded by claimant is insufficient. *Freeman v City of Mpls.* 219 M 202, 17 NW(2d) 364.

A temporary injunction restraining a city from entering into any contract for the improvement of a street, whereby any pecuniary liability will be incurred by or in behalf of said city for any of said improvement which will necessitate the payment or expenditure of any of the current funds of said city whatever, save and except such as can be lawfully raised by special assessments made on property benefited other than property belonging to the city, did not render invalid a contract for the improvement which imposed no liability for its cost upon the city, but expressly provided that it should be paid for out of money lawfully raised by special assessment on property other than that owned by the city. *City of Mankato v Barber Asphalt Paving Co.* 142 F. 329.

Governmental liability for tort. 26 MLR 700, 716.

471.39 VERIFICATION.

Presentation and allowance of an unverified account presented to the town board violates the provisions of section 471.38. *Town v Buyck*, 112 M 94, 127 NW 452.

The county is not precluded from enforcing its claim against an ex-sheriff on account of money obtained by the sheriff on untrue bills for official services and this notwithstanding section 541.06 provides that actions against public officers based on official acts must be brought within three years. *Megaarden v Board*, 102 M 134, 112 NW 890.

Claims against school districts are not required to be verified and itemized before allowance of claim. *Olsen v Independent District*, 175 M 201, 220 NW 606.

471.40 AUDITING CLAIMS.

A municipality may, unless forbidden by statute or charter, compromise claims against it without specific express authority, such power being implied from its capacity to sue and to be sued, and ordinarily power to compromise claims is inherent in the common council as a representative of the municipality. If it makes such a compromise in good faith and not as a gift in the guise of a compromise, the settlement is valid and does not depend upon the ultimate decision that might have been made by a court for or against the validity of the claim. *Snyder v City of St. Paul*, 197 M 308, 267 NW 249.

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471.42 CERTAIN TOWNS AND SCHOOL DISTRICTS MAY CARRY INSURANCE.

Insurance to cover liability of school bus drivers may be purchased by a school district with an assessed property valuation in excess of \$2,000,000. OAG July 16, 1945 (159-b-4).

Any school board, even though its assessed valuation is not within the amount required by sections 471.42 and 471.43, has the same right to insure its school buses against fire, theft, and lightning as it has to insure other school property independently of right to obtain insurance for protection of school children pursuant to section 125.066. OAG Oct. 3, 1945 (159-B-4).

471.44 MUNICIPALITIES TO FURNISH COUNSEL TO DEFEND PUBLIC OFFICIALS.

Amended by L. 1947 c. 390 s. 1.

471.46 CERTAIN PERSONS INELIGIBLE TO APPOINTMENT TO OFFICE.

A council member may resign his office and accept appointment as manager of a municipal liquor store. OAG May 22, 1940 (218-J-10).

A member of a village council or its president may resign and accept the office of village clerk. OAG Sept. 10, 1943 (470-L).

Vacancies to be filled pursuant to section 375.10 where the county commissioner district is wholly within the limits of a city, and the vacancy is one to be filled by the council of such municipality; council members are disqualified from appointment to fill such vacancy. OAG Feb. 11, 1947 (126-H).

471.56 INVESTMENT OF MUNICIPAL FUNDS.

Investments of municipal funds in United States bonds may be made under the direction of the county board. OAG March 20, 1945 (107-A-6).

County cemetery funds may be invested in federal interest bearing bonds such as treasury G issue. OAG Jan. 3, 1946 (551).

Proceeds from municipal liquor store may be invested in United States government bonds. OAG March 20, 1946 (551).

The water and light commission may invest surplus funds in government bonds. OAG Jan. 22, 1947 (624-a-6).

471.57 PUBLIC WORKS RESERVE FUND.

The village of Hibbing, operating pursuant to the 1905 village code, may use public works reserve funds to widen a street where necessary to eliminate hazards. OAG May 20, 1947 (476-B-13).

471.59 JOINT EXERCISE OF POWERS.

Under section 471.59 municipalities may join in the inspection of milk and cream dividing the cost proportionately. OAG Nov. 10, 1943 (292-B).

Section 471.59 authorizes a town and a village to purchase jointly fire apparatus, the agreement to be between the town board and the village council after the electors of the town have authorized the town board to make such purchase. OAG May 10, 1945 (688-C-1).

471.60 SPECIAL ASSESSMENTS AGAINST SCHOOL PROPERTY IN CERTAIN CASES.

The county board may pay special assessments made by a municipality against county property not on the basis of the assessment but what the county

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board in its discretion considers a proper amount in view of benefits received. OAG Aug. 26, 1943 (107-B-1), (387-B-1).

471.61 INSURE OFFICERS AND EMPLOYEES IN GROUP INSURANCE.

The state may contract for hospital and insurance benefits covering its officers and employees pursuant to section 471.61, subd. 2, notwithstanding the provisions of section 16.07 requiring competitive bids. OAG June 18, 1943 (249-B-8).

This section authorizes group insurance for the benefit of the officers and employees, the premiums to be paid by the officers and employees. No part of the premium may be paid by the municipality. OAG Feb. 14, 1947 (59-a-25).

471.63 PROMOTION OF SAFETY AND PRESERVATION OF HUMAN LIFE.

A village may not contribute to the payment of group insurance covering its employees. OAG Oct. 7, 1946 (249-B-8).

471.65 GRANT, ADVANCE, OF LOAN FROM FEDERAL OR STATE GOVERNMENT.

This section authorizes municipalities named therein to accept from the government grants, loans, or advances for planning public works projects, and agree to repay such loans. This without a vote of the electorate. A petition having been submitted under section 429.03, the council may employ a competent engineer on whose report and advice it may act. OAG April 22, 1947 (387-G-4).

471.67 AGREEMENT BETWEEN COMMISSIONER OF CONSERVATION AND MUNICIPALITY.

HISTORY. 1947 c. 555 s. 1.