

CHAPTER 275

TAXES; LEVY, EXTENSION

275.01 LEVY IN SPECIFIC AMOUNTS

The school clerk shall issue orders on the treasurer for the disbursement of district funds. Each order shall state the fund on which it is drawn. Teachers' salaries have preference. Money applicable for teachers' wages from the current school fund cannot be used for any other purpose nor can teachers' wages be paid from any fund except that raised and apportioned for that purpose. Money raised by taxation on a levy by a school district for one purpose may not be used for another purpose. In a common school district the voters determine the amount of the tax levy and the purpose thereof. In an independent school district the board determines the amount of the tax levy and levies the necessary taxes. There is no limitation on expenditures as in a common district. The board in an independent district may use the money in the treasury received under a general tax levy and not under a levy certified for a particular purpose, for such purposes as it considers to the district's interest. An independent district does not make up a budget nor certify one to the county auditor. OAG Oct. 7, 1948 (159-C-6).

Where a village in making its tax levy classified it into two funds, a building fund and a general fund, the school board may use a part of the building fund to improve the athletic grounds of the school. OAG Aug. 7, 1947 (159-H-2).

The provisions of section 275.01 control where there is a conflict between the general law and a home rule charter provision. OAG Aug. 14, 1950 (406-B).

Where real estate is described in terms familiar only to surveyors the property is not described with sufficient definiteness so that the auditor may properly use the description for the purpose of listing property for assessment, taxation, or delinquent real estate tax proceedings, and forfeiture. OAG Dec. 27, 1951 (474).

275.02 CERTIFICATION OF STATE TAX LEVY

HISTORY. 1860 c 1 s 40; GS 1866 c 11 s 84; 1874 c 1 s 75-78, 80; 1877 c 6 s 14; 1878 c 1 s 48; GS 1878 c 11 s 48; 1885 c 114; GS 1894 c 1557; RL 1905 s 867; MS 1927 s 2056; 1935 c 282 s 1.

275.03 COUNTY TAXES

HISTORY. 1860 c 1 s 45; GS 1866 c 11 s 72; 1874 c 1 s 75-78, 80; 1877 c 6 s 14; 1878 c 1 s 48; GS 1878 c 11 s 48; 1885 c 114; GS 1894 s 1557; RL 1905 s 868; MS 1927 s 2057.

The payment of a predatory animal bounty is a county expense and the county board must provide the necessary money to pay all bounties payable from the county revenue fund. OAG Oct. 30, 1951 (47-F).

The provision that county taxes shall be levied by the board at its July meeting is directory only and not mandatory and the levy may be made prior to the July meeting. OAG April 20, 1948 (519-D).

The statutory time for tax levying is directory not mandatory, but a tax levy may be made after the July meeting but not after the tax has been spread on the rolls. OAG Nov. 1, 1951 (519-D).

Section 275.03 is directory not mandatory and where a levy was made for the poor fund without taking into consideration an anticipated deficiency, the resolution adopted at the July meeting fixing the levy is subject to amendment. OAG July 25, 1950 (519-J).

275.075 OMISSION BY INADVERTANCE; CORRECTION

HISTORY. 1947 c 71 s 1.

Laws 1947, Chapter 71, authorizes the tax levying body of any county, city, village, borough, town, or school district to correct errors made in a previous tax levy. This supersedes OAG May 28, 1945; and OAG June 29, 1945. OAG Jan. 6, 1948 (21-B).

Where a village before the issuance of obligations to defray the cost of an improvement, levies a tax over the term of the obligation issued, the council may issue tax anticipation certificates against the particular fund for a particular year even though the county auditor through inadvertance fails to extend the tax for the year involved. OAG Feb. 21, 1951 (476-C-1).

Where the town meeting voted the sum of \$12,000 for road and bridge purposes and the clerk, pursuant to section 275.07, inadvertently reported the amount at \$1,200, and the auditor made up the tax list on the basis of \$1,200, there is no statutory authority under which the tax proceedings may be amended. Taxes for this purpose may only be levied under section 275.07 and section 275.075. OAG May 15, 1950 (519-K).

Where taxes have been levied for school district purposes in an excessive amount and certified to the county auditor and spread accordingly, and the tax roll has been transmitted to the county treasurer for collection, no remedy exists for the reduction of such tax levy. OAG Jan. 2, 1953 (519-M).

275.08 AUDITOR TO FIX RATE

HISTORY. 1860 c 1 s 43; GS 1866 c 11 s 54; 1874 c 1 s 75-78, 80; 1877 c 6 s 14; 1878 c 1 s 48; GS 1878 c 11 s 48; 1885 c 114; GS 1894 s 1557; RL 1905 s 870; MS 1927 s 2059.

A levy of town taxes made by the electors at a town meeting is unaffected by the fact that a village is later incorporated out of a part of the town. OAG July 23, 1952 (440-B).

275.09 RATE OF TAX

HISTORY. 1860 c 1 s 46, 73, 74; 1861 c 6 s 2; GS 1866 c 11 s 78-80; 1874 c 1 s 75-78, 80; 1877 c 6 s 14; 1878 c 1 s 49; GS 1878 c 11 s 49; GS 1894 s 1558; 1899 c 117; 1905 c 69 s 1; RL 1905 s 871; 1927 c 313 s 1; Mason's 1927 s 2060; 1937 c 379 s 1; 1939 c 170 s 1; 1943 c 183 s 1; 1945 c 450 s 1; 1947 c 268 s 1; 1949 c 141 s 1; 1949 c 418 s 1; 1951 c 149 s 1; 1951 c 352 s 1; 1951 c 423 s 1; 1953 c 241 s 1; 1953 c 565 s 1; 1953 c 585 s 1.

Where a village is incorporated after a levy of town taxes is made by electors at a town meeting, the town levees remain and are unaffected by the fact of the village incorporation. OAG July 23, 1952 (440-B).

Under Laws 1947, Chapter 268, subject to certain limitations applicable to certain counties, the rate of tax for county purposes in counties with less than 100,000 inhabitants shall not exceed 8 mills. OAG April 20, 1948 (519-D).

Laws 1949, Chapter 141, Laws 1949, Chapter 418, both amending section 275.09 should be construed together and effect given to each. The two amendments are not irreconcilable. Each has a different purpose. The object of each was accomplished. Neither purpose was inconsistent with the other. OAG July 19, 1949 (519-D).

Laws 1945, Chapter 344, is impliedly repealed by Laws 1949, Chapter 151. OAG March 2, 1951 (519-D).

The annual meeting having been held on March 11, 1947, a special meeting must be called in order to take advantage of the provisions of Laws 1947, Chapter 268, section 1, subdivision 3, which did not become effective until April 9, 1947. OAG May 13, 1947 (519-O).

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A town may engage in a campaign of mosquito abatement but the authority to do so rests in the electorate and not in the board of supervisors. Any tax levy for this purpose must be made by the electors at a legal town meeting. OAG March 9, 1950 (519-O).

The levy of any tax authorized under section 365.17 is subject to the limitation on taxes for town purposes prescribed by section 275.09 as amended. Fire protection is a necessary governmental function. OAG Aug. 2, 1951 (688-K).

275.091 ACTS PROVIDING FOR A HIGHER LEVY NOT SUPERSEDED OR REPEALED

HISTORY. 1947 c 268 s 2; 1949 c 141 s 2.

275.10 TAX LEVY IN TOWNS

Where a town desires to issue general obligation bonds to finance the construction of town roads it may proceed under section 475.52 and disregard the provisions of section 163.04. The requirements of section 475.61 are mandatory. OAG April 9, 1951 (43-D-4).

Cities possess only the power of taxation granted to them by the constitution, by the statutes, or by the charter. Where the city charter states "the common council shall have power annually to levy taxes on all taxable property in the city as follows" the right of the city to tax is limited to an ad valorem tax on real or personal property. OAG Nov. 4, 1947 (519-C).

275.11 TAX LEVY FOR GENERAL PURPOSES LIMITED

HISTORY. Amended, 1951 c 539 s 1; 1953 c 577 s 1.

A re-enactment of Minnesota Statutes, 1941, Section 459.06 by Laws 1945, Chapter 347, did not authorize the village of Buhl to levy a tax for municipal forest in excess of the per capita tax limitation, 275.11 et seq, but the per capita tax limitation controls the same as it did prior to the re-enactment of section 459.06. State ex rel v Borgen, 230 M 317, 43 NW(2d) 95.

If the village fails to pay the fees of the public examiner for costs of an examination made by him, machinery is provided under section 215.24 compelling auditor to spread the state's levy for the expenses of such examination regardless of and in addition to other levies, and such levy is not limited by per capita tax law, section 275.11. OAG Oct. 27, 1947 (353-A-3).

Under the provisions of section 215.24 a levy made by the state to pay the cost of examination by the public examiner is in addition to the per capita tax levy limited by section 275.11. OAG Oct. 27, 1947 (353-A-3).

In Laws 1941, Chapter 543, the words "all general and special purposes" are so comprehensive that the legislature intended them to include a special tax for armory purposes. The total amount of taxes levied must not exceed in any year the amount indicated per capita of the population of the state. OAG Jan. 13, 1948 (519-C).

The city of Ely may levy a tax under Laws 1949, Chapter 215, but may not exceed the per capita tax limitation nor a limit of 40 mills on the assessed valuation. OAG Sept. 27, 1949 (519-C).

In order that a tax levy for any general or special purpose be not subject to the per capita tax limitation laws, the act authorizing the levy must so specifically provide. OAG Dec. 8, 1950 (519-C).

The per capita tax limitation in sections 275.11 and 275.13 to 275.161 does not apply to a levy of special benefit tax for redevelopment purposes under the provisions of section 462.545, subdivision 6. OAG Sept. 13, 1948 (519-I).

Where the town system is in effect in county the amount to be levied by a village for poor fund purposes is unlimited except by the per capita tax law and

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is in addition to the general corporation levy of 20 mills. Where the county is operating under the county system, the village need not make a levy. OAG Nov. 4, 1947 (519-I).

The additional tax levy authorized by section 275.13 for indebtedness incurred prior to 1941, must be reduced by the amount of cash on hand in funds from which the obligation giving rise to the indebtedness was or is payable, plus an amount in the sinking fund for payment of that particular indebtedness. OAG Sept. 23, 1953 (519-I).

If the director of the bureau of the federal census has authority to make a special census of school districts and does so and a certified copy thereof showing the population of the school district is obtained by the governor and filed with the secretary of state, such special census can be used in determining the tax levy of the school district under the per capita tax law. OAG Aug. 16, 1950 (519-M).

A village may not levy a special tax in addition to and in excess of the two percent levy with which to finance a recreational program. OAG Sept. 6, 1947 (519-Q).

General street maintenance purposes must be considered as "general village purposes" in computing the total tax subject to a 35-mill limitation. OAG Dec. 26, 1952 (519-Q).

275.12 TAX LEVY; SCHOOLS; LIMIT

HISTORY. 1921 c 417 s 2; Mason's 1927 s 2062; 1941 c 543 s 2; 1947 c 573 s 1; 1949 c 435 s 1; 1951 c 473 s 1-4; 1953 c 576 s 1-4.

The issuance of certificates of indebtedness and a tax levy authorized by section 412.301, for purchasing fire equipment or street construction or maintenance equipment must be within the existing debt limitation, as stated in section 475.53, and also within the provisions of section 275.12. OAG May 10, 1950 (476-A-4).

Section 127.05 places the limitation of the rate of tax on agricultural land. Section 127.04 places a limitation amount of a levy in common school districts for schoolhouses and sites. Section 122.01, subdivision 2, authorizes common school districts to set the amount of the tax levy at the annual meeting. Under section 275.12, as amended by Laws 1947, Chapter 573, in school districts having a population of more than 5,000, the total tax levy must not be more than \$40 per capita. In school districts having a population of less than 5,000, the levy must not exceed more than \$45 per capita. If such levies will not amount to \$110,000 for each school unit consisting of grades 1 to 12, the district in that year may levy in excess of the amount stated by not in excess of \$60 per capita and not in excess of \$110,000 for each complete school unit. OAG Oct. 22, 1948 (519-M).

For the purposes of establishing tax limitations, population facts are to be applied as they existed on the day the taxes were levied. OAG May 8, 1951 (519-M).

"Total current expenditures," as applied to school tax levies excludes taxes levied for the purpose of paying bonds on interest thereon. OAG Jan. -9, 1951 (519-M).

The levy authorized by section 275.12, subdivision 4, as amended, may be made only after the levies have first been made under subdivisions 1 and 2. OAG July 21, 1953 (519-M).

275.121 ADDITIONAL LEVIES TO RETIRE BONDS, CERTAIN SCHOOL DISTRICTS

HISTORY. 1953 c 500 s 1.

275.13 ADDITIONAL LEVIES TO COVER INDEBTEDNESS

A municipal housing and redevelopment authority established by a village is a different entity and is entirely distinct from the village and special benefit taxes

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of the authority are not subject to the village per capita tax limitation. OAG Sept. 13, 1948 (519-I).

For the purpose of determining salaries of county officials in determining bonded debt limits, class 3B and class 3C property should be figured at 33⅓ percent and 40 percent of the full and true value thereof, respectively. OAG April 5, 1948 (1001-B).

275.14 CENSUS

HISTORY. Amended, 1951 c 447 s 1.

A special census may be permitted for the purpose of obtaining the number of persons who inhabit a school district and for the purposes of levying the tax. The word "may" is permissive. The phrase "or at any time thereafter" includes a subsequent year. OAG June 2, 1952 (519-M).

275.161 ADDITIONAL LIMITATIONS

NOTE: Laws 1949, Chapter, Section 106, reads: "Any provision in this act inconsistent with any provision of Laws 1929, Chapter 208; Laws 1933, Chapter 211; Laws 1937, Chapter 346; or Laws 1943, Chapter 526, shall not apply to any village to which any such act applies."

This applies to sections 275.15 to 275.21.

The per capita tax limitation in sections 275.11 and 275.13 to 275.161 does not apply to a levy of special benefit tax for redevelopment purposes under the provisions of section 462.545, subdivision 6. OAG Sept. 13, 1948 (519-I).

275.17 ISSUE OF MUNICIPAL WARRANTS LIMITED

NOTE: See Laws 1949, Chapter 119, Section 106.

The city of Eveleth owns and operates a municipal airfield. It operates under a per capita tax limitation. Bonds to pay for the costs of surveying, constructing, improving and equipping an airport in accordance with the provisions of Laws 1945, Chapter 303, cannot be issued until the issuance has been approved by the voters and in any event taxes cannot be levied in excess of the per capita tax limitation. OAG Aug. 18, 1949 (234-B).

275.19 TAX RECEIPTS USED TO PAY INDEBTEDNESS

NOTE: Laws 1949, Chapter 119, Section 106 applies to sections 275.17 to 275.21.

An act providing for the conservation and improvement of land affected in connection with the mining by the open pit mining method was held valid. *Dufour v Maize*, 56 At(2d) 675.

275.24 GENERAL FUND, TAX RATE; CITIES OF SECOND CLASS

HISTORY. 1919 c 75 s 1, 2; Mason's 1927 s 2068-1, 2068-2; 1951 c 298 s 1; 1953 c 176 s 1.

275.27 CONTRACTS IN EXCESS VOID; LIABILITY OF OFFICERS

HISTORY. RS 1851 c 29 s 6, 12; PS 1858 c 23 s 74, 70; 1860 c 1 s 74, 75; GS 1866 c 11 s 78-80; 1878 c 1 s 114; GS 1878 c 11 s 114; GS 1894 s 1639; RL 1905 s 874; MS 1927 s 2070.

If the school district has sold bonds which are outstanding to the limit allowed by section 475.53, it cannot incur further indebtedness. It may, however, use money in the treasury to build or equip new buildings. OAG Dec. 22, 1950 (159-A-4).

It is the duty of a school board to refrain from incurring an obligation on the part of the district for additional contracts, which create an obligation on the part

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of the school district to pay money in excess of that available in the treasury for the purpose, plus any sums which have been authorized by the people to be provided by the issuance of bonds. Under the provisions of section 475.73, the bonds having been authorized, the money may be obtained either from the state investment board, or by selling the bonds to the public, the board making the best bargain under the circumstances. In an emergency the school board may transfer moneys in the maintenance fund to the building fund to assist in completing the buildings being constructed. OAG Sept. 2, 1949 (159-A-20).

A municipality may incur expenses payable solely from the profits of the municipal liquor store. OAG March 28, 1947 (218-R).

A village may buy a building for a municipal liquor store on contract, provided that deferred payments are to be made only out of the profits of the village municipal liquor store. Unneeded space in the building may be rented during such period as it is not needed for municipal purposes. OAG July 13, 1948 (218-R).

Where money is available the village council may remodel the village hall and build a fire hall without an election on the question. OAG July 20, 1949 (469-C-6).

275.28 TAX LISTS

HISTORY. 1860 c 1 s 42; GS 1866 c 11 s 50; 1874 c 1 s 106, 107; 1878 c 1 s 50, 52; GS 1878 c 11 s 50, 52; GS 1894 s 1559, 1561; Ex1902 c 2 s 87; RL 1905 s 875, 876; MS 1927 s 2071, 2072.

Tracts of land granted to railroad companies which now own them, by territorial charter and which have remained in the ownership and possession of the same railroad companies ever since the date of acquisition, cannot be placed on the tax rolls even though they do not constitute part of the right of way and are not being used for railway purposes. OAG March 29, 1948 (414-D-13).

275.29 ABSTRACT TO STATE AUDITOR

HISTORY. 1861 c 1 s 11; GS 1866 c 11 s 52; 1874 c 1 s 71; 1878 c 1 s 51; GS 1878 c 11 s 51; 1885 c 2 s 3; GS 1894 s 1560; RL 1905 s 877; MS 1927 s 2073.

Where real estate was described in terms familiar only to surveyors, the property was not described with sufficient definiteness so that the auditor could properly use the description for the purpose of listing property for assessment, taxation, delinquent real estate tax proceedings, and forfeiture. OAG Dec. 27, 1951 (474).

275.32 LIMIT, TAX LEVY

HISTORY. Amended, 1953 c 183 s 1.

275.33 LIMITATION OF EXPENDITURES

Towns are not permitted to contract or make expenditures in any calendar year in excess of the amount of taxes levied plus unexpended balances. OAG May 11, 1953 (707-A-14).

275.37 Repealed, 1953 c 29 s 1.

275.41 WHICH CENSUS GOVERNS

A tax levy authorized under section 423.376 is within the per capita tax limitation of section 275.11. OAG Dec. 8, 1950 (519-C).

275.44 CERTAIN VILLAGES AND CITIES, LIMITATION OF TAX LEVY

The village council may spread as a special levy the expense of auditing the books of the village water, light, power and building commission by the public examiner even though it is above the existing per capita limitation. OAG May 12, 1948 (353-A-3).

The legislature, by enacting section 275.44, at a session later than the one enacting section 215.24 did not manifestly intend to repeal section 215.24 but effect must be given to both sections, and the special provision in section 215.24 must be considered as an exception to the general provisions of section 275.44 so that an examination being made by the public examiner, the cost thereof may be spread as a special levy over and above the \$50 per capita limitation. OAG May 12, 1948 (353-A-3).

CHAPTER 276

COLLECTION, ACCOUNTING, DISTRIBUTION

276.01 LISTS TO TREASURER

The tonnage tax paid on the watercraft in 1952 is in lieu of a personal property tax on such craft levied in 1952 for the year 1952 and payable on and after the first Monday in January, 1953. OAG May 7, 1952 (421-C-4).

The 1939 tax did not accrue on May 1, 1939, when it was levied, but it did accrue on the first Monday of January, 1940, when it became payable. The French and Latin origins of the word "accrue" and its derivatives justify the idea that anything "accrues" when it attaches itself to something else. In that sense, "accrual" is synonymous with "accretion." OAG Oct. 7, 1949 (425-C-17).

Current taxes are not payable until after the first Monday of January next following the assessment. OAG Jan. 14, 1953 (817-F).

276.02 TREASURER TO BE COLLECTOR

Taxes on real estate do not constitute a personal obligation of the land owner, and one voluntarily paying taxes on land owned by another cannot recover from the owner the amount so paid, and in condemnation proceedings where the state sought to have deducted from the verdict in favor of the property owner certain tax payments made by the University of Minnesota, the decision must be adverse to the state's claim with respect thereto. State ex rel v Barrett & Zimmerman, 228 M 96, 36 NW(2d) 590.

276.03 TREASURER TO COLLECT LOCAL ASSESSMENTS

A county treasurer may not accept payment of a general tax without it being accompanied by payment of a special assessment certified to him for payment against the same parcel of land. OAG March 23, 1950 (450-F-7).

276.04 NOTICE OF RATES

Unless expense is incurred in the preparation of duplicate tax lists, no payment is authorized. This may be paid to any person including a part-time employee of the county treasurer's office, but if the county treasurer does the work himself he is not entitled to compensation. OAG Dec. 28, 1951 (450-C-5).

276.10 APPORTIONMENT AND DISTRIBUTION OF FUNDS

Under the municipal housing authority act disbursement of tax proceeds is by the county treasurer. OAG Nov. 23, 1948 (430).

In the township of Rose, when the village of Roseville was incorporated, no village existed in the township. Thereafter, the voters determined to form a separate election and assessment district effective June 1, 1948. Under court proceedings, it was determined that the village of Roseville could be paid the taxes on personal property assessed on May 1, 1948, within the village of Roseville. On May 21, 1949, the village of Lauderdale was formed out of a part of the remaining Rose township