

FINANCE, TAXATION, SPECIAL ASSESSMENTS

CHAPTER 426

FINANCE, TAXATION

426.01, 426.02 Repealed, 1949 c 119 s 110.

426.03 Repealed, 1949 c 303 s 1.

426.04 TAXES FOR GENERAL PURPOSES

HISTORY. 1911 c 318 s 1; MS 1927 c 1727; 1951 c 317 s 1.

Except when power of taxation is granted to municipalities, taxing power is exercised solely by the legislature, and the burden of establishing the validity of its taxing power rests on the municipality. *Carter v City of St. Louis*, 203 SW(2d) 438.

City of St. Louis "earnings tax" of one-fourth of one percent on gross salaries, wages, and commissions, and on profits, covering not only residents but nonresidents, with respect to activities in St. Louis, imposed for general revenue purposes, is not a "license" tax under police power, but a species of "income tax" or "excise tax." Notwithstanding the liberal charter provision, such tax was not within the city's power. All who go to a city must obey its police regulations and some excise taxes, especially if they are pseudo-regulatory and therefore partake of the police power, but generally, such taxes are imposed only on citizens or residents of the jurisdiction. *Carter v City of St. Louis*, 203 SW(2d) 438.

The general levy in cities of the fourth class may be 25 mills. A levy in addition to the levy of 25 mills which is permitted for general city purposes under section 426.04, may be made for library purposes under section 134.08, and for fire department relief fund under section 424.20, and for municipal band fund under section 449.09. OAG June 14, 1948 (59-A-49).

The council is without authority to obligate its city beyond the revenues then in possession of such city or embraced in its then current and uncollected tax levy. If the city enters into an agreement in excess of the amount authorized by section 411.40, the officers might incur a personal obligation to perform but the city would be in no way obligated by the agreement. Where warrants are legally issued in anticipation of taxes that are legal obligations of the city, the holder of such warrants may require the officers to perform their duties and pay such warrants when the taxes have been collected and are available for that purpose. OAG July 14, 1948 (519-C) (59-A-49).

Section 426.04 authorizes the governing body of the city of Benson to make an annual tax levy against the taxable property of the city for all general city purposes at not to exceed 25 mills on the dollar on the taxable property of the city. OAG Sept. 18, 1950 (519-C).

The millage limitation prescribed by section 426.04, as amended by Laws 1951, Chapter 317, governs over the New Ulm charter provisions. OAG May 25, 1951 (519-C).

Sections 426.04, as amended by Laws 1951, Chapter 317, authorizes the city of Wabasha to levy a tax in excess of the rate limitation imposed by its charter. OAG Sept. 26, 1951 (519-C).

426.05 WHEELAGE TAX

HISTORY. 1921 c 454 s 1; MS 1927 s 1391; 1947 c 613 s 1; 1951 c 692 s 1.

426.06, 426.07, 426.075 Repealed, 1949 c 119 s 110.

426.08 PUBLIC ACCOUNTANTS IN VILLAGES

HISTORY. 1937 c 215 s 1-3; 1953 c 535 s 1.

Under the provisions of section 426.08, as amended by Laws 1953, Chapter 535, a village may employ a public accountant to audit and examine its books. OAG June 30, 1953 (353-A-3).

426.09 LOCAL IMPROVEMENT FUND, CITIES OF SECOND CLASS

HISTORY. 1921 c 282 s 1; MS 1927 s 1664-29; 1951 c 112 s 1.

No authority exists permitting the city of Winona to issue refunding certificates under the provisions of section 426.09. OAG Sept. 27, 1949 (59-A-51).

426.12 STATEMENTS TO CITY COMPTROLLER; CONTRACTS

When a municipality engages in the manufacture, sale, and distribution of electrical energy it acts in a proprietary capacity and has generally the same powers as a natural person. Contracts made by a municipality for the sale and distribution of electrical energy may be modified, amended, or abrogated by mutual consent. OAG March 25, 1948 (624-C-2).

426.19 MUNICIPAL LIQUOR STORE PROFITS

Revenue warrants to raise funds to improve the streets, being payable solely from the profits of the municipal liquor store, may not be issued except on the approval of the electorate. OAG Sept. 22, 1948 (218-H).

Members of the village council may not be paid for looking after the affairs of the municipal liquor store. Liquor store funds may be used for improving the village hall. Profits of the liquor store may be used for sewers and water mains, but before being irrevocably pledged for such purpose, there must be an election on the question. OAG Jan. 17, 1947 (218-R).

Profits derived from the operation of a municipal liquor store may be used for any authorized city purpose. OAG June 12, 1947 (218-R).

Because of its police powers a village may not covenant that it will continue to operate a municipal liquor store until all the warrants issued to finance the store are paid. It may provide that if the municipal liquor store be continued all available assets of the store may be sold to constitute a fund to be used to retire the warrants or to apply on their payment. OAG May 24, 1948 (218-R).

When excess revenues are pledged pursuant to section 426.19 such revenues must be applied in accordance with the provisions of bonds, warrants, or certificates of indebtedness as long as the village operates a municipal liquor store and such indebtedness remains unpaid. OAG June 14, 1948 (218-R).

The pledge of profits from a municipal liquor store must be authorized at a general election or at a special election called for that purpose. "General election" means an annual village election. OAG Oct. 14, 1948 (218-R).

A village council may devote excess revenues in the liquor fund to the building of a sewer system. No election is necessary except to pledge all or part of such revenue for the payment of bonds or warrants issued for such purpose. OAG Nov. 19, 1948 (218-R).

A village may operate a municipal liquor store and provide a building therefor. It may issue revenue warrants payable solely out of the net profits of the store and use these funds in accordance with the terms of the resolution authorizing the issuance of the warrants, including the construction of a building. OAG Aug. 30, 1950 (218-R).

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427.01 DEPOSITORIES, CITY AND VILLAGE FUNDS

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Where there has been a vote of the people to use liquor store funds for the payment of certain bonds and warrants but no proposal has been made for the issuance of such bonds or warrants, the council may use the funds for other purposes. OAG March 30, 1951 (218-R).

The profits of a municipal liquor store may not be pledged for the payment of municipal obligations other than for sewer and water purposes. OAG April 9, 1953 (218-R).

Liquor store profits may be pledged for the payment of the cost of constructing a village water system. OAG March 9, 1948 (476-A-4).

Municipal liquor store profits may be pledged for the payment of the cost of constructing a water system in the village. OAG March 19, 1948 (476-A-4).

CHAPTER 427

DEPOSITORIES, CITY AND VILLAGE FUNDS

427.01 DEPOSIT OF PUBLIC FUNDS

HISTORY. 1895 c 8 s 86; 1903 c 18 s 1; RL 1905 s 774; MS 1927 s 1841.

Under its charter, the city of Fergus Falls may not deposit certain funds in United States government bonds. Any deposit made must be in accordance with the statutes. OAG Dec. 24, 1951 (59-A-22).

Where village funds are carried in depository's books in separate accounts the federal deposit insurance covers the village to the extent of \$5,000 on each account. OAG Feb. 28, 1949 (144-B).

427.02 DEPOSITORIES

Under the city charter of the city of Austin, the city treasurer is absolutely liable for any loss of city funds and may designate the depository. Under the statute depositories are designated by the city council and where two depositories are designated and qualify, the city council cannot compel the treasurer to deposit any particular amount in either depository. OAG Dec. 8, 1948 (140-B-6).

427.07 WITHDRAWAL OF FUNDS

Under the charter of the city of Austin, the city treasurer is absolutely liable for any loss of city funds and may designate the depository. Under the statute depositories are designated by the city council and where two depositories are designated and qualify, the city council cannot compel the treasurer to deposit any particular amount in either. OAG Dec. 8, 1948 (140-B-6).

427.12 WARRANT AS CHECK ON CITY DEPOSITORY

HISTORY. 1953 c 319 s 6.

CHAPTER 428

PUBLIC IMPROVEMENTS, CERTAIN CITIES

428.01-428.55 Local, applicable only to Winona.

428.56-428.62 Repealed, 1953 c 398 s 13.