465.63 MUNICIPAL RECORDS, DESTRUCTION AUTHORIZED

HISTORY. 1953 c 324 s 1-3.

465.64 FLOOD EMERGENCY FUNDS, CITIES SECOND CLASS

HISTORY. 1953 c 697 s 1.

465.65 CERTIFICATES OF INDEBTEDNESS; AUTHORITY TO ISSUE

HISTORY. 1953 c 697 s 2.

465.66 CERTIFICATES OF INDEBTEDNESS; SALE; FORM AND CONTENTS; RECORDS; PROCEEDS

HISTORY. 1953 c 697 s 3.

465.67 CANCELATION OF CERTIFICATES

HISTORY. 1953 c 697 s 4.

465.68 LIMITATION ON AMOUNT OF CERTIFICATES OUTSTANDING

HISTORY. 1953 c 697 s 5.

MUNICIPALITIES

CHAPTER 470

MUNICIPALITIES EMERGENCY ACT

470.01-470.11 Repealed, 1949 c 297 s 1.

CHAPTER 471

SEVERAL POLITICAL SUBDIVISIONS

471.01 PUBLIC BUILDINGS IN CERTAIN SUBDIVISIONS; RECORDS OF WORK; PUBLICATION

Right of a licensee under a city ordinance to challenge constitutionality of the ordinance. 35 MLR 664.

Municipalities possess only those powers granted in express words or necessarily or fairly implied in the powers granted. The city of Rochester is without authority to enter into a contract providing for progress payments in advance of delivery. OAG Sept. 11, 1951 (707-B-1).

471.02 CONTENTS OF RECORDS AND ACCOUNTS

A school district may employ day labor to accomplish improvements and repairs on a school building. Materials purchased in excess of $1,000 in value must be purchased on bids. Where any day labor is involved, section 471.01 must be observed. OAG June 29, 1951 (707-D-4).

471.15 MUNICIPALITIES MAY ACQUIRE AND OPERATE RECREATIONAL FACILITIES

Where an owner made a plat of his land and therein dedicated a part of it as a public square for public use the use of this land for a high school athletic field and playground is unlawful as inconsistent with the interests intended by the dedicator. Headley v City of Northfield, 227 M 448, 34 NW(2d) 606.

A city may not appropriate funds to assist in a Boy Scout recreational program. OAG July 12, 1948 (59-A-3).

Where the council under the charter might acquire private property for public buildings, streets or "grounds," lands outside the corporate limits may be condemned for recreational purposes. OAG June 25, 1947 (59-A-40).

A school district is without authority to agree to pay or to pay part of the cost of installation of equipment for the street lighting system, nor can the district become a tenant in common in the ownership of real estate. A city should sell its surplus real estate, not lease it. A city may enter into a joint recreational arrangement with a school district. OAG Oct. 23, 1950 (159-B-8); (59-A-40).

Municipal liquor store surplus funds may be used by a village to install flood lights in connection with a recreational facility. OAG Oct. 16, 1947 (59-B-11).

A city may install flood lights on a school athletic field where the city is operating a recreational program in cooperation with the school district. OAG July 19, 1949 (59-B-11).

Sections 471.15 and 471.16 are sufficient to include and affect cities established under special laws; and this not withstanding the provisions of Minnesota Constitution, Article IV, Section 33. Under the above cited sections, the city may within the discretion of the city council establish and maintain recreational facilities on city-owned property, or it may lease city-owned property not otherwise being used, to private parties for recreation facilities, the lease being a revocable lease; or it may join with other public corporations or organizations such as are mentioned in section 471.15. The city may act independently or cooperatively as stated in section 471.16. OAG Oct. 21, 1947 (59-B-11).

Any city, however organized, may through its council join with any organization noted in section 475.15 in a program of recreational activities. OAG Oct. 31, 1947 (59-B-11).

A municipality has power to build a recreation building under its recreational program. Issuance of bonds for such a purpose must be voted upon. Under the charter of the city of International Falls the question whether a building should be constructed must be submitted to the electors under the initiative and referendum provisions. OAG March 12, 1948 (59-B-11).

A city park board created by the city charter may operate a recreational program under section 471.15 and under an ordinance to that effect adopted by the city council. OAG May 11, 1948 (59-B-11).

The city council may appropriate money for a recreational program without a vote of the people; and may acquire recreational grounds under a 99-year lease and improve the grounds for recreational purposes. OAG Feb. 3, 1949 (59-B-11).

When a joint recreational board has been established, the city or school board may spend public money for equipment by direct appropriation and without going through the recreational board. Disbursements of the recreational board do not require approval by the school board or by the city council if the powers conferred upon the recreational board are sufficiently broad. The recreational board has no authority to finance athletic contests. OAG March 15, 1950 (59-B-11).

Under the provisions of sections 471.15 to 471.19 the city of Brainerd may lease the ball park owned by a nonprofit corporation even though the corporation retains the use of the park for two days of the week. OAG May 11, 1950 (59-B-11).

Where a school district desires to enter into contract with a city for the use of the city's lighted ball field for a period of ten years, the proposed arrangement

should be by written agreement between the city and the school district and both the city council and the school board should adopt appropriate agreements. While the contract extends beyond the powers of the members of the council and the members of the school board, it is quite probable under sections 471.15 to 471.19 that the contract would be valid. OAG April 3, 1951 (59-B-11).

The city of Hutchinson may operate a program of public recreation and playgrounds and for that purpose may acquire, equip, and maintain land and buildings and other recreational facilities. OAG May 25, 1951 (59-B-11).

Where a recreational director is employed by a joint recreational board by a contract in writing, he is entitled to no compensation for the use of his personal automobile unless the contract so provides. OAG Oct. 4, 1951 (59-B-11).

A county may operate recreational facilities acting independently or in cooperation with other named bodies and may expend money for that purpose when such money is available. In its cooperation with another body named in section 471.16, it may form a recreational board. The activities may be implemented upon the property under county management, public property under the custody of other cooperating bodies, and private property with the consent of the owner. The county or the recreational board may accept gifts and may employ directors and instructors. The limit of expenditures is controlled by the county board for the county and by the governing boards of other cooperative bodies. The board in making up its budget, includes the amount to be raised. The form of recreation is within the discretion of the county board, or the recreational board if one is created. OAG March 9, 1948 (145).

Where a recreational board is created by the city of Virginia and the school board of that city, the authorized moneys of the city and school board may not be used for the exclusive benefit of the school but the school district may purchase athletic equipment, using school auxiliary funds therefor. Funds may be used for the expense of putting on a contest and the responsibility is with the board and any disbursement should have a reasonable relation with the statute. OAG Jan. 18, 1949 (158-A-16).

In contemplating any joint recreational activity the statutes should be followed and the school board, upon authority granted at the annual school election, should make a contract in writing with the city, which contract should define the rights of the respective parties in the physical property. A long-term lease is not necessary. A conference should be had to decide upon the ultimate purpose of the activity and the contract should state the terms agreed upon in each individual case. OAG March 31, 1949 (159-B-1).

Since the town of Stuntz is not eligible to operate under sections 471.20 to 471.23 under which Hibbing and its school district operates, and since the village and the school district are not eligible to operate under sections 475.15 to 475.19, no cooperative agreement can be made between the town, the village and the school district which will be effective to enable the three of them to operate a joint recreational program. OAG Feb. 2, 1951 (159-B-1).

A village may enter into a program with a school district without a vote of the people so authorizing. OAG Oct. 30, 1952 (159-B-1).

Where no money has been voted for that purpose a common school district may not expend money for the establishment or operation of a skating rink. OAG Dec. 29, 1952 (159-B-1).

Authority delegated to a joint recreational board may not be further delegated. OAG May 13, 1953 (159-B-1).

Where a school district wishes to install lights on a football field owned by the city, the installation may be effected under a joint recreational program entered into by the school district and the city. OAG Nov. 19, 1953 (159-B-1).

A village may enter into joint recreational program with a school district under the provisions of sections 471.15 to 471.19, but it may not donate money to the school district to equip a gymnasium. OAG Nov. 19, 1953 (159-B-1) (476-B-10).

Where a school district which was included in a reorganization had an agreement with a village for the operation of a joint recreational program and the agreement was not for any specified time, the agreement could be terminated after the reorganization is completed. OAG Feb. 13, 1952 (166-E-4).

Subject to the limitations contained in sections 471.20 to 471.23, a village under authority granted by section 471.15 may expend liquor dispensary funds for recreational activities. OAG May 6, 1948 (218-R); OAG May 20, 1949 (218-R).

A town may spend money on a public recreational program. OAG July 27, 1949 (440-A-19).

The use of a village-owned baseball field may be granted to a private organization on the condition that the public use thereof is in no way denied. OAG May 1, 1947 (469-C-8); OAG Oct. 2, 1947 (469-A-9).

The village has the right to lease unused village property for such length of time as the property will not be needed by the village and at best prices obtainable. Where citizens lease such land for the purpose of establishing a baseball field the village may grant to such citizens a revocable license permitting the licensees the established lighting facilities for night games. The citizens would have to remove the lighting equipment upon revocation of the license. A village may accept gifts for a recreational program. Any such arrangement would be terminable when and if the village has other public use for the property. OAG Oct. 2, 1947 (469-A-9).

A village is without authority to acquire property and lease it back to a private corporation and a village cannot acquire property subject to a covenant to pay off the obligations of the private corporation. OAG Dec. 15, 1950 (469-A-12).

The village of Deer River, having received a donation of 2,200 acres of tax-forfeited land for a recreational park, game refuge, forest improvement area, and other outdoor recreational purposes, has authority through its village council to manage said lands for the purpose for which same was acquired, to perform selective cutting of trees growing thereon provided that such cutting does in fact improve the area for park and recreational purposes. As no application has been made to the commissioner of conservation for a municipal forest, as required by law, the village does not have authority to cut timber thereon for municipal forests or other purposes. OAG Dec. 23, 1948 (469-C-8).

A public works reserve fund created pursuant to Laws 1943, Chapter 437, may be used for installing electric lights on the athletic field and for other improvements in connection with the recreational center as a playground. OAG June 25, 1948 (476-B-10).

A municipality may build a recreational building without the vote of the people and finance the expense by issuing warrants within permissible limits for the construction of the building; but if the full faith and credit bonds of the village are to be issued, a vote of the people is necessary. OAG Sept. 30, 1948 (476-B-10).

The provisions of sections 471.15 to 471.19 do not apply to a municipality where the provisions of sections 471.20 to 471.23 apply. Section 471.16 is authority for an appropriation by the village to a joint recreational board. A vote of the people need not be taken. OAG Nov. 24, 1948 (476-B-10).

A village may operate a program of public recreation and expend funds for that purpose. It may include in a program of recreation the showing of free outdoor movies. OAG June 28, 1949 (476-B-10).

While a village is authorized to operate a program of public recreation and playground, such a program must be operated for public purposes and not for profit or gain. Warrants payable solely out of the revenue derived from the operation of the recreational field are not authorized. A recreational field for profit making is not a public convenience as defined in Laws 1949, Chapter 682. OAG Oct. 29, 1949 (476-B-10).

A village may issue warrants to pay the cost of improving recreational facilities but the warrants must be payable solely out of the revenue derived from operation of the facility. OAG Dec. 16, 1949 (476-B-10).

Where political subdivisions agree upon joint recreational activities under sections 471.15 to 471.23 village funds may be used for the purpose of erecting a permanent building on real estate owned by the school district in which to conduct joint recreational activties. The village cannot donate funds to the school district for that purpose. OAG May 5, 1952 (476-B-10).

While the operation of a program of public recreation is not a moral or regular function of the county welfare board, the county welfare board of Hennepin county has authority to operate a program of public recreation, funds being available for that purpose. The funds for the operation of the program of public recreation must be appropriated from general funds. Money appropriated for the use of the county welfare board, under section 393.08, cannot be used to finance a recreational program. OAG July 16, 1948 (519-D).

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

Sections 471.15 to 471.19 authorize any school district or any board thereof to acquire, equip, maintain land and facilities, and to operate recreational fields and buildings, and expend therefor available funds. This whenever the provisions of sections 471.20 to 471.23 do not apply. This may be done without a vote of the people, or as required under sections 125.06 and 125.13. If the grounds to be acquired are adjacent to the school site the land may be condemned under the provisions of Chapter 117. OAG Nov. 7, 1947 (622-B).

A vote of the people is not required to acquire land for recreational purposes, either by purchase or condemnation. OAG Nov. 7, 1947 (622-B).

Although section 125.06 requires the authority by the voters before a schoolhouse site may be acquired by the district this requirement would not apply where the school board has such money available and desires to purchase an athletic field near the school house site being detached therefrom. Accordingly, the school board may acquire the tract for an athletic field without a vote of the people authorizing the acquisition. OAG Feb. 3, 1950 (622-B).

The word "acquire," as used for the acquisition of lands for a recreational program under section 471.15, the money being available or bonds having been voted, probably includes purchase or condemnation under the provisions of chapter 117 of the statutes. OAG Aug. 13, 1952 (622-B).

Where a city and school board jointly operate a swimming pool each is liable for the negligent acts of its officers or agents in maintaining the pool, if a charge is made; but if there is no charge, there is no liability. OAG Aug. 9, 1951 (844-F-3).

A school district is not liable for injuries suffered by a pupil on a school playground. OAG Nov. 7, 1951 (844-F-4).

471.16 MAY ACT INDEPENDENTLY OR COOPERATIVELY

In order for a city or village to cooperate with a school district under section 471.16 and operate joint recreational activities, the school district must be so authorized by a vote of the people, but that is not the case as to the city or village. Profits realized by a city from operation of its liquor store and not required for its continued operation may be transferred to the general revenue fund and used for any legitimate purpose for which the city is permitted by law to spend money. OAG Oct. 3, 1947 (59-B-11) (218-R).

When a joint recreational board has been established, the city or school board may spend public money for equipment by direct appropriation and without going through the recreational board. Disbursements of the recreational board do not require approval by the school board or by the city council if the powers conferred upon the recreational board are sufficiently broad. The recreational board has no authority to finance athletic contests. OAG March 15, 1950 (59-B-11).

Where a recreational board is created by the city of Virginia and the school board of that city, the authorized moneys of the city and school board may not be

used for the exclusive benefit of the school but the school district may purchase athletic equipment, using school auxiliary funds therefor. Funds may be used for the expense of putting on a contest and the responsibility is with the board and any disbursement should have a reasonable relation with the statute. OAG Jan. 18, 1949 (159-A-16).

A community band may be maintained and a school district may include an item in its budget for a tax levy to cover its reasonable share of a joint recreational program expense where they are cooperating with the village. Transportation of pupils to and from band practice is not authorized. OAG Dec. 17, 1952 (159-A-16).

Under the provisions of section 471.15 a school district and a village may cooperate to establish and maintain recreational facilities. The power to enter into such an arrangement can be given by the voters of the school district at the annual meeting. Authority being granted, the board should adopt a resolution outlining the plan. A similar resolution should be adopted by the village council. If money is required it must be raised by taxation or contribution. Bonds may not be issued for the purpose. OAG Aug. 11, 1947 (159-B-1).

A school board may enter into a joint recreational agreement with organizations listed in section 471.16, authority having been granted at a special election. OAG March 14, 1947 (159-B-1).

Before a school board may enter into an agreement with a city or village to operate joint recreational facilities the action must be authorized by a majority vote at the annual school election, and the only limitation as to the fund from which the school may make the disbursement is that it cannot be expended from funds which are dedicated to another purpose. OAG Feb. 9, 1948 (159-B-1).

Where the city of Hastings and special school district No. 26 desire to participate in the maintenance of a recreational program, the school district may not join in such an agreement unless authorized by a majority vote cast in an annual school election. OAG June 4, 1948 (159-B-1).

An agreement between a city and a school district for a joint recreational program should be an agreement in writing, executed pursuant to resolution of the governing body of each contracting party. OAG June 19, 1947 (159-B-1).

Section 471.16 vests in the school board the power to cooperate in its conduct of the recreational activities with a city, village, county, town, or an incorporated post of the American Legion, or any other incorporated veterans organization, and may appropriate money to a joint recreational board to be dispensed by such board. OAG Aug. 6, 1948 (159-B-1).

A school district may enter into a contract with others for the purpose of joint recreational activity but its authority is limited by the language of the section. It may enter into a contract with any one of the corporations designated. If the village desires to build an arena on school property, authority to do so is found in section 471.16. OAG March 2, 1949 (159-B-1).

Where a school district and the city contract for a joint recreational program, and the execution of the project requires that money from one body be paid to the other because of the fact that one contracting party has paid out more than it agreed to pay, and the other has paid out less, then such payment should be made directly from one to the other. OAG March 24, 1949 (159-B-1).

The drainage laws being complied with, a school board may drain land for the purpose of making its school site more useful without a vote of the electorate. OAG June 6, 1952 (159-B-1).

A city, school district and county may cooperate in recreational activities although the city and school district have theretofore established their own recreational activities. OAG May 28, 1952 (159-B-1).

A school district may join with a city in setting up a joint recreational children's swimming program and furnish gas, oil, and a bus driver for transporting the people from the downtown area to the beach. OAG April 7, 1951 (158-B-1).

A recreational program operated by a school district without the cooperation of any other public corporation need not be authorized by a vote of the people. OAG Dec. 12, 1951 (159-B-1).

An assessment of a city against a property of a county benefited by an improvement may be collected to the same extent as if the property were privately owned. OAG Aug. 31, 1950 (408-C).

Under proper agreement entered into through resolutions and contracts, a village may furnish funds to construct a building on school property to be used in joint recreational activities. OAG April 18, 1949 (476-B-10).

A county board and the welfare board may cooperate in a program of public recreation in any manner in which they mutually agree and whatever they do must be done on the basis of cooperation and not on the basis of delegation of functions by the county board to the welfare board. OAG July 16, 1948 (519-D).

When the voters have authorized a recreational program under the provision of section 471.16, the school board may acquire land without again submitting the question to the voters under section 125.06. OAG Oct. 17, 1947 (622-B).

A school board may acquire a school athletic field detached from the school site without an authorizing vote of the people. OAG Feb. 3, 1950 (622-B).

Where a joint recreation board is established by a school district, a city, and a county the board must follow the requirement relating to purchase by bid. OAG Jan. 31, 1952 (707-A-4).

471.17 LOCATION OF ACTIVITIES

School districts are without authority to agree to pay or to pay part of the cost of the installation of equipment for a city street lighting system. OAG Oct. 23, 1950 (159-B-8).

The village has the right to lease unused village property for such length of time as the property will not be needed by the village and at best prices obtainable. Where citizens lease such land for the purpose of establishing a baseball field the village may grant to such citizens a revocable license permitting the licensees the established lighting facilities for night games. The citizens would have to remove the lighting equipment upon revocation of the license. A village may accept gifts for a recreational program. Any such arrangement would be terminable when and if the village has other public use for the property. OAG Oct. 2, 1947 (469-A-9).

471.19 RECREATIONAL PROGRAM TO BE FOR EDUCATIONAL PURPOSES

Where the owner made a plat of his land and therein dedicated a part thereof as a public square for public use, use of the land dedicated as a public square for a high school athletic field and playground, though a "public use" would be unlawful as inconsistent with and destructive of the uses intended by the dedicator. Headley v City of Northfield, 227 M 458, 35 NW(2d) 606.

A school district is without authority to become a tenant in common in ownership of real estate and the city may sell surplus real estate but not leases. It cannot enter into joint recreational arrangement with another school district. OAG Oct. 23, 1950 (59-A-40).

Where a school district desires to enter into contract with a city for the use of the city's lighted ball field for a period of ten years, the proposed arrangement should be by written agreement between the city and the school district and both the city council and the school board should adopt appropriate agreements. While the contract extends beyond the powers of the members of the council and the members of the school board, it is quite probable under sections 471.15 to 471.19 that the contract would be valid. OAG April 3, 1951 (59-B-11).

Where joint recreational activities between a school district and the city are contemplated, the corporation may deal either with the primary function of the

public school system or extra-curricular activities if in their discretion the controlling boards consider the activity for the benefit of the students. A swimming beach might be considered a proper recreational activity. OAG April 7, 1951 (159-B-1).

A school district may lease its athletic field to various organizations provided that the lease does not interfere with the recreational program. Beer may not be sold upon the leased premises. OAG Sept. 15, 1953 (217-F-1).

Although section 125.06 requires the authority by the voters before a schoolhouse site may be acquired by the district this requirement would not apply where the school board has such money available and desires to purchase an athletic field near the schoolhouse site being detached therefrom. Accordingly, the school board may acquire the tract for an athletic field without a vote of the people authorizing the acquisition. OAG Feb. 3, 1950 (622-B).

471.20-471.23 Repealed, 1953 c 42 s 1.

471.24 VILLAGES AND TOWNS MAY COOPERATE IN SUPPORT OF CEMETERIES

Except under the conditions set out in section 471.24, a town has no power to levy a separate tax for the maintenance of a cemetery. OAG March 19, 1948 (870-I) (519-O).

There is no statutory authority under which a township and a village may jointly purchase or acquire cemetery land, but any town may acquire by purchase or gift land within its limits to be used as a cemetery (section 365.26). A village may purchase and hold cemetery grounds within or without the village limits (section 412.19, subdivision 13). A village may receive by grant, gift, devise or bequest in accordance with the terms of a trust real property for cemetery purposes (501.11 (7)). Any public cemetery association which owns a cemetery within or partly within a village may transfer such cemetery to the village together with the funds and property of such association whether such funds be of trust character or otherwise (306.025). Provision is made for a village or town entering into an agreement with another village or town for maintenance of a cemetery under certain specified conditions (471.24). It would seem that by taking advantage of the above quoted statutes some practical arrangement could be worked out. OAG April 8, 1949 (870-J).

The authority of the village to enter into a maintenance agreement with a village owning a cemetery, to levy a tax or make an appropriation specified in section 471.24, is not affected by the fact that the village owning the cemetery charges a different rate to nonresidents than it does to residents. OAG Sept. 1, 1953 (870-J).

471.26 MUNICIPALITIES MAY CARRY ON CITY PLANNING ACTIVITIES

Except to the extent of making recommendations, the planning commission of the city of Austin has no right to zone property either within or without the corporate limits nor may it lay out streets outside the city limits or pass on plats within two miles of the city limits. OAG May 27, 1953 (59-A-32).

A village may establish a planning commission under section 471.26 and the commission is independent of and is not controlled by the county planning commission. OAG May 25, 1951 (110-A).

471.29 TO APPROVE PLATS

As a prerequisite to the sale or lease of unplatted lands the village council may not so amend its ordinance as to require platting. OAG March 24, 1952 (477-B-34).

471.32 GOVERNING BODY MAY CREATE AND DISSOLVE PLANNING COMMISSION

A member of the village park board may also be a member of the village planning commission. OAG July 1, 1948 (358-E-1).

A member of the planning commission may be appointed a member of the police civil service commission, but if he accepts that appointment he thereby vacates his position on the planning commission. OAG Dec. 27, 1949 (385-E-1).

471.34 BIDS FOR PURCHASE OF SUPPLIES

Municipal corporations; liability on ultra vires contracts; quasi-contract; ratification. 34 MLR 46.

Where a city invites bids for the furnishing and installation of parking meters according to the city's specifications and the specifications provide that the successful bidder shall furnish and compensate a serviceman to service the meters during the trial period allowed for determining whether the city will keep the meters and the servicing of the meters is of substantial value, an exception in a bid as to the requirement of the city's specifications to furnish and compensate a serviceman to service the meters constitutes a material variance between the bid and the city's specifications which requires rejection of the bid. Coller v City of St. Paul and the Dual Parking Meter Co., 223 M 377, 26 NW(2d) 835.

Where bids are received on items of equipment which are not capable of precise or exact specifications, a municipality may exercise a reasonable discretion in determining who is the lowest responsible bidder and in so doing, may consider, in addition to the bid price, the quality, suitability, and adaptability of the article to be purchased for the use for which it is intended. The court's finding that the plans and specifications here involved were not so vague and indefinite as to stifle competition or so restrictive as to preclude competitive bidding is sustained by the evidence. Sections 471.34 to 471.37 do not apply to contracts for work or services or to contracts for the purchase of supplies and equipment which include also the furnishing of work and labor in connection with the installation thereof. Otter Tail Power Co. v Village of Elbow Lake, 234 M 419, 49 NW(2d) 197.

Members of the school board are prohibited from making a contract in behalf of the board in which they are personally interested; and the board is prohibited from accepting a bid even though no competing bids are available. OAG Nov. 21, 1947 (90-C-4) (707-A-12).

Where a school board purchased a bus on a competitive bid basis and the contractor furnished a later model than that called for in the contract, the board was required to perform the contract as made but had no power to pay an additional amount because of the later model. OAG May 11, 1948 (166-B).

Where identical bids are received a city may accept one of them, if there is no collusion between the bidders. OAG Oct. 2, 1950 (707-A).

A bidder who submits a bid through a material error or mistake may be relieved from the bid. OAG Oct. 31, 1952 (707-A).

Where by its charter or by a state law a city is required to let contracts on bids, where more than a year has elapsed since the calling for bids the city must readvertise. OAG Dec. 10, 1947 (707-A-1).

Where the bids call for work or labor in addition to supplies and equipment, the bid may be accepted even though only one bid is submitted. OAG Sept. 23, 1949 (707-A-1).

Notwithstanding section 471.34, where a county calls for bids on a contract for work and labor and not for the purchase of supplies or equipment, the bid may be accepted even though the only bid. OAG July 12, 1951 (707-A-1).

Where in the advertisement it is required that a certified check accompany the bid, the council may waive the provision and act on a bid accompanied by a check not certified. OAG July 24, 1947 (707-A-3).

Where a city charter requires a bid to be accompanied by cash or certified check, the deposit of a bond is not compliance therewith. OAG Sept. 20, 1949 (707-A-3); OAG April 28, 1950 (707-A-3).

Under its charter the city of Rochester may not accept a higher bid in order to obtain a certain type of equipment. OAG March 14, 1950 (707-A-4).

A bid submitted by telegraph is valid and may be considered by the city council when other competitive bids are opened in accordance with the advertisement for bids. OAG Dec. 7, 1950 (707-A-4).

In determining who is "lowest responsible bidder" the council is not limited to the financial responsibility of the bidder; other essential and favorable factors in the interest of the city may be taken into consideration. OAG Dec. 1, 1952 (707-A-4).

A bid to sell equipment to a county must conform to specifications in the invitation for bids. It is the duty of the board to decide whether or not the bid contains a substantial variance from the specifications. If there is a substantial variance, the board must reject the bid. A single bid cannot be accepted. There must be competitive bids. OAG Aug. 10, 1949 (707-A-7).

When any county calls for bids for the purchase of any supplies or equipment no bids submitted shall be accepted unless competitive bids have also been submitted. OAG Aug. 13, 1952 (707-A-7).

Where bids are received on items of equipment which are not capable of precise or exact specifications, a municipality may exercise a reasonable discretion in determining who is the lowest responsible bidder, and in so doing, may consider, in addition to the bid price, the quality, suitability, and adaptability of the article to be purchased for the use for which it is intended. OAG Aug. 13, 1952 (707-A-7).

Where bids were secured, the board of education could not authorize the addition of several additional classrooms and toilets without securing new bids. OAG May 9, 1950 (707-A-12).

When a school district intends to purchase buses for school district use the invitation for bids should refer to written specifications of such equipment which may be stated in the invitation or filed in a public place to which filing reference is made. Such specifications for the property to be purchased should not exclude all but one type of bus but should include competitive equipment. OAG April 21, 1953 (707-A-12).

471.35 BIDS SHALL NOT BE EXCLUSIVE

A municipality is allowed reasonable latitude in determining what type of equipment would best suit its needs. In purchasing the equipment for a municipal power plant it is not required to prepare its specifications so that every manufacturer of type of equipment could meet the competitive price of every other manufacturer, and the fact that concerns other than the one who bid could not meet the competitive price did not make the specifications too restrictive. Otter Tail County v Village of Elbow Lake, 234 M 419, 49 NW(2d) 197.

Where the village council in calling for bids on three engine units of not less than 1200 h.p. did not make their specifications sufficiently definite and precise to afford a basis on which every manufacturer of units could compete in the bidding, their action was proper and legal if the specifications properly described the kind of unit which they, in their discretion, thought was proper for the purpose for which it was needed. Otter Tail County v Village of Elbow Lake, 234 M 419, 49 NW(2d) 197.

Where the estimated cost or value of the thing to be purchased exceeds $500, the purchase is competitive and the school district must advertise for bids or proposals. OAG Dec. 3, 1948 (707-A-12).

Where the thing sought to be purchased or contracted for is not entirely subject to exact specifications, as where there are a number of different kinds in the market all meeting the requirements to a greater or less degree, the officers should consider the quality and utility of the thing offered, and its adaptability to the purpose for which it is required. In determining the question as to who is the lowest bidder, the quality of the commodity as well as the price is to be taken into consideration and a bid which is low in point of price may be rejected if the material to be furnished is not the best. Specifications must be written so as to invite competi-

tion and generally speaking, specifications should not be drawn so that only one company can qualify and be a bidder. In any event it is the duty of the school board to award the contract to the lowest responsible bidder of a usable and competitive article. OAG May 28, 1953 (707-A-12).

471.36 APPLICATION

In selecting lowest responsible bidder a municipality may exercise a reasonable discretion. Consideration other than price may be utilized, such as, quality, suitability and adaptability of the article to be purchased for the use for which it was intended. Where it appears that the commission's choice is based upon a substantial difference in quality, suitability, and adaptability, its action will not be interfered with. Duffy v Village of Princeton, ... M ....., 60 NW(2d) 27.

A purchase of a road grader on installments would not eliminate the necessity for bids. In the matter of municipal contracts, section 471.36 does not in any way waive the requirement for bids. OAG July 24, 1951 (707-A-4).

471.37 VIOLATION A GROSS MISDEMEANOR

Municipal corporations; liability on ultra vires contracts; quasi-contract; ratification. 34 MLR 46.

As long as the specifications in the instant inquiry did not contain a uniform form of escalator clause upon which all of the bidders might bid, the letting of the contract to any bidder whose bid contains such an unenacted clause would be improper. If new bids are received after due notice, bids for escalator clauses must not only be based upon specifications setting out standard basis of adjustment, but a maximum cost must be stated in each bid. OAG Nov. 14, 1947 (707-B-7).

A stipulation in a contract for payment of a certain sum per day for each day delayed in completing a contract, as liquidated damages, is enforcible. It must bear some reasonable proportion to the loss actually suffered. It must not be a penalty. OAG Nov. 14, 1947 (844-A-3).

471.38 CLAIMS

HISTORY. Amended, 1949 c 416 s 1; 1951 c 350 s 1; 1953 c 50 s 1.

Under section 387.21, the district court on appeal has the power to fix a sheriff's salary in an amount greater than that suggested by him to the county board in his request for adjustment. The court is vested with wide discretion. Cahill v Beltrami County, 224 M 564, 29 NW(2d) 444.

A contractor may recover in quasi-contract against a municipality for benefits received by the municipality where the contract is made in good faith and within power of the municipality, but the contract is declared void because of noncompliance with details required by statute or charter relating to competitive bidding. Where the contractor installed parking meters pursuant to contract with the city pending a taxpayer's appeal to enjoin performance of the contract and the contract was thereafter declared void, elements of good faith were lacking and the contractor was not entitled to compensation for the use of the meter. City of St. Paul v Dual Parking Meter Co., 229 M 217, 39 NW(2d) 174.

The primary duty of keeping a public sidewalk in reasonably safe condition is upon the municipality and not on the abutting owners or occupants. Benston v Berde, 231 M 451, 44 NW(2d) 481.

Plaintiff brought an action against the United States under the Federal Tort Claims Act for injuries sustained when struck by an army automobile, the defendant filing motion for summary judgment. The court denied the motion on the ground that the record presented an issue of fact as to whether the driver was acting within the scope of his employment when the accident occurred. Clemens v United States, 85 F Supp 463.

The board may pay for goods in advance of their delivery. OAG March 24, 1953 (159-C-9).

Section 471.38 amends the law relating to verified claims against towns and counties, but does not amend the law relating to verified claims against villages and school districts. OAG May 25, 1949 (476-A-5).

Claims against a village, except for wages paid on an hourly or daily basis, shall be itemized and verified by an attached affidavit stating that the claim is just and correct and that no part thereof has been paid. OAG Sept. 18, 1850 (476-A-5).

471.39 Repealed, 1949 c 416 s 3.

471.391 DECLARATION FORM

HISTORY. 1949 c 416 s 2; 1951 c 350 s 2.

Section 471.391, as amended by Laws 1951, Chapter 350, by virtue of Laws 1953, Chapter 50, relates to school districts. OAG July 22, 1953 (396-G-16).

471.392 PENALTY

HISTORY. 1951 c 350 s 3.

471.42 CARRYING INSURANCE

HISTORY. Amended, 1951 c 134 s 1.

Governmental, charitable, and inter-family immunity from tort liability. Effect of insurance on the obligation of the insured. 33 MLR 634, 638, 641.

On behalf of governmental subdivisions the legislature may waiver immunity from suit in negligence cases. A municipality may insure its employees against liability for damages resulting from employee's negligent operation of a motor vehicle while in the performance of his duties as employee. City of St. Paul v Hoffman, 223 M 76, 25 NW(2d) 661.

Where an independent school district carried liability insurance on an automobile driven by school nurses a person injured could not bring suit, as a third party beneficiary, directly against the insurer until they fulfilled the precedent policy conditions, that the district be legally obligated to pay damages and that the amount of its obligation be determined by judgment or written agreement. Schulte v Hartford Accident Co., 102 F Supp 681.

The fact that the liability policy covering accidents occurring in the operation of a school bus insured the school district as well as the employees was not a waiver of the school district's immunity from liability and in no way authorized tort suits against the district. Rittmiller v School District, 104 F Supp 187.

Except where authorized by legislative enactment, a municipality would not be permitted to purchase a comprehensive liability policy covering any municipal function which it exercised in its governmental capacity. In the absence of a specific prohibition, there is authority to the effect that it may purchase such insurance relating to any function which it performs in its proprietary capacity. It may purchase liability insurance to protect employees. OAG July 31, 1951 (59-A-25).

A municipality cannot purchase insurance to protect the city in its governmental activities but may purchase same to indemnify the city in its proprietary functions and may purchase life insurance to protect its employees. OAG July 31, 1951 (59-A-25).

A contract between the American Automobile Association, a public school district, an automobile club and a local Chevrolet automobile dealer, covering a loan of an automobile to the school district for purposes of vocational education involves certain classes of insurance. A school district may purchase only two classes of insurance as prescribed by sections 471.42, 471.43. OAG Dec. 12, 1947 (159-B-4).

There being no statutory authority a joint recreation commission cannot purchase insurance to cover team members being transported in privately owned cars. OAG June 12, 1950 (159-B-4).

A school district while acting in a governmental capacity is not liable to suit in damages by a workman but is liable for workmen's compensation and the district may purchase insurance against liability of employees resulting from the operation of a vehicle. OAG July 17, 1952 (159-B-4) (844-F-6).

A school district may carry insurance on school buses for the protection of school children and employees. OAG Aug. 26, 1952 (159-B-4).

A school board may not purchase accident insurance coverage on a privately-owned vehicle carrying students to school activities. OAG March 25, 1953 (159-B-4).

Where a contract has been entered into by a city to furnish fire protection, the city furnishing such protection is acting in its governmental capacity as fully as though it were furnishing fire protection within its own boundaries, and is not liable for injury caused to persons or property while furnishing such service. The municipality receiving such fire protection is likewise acting in its governmental capacity. OAG April 4, 1950 (688-H).

Ramsey county welfare board has no authority to contribute toward the payment of a judgment for malpractice against the resident doctor employed by it at Ancker Hospital. Laws 1945, Chapter 432, cannot be construed as a waiver of governmental immunity. Procurement of malpractice insurance for the hospital staff has no effect upon governmental immunity. OAG Nov. 17, 1952 (842-C-4).

471.43 PREMIUMS, PAYMENT

HISTORY. 1929 c 81 s 2; 1935 c 338 s 2; 1951 c 134 s 2.

A joint recreational commission of an independent school district and a city may not purchase insurance to cover members of teams competing in athletic contests who were being transported in privately-owned automobiles. OAG June 12, 1950 (159-B-4).

A school district may not purchase insurance on a school bus with a mutual company where its regulations require a membership fee paid in advance and assessments are based upon losses suffered. OAG March 28, 1951 (487-C-5).

471.44 MUNICIPALITIES TO FURNISH COUNSEL TO DEFEND PUBLIC OFFICIALS

The city of Rochester is authorized to accept a legacy providing funds to establish and operate recreational facilities for children under the age of 12 years. OAG May 6, 1947 (12-F-1).

The county may and should furnish counsel to defend the sheriff in actions brought against him for damages for alleged false arrest when the arrest was made by the sheriff in good faith and in performance of his duties. When the arrest was made upon a warrant issued without a complaint being filed which was known to the sheriff and he makes the arrest, no obligation rests upon the county to pay the expenses of his defense. OAG Oct. 21, 1949 (390-A-4).

In a proper case a town may furnish counsel to a constable in defense of a suit of false arrest when the constable acted in good faith and may pay the damages against the constable resulting from false arrest after judgment has been entered and the amount of the damage determined. OAG April 17, 1952 (442-A-1).

When judgment has been rendered against a city policeman in an action to recover damages for alleged false arrest or alleged injury to a person, property, or character, when such alleged conduct was the result of an arrest made by an officer in good faith and in the performance of his duties, the council may appropriate money from any funds available to pay the judgment. OAG Feb. 25, 1953 (785-A).

471.45 COSTS AND DISBURSEMENTS TO BE ASSIGNED TO MUNICIPALITIES

Sections 471.44 and 471.45 are not authority to a town board to pay either council fees or damages to indemnify a justice of the peace against financial losses but are

authority for a town in a proper case to furnish council to a constable in defense of a suit for false arrest when the constable acted in good faith, and for payment of damages against the constable resulting in false arrest after the judgment entered in an amount of damages determined. OAG April 17, 1952 (442-A-1).

471.46 CERTAIN PERSONS INELIGIBLE TO APPOINTMENT TO OFFICE

The office of city assessor in the city of Little Falls is an elective office and a vacancy is required to be filled by appointment by the city council. Section 471.46 is controlling and a city councilman is not eligible to appointment to the office of city assessor and his ineligibility is not affected by his resignation. He cannot resign and accept the job. OAG March 26, 1951 (12-A-3).

In a city where the office of city assessor is an elective office a city councilman who resigns from the council cannot be appointed city assessor. OAG March 26, 1951 (12-A-3).

A member of the county board who resigns may thereafter be appointed supervisor of assessments if the resignation was not prompted by an understanding that such appointment would be made. If there is such an understanding, the appointment would be illegal under the provisions of Minnesota Constitution, Article VII, Section 7. OAG July 25, 1947 (12-F-1).

Under the home rule charter of International Falls a member of the council is not eligible to be elected mayor to fill a vacancy caused by death. OAG Sept. 4, 1953 (61-I).

471.47 CONTRACTS BY VILLAGES OR TOWNS WITH PRIVATE HOSPITALS, CARE OF INDIGENT SICK

The municipal hospital operated by the city of Ortonville fixed the rate for hospital care of indigents and the county is not entitled to a discount from that rate. OAG Oct. 29, 1951 (1001-D).

471.51 AGREEMENTS MUST STATE TIME FOR WHICH PAYMENTS ARE TO BE MADE

In the absence of charter or statutory authority the city of Moorhead may not issue an interest-bearing promissory note to establish an installment schedule for the payment of equipment. OAG Aug. 26, 1952 (59-A-16).

471.56 MUNICIPAL FUNDS

Surplus funds of a municipality not needed for other purposes may be invested in any obligation in which sinking funds are now authorized to be invested. OAG Jan. 10, 1952 (59-A-22).

Surplus funds of the city of Lake City may not be invested in obligations of the Federal Savings and Loan Association nor deposited with the association. OAG July 21, 1953 (59-A-22).

Where electors have rescinded the authority to expend the proceeds of a bond issue for a purpose originally authorized, the proceeds may be invested under the provisions of section 471.56. The proceeds may be used for other public improvements authorized by law if approved by a vote taken in the manner required by law. The right of prepayment of bonds is determinable by the tenor of the bonds. OAG May 9, 1952 (469-A-15).

A village as beneficiary under a will was authorized to invest the principal and use the income for the maintenance and beautification of the Pine Island Cemetery. Investment of this fund must be under the provisions of section 471.56. OAG Sept. 7, 1951 (476-A-8).

The hospital reserve fund of a village which owns and operates a hospital may not be invested in a certificate of deposit of a local bank. OAG Feb. 6, 1952 (476-A-8).

471.57 PUBLIC WORKS RESERVE FUND

Creating a public works reserve fund for a certain purpose does not authorize the use of the fund for the installation in a memorial building or an artificial ice rink for curling purposes. OAG Aug. 13, 1947 (476-A).

A village may build stadia from public works reserve funds. OAG Sept. 10, 1947 (476-A).

The village may install electric lines on an athletic field and make other improvements in connection with a recreational center and draw upon the public works reserve fund for that purpose. OAG June 25, 1948 (476-B-10).

Moneys from the public works reserve fund may be used for street widening purposes. OAG May 20, 1947 (476-B-13).

471.59 JOINT EXERCISE OF POWERS

HISTORY. 1943 c 557; 1949 c 448 s 1-3.

Exercise of joint powers. 31 MLR 59.

The provisions of section 471.59 are valid and constitutional. Kaufman v Swift County, 225 M 169, 30 NW(2d) 34.

In a suit to enjoin defendant county and its officers from executing, selling, or delivering the bonds of the county to pay the county's share of the cost of erecting with the city of Benson a joint city and county hospital pursuant to MSA 471.59, where the determinative question on appeal was whether the trial court's order sustaining defendants' general demurrer to the complaint should be sustained and where plaintiffs challenged the order upon the grounds (1) that the city and the county did not possess a "power common" to both so as to bring them within the authority of the cited statute and, in any event, that the Act violates Minnesota Constitution, Article XI, Section 6, and Article IV, Section 33; (2) that the county auditor erroneously submitted to the voters two questions instead of one; (3) that the joint agreement between the municipalities as provided by the Act had not been made when the decisive questions were submitted to the county's voters and that such agreement was a prerequisite to such submission; and (4) that the statutory debt limit of the county will be exceeded when the obligation of the proposed bond issue is added to its present obligations, upon facts summarized in opinion and for the reasons therein stated, that trial court's conclusion that complaint failed to state facts sufficient to constitute a cause of action should be affirmed. Kaufman v County of Swift, 225 M 169, 30 NW(2d) 34.

A state which authorizes two or more government units to enter into a contract to exercise jointly powers common to each, does not violate the provision which prohibits the drawing of funds from county or township treasury except as authorized by law. Under the provisions of section 471.59, the city of Benson and the county of Swift may join in establishing a hospital, and bonds of Swift county may be issued to pay the counties share. Kaufman v Swift County, 225 M 169, 30 NW(2d) 34.

Two common school districts may jointly engage in the transportation of pupils to a third district for instruction. OAG July 3, 1950 (66-A-4).

A county hospital constructed under section 376.01, et seq., and operated under a board of poor and hospital commissioners pursuant to Laws 1931, Chapter 60, are engaged in the proprietary function and are liable for the negligent acts of their hospital agents or employees and the county may expend funds for insurance to indemnify against damages caused by negligent and tortious acts of such agents or employees. OAG July 8, 1949 (125-A-28).

A village and school district may agree to build a building to be used by them in common but there is no authority under which a village may loan money to the school district. OAG Feb. 27, 1948 (159-B-1) (476-A-10).

A village and a school district may build a building to be used by both and owned in common, and may by their joint action acquire a site therefor. This would

include acquiring land upon which a building might be constructed to be used by a village as a fire station, and by the school district as a garage for its school buses. OAG Oct. 20, 1949 (469-C-5).

Two villages may not have a joint water, light, power, and building commission under section 453.01, but under section 471.59 may agree for the joint operation of a water utility. OAG June 10, 1948 (624-E-5).

The agency created by authority of the provisions of section 471.59 made by agreement within the statutory limitations of sections 365.17, 365.18, determine the proportionate share which the respective government units shall contribute for the purposes provided for in such agreement. The joint power prescribed does not supersede the statutory power or duties of the town treasurer in keeping or disbursing the town funds. Proceeds derived from a tax levy under authority of section 365.18 constitute town funds and should be kept by the town treasurer. OAG Oct. 14, 1953 (688-G).

Where a cooperative agricultural society operated fair grounds, part of which was located in the village and part in a city, the society had control and jurisdiction over the grounds during the time when a fair was being held thereon to the exclusion of municipal regulations. Neither the city nor the village is required to furnish police protection. Neither of the municipalities may promulgate joint licensing ordinances to apply to attractions at the fair. OAG Dec. 21, 1951 (772-C-4).

Winona, a city of the second class, acting by and through its board of fire and police commissioners, may with Winona county, exercising a power common to both, establish, equip, and maintain a joint radio broadcasting station for police purposes. OAG Feb. 17, 1950 (785); OAG Sept. 1, 1950 (785).

Public health nurses employed by Stearns county may not perform public health service in that part of the city of St. Cloud outside the territorial limits of Stearns county. OAG Jan. 2, 1952 (905-J).

In the absence of statutory authority, a town in a county having in excess of 150,000 population is unauthorized to expend town funds for the construction and maintenance of an automatic traffic signal in cooperation with the state highway department at the intersection of a county road and trunk highway. OAG Nov. 17, 1953 (989-A-21).

A county is authorized to acquire lands to construct, maintain, and operate a county hospital, and villages having a population of more than 1,000 and less than 20,000 may own and operate hospitals, and under the provisions of section 471.59 to own and govern. Bodies may jointly exercise powers common to the contracting parties. If under such provisions a jointly owned and operated hospital is constructed and operated upon a sale of the jointly owned hospital, proper distribution of the net proceeds of the sale should be on the ratio of a joint contribution, and a contract between the parties to that effect will be valid and binding. OAG July 20, 1948 (1001-B).

471.60 Renumbered 435.19.

471.61 INSURE OFFICERS AND EMPLOYEES IN GROUP INSURANCE

HISTORY. 1943 c 615 s 1; 1953 c 696 s 4.

Upon an employee's written order, section 471.61 is authority for payroll deductions to be made from his salary for group insurance covering life, health, accident, surgical benefits, and hospitalization insurance or one or more forms thereof, but the city may not out of its funds participate in the plan to an amount equal to the payment of the employee. OAG June 28, 1948 (59-A-41).

Money in a sinking fund cannot be taken therefrom except to pay bonded indebtedness, but after all bonded indebtedness has been paid the balance in the sinking fund may be transferred to another fund where it is needed. OAG Nov. 29, 1951 (159-A-17).

471.62 STATUTES, RULES, OR REGULATIONS MAY BE ADOPTED BY REFERENCE

As the city charter of the city of Faribault requires that a zoning map which is made a part of the zoning ordinance must be published, any publication without showing the map renders the ordinance void because it did not comply with the statute, the ordinance not having been published in full. OAG Jan. 6, 1949 (59-A-32).

471.63 PROMOTION OF SAFETY AND PRESERVATION OF HUMAN LIFE

HISTORY. 1945 c 6 s 1-7; 1949 c 486 s 1, 2.

In the matter of the purchase of a respirator for the preservation of human life in connection with a polio epidemic, under section 471.63, a town may appropriate not more than $500 for such purpose. This may be done by the town board. OAG Nov. 16, 1949 (442-A-2).

471.68 DISTRIBUTION OF PUBLICATIONS BY ANY COUNTY, CITY, OR VILLAGE

HISTORY. 1949 c 438 s 1, 2.

471.69 LIMITATION OF TAX LEVIES

HISTORY. 1931 c 159 s 1, 2; 1937 c 180 s 1; 1949 c 457 s 1.

A county board may not include any portion of the state aid from the gas tax in the computation of the ten percent above the average referred to in section 471.69. The county is limited to the exact words of section 471.69. OAG March 29, 1951 (107-A-1).

A school district may issue warrants on anticipated income until such time as moneys from tax levies and state aid are received. Limitation on the issuance of the warrants may be found in section 471.69. OAG Feb. 28, 1950 (159-C-1).

Section 471.69 is inapplicable to a district wherein the mineral valuation as assessed exceeds 25 percent of the assessed valuation of the real property in the district. OAG April 17, 1950 (159-C-1).

A school district may not issue a warrant to a bank and in effect borrow money from the bank by the warrant. The purpose for which a school district may borrow money is stated in section 475.52, subdivision 5, which does not include the purpose of borrowing money to obtain cash for general purposes of operating the school. The clerk may draw and sign orders upon the treasurer as provided in section 125.25. If there are no funds with which to pay such order it is handled as provided in section 125.28, subdivision 3. OAG May 16, 1950 (159-C-1).

Section 471.69 limits the debt that may be contracted for in a town not having a mineral valuation; the town cannot purchase $15,500 worth of road equipment without calling for bids nor can it purchase road machinery under a conditional sales contract. OAG Aug. 1, 1952 (382-B).

A town board cannot issue tax anticipation warrants against a levy until the levy is in the process of collection. OAG July 26, 1951 (442-B-6).

The duty of making a provision for the poor under the poor law is like the duty of carrying on strictly governmental functions and is mandatory and not discretionary. Where funds for old age assistance or aid to dependent children are not available, the counties may adopt emergency procedure to raise the necessary funds. OAG July 25, 1950 (519-J).

Where a constitutional school district has failed to levy taxes sufficient to maintain schools until July 1 next following reorganization, it may levy taxes for the purpose and issue tax-anticipation certificates. OAG Jan. 7, 1952 (519-M).

Subject to the tax limitations in section 275.09, the town electors determine annually the amount to be expended for fire protection. A contract for fire protection

between a village or a city on the one hand and a town on the other may not exceed one year. OAG Nov. 26, 1952 (688-K).

471.71 DEFINITIONS

HISTORY. 1943 c 526 s 1; 1951 c 63 s 1.

471.72 APPLICATION, PURPOSE

HISTORY. 1943 c 526 s 1; 1951 c 63 s 2.

471.73 ACCEPTANCE OF PROVISIONS

HISTORY. 1943 c 526 s 1; 1951 c 63 s 3.

471.74 BONDS TO RETIRE UNFUNDED INDEBTEDNESS

HISTORY. 1943 c 526 s 2; 1951 c 63 s 4.

471.75 ORDERS, SUFFICIENT FUNDS; CERTIFICATES OF INDEBTEDNESS

HISTORY. 1943 c 526 s 3; 1951 c 63 s 5.

471.76 EXPENDITURES, OBLIGATIONS; CLERK'S STATEMENT

HISTORY. 1943 c 526 s 4; 1951 c 63 s 6.

471.77 INDEBTEDNESS CONTRACTED IN EXCESS OF REVENUE

HISTORY. 1943 c 526 s 5; 1951 c 63 s 7.

471.78 INDEBTEDNESS IN EXCESS OF REVENUE, CONTRACTS VOID

HISTORY. 1943 c 526 s 6; 1951 c 63 s 8.

471.79 ENFORCEMENT

HISTORY. 1943 c 526 s 7; 1951 c 63 s 9.

471.80 APPLICATION

HISTORY. 1943 c 526 s 8; 1951 c 63 s 10.

471.81 CONSTRUCTION

HISTORY. 1943 c 526 s 9; 1951 c 63 s 11.

471.82 REPEALER, EXCEPTIONS

HISTORY. 1943 c 526 s 10; 1951 c 63 s 12.

471.83 SEVERABLE, EFFECT

HISTORY. 1943 c 526 s 11; 1951 c 63 s 13.

471.84 CEMETERIES, APPROPRIATION BY CERTAIN SUBDIVISIONS

HISTORY. 1951 c 121 s 1; 1953 c 281 s 1.

471.85 PROPERTY TRANSFER; PUBLIC CORPORATIONS

HISTORY. 1951 c 176 s 1.

Section 471.85 relates only to the transfer of personal property. When a schoolhouse is personal property this section applies. The transfer may be with nominal, or even without, consideration but must be authorized by the voters. OAG Oct. 29, 1952 (622-I-8).

471.86 FIREMEN, PROTECTION; MOTOR VEHICLES, OPERATION, LOSS FROM

HISTORY. 1951 c 183 c 1-3.

471.87 PUBLIC OFFICERS, INTEREST IN CONTRACTS

HISTORY. 1951 c 379 s 1.

The city council of the city of Little Falls, under its charter, does not have the necessary authority to create the office or committee to assist the city assessor in revaluation of property for ad valorem tax purposes. OAG Sept. 28, 1953 (12-A).

A member of the village hospital board is a public officer and purchases of merchandise for the hospital from a firm of which he is a member is not legally permissible. OAG Jan. 21, 1953 (90-A).

Members of the village council are subject to the provisions of Laws 1951, Chapter 379, prohibiting public officers from having an interest in public contracts. OAG Jan. 17, 1952 (90-A-1).

Where a village enters into a contract for the construction of a sewage treatment plant, the act of the mayor in taking a subcontract for the electric wiring would be contrary to and violative of public policy. OAG May 16, 1952 (90-A-1).

A county board may not enter into a contract in which a county commissioner has a direct or indirect interest. OAG Feb. 9, 1953 (90-B-8).

Where a contractor who made a successful bid for the construction of a new school addition may purchase supplies for said construction from a cooperative association whose manager is a member of the school board but was appointed after the contractor bid and who is paid a straight salary with no commission and who owns only one manager's share of stock in said stock association is determined by section 471.87 and 471.88 and is a question of fact. OAG May 1, 1952 (90-C-1).

A school board member may not sell building material to a contractor who has obtained the contract for building a school in his district. OAG Oct. 5, 1953 (90-C-1).

The city assessor is not an officer who is prohibited from making a contract with the city. OAG Oct. 23, 1952 (90-E).

A public dance hall license or permit is not a contract within the meaning of a law which prohibits a council member from being interested in a contract with the city. The city council may grant a dance hall license to one of the members of the council. OAG Nov. 18, 1952 (802-A-17) (90-E-4).

The principals and sureties of bonds issued under section 340.12 are estopped from denying the validity thereof even though the issue was in conflict with section 471.87. OAG July 25, 1952 (218-L).

Where the clerk of the school board is an officer of a corporation which publishes the only newspaper in the school district, and the board does not unanimously vote to grant contract for publishing proceedings to that paper, the board must seek to secure bids from other papers published in the county. OAG Sept. 18, 1953 (707-A-12).

471.88 EXCEPTIONS

HISTORY. 1951 c 379 s 2.

Where there are two legally qualified weekly newspapers published within the village the exception contained in section 471.88 with respect to official newspapers is not applicable. OAG Jan. 18, 1952 (90-A-1).

A contract between a village and a member of the council may be entered into when the facts are within the provisions of section 471.88, clause (d). OAG Nov. 6, 1953 (90-A-1).

In the village of Bloomington there are two banks. The mayor is a director of one and a member of the council is a director of the other. Neither bank is eligible to be a designated depository. OAG Dec. 14, 1953 (90-A-1).

When the school district designates a depository in accordance with the requirements of section 127.07 the treasurer must deposit school district funds therein, and accordingly, if a certain bank is the only bank in the school district and if the assistant cashier is also clerk of the school district, and is interested in the bank which has been designated as depository, nevertheless, such bank is an authorized depository. OAG Apr. 16, 1952 (90-C-2).

The school board may by unanimous vote contract with the publisher of a newspaper in which a board member is interested if it is the only newspaper complying with the statutory requirements relating to the publication of the board proceedings. OAG Nov. 19, 1952 (90-C-8).

A school district cannot legally make a contract wherein a member of the school board has a financial interest. Where the contract is made in good faith and without collusion but contrary to the statutory requirement, following Kotschever v Township of North Fork, 229 M 234, 39 NW(2d) 107, recovery may be had for benefit actually received. OAG Aug. 19, 1953 (90-C-8).

Where a municipal band director of the city of New Ulm operated a music store, a contract for the purchase of musical instruments requisitioned by the president of the band through the city council from the band director would not be prohibited by the city charter. OAG Dec. 31, 1951 (90-E-5).

A village trustee may not hold an appointive position as street commissioner at additional compensation. OAG Nov. 3, 1953 (358-E-9).

471.89 CONTRACT, WHEN VOID

HISTORY. 1951 c 379 s 3.

Where the present mayor was not an officer of the village when the contract for construction of a municipal sewage treatment plant was awarded and entered into and had no financial interest in such contract, but subsequent to execution of such contract the contractor proposed subcontracting the electrical wiring contract on the plant to the mayor who owned and operated an electrical shop, which subcontract was entered into with the village, such proposed subcontract would be contrary to public policy. OAG May 16, 1952 (90-A-1).

Generally no member of a village or city council may be directly or indirectly interested in any contract made by the council. Section 471.88 authorizes a village council, by unanimous vote, to contract for the services of a member under certain circumstances. Whether there is any authority for the village council to pay a member for services in pumping out private basements as the result of rainstorms and floods is a fact question. OAG Sept. 9, 1953 (90-A-1).

471.90 VILLAGES, HOSPITAL; TRANSFER TO COUNTY

HISTORY. 1951 c 497 s 1-3.

471.91 AIR TRAVEL ACCOUNTS

HISTORY. 1951 c 630 s 1.