

**PUBLIC INDEBTEDNESS, BORROWING**

**CHAPTER 475**

**PUBLIC INDEBTEDNESS**

**475.01** Repealed, 1949 c 682 s 26.

**475.02** Repealed, 1949 c 682 s 26.

**475.03** Renumbered 475.51.

**475.04** Superseded by 475.03.

**475.05** Repealed, 1947 c 296 s 6.

**475.06** Repealed, 1947 c 296 s 6.

**475.07** Renumbered 475.55.

**475.08** Superseded by 475.31.

**475.09** Repealed, 1947 c 296 s 6.

**475.091** Repealed, 1947 c 296 s 6.

**475.10** Repealed, 1947 c 296 s 6.

**475.11** Renumbered 475.56.

**475.12** Renumbered 475.72.

**475.13** Superseded.

**475.14** Renumbered 475.52.

**475.15** Repealed, 1949 c 682 s 26.

**475.16** Repealed, 1949 c 682 s 26.

**475.17** Repealed, 1949 c 682 s 26.

**475.18** Renumbered 475.65.

**475.19** Renumbered 475.69.

**475.20** Renumbered 475.71.

**475.21** Renumbered 475.64.

**475.22** Renumbered 471.69.

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- 475.23 Renumbered 475.53.
- 475.24 Renumbered 475.54.
- 475.25 Renumbered 475.58.
- 475.26 Repealed, 1949 c 682 s 26.
- 475.27 Renumbered 475.62.
- 475.28 Renumbered 475.63.
- 475.29 Repealed, 1949 c 682 s 26.
- 475.30 Renumbered 475.66.
- 475.31 Repealed, 1949 c 682 s 26.
- 475.32 Renumbered 475.73.
- 475.33 Renumbered 471.70.
- 475.34 Renumbered 475.67.
- 475.35 Repealed, 1949 c 682 s 26.
- 475.36 Superseded.
- 475.37 Superseded.
- 475.38 Superseded.
- 475.39 Repealed, 1949 c 682 s 26.
- 475.40 Repealed, 1949 c 682 s 26.
- 475.41 Renumbered 475.68.
- 475.42 Repealed, 1949 c 682 s 26.
- 475.43 Repealed, 1949 c 682 s 26.

## 475.51 DEFINITIONS

HISTORY. RL 1905 s 776-778; GS 1913 s 1847-1849; 1943 c 656 s 30 sbd 3; 1947 c 296 s 2; 1949 c 682 s 1; 1951 c 422 s 1.

What constitutes a constitutional debt limitation as relating to municipal corporations? 34 MLR 360.

Revenue certificates to be issued pursuant to a resolution adopted by a village payable solely out of the revenues of an electric plant do not become a general obligation of the village by including agreements on the part of the village that it will perform acts intended for the protection of the certificate holder and which thereafter provide that, in the event of a default in the performance of such agreements, the holders of 20 percent or more in principal amount of outstanding certificates shall be authorized to bring any proper action or proceeding on behalf of all holders of

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certificates and shall have all rights granted by the state of Minnesota for the enforcement of all obligations created hereunder. *Otter Tail Power Co. v Village of Elbow Lake*, 234 M 419, 49 NW(2d) 199.

Bonds to provide funds for restoring a courthouse destroyed by fire must be submitted to the electors for approval. OAG July 18, 1952 (37-B-1).

A village may issue bonds for the acquisition and construction of a sewage disposal plant without regard to a net limitation of 20 percent of the assessed valuation. OAG May 25, 1951 (44-B-14).

A village may issue general obligation bonds for the betterment of the public waterworks system without regard to net indebtedness. A village may issue revenue warrants from the income of the waterworks system without regard to net indebtedness. OAG Aug. 15, 1949 (44-B-17).

Hospital bonds of the city of Winona are authorized securities. OAG Sept. 23, 1949 (59-A-7).

Funds raised by a bond issue for hospital purposes may not be used in constructing a city hall. OAG April 21, 1950 (59-A-7).

Bonds to finance erection of a city hospital to be repaid through the earnings of the hospital are deductible in computing the city's net debt. OAG June 2, 1952 (59-A-7).

A school district's net debt, as determined under Laws 1949, Chapter 682, Section 3, is based upon "assessed value" as finally equalized and without applying section 273.13 or section 285.023. By the enactment of Laws 1949, Chapters 682, 723, 724, the legislature definitely intended that hereafter in computing assessed valuation for the purpose of establishing debt limits the previous provisions of sections 273.13 and 285.023 would not apply, and that the assessed valuation would be the actual figures of the valuation as finally equalized. This is shown in Laws 1949, Chapter 682, Section 3, where the net debt of the school district was raised from 20 percent to 50 percent to compensate for the loss which would otherwise incur in view of the decrease in the amount of the assessed valuation under the former law. OAG June 11, 1948 (82-B).

School district bonds may be issued for painting a school house inside and out since this is either an improvement or a repair. OAG Nov. 19, 1951 (159-A-5).

After bonds of an independent school district have been issued and the improvement completed the balance remaining may be transferred to the sinking fund and any surplus remaining invested in bonds, including the bonds so issued. The use of a maintenance fund to redeem bonds is not authorized. OAG Nov. 13, 1951 (158-A-20).

Where a village and an independent school district own adjoining tracts of real estate which they contemplate developing, improving and operating as a recreational field, if the village council and the school district each determine from all of the available evidence that the enterprise contemplated is a revenue producing convenience, and if the village and the district each decide to issue their respective orders and warrants payable wholly from the income resulting from the operation of such revenue producing convenience, the village council and the school district are authorized by law to issue such warrants and orders payable wholly as to both principal and interest out of the profits and operation of such enterprise. Such warrants and orders are not obligations as defined by section 475.03, subdivision 3, clause (8). No election would be necessary and there is no statutory limitation on the amount of funds to be raised in this manner because the warrants and orders are not obligations of the taxpayers and are not paid out of general taxation. But if in fact the enterprise is not a revenue producing convenience within the meaning of section 475.03, subdivision 3, clause (8), and the orders and warrants are obligations of the village and district, then any bonds for the intended purpose must conform to section 475.07, as amended by Laws 1947, Chapter 296, Section 3; and the procedure for the issue of the bonds would be that specified by section 475.04, as amended by Laws 1947, Chapter 296, Section 4. The amount of bonds to be issued is limited by section 475.23, as

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amended by Laws 1947, Chapter 296, Section 5; but the limitation is on the amount that may be borrowed and not on the amount that may be spent when the village or the district has the money. OAG Aug. 10, 1948 (159-B-1).

The city of New Ulm may issue, without an election, revenue bonds payable solely from revenue from the airport to defray the cost of construction of hangars thereon. OAG April 19, 1951 (234-B).

A vote of the electorate of the village is required for the construction of the waterworks for the village, and approval requires a five-eighths of those voting vote in the affirmative. Should the construction of waterworks be approved, bonds to finance such construction would not be included in the net debt of the village for the purpose of determining limitations on the net debt. The question of issuing general obligation bonds for construction of the waterworks must be submitted to the electorate for their approval. OAG Nov. 18, 1949 (624-D-7).

## 475.52 BOND ISSUES; PURPOSES

HISTORY. 1903 c 36 s 1, 2; 1903 c 235 s 1; RL 1905 s 784; 1907 c 297 s 1; 1909 c 261 s 1; 1913 c 303 s 1; 1921 c 209 s 2; 1939 c 223 s 1; 1945 c 126 s 1; 1945 c 296 s 4; 1949 c 682 s 2.

The city of Fergus Falls may not issue bonds for paving purposes under the provisions of Laws 1949, Chapter 682. The power to issue bonds is limited by section 98 of the city charter. Certificates of indebtedness might be issued in advance of collection of moneys to be derived from an assessment under the provisions of sections 434.50 to 434.55, but such certificates would not be general obligations of the city. Under the provisions of section 440.16 bonds might be issued when authorized by the voters at a general or special election called for that purpose in the manner provided by section 440.22. OAG Nov. 21, 1949 (36-G).

Where a town proposes to issue bonds for road and bridge purposes and for funding purposes the two questions should be submitted separately. The proposition of issuing bonds for maintenance of roads is one proposition and the issuance of bonds to retire floating indebtedness is another. The voters should have the right to vote separately on the two propositions. OAG July 7, 1949 (43-A-1).

A town may issue bonds for the acquisition of equipment for snow removal, road construction or maintenance. Section 475.57 calls for a resolution adopted by the town board and an election must be held under the operations of section 475.58, due notice being given by section 475.59. The bonds are sold pursuant to the provisions of section 475.60 and before delivery of the bonds taxes are levied as required by section 475.61, as amended by Laws 1951, Chapter 422. OAG May 16, 1951 (43-B-4).

For the purpose of constructing and maintaining a town telephone system, a town may issue and sell its bonds under the procedure provided by section 475.52, subdivision 4. OAG Nov. 16, 1951 (43-B-5).

When authorized by its voters, the village of Crosby may issue negotiable bonds to purchase a garbage truck to be used in garbage disposal. OAG Oct. 24, 1952 (44-B).

Whether a structure is "needed for village purposes" is a question of fact for determination, in the first instance, by the village council. Where businessmen contributed \$30,000 to build a "community hall" which structure provided space for office rooms to be used for village purposes, it was within the power of the village to determine through the electors upon the issuance of bonds, which together with the moneys contributed would complete the village building. OAG Sept. 22, 1950 (44-B-2).

The proceeds of a bond issue for the purpose of acquiring a site, erecting and equipping a municipal building to be used as a village hall may not be diverted for use in building a municipal liquor store. OAG Dec. 5, 1952 (44-B-2).

Expenses for trips, investigation, etc., may not be paid from the proceeds of a bond issue for "improving, enlarging, and repairing of water, light, power, and steam heating plant." OAG April 26, 1950 (44-B-8).

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Moneys derived from a bond issue made for the purpose of erecting a building to house the village equipment cannot be used to purchase a building already constructed by a private individual. OAG July 27, 1950 (44-B-18).

The city of Breckenridge, operating under a home rule charter, may provide for the issuance of bonds for "hospital purposes." See Laws 1949, Chapter 682. OAG May 6, 1949 (59-A-8).

Where a bond issue is authorized for the repair and alteration of the city hall and construction of an addition the council may not use all of the funds for the accomplishment of but a part of the stated purpose. OAG March 10, 1952 (59-A-7).

The charter of the city of Granite Falls authorized bonded indebtedness to raise money for an improvement of a lasting character. It may issue bonds to finance flood control protection of the city if such improvement is of "lasting character" which it appears to be. It is a question of fact. OAG June 16, 1952 (59-A-7).

The city council of Chaska has authority to expend public funds to secure an engineering survey and report on the probable cost of a system of dikes to restrain an overflow of flood waters of the Minnesota river and to engage upon the erection of such system if it is deemed advisable and necessary for the protection of the life and property of the inhabitants of Chaska. OAG June 20, 1952 (59-A-22).

The issuance of municipal bonds payable solely out of net revenue from parking meters, for the acquisition of equipment for street lighting is permissible without first submitting the proposition to the vote of the electors. OAG Oct. 3, 1952 (59-A-53).

In a school district election on two questions, one designating a site and the other whether authority shall be granted to the board to issue bonds, the two questions may be submitted at one election and one ballot, but must be stated separately. OAG Dec. 13, 1951 (159-A-3).

Where a school district voted in the affirmative for the issuance of bonds for "acquisition and betterment of schoolhouse, including land therefor" it is authorized to issue and sell the bonds and use the proceeds for the purpose named in the election call. OAG Dec. 7, 1951 (159-A-5).

Where bonds have been authorized and issued, but not delivered, the electors at a subsequent election may rescind the authority to issue the bonds. OAG Dec. 9, 1952 (159-A-5).

Where a school district borrows money for "acquisition, betterment, furnishing, and equipping of a new schoolhouse," the funds so raised may be used to acquire a new site for the construction of said schoolhouse. OAG July 7, 1953 (159-A-5).

Bonds of a school district to refund outstanding warrants may be issued in certain cases without an election. OAG Aug. 22, 1949 (159-C-5).

A village may issue revenue warrants showing on their face that they are payable solely from the net profits in the municipal liquor store, and the proceeds will be used for improving such store. But if the warrants or obligations proposed to be issued are not to be payable wholly from the income of the municipal liquor store, then such warrants and obligations cannot be issued without first obtaining the approval of the majority of the electors voting on the question of issuing the obligations. Where the village council causes the warrants to be issued payable out of earnings of the store, it should by resolution determine that the municipal liquor store is a "public convenience from which a revenue is or may be derived." OAG March 20, 1950 (218-R) (476-C-1).

Obligations for the cost of the municipal liquor store building may be issued by the village without a vote of the people providing that only the income from the liquor store is pledged to pay them. OAG Feb. 29, 1952 (218-R).

Without an election a city may issue revenue warrants payable out of airport revenue. If the city is not required to devote certain moneys to a special purpose, it may pledge surplus revenue of a city housing project. OAG July 25, 1950 (234-B).

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The city of Crookston may build a sewage disposal plant under Laws 1949, Chapter 394, Section 1, and may issue bonds for the outlay under Laws 1949, Chapter 682, Section 2. OAG Feb. 1, 1950 (387-B-9).

The city of Albert Lea may contract with a packing company located outside the city limits for payment by such nonresident of a portion of the construction cost of a sewage treatment and disposal plant, and is to be paid in cash. The legal title of the plant vests in the city and the city may contract with reference to reasonable charges for the use of such facilities. OAG April 14, 1950 (387-B-9).

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).

The school district of South St. Paul is governed by Laws Ex1887, Chapter 1, and the school board may build an addition to the schoolhouse with a vote of the people authorizing such action. OAG March 10, 1952 (622-J).

Upon the expiration of a franchise the city may acquire the property, but if the ordinance of the city is inconsistent with the charter and statutes the procedure set forth in the ordinance may be disregarded. The proceedings for the acquirement of the public utility must be in accordance with the charter and the statutes. Bonds issued to obtain the money to pay the cost of acquisition must be within the provisions of section 475.52, et al. OAG May 18, 1950 (624-B-2).

## 475.53 LIMIT ON NET DEBT

**HISTORY.** 1927 c 131 s 2; 1935 c 256 s 1; 1937 c 285 s 1, 2; 1943 c 480 s 1, 2; 1945 c 549 s 1; 1947 c 296 s 5; 1949 c 682 s 3.

Constitutional debt limitations applying to municipal corporations. What constitutes a debt? 34 MLR 360.

Where school districts are consolidated, the existing bonded indebtedness remains the liability of the territory against which it was originally incurred, unless such indebtedness is assumed by the consolidated district after a majority vote of such district; and after consolidation and notwithstanding the 50 percent debt limit of section 475.53 a consolidated school district may incur a net debt equal to 50 percent of the assessed value of the property in such district without regard to the existing debts of component school districts at the time of consolidation. *Huffman v School Board*, 230 M 289, 41 NW(2d) 456.

Where the statute which radically changed permissible debt limit of school districts under existing law was enacted at the same legislative session as a statute providing for consolidation of school districts, the supreme court would presume that the legislature had in mind the effect the debt limitation so provided would have upon consolidated or reorganized school districts to be formed under the consolidation statute. *Huffman v School Board*, 230 M 289, 41 NW(2d) 455.

"Assessed value" means the latest valuation for the purposes of taxation as finally equalized of all property taxable within a municipality. Property includes both real and personal property. A county may borrow 20 percent of such assessed value. OAG Aug. 10, 1953 (37-B-7).

A town is a municipality. Any municipality, except a school district receiving special state aid under sections 276.15 to 276.18 may incur, by a vote of a majority of the electors, an indebtedness not in excess of 40 percent of the assessed value of the property. OAG June 20, 1952 (43-B-4).

A village may issue general obligation bonds for the betterment of its waterworks system without regard to its net indebtedness. It may issue revenue warrants payable from the income of the waterworks system without regard to its net indebtedness. OAG Aug. 15, 1949 (44-B-17).

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

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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 within the provisions of section 275.12. OAG May 10, 1950 (476-A-4).

Bonds or other evidences of indebtedness issued for the relief of the poor are subject to the debt limitation prescribed by section 475.53. OAG July 25, 1950 (519-J).

## **475.533 NET INDEBTEDNESS, CERTAIN SCHOOL DISTRICTS**

HISTORY. 1949 c 148 s 1.

## **475.54 SERIAL PAYMENTS**

HISTORY. 1927 c 131 s 3; 1949 c 682 s 4; 1951 c 422 s 3.

## **475.55 OBLIGATIONS; EXECUTION, CONTENTS**

HISTORY. RL 1905 s 781; GS 1913 s 1852; 1947 c 296 s 3; 1949 c 682 s 5; 1951 c 422 s 3.

After approval by the voters school bonds may be issued in more than one issue and need not be issued all at one time. The time in which school building bonds may be issued is a fact question, the requirement being that the bonds should be issued within a reasonable time. OAG Dec. 27, 1950 (622-A-1).

## **475.553 PAYING AGENT**

HISTORY. 1951 c 422 s 10; 1953 c 64 s 1.

## **475.56 INTEREST RATES**

HISTORY. 1933 c 171 s 1; 1949 c 682 s 6.

## **475.57 INITIATION OF PROCEEDINGS; RESOLUTION**

HISTORY. 1949 c 682 s 7.

When municipal bonds are sold at public sale if the resolution specifies the rate of interest and that rate of interest is voted on, bonds cannot be sold at a higher rate. OAG Sept. 19, 1949 (44-A-2).

Two separate bond issues may be voted upon at the same election but a separate resolution should be adopted for each and the two propositions must be voted upon separately. The voting may be handled by the same election officials and voted upon the same day, and the notice of election could incorporate notice of both elections but there should be separate ballots and separate ballot boxes for each proposition. OAG Jan. 20, 1950 (59-A-7).

Proceedings for issuing bonds under sections 475.51 to 475.75 are enacted by resolution of the governing body of the municipality for which the debt is to be incurred. Such resolution may provide for the submission of the question to a vote of the electors. A town board may adopt such resolution "without a statement" for a special town meeting being filed with the clerk. The provision of section 212.03 that a statement calling a special meeting must be signed by 12 freeholders is therefor excepted from the bond law. OAG April 24, 1951 (43-A-1).

## **475.58 OBLIGATIONS; ELECTIONS TO DETERMINE ISSUE**

HISTORY. 1927 c 131 s 4; 1949 c 682 s 8; 1951 c 422 s 4.

Revenue certificates to be issued pursuant to a resolution adopted by a village payable solely out of the revenues of an electric plant do not become a general obligation of the village by including agreements on the part of the village that it will perform acts intended for the protection of the certificate holder and which thereafter provide that, in the event of a default in the performance of such agreements,

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the holders of 20 percent or more in principal amount of outstanding certificates shall be authorized to bring any proper action or proceeding on behalf of all holders of certificates and shall have all rights granted by the state of Minnesota for the enforcement of all obligations created hereunder. *Otter Tail Power Co. v Village of Elbow Lake*, 234 M 419, 49 NW(2d) 197.

A village council is authorized to issue revenue obligations to construction improvements without a vote of the electors on the issuance of the obligations. *Otter-tail Power Co. v Village of Wheaton*, 235 M 123, 49 NW(2d) 804.

A county may not issue bonds to build a courthouse or jail without a vote of the electorate. OAG Sept. 16, 1949 (37-B-3).

A village may not pay a premium on bonds redeemed before majority. OAG Oct. 30, 1953 (44-A-6).

Under the provisions of section 412.401 an election is not necessary to issue bonds for a village sewage treatment plant and sewer extensions where the cost of the improvement is to be paid for by special assessments against benefited property. OAG May 29, 1950 (44-B-14).

A bond issue payable in part from the proceeds of special assessments does not require an election, but assessments must be based on benefits received and a hearing is necessary where special benefits are to be assessed. OAG July 28, 1950 (44-B-16).

Bonds to defray the cost of local improvements which are payable wholly or partly from the proceeds of special assessments may be issued without a vote of the electors. OAG Feb. 3, 1953 (44-B-17).

Although under some constitutional and statutory provisions it is held that a general and a special election may be held upon the same day and at the same place, the weight of authority favors the definition that a special election is one which takes place at a time different from that of an election fixed by law is held, and that the submission of special propositions at such an election does not convert it into a special election. Under the charter of the city of Northfield the resolution should have been to submit the bond issue to be voted on at the regular city election to be held on the date selected. OAG Feb. 9, 1953 (59-A-7).

The issuance of municipal bonds payable solely out of net revenue from parking meters for the acquisition of equipment for street lighting is permissible without first submitting the proposition to the vote of the electors. OAG Oct. 3, 1952 (59-A-53).

Authority for the erection for additional hospital buildings under section 376.04 and authority for sale of bonds for the purpose of defraying costs of construction under section 475.58 may be submitted to the voters at one election. OAG Oct. 3, 1952 (59-A-53).

In a school district an election on two questions, one of which pertains to designating school sites and the other authority to issue bonds, the questions could be submitted at one election and on one ballot but must be stated separately. OAG Dec. 13, 1951 (151-A-3).

Where five questions are submitted on one ballot, and Question No. 1 refers to a bond issue, and Questions 2, 3, 4, 5 relate to acquiring separate parcels of land, each question only requires the approval of a majority of those voting on that question. OAG Nov. 6, 1953 (159-A-3).

Bonds of a school district to refund outstanding warrants may be issued without an election in certain cases. OAG Aug. 22, 1949 (159-C-5).

A village may issue revenue warrants showing on their face that they are payable solely from the net profits in the municipal liquor store, and the proceeds will be used for improving such store. But if the warrants or obligations proposed to be issued are not to be payable wholly from the income of the municipal liquor store, then such warrants and obligations cannot be issued without first obtaining the approval of the majority of the electors voting on the question of issuing the obliga-

tions. Where the village council causes the warrants to be issued payable out of earnings of the store, it should by resolution determine that the municipal liquor store is a "public convenience from which a revenue is or may be derived." OAG March 20, 1950 (218-R) (476-C-1).

Warrants may be issued without an election for financing the purchase of a liquor store building payable out of profits of a municipal liquor store. OAG May 15, 1950 (218-R).

Obligations for the cost of a municipal liquor store building may be issued by a village without a vote of the people, if only the income from the liquor store is pledged to pay the obligations. OAG Feb. 2, 1952 (218-R).

A city may issue revenue warrants payable out of airport revenue without an election. If the city is not required to devote certain moneys to a special purpose, it may pledge surplus revenue of a city housing project. OAG July 25, 1950 (234-B).

A village may reconstruct its sewer outlet without first holding an election, but if obligations are to be issued there must be an election. OAG Sept. 1, 1953 (387-G-8).

A municipality may lease real estate owned by it, but a village may not extend a municipal building solely for the purpose of renting the additional space to a commercial enterprise. OAG Sept. 1, 1950 (469-A-12).

A vote of the electorate of a village is required for the construction of the waterworks for the village. Approval requires that five-eighths of those voting vote in the affirmative. Should the construction of waterworks be approved, bonds to finance such construction would not be included in the net debt of the village for the purpose of determining limitations on the net debt. The question of issuing general obligation bonds for construction of the waterworks must be submitted to the electorate for their approval. OAG Nov. 18, 1949 (624-D-7).

## **475.59 MANNER OF SUBMISSION; NOTICE**

**HISTORY.** 1949 c 682 s 9.

If a town desires to issue bonds to purchase equipment for snow removal, the first step is to obtain from the town meeting a resolution authorized by section 475.59. A special town meeting may be called to take similar action. If the majority of votes cast at the election favor issuance of the bonds, the records of the bonds must show all proceedings taken. After the election the town board will meet and proceed to sell the bonds under the authority of section 475.60 and levy the taxes as provided in section 475.61. The town meeting is the governing body of the town and not the town board. OAG April 10, 1951 (43-B-4).

The question of the acquisition of a site for a school building and the approval of a bond issue may be voted on at the same election. OAG Aug. 7, 1953 (622-I-2).

## **475.60 SALE OF BONDS**

**HISTORY.** 1949 c 682 s 10.

A municipality may issue revenue certificates payable solely out of the revenue of a utility such as an electric plant. *Ottertail Power Co. v Village of Elbow Lake*, 234 M 419, 49 NW(2d) 197.

Bonds to provide funds for restoring a courthouse destroyed by fire must be submitted to the electors for approval. OAG July 18, 1952 (37-B-1).

A county board may sell any bonds it issues for the construction of county ditches to the state without calling a special election. OAG Aug. 7, 1950 (38-G).

The notice of sale of bonds must be made in two newspapers as specified in section 475.60. OAG March 2, 1951 (43-B-4).

When municipal bonds are sold at public sale, if the resolution specified the rate of interest and that rate of interest is voted on favorably, the bonds may not be sold at a higher rate. OAG Sept. 19, 1949 (44-A-2).

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A village may issue and sell bonds payable in part from the proceeds of special assessments and which also pledge the full faith and credit of the village for payment thereof without advertising for bids. OAG Oct. 10, 1952 (44-B-16).

In disposing of tax anticipation warrants by the county board to raise money for the purpose of constructing buildings on the county fair grounds, the provisions of section 475.60 are applicable and should be followed. OAG Aug. 11, 1950 (107-A-1).

A village may issue warrants payable from proceeds of special assessments for local improvements and sell them without advertising for bids. OAG Nov. 29, 1949 (476-C-1).

Tax anticipation certificates issued by a village council must be sold at public sale in accordance with the requirements of section 475.60. OAG Feb. 21, 1951 (476-C-1).

In advertising for bids where the charter provides that the bids shall be accompanied by certified check, such charter requirement shall be observed and complied with. A bond accompanying the bid does not meet the charter requirement, nor does cash or currency in lieu of a certified check. OAG April 28, 1950 (707-A-3).

## 475.61 TAX LEVIES

HISTORY. 1949 c 682 s 11; 1951 c 422 s 5.

Excess presently in bond fund resulting from a levy for road and bridge bonds in 1946 cannot now be used for purchase of road maintenance equipment. OAG March 2, 1951 (43-B-4).

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

Section 475.61 applies to the issuance of bonds for storm sewers to be constructed under a co-operative agreement between the village and the highway department. OAG Jan. 25, 1952 (44-B-14).

Between the date of the bond election authorizing a bond issue and the date of sale of the bonds, 2½ percent in value of the property of the district was detached on the basis of the maximum de minimis. This fact may be disregarded and the bonds issued and taxes levied without a new election. OAG March 21, 1951 (159-A-3) (166-D-5).

Surplus school district sinking funds may be temporarily invested in certificates of deposit. OAG May 22, 1953 (159-A-13).

The board of education of a school district may place a portion of its surplus in the sinking fund for the payment of its outstanding bonds. OAG Aug. 24, 1951 (159-A-17).

Taxes assessed upon real property are a perpetual lien thereon until paid. The taxes assessed upon personal property are a lien upon the personal property of the person assessed from and after the time the taxes are received by the county treasurer. This applies to the lien of the bond issue placed by a school district before it became a part of the consolidated district. OAG Nov. 23, 1949 (166-C-5).

An agreement to detach certain lands from a school district after consolidation is an unauthorized, unenforceable arrangement which the law will not recognize. Taxes levied to pay a bond issue are irrevocable. OAG April 18, 1951 (166-C-5).

Lands detached from a school district are liable for payment of its outstanding bonds if the lands were included in the school district at the time the bonds were issued. OAG Dec. 28, 1951 (166-C-5).

A tax levy to collect is impressed upon all taxable property of the district at the time of the delivery of the bonds. Proceedings to detach land from the district after the lands are so impressed do not alter the situation. OAG Oct. 29, 1952 (166-C-5).

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## 475.62 PUBLIC INDEBTEDNESS

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Where the county board made an order detaching land from one school district and attaching it to another, and in the afternoon of the same day the school board in the district from which the lands were detached made a tax levy for the payment of a bond issue, such tax levy is not a burden on the lands theretofore detached from the school district. OAG Sept. 30, 1953 (166-C-5).

The tax burden imposed by section 475.61, subdivision 1, remains unaffected by detachment proceedings under section 122.15; but the land attached to another district after enactment of section 122.15, subdivision 2, takes on a new burden for payment of the bonds of the district to which the land is attached. OAG Nov. 10, 1953 (166-C-5).

If the county board granted a petition to annex land to a school district before the bonds of the school district were marketed and before the tax levy, the annexed land, being part of the district at the time the bonds were sold and when the tax levy was made, would be subject to taxation for purposes of raising money to pay the bonds. OAG Feb. 5, 1952 (166-C-10).

Where a tax levy has been made and bonds of a school district issued, the board cannot levy an additional tax for payment of said bonds. OAG June 16, 1950 (519-M).

The basis of taxation is necessity. Where a school district issued and sold its bonds and made a tax levy as required by section 475.61 to provide money to pay the bonds when they mature, there is no authority to raise money by taxation for the payment of the bonds before maturity. OAG Sept. 29, 1950 (519-M); OAG Oct. 4, 1950 (519-M).

Where a bond issue was authorized by the voters of a common school district, a tax levy which was made by the school board in connection therewith as required by section 475.61 as amended by Laws 1951, Chapter 422, was irrevocable. OAG Sept. 14, 1951 (519-M).

The law provides that the governing body of any municipality issuing general obligations must, prior to the delivery of the obligations, levy by resolution, a direct, general ad valorem tax upon all taxable property within the municipality to be spread upon the tax rolls for each year of the term of the obligation. This tax is spread upon both real and personal property. OAG April 9, 1953 (519-M).

The village council is authorized to appropriate to the sinking fund moneys on hand in the permanent improvement revolving fund, but it has no authority to transfer irrevocably sinking fund revenues from special assessment funds owed to the permanent improvement revolving fund. OAG Dec. 2, 1953 (476-A-13).

## 475.62 REGISTER

HISTORY. 1927 c 131 s 6; 1949 c 682 s 12.

## 475.63 CERTIFICATE AS TO REGISTRATION

HISTORY. 1927 c 131 s 7; 1949 c 682 s 13; 1951 c 422 s 6.

## 475.64 LEVY BY AUDITOR

HISTORY. RL 1905 s 787; GS 1913 s 1858; 1949 c 682 s 14.

Taxes assessed upon real property are a perpetual lien thereon until paid. The taxes assessed upon personal property are a lien upon the personal property of the person assessed from and after the time the taxes are received by the county treasurer. This applies to the lien of the bond issue placed by a school district before it became a part of the consolidated district. OAG Nov. 23, 1949 (166-C-5).

## 475.65 DELIVERY OF BONDS, USE OF PROCEEDS

HISTORY. 1893 c 200 s 7; GS 1894 s 1238; RL 1905 s 786; 1949 c 682 s 15.

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PUBLIC INDEBTEDNESS 475.66

A village council is justified in issuing revenue certificates in an amount sufficient to cover power plant construction costs incapable of being precisely estimated since any surplus will automatically go into a sinking fund to retire the certificates. *Ottertail Power Co. v Village of Wheaton*, 235 M 123, 49 NW(2d) 804.

Where authorized bonds for addition to and betterment of village hall, council could not construct new building on separate site without approval of electorate. If question is submitted asking for approval of erecting new building in lieu of addition to present hall and same is defeated, council may still proceed with previous authorization. OAG Jan. 7, 1952 (44-B-2).

After bonds of an independent school district have been issued and the improvement completed the balance remaining may be transferred to the sinking fund and any surplus resulting invested in bonds, including the bonds so issued. The use of a maintenance fund to redeem bonds is not authorized. OAG Nov. 13, 1951 (159-A-20).

Moneys realized from the sale of bonds for the construction of a sewer plant must be devoted to such construction and used for no other purpose. The cost of the plans is a part of the cost of construction. OAG Sept. 1, 1950 (387-G-9).

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 determined by the tenor of the bonds. OAG May 9, 1952 (469-A-15).

Where a school district authorized the building of new school buildings and authorized a bond issue, and some of the buildings are built and funds obtained by the bond issue remain unspent, additional buildings may be authorized by the people by their vote for the building of buildings not originally contemplated. OAG Oct. 17, 1952 (622-A-1).

## 475.66 SINKING FUND

**HISTORY.** 1927 c 131 s 9; 1949 c 682 s 16; 1951 c 422 s 7.

Where electors have rescinded the authority to expend the proceeds of a bond issue for the purpose originally authorized, the proceeds may be invested under section 471.56 or may be used for other public improvements authorized by law, if approved by a vote taken in the manner required. OAG May 9, 1952 (44-A).

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).

The surplus funds of the city of Lake City cannot be invested in obligations of the Federal Savings and Loan Association nor may the funds be deposited therein. OAG July 21, 1953 (59-A-22).

Money in a sinking fund cannot be taken therefrom except to pay bonded indebtedness. 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).

The sinking fund must always contain sufficient cash to provide for the annual payments of principal and interest on the obligations for which the fund was created. Any surplus in any sinking fund above such amount may be invested in the bonds of the United States, the State of Minnesota, or any of its municipalities. OAG May 1, 1952 (159-A-17).

"Sinking fund" consists of cash to pay annual installment of principle and interest on the obligations for which the fund was created. The cash in the fund is provided by tax levies made under authority of section 475.61. Such levy in connection with a bond issue is made "prior to delivery of the obligations." The levy is not for one year but for all subsequent years until the bonds and all interest thereon are paid. No further levy is required. Taxes are thereafter expended annually by the

# MINNESOTA STATUTES 1953 ANNOTATIONS

## 475.67 PUBLIC INDEBTEDNESS

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county auditor in pursuance of the levy. Money on hand collected as the result of other tax levies over a period of years for saving purposes is not a sinking fund and may be transferred to the general fund. OAG Dec. 23, 1952 (159-A-17).

Town funds not needed during the current fiscal year may be invested in securities authorized by section 118.12. Section 475.66 is not applicable. OAG Sept. 1, 1953 (442-A-14).

Although a village council may levy and collect taxes and use the same fund to pay bonded indebtedness, it does not have authority to create a sinking fund for the payment of contingent liability under the Workmen's Compensation Act. OAG Dec. 21, 1951 (476-B-17).

## 475.67 REFUNDING BONDS; VALIDITY

HISTORY. 1921 c 185 s 1, 2; 1935 c 232 s 2; 1949 c 682 s 17.

## 475.68 JOINT LIABILITY OF TOWN AND VILLAGE

HISTORY. 1909 c 254 s 1; 1949 c 682 s 18.

## 475.69 DEFACED BONDS; DUPLICATES

HISTORY. 1883 c 76 s 1-3; GS 1894 s 2225-2227; 1895 c 71 s 1; RL 1905 s 791; 1949 c 682 s 19.

A village has no authority to issue village warrants and borrow money to purchase a fire truck. It cannot purchase the truck by issuing certificates of indebtedness, or by use of a conditional sales contract. If the village has levied a tax for the purchase of fire fighting equipment and this tax is in process of collection, warrants may be issued in anticipation of the collection of such tax to the limit specified in section 471.69. Section 412.221, subdivision 2, prescribes that purchases be made through a conditional sales contract under which the seller is confined to the remedy of recovery of the property in case of nonpayment of all or part of the purchase price, which shall be payable over a period of not to exceed five years. OAG Sept. 30, 1953 (688-C-1).

## 475.70 LOST INSTRUMENTS; INDEMNITY

HISTORY. 1883 c 76 s 4, 5; GS 1894 s 2228, 2229; 1895 c 71 s 2; RL 1905 s 792; 1949 c 682 s 20.

Section 475.70 authorizes the issuance of duplicates for lost bonds and that procedure must be followed. The owner cannot obtain redemption of the bond merely by filing a bond covering the amount. The statutory proceeding must be followed. OAG July 29, 1952 (40-A-6).

## 475.71 REGISTRATION OF BONDS

HISTORY. 1897 c 22; RL 1905 s 782; 1923 c 313 s 1; 1949 c 682 s 21.

## 475.72 VIOLATIONS AND PENALTIES

HISTORY. 1927 c 131 s 10; 1949 c 682 s 22.

## 475.73 STATE BOARD OF INVESTMENT

HISTORY. 1949 c 682 s 23.

NOTE: This section supersedes M.S.A. 1945, Chapter 476.

Where money is borrowed from the state by a school district on a bond issue, the money must be used for the specific purpose authorized by the people and no other. OAG Sept. 15, 1953 (159-A-5).

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REFUNDING 477.01-477.47

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 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).

## **475.74 PER CAPITA LIMITATION INAPPLICABLE**

HISTORY. 1949 c 682 s 24; 1951 c 422 s 8.

Section 475.74 does not apply to the issuance of bonds for a county ditch because it relates to the purchase of bonds sold under section 475.60, which in turn relates to purposes for which counties could issue bonds under section 475.52, and construction of ditches is not included among such purposes. OAG Aug. 7, 1952 (38-G).

## **475.75 EFFECTIVE DATE**

HISTORY. 1949 c 682 s 25.

## **475.753 MUNICIPALITIES ARE SUBJECT TO CHAPTER 475**

HISTORY. 1951 c 422 s 2.

All municipalities are subject to the provisions of MSA 1949, Chapter 475, in the issuance of obligations and may incur indebtedness to the extent but not in excess of the debt limit in that chapter, notwithstanding any home rule charter provisions, or charter law adopted prior to April 1, 1951. A city may not purchase real estate on contract for deed where deferred payments may be made in installments. In the purchase of property and the incurring of public indebtedness the provisions of chapter 475 must be strictly complied with. OAG April 25, 1952 (59-A-40).

## **CHAPTER 476**

### **STATE LOANS**

**476.01-476.18** Repealed, 1949 c 682 s 26.

NOTE: Superseded by MSA 1949 s 475.73.

## **CHAPTER 477**

### **REFUNDING**

**477.01-477.47** Repealed, 1949 c 682 s 26.

NOTE: See MSA 1949 s 475.67.