

CHAPTER 441

STREETS, BRIDGES

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NOTE: See also Chapter 165.

441.01 CITIES OF FIRST CLASS MAY CONSTRUCT BRIDGE JOINTLY.

Any cities of the first class in this state are hereby authorized to construct jointly a bridge across any natural watercourse forming a common boundary, in whole or in part, between them.

[1923 c. 136 s. 1] (1273)

441.02 JOINT BRIDGE COMMITTEE. As soon as the governing body of any such cities, in sections 441.02 to 441.09 called the council, shall have determined to construct a bridge under sections 441.01 to 441.09, a joint bridge committee shall be organized, of which the president of the council and city engineer or chief engineering officer of such city, so determining to construct such bridge, and the state highway commissioner, ex officio, shall be members. The state highway commissioner shall be chairman but in his absence a temporary chairman may be designated, and the city clerk of each city shall attend and keep a record of the proceedings of the committee. The committee may make rules for its own procedure and meetings.

[1923 c. 136 s. 2] (1274)

441.03 PLANS AND SPECIFICATIONS. The committee shall prepare and adopt plans and specifications for the bridge and file duplicate copies thereof in the office of the city engineer of each city. These plans shall be deemed approved by the council of each city unless disapproved within 30 days after filing. If these plans and specifications are disapproved by either city, the committee shall prepare and file amended plans and specifications until they meet with the approval of the council of each city; provided that either council, after disapproving the plans and specifications within the meaning of sections 441.01 to 441.09, may review its action and if upon review it approves such plans and specifications, that shall be a sufficient compliance with sections 441.01 to 441.09.

[1923 c. 136 s. 3] (1275)

441.04 ADVERTISE FOR BIDS. As soon as the plans and specifications are approved by the council of each city the committee shall cause advertisements to be published once in each week for three successive weeks in a daily newspaper of each city for public bids for the construction of the bridge, specifying the time and place for opening the bids, the amount and character of deposit required with the bids, together with any reasonable requirements or conditions, and reserving the right to reject any and all bids. No contract shall be let except to the lowest

responsible bidder; provided that any such city, acting through its council, may submit a bid and if its bid be the lowest bid the contract shall be awarded to the city, subject to the power of the committee to reject all bids.

[1923 c. 136 s. 4] (1276)

441.05 CONTRACTS LET. The contract shall be made by the committee in the name of the cities determining to construct the bridge, and the contractor's bond shall run to each of the cities, but if one of the cities be the low bidder and the contract be awarded to that city, the contract shall be made between it and the other city or cities and shall be executed on behalf of each city by its proper officers thereunto authorized by its council, acting through the committee. In either case, the contract shall be countersigned by the city comptroller before the contract shall be valid for any purpose. If a city be a bidder, it shall not be required to deposit any security with its bids and if it be awarded the contract, it shall not be required to give any bond, but the full faith and credit of the city shall be pledged to the other city or cities for the full completion of the contract and the payment of all bills for labor and material.

[1923 c. 136 s. 5] (1277)

441.06 ASSISTANTS. The committee may employ a chief draftsman, a chief inspector of works, and such other assistants as it may require.

[1923 c. 136 s. 6] (1278)

441.07 COSTS DIVIDED. All cost and expense incurred under sections 441.01 to 441.09 shall be shared equally by the cities constructing the bridge and shall be paid from time to time upon requisitions authorized and made by the committee.

[1923 c. 136 s. 7] (1279)

441.08 LIMITATION OF LIABILITY. Neither of these cities shall incur any liability under sections 441.01 to 441.09 in excess of half of the cost of the construction of the bridge and no action shall be maintained against either of these cities which shall seek to compel the payment of more than one-half of the cost of the construction by any city.

[1923 c. 136 s. 8] (1280)

441.09 BOND ISSUES. Each of such cities constructing such bridge is hereby authorized and empowered to issue and sell certificates of indebtedness or bonds of the city to defray its portion of the cost of such bridge in an amount not to exceed \$800,000 without submission to a vote of the people, and the full faith and credit of such city so issuing such bonds shall be pledged to the payment of the principal and interest of such certificates of indebtedness or bonds. These bonds shall be in the form of serial bonds, a portion of which shall be payable each year after issuance, but none of the bonds shall run for a longer period than 30 years, and the council of the city issuing such bonds shall fix the denominations thereof and fix the dates of maturity thereof so that the amounts necessary to pay the principal of the portion of bonds maturing in such year and the interest on the bonds issued, shall be approximately the same in each of the years during which such bonds shall run. These certificates of indebtedness or bonds shall be sold in the manner provided by section 475.60. Such bonds or certificates of indebtedness shall bear interest at a rate not exceeding five percent per annum. Such bonds shall be executed in the name of the city issuing the same, by the mayor and city clerk and countersigned by the comptroller, and the engraved signatures of such officials shall be sufficient upon coupons of such bonds. Such bonds are hereby authorized to be issued notwithstanding and in addition to and above any limits now or hereafter fixed by law upon the bonded indebtedness of such cities, and the proceeds of these bonds and interest thereon and such expenditure as may be made in excess of any provisions contained in the charter of such city limiting the cost of government.

[1923 c 136 s 9; 1957 c 348 s 1]

441.10 BRIDGE BONDS. The governing body of any city of the first class in this state is hereby authorized and empowered, for the purposes designated in sections 441.10 to 441.13 to issue, from time to time, as needed the negotiable bonds of their respective cities to an amount in the aggregate not exceeding \$70,000; these bonds to be made in such denomination and payable at such places and at such times, not exceeding 30 years from the date thereof, as may be deemed best, and to bear interest at a rate not to exceed six percent per annum, payable semi-annually, with interest coupons attached, payable at such place or places as shall

be designated therein, and such governing body is further authorized to negotiate and sell such bonds, from time to time, to the highest bidder or bidders therefor and upon the best terms that can be obtained for these bonds.

No such bonds shall be sold for a less amount than the par value thereof and accrued interest thereon.

Sections 441.10 to 441.13 shall not supersede the provisions of the charter of any city providing for the referendum of ordinances passed by the governing body to a vote of the electors of the city, nor with the provisions of the charter of any city making the action of the council subject to approval of a board of estimate and taxation, nor with the provisions of any such charter prescribing a particular method of authorization of such bonds.

[1925 c. 217 s. 1] (1508-1)

441.11 TAX LEVY FOR INTEREST AND SINKING FUND. The full faith and credit of the city shall at all times be pledged for the payment of any bonds issued under sections 441.10 to 441.13, and for the payment of the current interest thereon, and the governing body of the city shall each year include in the tax levy a sufficient amount for the payment of such interest as it accrues, and for the accumulation of a sinking fund for the redemption of such bonds at their maturity.

[1925 c. 217 s. 2] (1508-2)

441.12 ISSUE AND SALE OF BONDS. All bonds issued under authority of sections 441.10 to 441.13 shall be sealed with the seal of the city issuing the same and signed by the mayor and attested by the city clerk and countersigned by the city comptroller or city auditor, except that the signatures to the coupons attached to such bonds, if any, may be lithographed thereon. The sale of such bonds shall be made in such manner and in such proportions of the whole amount authorized by sections 441.10 to 441.13 and at such times as may be determined by the council of the city.

[1925 c. 217 s. 3] (1508-3)

441.13 USE OF PROCEEDS. The proceeds of any and all bonds issued and sold under authority of sections 441.10 to 441.13 shall be used only for the purpose of constructing bridges and their approaches within the city limits, and the proceeds of these bonds, or any thereof, shall not be used for any other purpose than those specified in those sections.

[1925 c. 217 s. 4] (1508-4)

441.14 CONSTRUCTION. Nothing contained in sections 441.10 to 441.13 shall be construed to repeal or modify the provisions of any charter adopted pursuant to the Constitution of the State of Minnesota, Article 4, Section 36, requiring the question of the issuance of bonds to be submitted to a vote of the electors.

[1925 c. 217 s. 5] (1508-5)

441.15 BRIDGES OVER NAVIGABLE WATERS. Any city of the first class operating under a home rule charter within the limits of which are navigable waters of the United States, is hereby authorized to make application to the secretary of war of the United States for the privilege of erecting and maintaining a bridge for public use over such navigable waters lying wholly within the boundaries of the state of Minnesota, according to plans and specifications for the bridge to be approved by the secretary of war.

[1927 c. 29] (1508-7)

441.16 BRIDGES OVER INTERSTATE WATERS. Any city having a population of not more than 20,000 and situate on interstate or international waters is authorized and empowered to appropriate money or to issue bonds to secure money for the construction, maintenance, and repair of bridges extending over or partly over such waters into another state or country, or for making reimbursement for all expenditures made or incurred in the construction, repair, or maintenance of such bridges.

[1917 c. 15 s. 1] (1368)

441.17 APPROPRIATIONS. The council of such city may appropriate not to exceed \$15,000 from the general fund, or any other fund available for bridge purposes, or partly from one fund and partly from the other, when authorized so to do by the electors of such city in the manner set forth in sections 441.16 to 441.20, and levy against the taxable property of such city a tax in an amount sufficient to meet such appropriation, and authorize the making of temporary loans in anticipation of the collection of such levy.

[1917 c. 15 s. 2] (1369)

441.18 BONDS. In lieu of such appropriation the council may issue bonds, with interest coupons attached, in any sum not exceeding \$15,000, which bonds shall be in sums of not less than \$100 each, and shall bear interest at a rate not exceeding six percent per annum payable annually and the principal of such bonds shall be payable at such times, not exceeding 30 years from the date thereof, as the governing body may direct. These bonds and the interest coupons attached thereto shall be signed by the mayor of the city, countersigned by the city clerk or city recorder, and no bonds shall be negotiated, sold, or disposed of by the city at less than par value and accrued interest.

[1917 c. 15 s. 3] (1870)

441.19 PRIVATE PARTIES REIMBURSED. When any such bridge has been constructed or improved and paid for with money furnished by private persons it shall be lawful for the city council to use in part the money so raised by tax levy or bond issue to reimburse the persons making such payments.

[1917 c. 15 s. 4] (1871)

441.20 EXPENDITURES; BONDS; INTEREST. Before any expenditures or levies shall be made or any such bonds shall be issued, the city council shall by resolution determine the amount proposed to be expended or levied or, if a bond issue be desired, the number and amount of such bonds, the rate of interest which such bonds shall bear, and the time or times when the principal thereof shall become payable, which resolution, together with a notice that the question of issuing such bonds or making such appropriation, as the case may be, will be submitted to the legal voters of the city for their approval or rejection at a general or special election to be held upon a day in the notice named, shall be published once in the regular issue of two of the newspapers published in the English language in the city at least ten days prior to the time of holding such election. If such question is submitted at a special election, the governing body of such city shall give 30 days' notice thereof previous to the day fixed for such election, which notice shall specify the object for which such election is ordered.

The ballot to be used at such election shall be in substantially the following form; if the proposition submitted be that of bond issuance the form shall be:

"Shall the bonds of the city of.....be issued in the aggregate amount of....., bearing interest at the rate ofpercent per annum, the proceeds thereof to be used for the purpose of constructing, maintaining, or repairing the bridge over....., commonly known as the.....bridge, or for reimbursing such citizens of such city as may have advanced money for such construction, maintenance, or repair, to mature as set forth in the resolution therefor now on file in the office of the city clerk:

Yes: ()
 ()
 No: ()
 ()"

If the proposition submitted be that of appropriation, the form shall be:

"Shall the city council (or other governing body) of the city of.....be given authority to appropriate from the funds of the city an amount not to exceed.....dollars for the purpose of constructing, maintaining, or repairing a bridge over the....., commonly known as the.....bridge, or for reimbursing such citizens of the city as have advanced money for such construction, maintenance, or repair:

Yes: ()
 ()
 No: ()
 ()"

If a majority of the votes cast upon such question shall be in favor of issuing such bonds or authorizing such appropriation, then the city council, or other governing body, shall be authorized to issue such bonds or to appropriate such money from the proper funds of the city in such amount as may be so determined.

For the purpose of paying the principal and interest of such bonds when issued, the city council or other governing body is hereby authorized, and it is hereby made its duty, on or before the first day of September next after the date of such bonds, and each and every year thereafter, on or before the first day of September, until

payment of such bonds, both principal and interest, is fully provided for, to levy and in due form of law certify to the county auditor a tax upon the taxable property of the city equal to the amount of interest and principal maturing next after such levy and, in the event the governing body of such city decides to make direct appropriation without the issuance of bonds, to levy against the taxable property of the city an amount sufficient to meet the appropriation so to be made and the governing body may, if necessary, issue the warrant of the city to anticipate such appropriation, payable when the same shall have been levied and collected, provided the electors of the city have voted to authorized such appropriation.

[1917 c. 15 s. 5] (1872)

441.253 [Repealed, 1949 c 119 s 110]

441.26 ROADS, BRIDGES, AND FERRIES OUTSIDE CITY OF FOURTH CLASS OR VILLAGE. The council of any village or of any city of the fourth class may appropriate and expend such reasonable sums as it may deem proper to assist in the improvement and maintenance of roads lying beyond its boundaries and leading into it and to improve and maintain bridges and ferries thereon whether they are within or without the county in which it is situated.

[R. L. s. 775; 1913 c. 111 s. 1] (1842)

441.265 AUTHORITY TO IMPROVE HIGHWAY DELEGATED. Any city of the fourth class in this state may delegate to an adjoining municipality the authority to improve any public highway within such city connecting it with such an adjoining municipality, or it may make a joint contract with such adjoining municipality for the improvement of such highway, under the joint supervision of both municipalities.

If the authority to improve such highway is delegated to any adjoining municipality by such city, it may cause to be paid over from time to time for such improvement during the progress thereof or upon the completion thereof to such municipality or such contractor as may make such improvement any money it may have in its treasury available for the payment of such improvement.

[1921 c 323 s 39] (2579)

441.27 REPAIRING AND REBUILDING BRIDGES. When any city of the third class in this state has by authority of law constructed, built, purchased, or otherwise lawfully acquired any bridge across any navigable stream, either wholly within the limits of the city or partially within and partially without the limits of the city or partly within the limits of the city and connecting with and partly within any state bordering upon this state, every such city shall have the power and authority to repair, reconstruct, and rebuild from time to time any such bridge, when the same may be determined to be necessary by a two-thirds vote of all the members of the city council, and every such city is hereby authorized to issue its bonds in the manner specified in sections 441.27 to 441.33 for any or all of the purposes aforesaid; provided, that the amount of bonds issued by authority of sections 441.27 to 441.33 shall not exceed two percent of the assessed valuation of the taxable property of such city according to the then last preceding equalized valuation thereof as determined by the state board of equalization.

[1905 c. 170 s. 1] (1704)

441.28 TAX LEVY; SINKING FUND. Every city issuing any bonds under authority of sections 441.27 to 441.33 is hereby required to levy each year thereafter the necessary tax upon all the taxable property of such city for the purpose of paying the interest upon bonds so issued and of creating a sinking fund to pay such bonds as they mature, the sinking fund to be known as the bridge bond sinking fund, until the bonded indebtedness authorized by those sections shall be extinguished, and such sinking fund shall not be diverted to or used for any other purpose.

[1905 c. 170 s. 2] (1705)

441.29 NOT TO EXCEED COST. No bonds shall be issued under sections 441.27 to 441.33 by any city for any sum in excess of the actual cost or contract price of repairing, reconstructing, or rebuilding any such bridge.

[1905 c. 170 s. 3] (1706)

441.30 CONTRACT FOR REPAIR OR REBUILDING. Any such city is hereby authorized and empowered, by a two-thirds vote of its council to contract on behalf of the city for the repairing, reconstruction, or rebuilding of any such bridge and provide for the payment thereof on such terms and at such times as to the

council shall seem proper. No such contract providing for any expenditure in excess of \$500 shall be entered into unless the resolution authorizing the same shall be first approved by the mayor of the city or adopted by three-fourths vote of the council when not approved by the mayor and an advertisement for sealed bids for the performance of such contract shall be first published by the clerk or recorder of the city at least once in each week for three successive weeks in the official newspaper of the city. The council shall have authority to prescribe such terms and conditions relative to the making of such bids for such contract and relative to the security which each bidder shall be required to make or deposit with such bid, as to the council shall seem expedient and proper and shall have authority to reject any and all bids.

[1905 c. 170 s. 4] (1707)

441.31 BONDS. The bonds of any such city issued pursuant to the terms of sections 441.27 to 441.33 may be issued and sold from time to time as determined and authorized by ordinance or resolution adopted by the affirmative vote of two-thirds of all the members of the city council and shall be issued in such denominations and payable at such times and at such place or places and in such instalments as may be provided in such ordinance or resolution, and shall bear interest at not to exceed four per cent per annum, which shall be evidenced by coupons attached to such bonds, and such interest shall be payable at such times and at such place or places as may be specified in such ordinance or resolution. These bonds shall be sealed with the seal of the city issuing them and signed by the mayor and city clerk or recorder, and such coupons shall be signed by the mayor and city clerk or recorder and not sold for less than par value and accrued interest to the highest responsible bidder after notice published once in each week in a daily newspaper, if one there be in such city, if not, then in a weekly newspaper in such city and in a daily newspaper published in the city of St. Paul. A failure to publish these notices shall not invalidate such bonds.

[1905 c. 170 s. 5] (1708)

441.32 PROCEEDS. None of the proceeds of any of the bonds issued pursuant to the provisions of sections 441.27 to 441.33, nor any part thereof, shall be used for any other purpose than the purposes specified therein, which purposes shall be distinctly set forth in the ordinance or resolution authorizing the same.

[1905 c. 170 s. 6] (1709)

441.33 LIMIT OF DEBT. None of the bonds of any such city issued pursuant to the terms and provisions of sections 441.27 to 441.33 shall be deemed or taken to be a part of the indebtedness of such city within the purview of any law limiting the amount of the bonded or other indebtedness of any such city, and the bonds authorized by those sections may be issued notwithstanding and without regard to any limitation of the indebtedness of such city. The full faith and credit of every such city is pledged to the full payment of all such bonds and interest.

[1905 c. 170 s. 7] (1710)

441.34 CITIES MAY BUY TOLL BRIDGES. When any bridge has been by any person or corporation constructed to extend over or partly over an interstate or international river or water into another state or country, and such bridge has, for at least three years, been privately owned and operated as a toll bridge by any person or corporation, any city of any class organized either under a home rule charter or under the general law and situated within three miles of the beginning of the nearest approach to such bridge, or within whose corporate limits is located any portion of such bridge, shall have power and authority to purchase and acquire such bridge and approaches thereto whenever, at any general or special election held in such city, the electors by an affirmative vote of three-fifths majority of all the votes cast upon the proposition, declare in favor thereof at the fair value thereof, determined as provided in sections 441.35 to 441.46, and thereafter to own, operate, repair, improve, extend, and maintain the same as a toll bridge, whether all or any portion of the bridge and approaches be within or without the corporate limits of the city. Any such bridge over navigable waters of the United States shall be owned, operated, and maintained by any city acquiring the same subject to and in accordance with the act of congress authorizing the construction thereof and the lawful rules and regulations of the secretary of war relative thereto.

[1939 c. 316 s. 1] (1372½)

441.35 OPERATION; COLLECTION OF TOLLS. Any such city, in addition and as a supplement to all other powers herein or by other law granted to it, when so authorized by the voters, as set forth in section 441.34, shall have power and authority to purchase, acquire, take, and hold in fee simple, wherever located within or without the state, all land, structures, franchises, easements, approaches, buildings, equipment, appurtenances, machinery, and other real, personal or mixed property appurtenant to, or necessary and convenient for, the owning, operation, repair, improvement, extension, and maintenance of any such bridge so purchased by it; and such city shall have power and authority to charge and receive reasonable and uniform prices and tolls for transit over the bridge from all persons or corporations using the same, which charges and tolls shall be fixed and determined by the common council or the chief governing body of the city and may be, by such body, changed and adjusted from time to time; provided that such charges and rates of toll shall be so fixed and adjusted as to provide a fund sufficient to pay for the reasonable expense of maintaining and operating the bridge and its approaches under economical management and to provide a sinking fund sufficient to amortize the amount paid therefor as soon as possible under reasonable charges, or within any period fixed by law. If any revenue bonds are issued in payment of the bridge, as provided in sections 441.34 to 441.46, the aggregate of such charges and rates shall also be sufficient to enable such sinking fund to meet the interest and principal requirements of any such outstanding revenue bonds as they mature. No person, firm, or corporation shall be permitted to use the bridge except he or it pay the full and established rates of toll therefor. After a sinking fund sufficient to pay the cost of acquiring the bridge has been provided from bridge revenues only, the bridge shall thereafter be maintained and operated free of tolls, or the rates of toll shall be so adjusted as to provide a fund of not to exceed the amount necessary for the proper maintenance, repair, and operation of the bridge.

[1939 c. 316 s. 2] (1972½a)

441.36 COUNCIL TO ADOPT RESOLUTION. Before any such city shall purchase any such toll bridge the common council or chief governing body shall, by resolution adopted by a five-sevenths majority vote of all the members of the council or governing body, find and determine that the purchase of the bridge will be of public benefit and in the interest of the city and the welfare of its inhabitants, and shall find and determine the fair value of the bridge, taking into consideration, so far as can be ascertained, the cost of construction and of maintenance thereof, the rate of depreciation thereon, the reasonably estimated amount of income to be derived therefrom, as shown by the revenues received from the bridge during the three years immediately preceding this determination and any incidental expenses connected with the purchase thereof, which findings and which determination of fair value shall, for all the purposes of sections 441.34 to 441.46, be conclusive as to the matters therein found and determined.

[1939 c. 316 s. 3] (1972½b)

441.37 BONDS; ISSUE, SALE. For the purpose of acquiring and purchasing any such toll bridge and paying expenses incidental to such acquisition, any such city may, when so authorized by the voters, as set forth in section 441.34, and by a five-sevenths majority of the city council or other governing body, issue and negotiate, sell or dispose of interest-bearing bonds to be known as toll bridge bonds and payable out of the revenue and income to be derived from the toll bridge for the acquisition of which the bonds are issued. These bonds shall not be issued or secured on any such toll bridge in an amount in excess of the fair value thereof, determined as provided in sections 441.34 to 441.46. All or part of the bonds may be, by the city, disposed of by delivering the same to the person or corporation from whom the bridge is acquired, as payment of or upon the purchase price thereof to the extent of the par value of the bonds so delivered and the accrued interest thereon at the time of delivery.

These bonds shall bear interest at not to exceed six percent per annum, payable semiannually, mature either as a whole or serially on or before 20 years from their date, and be subject to redemption in such manner and at such times as the city council or governing body may by resolution or ordinance determine at the time of issue.

At the time of, or before the issuance and sale or disposal of any such bonds, the council or governing body shall, by a five-sevenths majority vote, by resolution or ordinance create and set aside a sinking fund for the payment of the bonds and the interest thereon and shall pledge to such sinking fund and to the payment therefrom of the bonds and all interest thereon, the total net income and revenues of the toll bridge for the acquisition of which the bonds were issued. The total net income and revenues shall, for all purposes of sections 441.34 to 441.46, be deemed to mean all the gross income from the bridge less only actual operating expenses and actual cost of maintenance. While any of these bonds are outstanding the total net income and revenues shall be used only for the payment of the principal and interest of the bonds. The bonds and the interest thereon shall constitute a first and prior lien on and against the total net income and revenue derived from the bridge and on and against all funds from whatever source paid into or set apart for the sinking fund. After all the bonds and the interest thereon shall have been fully paid, such sinking fund shall be maintained and continued for the purpose of repaying therefrom any payments previously made thereto from the general funds of the city.

[1939 c. 316 s. 4] (1372½c)

441.38 MAY MORTGAGE TOLL BRIDGE. In order to secure the payment of the toll bridge bonds and the interest thereon the city may, by a five-sevenths majority vote of the city council or other governing body, convey, by mortgage or deed of trust, the bridge and any or all of the property acquired or to be acquired through the issuance of such bonds; which mortgage or deed of trust shall be executed in a manner directed by the council or other governing body of such city and acknowledged and recorded and filed in the manner provided by law for the acknowledgment and recording and filing of mortgages of real estate and of personal property, and may contain such conditions and provisions, not in conflict with the provisions of sections 441.34 to 441.46, as may be deemed necessary to fully secure the payment of the bonds described therein. In the event that any portion of the bridge or property is within the corporate limits of the city, any such mortgage or deed of trust may carry the grant of a privilege or right to maintain and operate as a toll bridge the bridge and property covered thereby, for a period not exceeding 25 years from and after the date such bridge and property may come into the possession of any person or corporation as a result of foreclosure proceedings, which privilege or right may fix the rates which the person or corporation securing the same as a result of the foreclosure proceedings shall be entitled to charge in the operation of the property, for a period of not exceeding 25 years. When and as often as default shall be made in the payment of such bonds issued and secured by mortgage or deed of trust, as aforesaid, or in the payment of interest thereon when due, and when any such default shall have continued for the space of 12 months after notice thereof has been given to the mayor and treasurer or other financial officer of the city issuing the bonds, it shall be lawful for any such mortgagee or trustee under such indenture, upon the request of the holder or holders of a majority in amount of the bonds issued and outstanding under such mortgage or deed of trust, to declare the whole of the principal of the bonds as may be outstanding to be at once due and payable and to proceed to foreclose such mortgage or deed of trust in any court of competent jurisdiction. At a foreclosure sale the mortgagee or trustee or the holder or holders of such bonds may become the purchaser or purchasers of such bridge and other property and of the rights and privileges sold, if he or they be the highest bidders.

[1939 c. 316 s. 5] (1372½d)

441.39 BONDS NOT OBLIGATION OF CITY. In the event that any such bonds are secured by mortgage or deed of trust, as provided in sections 441.34 to 441.46, then these bonds shall, under no circumstances, be and become an obligation or liability of the city issuing the same or payable out of the general funds of the city, but shall be payable solely out of the revenues or income to be derived from the toll bridge for the acquisition of which the bonds were issued.

[1939 c. 316 s. 6] (1372½e)

441.40 DEFICIENCY AND INTEREST PAID OUT OF CITY FUNDS. In the event that any such bonds are not secured by mortgage or deed of trust, as provided in sections 441.34 to 441.46, in such case, and in the further event that in any year the total net income and revenues from the bridge are insufficient to pay the interest on the bonds and the principal of any such bonds maturing in

such year, or if no such bonds mature in such year, then to pay into the sinking fund such amount as may have been by resolution or ordinance theretofore determined as the minimum payment necessary to be made in such year to the sinking fund in order to amortize the cost of the bridge within the time required by sections 441.34 to 441.46, then the deficiency in such interest and principal or sinking fund payments shall be paid out of the general funds of the city, and the council or chief governing body of the city shall levy a general tax therefor and shall include in the next tax levy a sufficient amount to provide for the payment in full of the interest and principal or sinking fund payments.

[1939 c. 316 s. 7] (1372½f)

441.41 NOT AFFECTED BY FORMER LIMITATIONS. The bonds authorized by sections 441.34 to 441.46 to be issued, whether or not secured by mortgage or deed of trust, may be issued and sold or disposed of by any such city notwithstanding any limitation contained in the charter of such city or in any law of the state prescribing or fixing any limit upon the bonded indebtedness of such city and shall not create or constitute an indebtedness of the city within the meaning of any charter, statutory, or constitutional limitation upon the incurring of indebtedness.

[1939 c. 316 s. 8] (1372½g)

441.42 POWERS OF CITY IN ISSUANCE OF BONDS. To any extent not in conflict with the provisions of sections 441.34 to 441.46, any city issuing bonds thereunder shall have the right to covenant with the holders of the bonds, either by resolution or ordinance adopted or passed by a five-sevenths majority vote of the council or other governing body or by the terms of the mortgage or trust indenture or by separate written instrument if the bonds be not secured by mortgage or indenture, as to all matters concerning:

(1) The use and disposition of all income and revenues derived from the operation of any such toll bridge;

(2) The manner and expense of operating and maintaining the bridge;

(3) The insurance to be carried thereon and the disposition of the insurance moneys;

(4) Its books of account and the inspection and audit thereof and its accounting methods;

(5) The rates of tolls and charges for the use of the bridge and other matters pertaining to the care and operation thereof by the city;

(6) The manner of conserving and applying the revenues therefrom to the payment of such bonds and the interest thereon; and

(7) The depository of the sinking fund, the method of handling such fund, and the minimum annual requirements thereof.

[1939 c. 316 s. 9] (1372½h)

441.43 REVENUES KEPT SEPARATE. Every such city owning and operating a toll bridge under sections 441.34 to 441.46 must keep all income and revenues derived from the operation of such bridge separate and distinct from all other revenues, and shall keep the books of account for such bridge distinct from other city accounts, and in such manner as to show the true and complete financial results of such city ownership and operation. Such accounts shall be so kept as to show in detail the actual cost to such city of such bridge; the daily tolls collected therefrom; all cost of maintenance, repair, and improvement; all operating expenses of every description; and the amounts set aside for sinking fund purposes. The council or chief governing body shall cause to be printed annually for public distribution a report showing the financial results of such city ownership and operation.

[1939 c. 316 s. 10] (1372½i)

441.44 BONDS NOT WITHIN LIMIT OF INDEBTEDNESS. Any bonds issued under sections 441.34 to 441.46, whether secured or unsecured as provided in sections 441.34 to 441.46, shall be excepted from and shall not constitute an obligation or indebtedness of such city within the meaning of any provisions contained in the charter of such city or in any law of the state prescribing, limiting, or fixing the time and manner of payment of municipal bonds and any such bonds may be issued and sold or disposed of by any such city as provided in sections 441.34 to 441.46 notwithstanding any such charter or statutory provisions.

[1939 c. 316 s. 11] (1372½j)

441.45 BONDS MAY BE REGISTERED. Any bonds issued under sections 441.34 to 441.46 may be payable to bearer or to the order of the person or corpora-

tion to whom they may be delivered either for cash or property and registered with the city treasurer or with the trustee under any indenture of trust.

[1939 c. 316 s. 12] (1372½k)

441.46 MAY SELL BRIDGE TO THE STATE. Any city purchasing and acquiring any such bridge, as provided in sections 441.34 to 441.46, shall thereafter have power and authority to sell, assign, and transfer the same and its approaches, or any interest therein, to the state or to any public agency or political subdivision thereof, or to any other state or public agency or political subdivision thereof within or adjoining which any part of the bridge is located, or to any two or more of them jointly, provided that any such sale or transfer shall not alter, change, modify, or affect the rights, powers, securities, and privileges of the holders of any outstanding bonds issued by the city in payment of the bridge as provided in sections 441.34 to 441.46, or the payment of the principal and interest of such bonds when and as due; and any such sale or transfer made while any of such bonds are outstanding shall be subject to the payment thereof and to the assumption and performance by the vendee or transferee of all obligations, liabilities, and covenants imposed upon the city by sections 441.34 to 441.46 or incurred and assumed by it in connection with the issuance of such bonds.

Any city purchasing any such bridge, as provided in sections 441.34 to 441.46, may thereafter acquire, condemn, occupy, possess and use real estate and other property needed for the operation, maintenance, improvement, and extension of such bridge and its approaches by purchase or by condemnation or expropriation in accordance with the laws of the state governing the acquisition of private property for public purposes by condemnation or expropriation.

[1939 c. 316 s. 13] (1372½l)

441.47 CITIES AND VILLAGES MAY ACQUIRE TOLL BRIDGES. Any city or village of this state, however organized, bordering upon any navigable or non-navigable stream, river, or body of water, including any international or interstate navigable or non-navigable stream, river, or body of water, is authorized to acquire, purchase, construct, maintain, and operate bridges and approaches thereto across any such navigable or non-navigable stream, river, or body of water, whether all or any portion of bridges and approaches be within or without the corporate limits of the city or village, and to exercise all such powers within its boundaries and in adjacent territory within this state, not in excess of two miles from the nearest boundary line thereof, and in any adjoining domestic or foreign state, after first having obtained authority, if any be necessary, from the United States.

[1941 c. 286 s. 1]

441.48 MAY PURCHASE OR CONSTRUCT BRIDGES. Every city and village which shall by ordinance have determined to exercise the powers granted by sections 441.47 to 441.55 shall have the right to acquire, purchase, construct, maintain, and operate any such bridges and approaches thereto across, above, or under any railroad or public utility right of way and in, upon, under, or above any public or private road, highway, street, alley, or public ground, or upon any property owned by any municipality, political subdivision, or agency of this state, and any such city or village may acquire, occupy, possess, and use all real estate, easements, rights in land, structures, buildings, equipment, appurtenances, machinery, and other real, personal, or mixed property necessary or incidental in the acquisition, purchase, construction, maintenance, or operation of any such bridges and approaches thereto by purchase or by condemnation or expropriation, in accordance with the laws of the state governing the acquisition of private property for public purposes by condemnation or expropriation, and in accordance with the laws of any foreign state where it becomes necessary to so acquire real estate and other property needed for the acquisition, purchase, construction, operation, or maintenance of any such bridges and approaches thereto.

[1941 c. 286 s. 2]

441.49 TOLL BRIDGES REVENUE BONDS. For the purpose of acquiring, purchasing, or constructing any such bridges and approaches, the governing body of each such city or village is authorized to borrow money and in evidence thereof to issue toll bridge revenue bonds of such city or village, payable solely from the revenues derived from the operation of any such bridge or bridges. Such bonds may be issued as serial or term bonds, maturing in not to exceed 30 years from

the date thereof, and may be made callable for redemption prior to maturity on any interest payment date, at the price of par plus a premium of not to exceed five percent of the par value thereof, and accrued interest, after notice shall be given at the time and in the manner provided in the ordinance authorizing their issue. Such bonds may be issued in such amounts as may be necessary to provide sufficient funds to pay the cost of acquiring, purchasing, or constructing such bridges and approaches thereto, including all property, real, personal, or mixed, necessary or incidental in the acquisition, purchase, or construction thereof, including reasonable legal and engineering fees and costs of financing. Such bonds shall bear interest at a rate not to exceed four percent per annum, payable semi-annually, and all bonds issued under the provisions of sections 441.47 to 441.55 are hereby declared to be negotiable instruments and shall be executed by such officials of any such city or village as the ordinance authorizing their issue shall provide. In case any official whose signature appears on any such bonds or coupons shall cease to be such official before delivery of such bonds, such signature shall nevertheless be valid and sufficient for all purposes, the same as if such official had remained in office until such delivery.

Such bonds may be sold at either public or private sale, as the governing authority of any such city or village may provide; provided, that all such bonds issued by any such city or village shall not be sold at a price of less than 95 percent of par.

When the governing body of any such city or village determines to issue bonds, as provided for in sections 441.47 to 441.55, it shall adopt an ordinance prescribing in a general way the bridges and the general location thereof, and setting out the aggregate amount of the estimated cost of the acquisition, purchase, or construction thereof as prepared by the engineers employed for that purpose, and determine the period of usefulness thereof and fix the amount of toll bridge revenue bonds to be issued, the maturity thereof, the interest rate, and all other details in connection therewith, and such ordinance shall be effective immediately upon passage and approval. Such ordinance may contain such covenants and restrictions upon the issue of additional toll bridge revenue bonds thereafter as may be deemed necessary or advisable to assure the prompt payment of the bonds thereby authorized.

The bonds issued under the provisions of sections 441.47 to 441.55 shall be payable solely from the revenue derived from any such bridges and it shall be plainly stated on the face of each bond that it does not constitute an indebtedness within any constitutional or statutory or charter debt limitation.

[1941 c. 286 s. 3]

441.50 SINKING FUND. Any ordinance authorizing the issuance of bonds under sections 441.47 to 441.55 shall provide for the creation of a sinking fund into which shall be payable from the revenues of any such bridges from month to month as such revenues are collected such sums in excess of the cost of the maintenance and operation of such bridges as may be sufficient to pay the interest upon and principal of such bonds at or before maturity, and the moneys in the sinking fund shall be applied solely to the payment of the maturing interest on bonds authorized under the provisions of sections 441.47 to 441.55 and for the retirement of such bonds at or prior to maturity. The governing body of any such city or village shall have power by ordinance to make, enact, and enforce all needful rules and regulations in connection with the acquisition, purchase, construction, maintenance, operation, and management, care or protection of any such bridge, and it shall be the duty of such governing body to establish rates of toll or charges for the use of any such bridges which shall be sufficient at all times to pay the cost of maintenance and operation thereof and to pay the principal of and interest on the bonds issued under the provisions of sections 441.47 to 441.55. Rates of toll or charges for the use of any such bridge shall be established, revised, and maintained and be payable and be enforced as the governing body of each such city or village may determine by ordinance.

[1941 c. 286 s. 4]

441.51 ORDINANCES PUBLISHED. All ordinances adopted for the issue of any bonds under the provisions of sections 441.47 to 441.55 shall be published once within 30 days from the date of passage, in a newspaper of general circulation in the city or village, and effective without the necessity of submitting such ordinance to any election, except that any such ordinance shall be subject to any

referendum provision of any city organized and operating under a home rule charter.

[1941 c. 286 s. 5]

441.52 BONDS SOLD NOTWITHSTANDING LIMITATIONS. The bonds authorized by sections 441.47 to 441.55 may be issued and sold by any such city or village in accordance with the terms of the ordinance adopted therefor, notwithstanding any limitation contained in the charter of the city or village or in any law of the state prescribing or fixing any limit upon the bonded indebtedness of any such city or village, and such bonds shall not create or constitute an indebtedness of any such city or village within the meaning of any constitutional, statutory, or charter limitation upon the incurring of indebtedness, but such bonds shall be payable only from the net income and revenues of any such bridges pledged to the payment thereof after payment of the actual operating expenses and actual cost of maintenance and repair of any such bridges under economical management, and while any of the bonds are outstanding, such net income and revenues shall be used solely for the payment of the principal of and interest on the bonds, and the bonds and the interest thereon shall constitute a first and prior lien on and against such net income and revenues and on and against all funds, from whatever source, paid into or set apart for the sinking fund hereinabove designated.

[1941 c. 286 s. 6]

441.53 FUNDS KEPT IN SEPARATE ACCOUNT. Every city or village owning and operating a toll bridge under sections 441.47 to 441.55 must keep all income and revenues derived from the operation thereof separate and distinct from all other revenues of the city or village, and keep books of account therefor distinct from all other city or village accounts and in such manner as to show the true and complete financial results of such public ownership and operation. These accounts shall be kept so as to show in detail the actual cost to the city or village of such bridges, the daily tolls collected therefrom, all costs of maintenance, repair, and improvement, all operating expenses of every description, and the amounts set aside for sinking fund purposes, and semiannual reports showing the financial results of such public ownership and operation shall be published by the governing body of any such city or village.

[1941 c. 286 s. 7]

441.54 BONDS NOT INDEBTEDNESS OF CITY. All bonds issued under sections 441.47 to 441.55 shall be exempt from and shall not constitute an indebtedness of any such city or village within the meaning of any provisions contained in the charter of the city or village or in any law of the state prescribing, limiting, or fixing the time and manner of payment of municipal bonds or prescribing, limiting, or fixing the time and manner of sale of municipal bonds, and all such bonds may be authorized, issued, and sold by any such city or village as provided in sections 441.47 to 441.55 notwithstanding any such charter or statutory provision.

[1941 c. 286 s. 8]

441.55 HOLDERS OF BONDS MAY SUE. Any holder of a bond or bonds, or any of the coupons of any bond or bonds, issued under the provisions of sections 441.47 to 441.55 may, either in law or in equity, by suit, action, mandamus, or other proceedings, enforce or compel the performance of all duties required by these sections, including the fixing, maintaining, and collecting of such rates of toll or charges for the use of any such bridges and approaches thereto as will be sufficient for all the purposes provided by these sections and the application of the income and revenue thereof. All bonds of the same authorization issued under the provisions of these sections shall enjoy equal rights in respect of the revenues of any such bridges, regardless of the time of actual issuance or delivery thereof.

[1941 c. 286 s. 9]