

CHAPTER 475

PUBLIC INDEBTEDNESS

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475.51 DEFINITIONS.

[For text of subs 1 and 2, see M.S.1986]

Subd. 3. "Obligation" means any promise to pay a stated amount of money at a fixed future date or upon demand of the obligee, regardless of the source of funds to be used for its payment, made for the purpose of incurring debt, including the purchase of property through an installment purchase contract or any other deferred payment agreement, for which funds are not appropriated in the current year's budget.

Subd. 4. "Net debt" means the amount remaining after deducting from its gross debt the amount of current revenues which are applicable within the current fiscal year to the payment of any debt and the aggregate of the principal of the following:

(1) Obligations issued for improvements which are payable wholly or partly from the proceeds of special assessments levied upon property specially benefited thereby, including those which are general obligations of the municipality issuing them, if the municipality is entitled to reimbursement in whole or in part from the proceeds of the special assessments.

(2) Warrants or orders having no definite or fixed maturity.

(3) Obligations payable wholly from the income from revenue producing conveniences.

(4) Obligations issued to create or maintain a permanent improvement revolving fund.

(5) Obligations issued for the acquisition, and betterment of public waterworks systems, and public lighting, heating or power systems, and of any combination thereof or for any other public convenience from which a revenue is or may be derived.

(6) Debt service loans and capital loans made to a school district under the provisions of sections 124.42 and 124.43.

(7) Amount of all money and the face value of all securities held as a debt service fund for the extinguishment of obligations other than those deductible under this subdivision.

(8) Obligations to repay loans made under section 116J.37.

(9) Obligations to repay loans made from money received from litigation or settlement of alleged violations of federal petroleum pricing regulations.

(10) All other obligations which under the provisions of law authorizing their issuance are not to be included in computing the net debt of the municipality.

[For text of subs 5 to 12, see M.S.1986]

History: 1987 c 289 s 4; 1987 c 344 s 17

475.525 MUNICIPAL DISTRICT HEATING BONDS.

[For text of subs 1 and 2, see M.S.1986]

Subd. 3. **Redevelopment agency.** A municipality may itself, or by ordinance authorize any redevelopment agency as defined in section 469.153, subdivision 3,

acting for the municipality, to exercise any and all of the powers granted to the municipality under subdivision 2 and to the redevelopment agency under any other law for the purpose of financing all or any portion of the district heating system and any conversion facilities for modifying the user's heating or water system to use the heat energy converted from the steam or hot water furnished by the district heating system including, but without limitation, the payment of interest during construction and for a reasonable time thereafter and the establishment of reserves for bond payment and for working capital, in which event if the issuer is a redevelopment agency the sources of revenue that may be pledged to the payment of revenue bonds or obligations shall include any revenues of the redevelopment agency. The proceeds of bonds or obligations issued by the municipality or redevelopment agency may be used to make or purchase loans for facilities which the issuer estimates will require such financing, and, for the purpose of making or purchasing such loans the issuer shall have power to enter into loan agreements and other related agreements, both before and after the issuance of the obligations, with such persons, firms, public or private corporations, federal or state agencies, governmental units, and under such terms and conditions as the issuer shall deem appropriate; and any governmental unit in the state shall have the power to apply, contract for, and receive the loans without limitation under any other provisions of chapter 475.

History: 1987 c 291 s 239

475.53 LIMIT ON NET DEBT.

[For text of subds 1 and 3, see M.S.1986]

Subd. 4. **School districts.** Except as otherwise provided by law, no school district shall be subject to a net debt in excess of ten percent of the actual market value of all taxable property and of exempt property referred to in section 275.49, situated within its corporate limits, as computed in accordance with this subdivision. The county auditor of each county containing taxable real or personal property situated within any school district shall certify to the district upon request the market value of all such property. The county auditor of each county containing exempt property referred to in section 275.49, situated within any school district, shall certify to the district upon request the total market value of all such property as determined under section 275.49. The commissioner of revenue shall certify to the district upon request the market value of railroad property within the district as most recently determined under section 270.87. Whenever the commissioner of revenue, in accordance with section 124.2131, subdivision 1, has determined that the assessed valuation of any district furnished by county auditors is not based upon the market value of taxable property in the district, the commissioner of revenue shall certify to the district upon request the ratio most recently ascertained to exist between such value and the actual market value of property within the district. The actual market value of property within a district, on which its debt limit under this subdivision is based, is (a) the value certified by the county auditors and, where applicable, by the commissioner of revenue under section 270.87, or (b) this value divided by the ratio certified by the commissioner of revenue, whichever results in a higher value.

[For text of subds 5 and 6, see M.S.1986]

History: 1987 c 268 art 7 s 54

475.54 MATURITIES; REDEMPTION.

Subdivision 1. Except as provided in subdivision 3, 5a, or 5b, or as expressly authorized in another law, all obligations of each issue shall mature or be subject to mandatory sinking fund redemption in installments, the first not later than three years and the last not later than 30 years from the date of the issue. No amount of principal of the issue payable in any calendar year shall exceed five times the amount of the smallest amount payable in any preceding calendar year ending three years or more after the issue date.

[For text of subds 2 to 5a, see M.S.1986]

Subd. 15. For purposes of determining the amount of principal that may be payable in any calendar year under subdivision 1, any principal payment obligation secured by an investment, the face amount of which is equal to or greater than the amount of principal, may be disregarded if the investment matures or is callable by the holder thereof on or before the maturity date of the principal.

Subd. 16. A municipality may enter into an agreement with a bank or dealer described in section 475.66, subdivision 1, for an exchange of interest rates pursuant to this subdivision. A municipality with outstanding obligations bearing interest at a variable rate may agree to pay sums equal to interest at a fixed rate or at a different variable rate determined pursuant to a formula set out in the agreement on an amount not exceeding the outstanding principal amount of the obligations, in exchange for an agreement by the bank or dealer to pay sums equal to interest on a like amount at a variable rate determined pursuant to a formula set out in the agreement. A municipality with outstanding obligations bearing interest at a fixed rate or rates may agree to pay sums equal to interest at a variable rate determined pursuant to a formula set out in the agreement on an amount not exceeding the outstanding principal amount of the obligations, in exchange for an agreement by the bank or dealer to pay sums equal to interest on a like amount at a fixed rate or rates set out in the agreement. The agreement to pay the bank or dealer is not an obligation of the municipality as defined in section 475.51, subdivision 3. For purposes of calculation of a debt service levy, determination of a rate of interest on a special assessment or other calculation based on the rate of interest on an obligation, a municipality which has entered into an interest rate swap agreement described in this subdivision may determine to treat the amount or rate of interest on the obligation as the net rate or amount of interest payable after giving effect to the swap agreement. Subject to any applicable bonds covenants, any payments required to be made by the municipality under the swap agreement may be made from sums secured to pay debt service on the obligations with respect to which the swap agreement was made or from any other available source of the municipality.

History: 1987 c 344 s 20-22

475.55 EXECUTION; NEGOTIABILITY; INTEREST RATES.

Subdivision 1. **Form.** All obligations shall be securities as provided in the Uniform Commercial Code, chapter 336, article 8, may be issued as certificated securities or as uncertificated securities, and if issued as certificated securities may be issued in bearer form or in registered form, as defined in section 336.8-102. The validity of an obligation shall not be impaired by the fact that one or more officers authorized to execute it by the governing body of the municipality shall have ceased to be in office before delivery to the purchaser or shall not have been in office on the formal issue date of the obligation. Every obligation, as to certificated securities, or transaction statement, as to uncertificated securities, shall be signed manually by one officer of the municipality or by a person authorized to act on behalf of a bank or trust company, located in or outside of the state, which has been designated by the governing body of the municipality to act as authenticating agent. Other signatures and the seal of the issuer may be printed, lithographed, stamped, or engraved thereon and on any interest coupons to be attached thereto. The seal need not be used. A municipality may do all acts and things which are permitted or required of issuers of securities under the Uniform Commercial Code, chapter 336, article 8, and may designate a corporate registrar to perform on behalf of the municipality the duties of a registrar as set forth in those sections. Any registrar shall be an incorporated bank or trust company, located in or outside of the state, authorized by the laws of the United States or of the state in which it is located to perform the duties. If obligations are issued as uncertificated securities, and a law requires or permits the obligations to contain a statement or recital, whether on their face or otherwise, it shall be sufficient compliance with the law that the statement or recital is contained in the transaction statement or in an ordinance, resolution, or other instrument which is made a part of the obligation by reference in the transaction statement as provided in section 336.8-202.

Subd. 1a. **Interest.** Interest on obligations issued after April 1, 1986, is not subject to any limitation on rate or amount.

Subd. 2. **Supersession.** The provisions of this section shall supersede any maximum interest rate fixed by any other law or a city charter with respect to obligations of the state or any municipality or governmental or public subdivision, district, corporation, commission, board, council, or authority of whatsoever kind, including warrants or orders issued in evidence of allowed claims for property or services furnished to the issuer.

Subd. 3. **Special assessments.** Notwithstanding any contrary provisions of law or charter, special assessments pledged to the payment of obligations may bear interest at the rate the governing body by resolution determines, not exceeding the maximum interest rate permitted to be charged against the assessments under the city charter pursuant to which the assessments were levied.

Subd. 4. **Rate determination.** On or before the 20th day of each month, the commissioner of finance shall determine the most recently published yield for the Bond Buyer's Index of 20 Municipals. This rate plus one percent and rounded to the next highest percent per annum shall be the rate for the next succeeding month for the purpose set forth in subdivision 7. The commissioner of finance shall publish the maximum rate in the State Register each month.

Subd. 5. [Repealed, 1987 c 344 s 37]

Subd. 6. **Registration data private.** All information contained in any register maintained by a municipality or by a corporate registrar with respect to the ownership of municipal obligations is nonpublic data as defined in section 13.02, subdivision 9, or private data on individuals as defined in section 13.02, subdivision 12. The information is not public and is accessible only to the individual or entity that is the subject of it, except if disclosure:

(1) is necessary for the performance of the duties of the municipality or the registrar;

(2) is requested by an authorized representative of the state commissioner of revenue or attorney general or of the commissioner of internal revenue of the United States for the purpose of determining the applicability of a tax;

(3) is required under section 13.03, subdivision 4; or

(4) is requested at any time by the corporate trust department of a bank or trust company acting as a tender agent pursuant to documents executed at the time of issuance of the obligations to purchase obligations described in section 475.54, subdivision 5a, or obligations to which a tender option has been attached in connection with the performance of such person's duties as tender agent, or purchaser of the obligations.

Subd. 7. **Assumed maximum interest rate for other laws.** If an obligation is not subject to a maximum interest rate pursuant to subdivision 1, paragraph (1) and another law provides for a calculation of a debt service levy, determination of a rate of interest on a special assessment, or other factor based on an assumption that a maximum interest rate applies to the obligation, the governing body of the municipality may estimate or determine an assumed maximum interest rate for purposes of that law. If the municipality does not determine, specify or estimate the maximum interest rate for such purpose, then the maximum interest rate for purposes of the other law is the interest rate determined by the commissioner of finance under subdivision 4. This subdivision does not limit the interest rate that may be paid on obligations under subdivision 1a.

History: 1987 c 344 s 23-29

475.56 INTEREST RATE.

(a) Any municipality issuing obligations under any law may issue obligations bearing interest at a single rate or at rates varying from year to year which may be lower or higher in later years than in earlier years. Such higher rate for any period prior to maturity may be represented in part by separate coupons designated as additional

coupons, extra coupons, or B coupons, but the highest aggregate rate of interest contracted to be so paid for any period shall not exceed the maximum rate authorized by law. Such higher rate may also be represented in part by the issuance of additional obligations of the same series, over and above but not exceeding two percent of the amount otherwise authorized to be issued, and the amount of such additional obligations shall not be included in the amount required by section 475.59 to be stated in any bond resolution, notice, or ballot, or in the sale price required by section 475.60 or any other law to be paid; but if the principal amount of the entire series exceeds its cash sale price, such excess shall not, when added to the total amount of interest payable on all obligations of the series to their stated maturity dates, cause the average annual rate of such interest to exceed the maximum rate authorized by law. This section does not authorize a provision in any such obligations for the payment of a higher rate of interest after maturity than before.

(b) Any obligation of an issue of obligations otherwise subject to section 475.55, subdivision 1, may bear interest at a rate varying periodically at the time or times and on the terms, including convertibility to a fixed rate of interest, determined by the governing body of the municipality, but the rate of interest for any period shall not exceed the maximum rate of interest for the obligations determined in accordance with section 475.55, subdivision 1. For purposes of section 475.61, subdivisions 1 and 3, the interest payable on variable rate obligations for their term shall be determined as if their rate of interest is the maximum rate permitted for the obligations under section 475.55, subdivision 1, or the lesser maximum rate of interest payable on the obligations in accordance with their terms, but if the interest rate is subsequently converted to a fixed rate the levy may be modified to provide at least five percent in excess of amounts necessary to pay principal of and interest at the fixed rate on the obligations when due. For purposes of computing debt service or interest pursuant to section 475.67, subdivision 12, interest throughout the term of bonds issued pursuant to this subdivision is deemed to accrue at the rate of interest first borne by the bonds. The provisions of this paragraph do not apply to obligations issued by a statutory or home rule charter city with a population of less than 7,500, as defined in section 477A.011, subdivision 3, or to obligations that are not rated A or better, or an equivalent subsequently established rating, by Standard and Poor's Corporation, Moody's Investors Service or other similar nationally-recognized rating agency, except that any statutory or home rule charter city, regardless of population or bond rating, may issue variable rate obligations as a participant in a bond pooling program established by the league of Minnesota cities that meets this bond rating requirement.

History: 1987 c 344 s 30

475.60 SALE OF BONDS.

[For text of subd 1, see M.S.1986]

Subd. 2. **Requirements waived.** The requirements as to public sale shall not apply to:

(1) obligations issued under the provisions of a home rule charter or of a law specifically authorizing a different method of sale, or authorizing them to be issued in such manner or on such terms and conditions as the governing body may determine;

(2) obligations sold by an issuer in an amount not exceeding the total sum of \$1,200,000 in any 12-month period;

(3) obligations issued by a governing body other than a school board in anticipation of the collection of taxes or other revenues appropriated for expenditure in a single year, if sold in accordance with the most favorable of two or more proposals solicited privately;

(4) obligations sold to any board, department, or agency of the United States of America or of the state of Minnesota, in accordance with rules or regulations promulgated by such board, department, or agency;

(5) obligations issued to fund pension and retirement fund liabilities under section 475.52, subdivision 6, obligations issued with tender options under section 475.54, subdivision 5a, crossover refunding obligations referred to in section 475.67, subdivision 13, and any issue of obligations comprised in whole or in part of obligations bearing interest at a rate or rates which vary periodically referred to in section 475.56; and

(6) obligations to be issued for a purpose, in a manner, and upon terms and conditions authorized by law, if the governing body of the municipality, on the advice of bond counsel or special tax counsel, determines that interest on the obligations cannot be represented to be excluded from gross income for purposes of federal income taxation.

[For text of subs 3 to 7, see M.S.1986]

History: 1987 c 344 s 31

475.61 TAX LEVIES.

[For text of subs 1 and 2, see M.S.1986]

Subd. 3. Irrevocability. Tax levies so made and filed shall be irrevocable, except as provided in this subdivision.

In each year when there is on hand any excess amount in the debt redemption fund of a school district at the time the district makes its property tax levies, the amount of the excess shall be certified by the school board to the commissioner of education who shall compute the reduced tax levy, after adjustment for the homestead credit replacement aid paid pursuant to section 273.1394, the agricultural credit replacement aid paid pursuant to section 273.1395, and the tax base adjustment pursuant to section 273.1396. The commissioner of education shall certify the adjusted reduced tax levy to the county auditor and the auditor shall reduce the tax levy otherwise to be included in the rolls next prepared by the amount certified, unless the school board determines that the excess amount is necessary to ensure the prompt and full payment of the obligations and any call premium on the obligations, or will be used for redemption of the obligations in accordance with their terms. An amount shall be presumed to be excess for a school district in the amount that it, together with the levy required by subdivision 1, will exceed 106 percent of the amount needed to meet when due the principal and interest payments on the obligations due before the second following July 1. This subdivision shall not limit a school board's authority to specify a tax levy in a higher amount if necessary because of anticipated tax delinquency or for cash flow needs to meet the required payments from the debt redemption fund.

If the governing body, including the governing body of a school district, in any year makes an irrevocable appropriation to the debt service fund of moneys actually on hand or if there is on hand any excess amount in the debt service fund, the recording officer may certify to the county auditor the fact and amount thereof and the auditor shall reduce by the amount so certified the amount otherwise to be included in the rolls next thereafter prepared.

[For text of subs 4 and 5, see M.S.1986]

History: 1987 c 268 art 6 s 52

NOTE: Except where provided otherwise, subdivision 3, as amended by Laws 1987, chapter 268, article 6, section 52, is effective for taxes levied in 1988, payable in 1989, and thereafter. See Laws 1987, chapter 268, article 6, section 54.

475.66 DEBT SERVICE FUND.

[For text of subs 1 and 2, see M.S.1986]

Subd. 3. Subject to the provisions of any resolutions or other instruments securing obligations payable from a debt service fund, any balance in the fund may be invested

(a) in governmental bonds, notes, bills, mortgages, and other securities, which are direct obligations or are guaranteed or insured issues of the United States, its agencies, its instrumentalities, or organizations created by an act of Congress,

(b) in shares of an investment company (1) registered under the Federal Investment Company Act of 1940, whose shares are registered under the Federal Securities Act of 1933, and (2) whose only investments are in securities described in the preceding clause and repurchase agreements fully collateralized by those securities, if the repurchase agreements are entered into only with those primary reporting dealers that report to the Federal Reserve Bank of New York and with the 100 largest United States commercial banks,

(c) in any security which is (1) a general obligation of the state of Minnesota or any of its municipalities or (2) a general obligation of the Minnesota housing finance agency, provided that investments under this clause (2) may be made only (i) prior to August 1, 1990, and (ii) for a period of no more than three years,

(d) in bankers acceptances of United States banks eligible for purchase by the Federal Reserve System, or

(e) in commercial paper issued by United States corporations or their Canadian subsidiaries that is of the highest quality and matures in 270 days or less.

The fund may also be used to purchase any obligation, whether general or special, of an issue which is payable from the fund, at such price, which may include a premium, as shall be agreed to by the holder, or may be used to redeem any obligation of such an issue prior to maturity in accordance with its terms. The securities representing any such investment may be sold or hypothecated by the municipality at any time, but the money so received remains a part of the fund until used for the purpose for which the fund was created.

[For text of subd 4, see M.S.1986]

History: 1987 c 344 s 32

475.67 REFUNDING BONDS AND OTHER OBLIGATIONS; VALIDITY; PROCEDURE.

[For text of subs 1 and 2, see M.S.1986]

Subd. 3. Any or all obligations and interest thereon may be refunded if and when and to the extent that for any reason the taxes or special assessments, revenues, or other funds appropriated for their payment are not sufficient to pay all principal and interest due or about to become due thereon. All obligations of one or more issues regardless of their source of payment and interest thereon may be refunded before their due dates, if consistent with covenants made with the holders thereof, when determined by the governing body to be necessary or desirable for the reduction of debt service cost to the municipality or for the extension or adjustment of the maturities in relation to the resources available for their payment, or in the case of obligations payable solely from a special fund, for the more advantageous sale of additional obligations payable from the same fund or to relieve the municipality of restrictions imposed by covenants made with the holders of the obligations to be refunded; provided the amount of interest which may be refunded from the proceeds of the refunding obligations shall not exceed the amount of proceeds estimated to be required in excess of the principal amount of refunded obligations to retire the refunded obligations in accordance with subdivision 6, but in no event shall the aggregate principal amount of the refunding obligations exceed by more than ten percent the aggregate principal amount of the obligations to be refunded. No general obligations, for which the full faith and credit of the issuer is pledged, shall be issued to refund special obligations previously issued for any purpose, payable solely from a special fund, unless such issuance is authorized by such election, hearing, petition, resolution, or other procedure as would have been required as a condition precedent to the original issuance of general obligations for the same purpose.

[For text of subds 4 to 10, see M.S.1986]

Subd. 11. [Repealed, 1987 c 344 s 37]

Subd. 12. In the refunding of general obligations, for which the full faith and credit of the issuing municipality has been pledged, the following additional conditions shall be observed: each such obligation, if repayable, shall be called for redemption prior to its maturity in accordance with its terms no later than either (i) the earliest date on which it may be redeemed without payment of any premium, or (ii) if the obligation is only prepayable with payment of a premium, on the earliest date on which it may be redeemed with payment of the least premium required by its terms. No refunding obligations

shall be issued and sold more than six months before the refunded obligations mature or are called for redemption in accordance with their terms, unless either (i) as a result of the refunding the average life of the maturities is extended at least three years or (ii) as of the nominal date of the refunding obligations the present value of the dollar amount of the debt service on the refunding obligations, computed to their stated maturity dates, after deducting any premium or adding any discount, is lower by at least three percent than the present value of the dollar amount of debt service, on all general obligations refunded, exclusive of any premium or discount, computed to their stated maturity dates; provided that in computing the dollar amount of debt service on the refunding obligations, any expenses of the refunding payable from a source other than the proceeds of the refunding obligations or the interest derived from the investment thereof shall be added to the dollar amount of debt service on the refunding obligations. For purposes of this subdivision, the present value of the dollar amount of debt service means the dollar amount of debt service to be paid, discounted to the nominal date of the refunding obligations at a rate equal to the yield on the refunding obligations. Expenses of the refunding include the amount, if any, in excess of the proceeds of the refunding obligations or the principal amount of obligations to be refunded, whichever is the greater, which is required to be deposited in escrow to provide cash and purchase securities sufficient to retire the refunded obligations and unaccrued interest thereon in accordance with subdivision 6; charges of the escrow agent and of the paying agent for the refunding obligations; and expenses of printing and publications and of fiscal, legal, or other professional service necessarily incurred in the issuance of the refunding obligations.

[For text of subd 13, see M.S.1986]

History: 1987 c 344 s 33,34

475.78 PERFECTION OF PLEDGE.

Neither filing nor possession is required to perfect the security interest created by any pledge or appropriation of revenues or funds of the municipality, including any of its investments, to the payment of bonds issued by the municipality.

History: 1987 c 344 s 35

475.79 POWERS AVAILABLE TO OTHER POLITICAL SUBDIVISIONS.

Any powers granted to a municipality under this chapter, other than the power to issue general obligation bonds and levy taxes, may be exercised by any other public corporation, authority, governmental unit, or other political subdivision of the state of Minnesota that is not a municipality. This grant of authority does not limit the powers granted to an entity under any other law.

History: 1987 c 344 s 36