

1934 Supplement
To
Mason's Minnesota Statutes
1927

(1927 to 1934)
(Superseding Mason's 1931 Supplement)

Containing the text of the acts of the 1929, 1931, 1933 and 1933-34 Special Sessions of the Legislature, both new and amendatory, and notes showing repeals, together with annotations from the various courts, state, federal, and the opinions of the Attorney General, construing the constitution, statutes, charters and court rules of Minnesota



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CITER- DIGEST CO.
SAINT PAUL, MINNESOTA.
1934

warrants issued by said city, village or borough, to pay the cost of such improvement, shall consent in writing to such extension and manner of payment as set forth in such resolution, which said written consent shall be filed with the Clerk of such city, village or borough.

Within twenty (20) days after the filing of the written consent of 75% or more of the owners of unpaid warrants to the extensions of time of payment of said unextended portion of said assessments, the Council of such city, village or borough shall, by resolution, direct the Clerk or Recorder of such village, city or borough, to make up and file in the office of the County Auditor, a certified statement covering unpaid portions of said assessments and interest which have not yet been extended by the Auditor and included in the tax roll of any year, and the amount of interest thereon which shall become due on the first day of January of the following year, in the amount which bears the same ratio to the total amount of unpaid and unextended assessments as the total amount of warrants owned by the persons consenting to such extension bears to the total amount of unpaid warrants; and the Clerk or Recorder of such village, city or borough shall, within twenty (20) days thereafter, make up and file such certified statement in the office of the County Auditor, which statement shall also contain a description of the real estate affected by the assessment.

A certified copy of such resolution shall also accompany such statement and upon filing said statement and a copy of said resolution with the County Auditor, it shall be the duty of the County Auditor, in accordance with said statement and resolution, to extend upon the tax roll each year, the amount of such assessment or installment thereof, as the case may be, and the amount of interest which shall become due on the first day of January of the following year, and the first installment so extended shall include any unextended delinquent interest, as shown by said certified statement, against the lots and parcels of land therein described, and such amounts, when so extended each year, shall be carried into the tax becoming due and payable in January of the following year, and enforced and collected in the manner provided for the enforcement and collection of State and County taxes. The said installments of assessments and interest shall be paid over by the County Treasurer to the Treasurer of such city, village or borough in the manner provided by law for the collection and payment of the assessments as originally authorized.

Any amount of said unpaid and unextended assessments not included in said statement filed by the said clerk of any city, village or borough with the County Auditor and not included in such extension agreement with the holders of outstanding warrants shall be certified by the said city, village or borough to said County Auditor and extended by him upon the tax roll in the manner originally provided for the collection of said assessments.

The passage of such a resolution by the city, village or borough extending the time of payment of such warrants and the consent to such extension of

time of payment by the owners of said warrants shall take the place of and have the effect of invalidating any resolutions theretofore passed for the collection of any unpaid installments of said assessments not yet extended and placed upon the tax roll against the property affected by said improvement, and shall also cure any irregularities in the proceedings of the council of said city, village or borough, or in the official acts of said council, or of the County Auditor, affecting the collection of said unextended portions of said assessments.

In the event the owners of 75% or more of outstanding warrants shall file their consent to the postponement of the payment of said assessments as provided in said resolution, the council of said city, village or borough may, by resolution, authorize the issuance of new warrants to such owners, payable out of the sewer fund, to conform to the terms of said resolution, which said new warrants may be exchanged for existing warrants held by said warrant-holders; but such new warrants shall not place any greater obligation upon or liability against said city, village or borough than existed under the original warrants; and there shall be printed or stamped upon the face of such new warrants the following language: "This warrant is issued in lieu of an original warrant of the same number, series and amount, and in no way increases, enlarges or extends the obligation of the municipality." (Act Apr. 1, 1933, c. 138.)

INCORPORATION ACT FOR CITIES

ACT OF 1870, AS AMENDED

There is no statute regarding depositaries which is applicable to the City of Marshall. Op. Atty. Gen., June 18, 1931.

ACT OF 1895, AS AMENDED

Laws 1895, c. 8, §66.

Mayor has control over contingent fund set aside for use pursuant to §§66 and 149. Op. Atty. Gen., Oct. 5, 1933.

Mayor has no authority to spend money out of contingent fund for purposes not authorized by §§66 and 149. Op. Atty. Gen., Oct. 11, 1933.

Laws 1895, c. 8, §88.

Contracts may be entered into and indebtedness incurred only to amount of money in treasury in fund corresponding to indebtedness sufficient to pay or as there is a tax levy in actual process of collection sufficient to pay, but this does not apply to delinquent taxes. Op. Atty. Gen., May 23, 1933.

Laws 1895, c. 8, §126.

Total bonded indebtedness of Thief River Falls must not exceed 10% of total value of taxable property, but bonds and certificates of indebtedness issued for purchase, construction, maintenance, enlargement and improvement of a water or light plant or local telephone exchange system are not included in arriving at limit. Op. Atty. Gen., May 23, 1933.

Warrants issued under §256, are not to be included in determining bond limit, and sinking funds payment of outstanding bonds may be deducted. Id.

Current indebtedness offset by current tax levy is not included within 10% indebtedness limit. Id.

Laws 1895, c. 8, §132.

Cities organized under this act may purchase on earnings plan equipment for water and light plants without vote of people. Op. Atty. Gen., July 11, 1933.

Laws 1895, c. 8, §140.

Op. Atty. Gen., Oct. 5, 1933; note under §66.

Op. Atty. Gen., Oct. 11, 1933; note under §66.

Laws 1895, c. 8, §256.

Warrants issued under this section are not included in determining bond limit under §126. Op. Atty. Gen., May 23, 1933.

CHAPTER 10

Public Indebtedness

1934. Scope of chapter.

Village may issue bonds to pay for power house and distributing system and enter into valid conditional sales contract for purchase of generating equipment to be paid for solely from remains of net profits after paying interest and bond installments. *Williams v. V.*, 187 M161, 244NW558. See Dun. Dig. 6669b.

City treasurer cannot pay interest on orders previously presented for payment after there is money available for their payment, it being the duty of the holder to keep himself informed. Op. Atty. Gen., Mar. 28, 1932.

In absence of statute or charter provision, city order, presented for payment and not paid for want of funds, becomes payable as soon as there is money available, but such warrants should be paid in order of their presentation. Op. Atty. Gen., Mar. 28, 1932.

City may not legally enter into conditional sales contract for purchase of personal property. Op. Atty. Gen., June 3, 1932.

A village may not issue bonds to care for its poor. Op. Atty. Gen., Aug. 2, 1932.

City of Winona may use city hall sinking fund, which it has no present intention of immediately using, to

meet unemployment crisis by lending it to general fund. Op. Atty. Gen., Aug. 17, 1932.

1935. Net indebtedness defined.

174M509, 219NW872.
Finding of nonpayment of certain school district warrants sustained and considered decisive of case. 173M94, 216NW789.

Holder of warrants held entitled to recover from district though treasurer was managing officer of bank and cashed the warrants with funds of bank and sold them as property of the bank. 175M166, 220NW428.

Purchaser of school warrants from bank was entitled to collect from district, where bank cashed warrants through its managing officer who was treasurer of school district and charged them to bills receivable and not to treasurer's account. 177M30, 224NW51.

Depository for county funds may deposit and assign county warrants as collateral security. Op. Atty. Gen., May 31, 1932.

1935-1. Exemption of Tax Anticipated Loans.—

Each city of the first class in the state is hereby authorized, in calculating net indebtedness, to deduct from the gross indebtedness thereof, in addition to deductions otherwise authorized by statute, the amount then outstanding of all loans in anticipation of the collection of general ad valorem taxes there-fore levied for city purposes, provided that the amount to be so deducted shall not exceed fifty per cent (50%) of such taxes which are then due and payable and as to which no penalty as to delinquency has attached. (Act Apr. 13, 1933, c. 226.)

1936. Assessed value defined.

The definition of "assessed valuation" given by this section does not apply to the determination of the limit of tax levy of a city. Op. Atty. Gen., July 3, 1930. Feb. 6, 1930.

1937. Charter powers not modified.

Jackson City Charter, §7, is modified by state statutes to the extent that mayor and clerk may sign warrants on library funds without approval of the city council where claim is allowed by the library board. Op. Atty. Gen., May 6, 1931.

A city desirous of issuing new bonds to take up outstanding water bonds held by the state must submit the matter to the voters. Op. Atty. Gen., July 30, 1931.

This section did not amend or modify provisions of charter of Fergus Falls, with respect to election to determine whether new bonds should be issued to take up outstanding bonds. Op. Atty. Gen., July 30, 1931.

1938. Limit of debt—Excess void.

Limit of amount which village may levy for poor relief is limited to total amount which it may levy for all purposes. Op. Atty. Gen., Aug. 2, 1932. See Dun. Dig. 6579.

1938-2½. Interest rates on municipal obligations.

—Any county, school district, town, city, village, or borough issuing bonds for the purpose of funding or refunding outstanding indebtedness under any applicable law may issue such bonds bearing interest at rates varying from year to year which may be higher in later years than in earlier years, in which case such rates shall be specified in such bonds, but the highest rate contracted to be so paid shall not exceed the maximum rate authorized by the law under which such bonds are issued. Any agreement to pay interest as herein authorized shall be valid and binding according to its terms. This Act shall not be construed as authorizing a provision in any such bonds for the payment of a higher rate of interest after maturity than before. The term "bonds" as herein used shall include certificates of indebtedness and warrants and any other form of municipal or public obligation having a definite or fixed maturity, whether or not the same be redeemable prior to such maturity date. (Act Apr. 8, 1933, c. 171.)

1938-3. Obligations of cities, villages, boroughs, counties, towns, and school districts—Definitions.

175M201, 220NW606.
Williams v. V., 187M161, 244NW558; note under §1934.
This act [§§1938-3 to 1938-13] does not repeal §§1593 to 1600, and does not govern Minneapolis. 174M509, 219NW872.

Checks drawn by treasurers of political subdivisions upon banks, are not subject to tax imposed by Federal Revenue Act 1932, §751. Op. Atty. Gen., June 23, 1932.

Any city whether home rule or not may elect to proceed under §§1311 to 1317 and issue bonds, or in lieu

thereof, interest bearing certificates, to raise funds for municipal electric light plant. Op. Atty. Gen., Aug. 24, 1933.

1938-4. Same—Amount of limitation, etc.

Minneapolis comes within the operation of §§1593 to 1600 and not this section. 174M509, 219NW872.

Village of North St. Paul may issue bonds for construction of well necessary for maintenance of water-works system, notwithstanding limitations imposed by this section. Op. Atty. Gen., Sept. 13, 1933.

1938-5. Same—Obligations—Maturity.

Bonds may be made to mature semi-annually. Op. Atty. Gen., July 16, 1929.

Bonds issued by a village, all to run for a full ten years, and not serially, are not legal in form. Op. Atty. Gen., Nov. 21, 1931.

State can loan money to a municipality which desires to fund its floating indebtedness under Laws 1927, c. 131, notwithstanding limitation as to maturity contained in §1956. Op. Atty. Gen., Oct. 14, 1933.

Loans from reconstruction finance corporation must be made by municipality pursuant to state laws. Op. Atty. Gen., Oct. 17, 1933.

1938-6. Same—Obligations—Etc.

Op. Atty. Gen., May 11, 1933; note under §1229.
This act impliedly amends Laws 1921, c. 117, and bonds issued under the 1921 Law are obligations subject to the provisions of this act and a vote of electors upon the issuance of such bonds is required. Op. Atty. Gen., May 22, 1931.

Village may refund its outstanding warrants by issuing bonds. Op. Atty. Gen., July 26, 1932.

Five-eighths vote is needed to erect lighting and heating plant for village of Mora, notwithstanding bonds are to be sold to state. Op. Atty. Gen., May 24, 1933.

County board of Lake County could issue funding or refunding bonds to take up outstanding orders of township which had been dissolved without first submitting matter to vote of electors. Op. Atty. Gen., Aug. 9, 1933.

Village of Winnebago could issue its bonds to refund its maturing bonded indebtedness without submitting same to vote of electors. Op. Atty. Gen., Sept. 14, 1933.

1938-7. Same—Tax levy for payment of obligations.

Act Feb. 23, 1933, c. 37, makes this section applicable to refunding bonds issued or ordered to be issued prior to Feb. 23, 1933, under Laws 1919, c. 41.

Laws 1933, c. 145, validates county certificates of indebtedness issued to townships in payment for road aid advanced, and authorizes levy of tax.

A village may only issue orders to the extent that it has cash available to pay the same, adding thereto the amount of taxes for the current year uncollected but in the process of collection. Op. Atty. Gen., Apr. 4, 1931.

This act does not apply to levy to take care of bonds issued pursuant to Laws 1931, c. 342, but a village may nevertheless anticipate delinquencies and provide for them by an excess levy. Op. Atty. Gen., Aug. 5, 1931.

Continuing levy may be made to raise taxes to pay commercial bonds issued after September 1, 1927. Op. Atty. Gen., Aug. 23, 1933.

1938-11. Same—Bond issue.

Village cannot pay a premium for the privilege of retiring its own bonds, but may invest a sinking fund in its own bonds at the market value. Op. Atty. Gen., Feb. 17, 1930.

Laws 1929, c. 25, amending Mason's Stats., §1949, did not have the effect of repealing or superseding this section, and a school district may invest its sinking fund in warrants issued by a municipality having a definite maturity date. Op. Atty. Gen., Feb. 23, 1931.

Investment of a school district sinking fund is now governed by this section, and not by §1949. Op. Atty. Gen., Sept. 17, 1931.

School district may lawfully invest any moneys in its sinking fund in bonds of the district, and is not limited by the par value of such bonds. Op. Atty. Gen., Aug. 19, 1931.

School board did not have authority to purchase a mortgage, and the assignment may be rescinded. Op. Atty. Gen., Dec. 23, 1931.

School district may legally invest surplus in sinking funds in its own bonds. Not repealed by §1949, as amended. Op. Atty. Gen., May 5, 1932.

Surplus funds of village water, light, power and building commission may not be invested in securities unless such funds are part of the sinking fund. Op. Atty. Gen., Aug. 9, 1932.

A village may not lend surplus funds of municipal light and power department to consolidated school district in which village is located. Op. Atty. Gen., Sept. 1, 1932.

1938-13. Same—Laws repealed—Effective.

Laws 1927, c. 131 [§§1938-3 to 1938-13], did not repeal Laws 1923, c. 21 [§§1593 to 1600], and the city of Minneapolis does not come within the operation of said Laws 1927, c. 131. 174M509, 219NW872.

1938-16. Expenditures limited.—The governing body of each village heretofore or hereafter issuing

bonds pursuant to the provisions of Chapter 331, General Laws, 1927, [§§1946-3 to 1946-12] shall annually at its first meeting in each fiscal year determine the amount of funds which will be available during the current year for all and each of its public purposes, from the proceeds of the tax levy lawfully made therefor in the preceding year and from state aid and from other sources known or reasonably anticipated to be due and payable into its treasury during such year, and shall thereupon, at such meeting, make and spread on its minutes a definite budget of the expenditures made and to be made and indebtedness incurred and to be incurred by it for all and each of such purposes during such year, which expenditures and indebtedness shall in no case exceed the aggregate amount of revenues so determined to be available for all and each of such purposes for such year. Such budget shall first allot, and there shall be first set aside and payable, out of the receipts for such year, pursuant to levies therefor, the amount required to meet principal and interest due in that year on the bonds issued pursuant to said Chapter 331 and on any outstanding bonds and items not funded or refunded, contemplated by said Chapter 331. There shall then be allotted respectively, such amounts as shall be required and appropriable to pay outstanding warrants or orders and for each of the necessary current purposes, and such amount as shall be deemed necessary for an emergency fund, and what remains may be allotted to be expended on new undertakings of construction, improvement, extension or otherwise to which it is lawfully appropriable. As nearly as may be, a specific program of expenditures shall be determined upon and the amount to be expended on each item determined and allotted; and no change in such program shall be made, nor additional expenditures made nor indebtedness incurred, which shall cause to be diverted to other purposes any part of the amount herein required to be allotted for payment of principal and interest, and for payment of outstanding warrants or orders and for necessary current purposes and for the emergency fund, nor which shall cause the expenditures made or indebtedness incurred in any year to exceed the total revenues determined, as aforesaid, to be available for such year. The emergency fund may be used to pay extraordinary items of lawful expenditures occasioned by emergency which could not be anticipated when the budget was made. (Act Apr. 27, 1929, c. 416, §1.)

1938-17. Recording officer to keep record.—The recording officer shall keep a record showing accurately the amount allotted to each item of the budget for each year and the amounts incurred and expended from time to time on account of each of such items, which record shall be presented and examined at each meeting of the governing body and show the true condition of affairs at the date of such meeting. No indebtedness shall be incurred for any purpose except pursuant to action of the governing body while in meeting assembled, specifying, as nearly as may be, the purposes and the amount thereof. (Act Apr. 27, 1929, c. 416, §2.)

1938-18. Filing of claims.—All claims against any such municipality must be filed with the recording officer within thirty days after the accrual thereof; if not so filed, no liability shall exist therefor unless and until funds shall be appropriable therefor without disturbing the preferred funds specified in Section 1 hereof and without increasing expenditures or indebtedness beyond the limits therein prescribed. It shall be the duty of the recording officer after any such claim has been filed with him to present same to the governing body at its next meeting, and at such meeting such claim shall be acted upon. (Act Apr. 27, 1929, c. 416, §3.)

1938-19. Violations a misdemeanor.—Any member of the governing body or other officer or employe of such municipality knowingly authorizing or partici-

pating in any violation of this act shall be guilty of a misdemeanor, punishable by a fine not exceeding one hundred dollars or imprisonment in the county jail not exceeding three months for each offense. Every contract entered into or indebtedness or pecuniary liability attempted to be incurred on violation of the provisions of this act shall be null and void in respect to any obligation sought thereby to be imposed upon the municipality; and no claim therefor shall be allowed by the governing body, nor shall any officer issue or pay any warrant, order or other evidence of debt on account thereof. Each member of the governing body or other officer or employe so knowingly participating in or authorizing any violation of this act shall be individually liable to the corporation or to any other person for any damages caused thereby; and for the purpose of enforcing such liability without impairing any other remedy, one-fourth of the salary of each such officer and employe shall be withheld from him and applied towards reimbursing the corporation or any other such person for such damages, until all claims by reason thereof have been paid. Each member of the governing body present at a meeting thereof when any action is taken with reference to paying money or incurring indebtedness or entering into any contract shall be deemed to have participated in and authorized the same unless he shall cause his dissent therefrom to be entered on the minutes of the meeting. (Act Apr. 27, 1929, c. 416, §4.)

1938-20. Voters may modify act.—The voters of any such village may, at any regular or special election, upon due submission of the question to them, modify the application of any provision of this act, except so far as vested rights may be substantially affected thereby. (Act Apr. 27, 1929, c. 416, §5.)

1938-21. Limitation of tax levies.—No school district, county, town or village shall contract any debt or issue any warrant or order in any calendar year in anticipation of the collection of taxes levied or to be levied for said year in excess of the average amount actually received in tax collections on the levy for the three previous calendar years plus ten per cent thereof. The limitations herein prescribed shall apply to each fund or purpose for which a tax levy has been made by any such municipality. Provided that this act shall not apply to any school district, county, town or village, wherein the mineral valuation as assessed, exceeds 25% of the assessed valuation of real property in such taxing district. (Act Apr. 15, 1931, c. 159, §1.)

This act refers only to warrants issued in anticipation of taxes duly levied, and has no relation to warrants issued against money in the treasury, and after a school district has issued the maximum warrants authorized in anticipation of taxes levied but not collected, it may issue further warrants upon receiving moneys from other sources, such as books, supplies, tuition, state aid, etc. Op. Atty. Gen., May 16, 1931.

This act does not give a township the power to ignore the rule that town orders must be paid in the order in which they were issued. Op. Atty. Gen., May 26, 1931.

Neither school board nor school officers have authority in excess of the limitation prescribed with respect to the issuance of warrants or orders. Op. Atty. Gen., June 1, 1931.

This act cannot be resorted to as an authorization for issuing warrants in excess of the total amount of the levy for the calendar year in question. Op. Atty. Gen., Jan. 14, 1932.

This act is not rendered unconstitutional by accepting municipalities having certain mineral valuation. Op. Atty. Gen., Mar. 29, 1932.

Restrictions under this act have reference to limitations of expenditures against anticipated uncollected taxes and in no wise limit tax levies that may be made. Op. Atty. Gen., Mar. 29, 1932.

Limit of indebtedness which may be contracted by county in anticipation of uncollected taxes includes county charges under §§484, 872, 6993, 6998 and 7010 as well as incurrence of any county obligations which may be discretionary with county board. Op. Atty. Gen., Apr. 28, 1932.

The words, "the average amount actually received in tax collections on the levy for the three previous calendar years plus ten per cent thereof," have reference to taxes actually collected during that period of time and

do not include moneys received from other sources. Op. Atty. Gen., Apr. 29, 1932.

Warrants may not be issued on account of road and bridge fund in excess of average tax collections as provided or in anticipation of State aid which has been allotted to county but not received. Op. Atty. Gen., Apr. 29, 1932.

When limit of indebtedness has been reached by county, remedy becomes matter of legislative relief or enactment of such laws as will relieve such conditions. Op. Atty. Gen., Apr. 29, 1932.

Village may issue warrants to care for poor up to amount of taxes levied and in process of collection. Op. Atty. Gen., Aug. 2, 1932.

1938-22. Recording officer to make statement.—As soon as practicable after the beginning of each calendar year the clerk, or other recording officer of any municipality described in Section 1 shall present to the governing body of his municipality a statement of tax collections credited to each fund of his municipality during each of the three previous fiscal years and the yearly average thereof. The county auditor of the county shall be required to furnish such information to the clerk upon request. (Act Apr. 15, 1931, c. 159, §2.)

1939. Bonds.

The Village of Kenyon cannot enter into a contract for the purchase of electric generating equipment for a proposed municipal light plant to be paid for out of future earnings, nor can it issue warrants payable in the future out of such earnings. Op. Atty. Gen., Oct. 10, 1931.

Village bonds carrying six per cent interest are proper. Op. Atty. Gen., Nov. 21, 1931.

Default in payment of interest on county bonds does not accelerate due date of principal, unless bond so states. Op. Atty. Gen., Feb. 23, 1933.

1941. Vote required.

Laws 1921, c. 209, was in effect reenactment of G. S. 1913, §§1854, 1855 and did not repeal by implication G. S. 1913, §§1932, 1933. 157M469, 196NW465.

Bonds may be issued to fund warrants issued prior to Sept. 1, 1927, without a vote of the electors, but not warrants issued after that date [Laws 1927, c. 131, §4, Mason's Minn. Stat., 1927, §1938-6]. Op. Atty. Gen., May 24, 1929.

County board of Lake County could issue funding or refunding bonds to take up outstanding orders of township which had been dissolved without first submitting matter to vote of electors. Op. Atty. Gen., Aug. 9, 1933.

Village of Winnebago could issue its bonds to refund its maturing bonded indebtedness without submitting same to vote of electors. Op. Atty. Gen., Sept. 14, 1933.

1942. Bonds, for what purposes.

Laws 1921, c. 209, was in effect reenactment of G. S. 1913, §§1854, 1855 and did not repeal by implication G. S. 1913, §§1932, 1933. 157M469, 196NW465.

Receiver of bank carrying village warrants cannot attach village money which county treasurer collects for taxes. Op. Atty. Gen., Feb. 24, 1933.

Village council has authority to issue bonds for construction of new well and pumping house. Op. Atty. Gen., Aug. 30, 1933.

1943. Sale of bonds.

Village selling bonds to federal government under National Industrial Recovery Act need not advertise for bids. Op. Atty. Gen., Aug. 21, 1933.

1944. Delivery—Proceeds.

Architects' charges for plans and specifications may be paid from the proceeds of a bond issue authorized for "constructing a school building." Op. Atty. Gen., Jan. 14, 1930.

1945. Tax levy for payment of bonds.

If town authorities fail to make levy to take up outstanding obligations on township bonds the county auditor must extend such levy so that same may be collected with the general taxes. Op. Atty. Gen., Apr. 8, 1933.

Treasurer of independent school district should set aside from tax moneys received amount necessary to pay amount to become due during year on principal and interest on bonds and taxes collected cannot be used for any other purpose. Op. Atty. Gen., June 8, 1933.

1946. Selling bonds by popular subscription.

Certificates of indebtedness are included within term "bond." Op. Atty. Gen., June 8, 1933.

1946-3. Refunding bonds authorized in certain cases.—Any village, town or school district in this state, whose existing bonded, judgment and valid floating indebtedness exceeds 20 per cent of the assessed valuation of all taxable property, exclusive of

moneys and credits, in the village, town or district, may issue, negotiate and sell its bonds, for the purpose of funding and refunding, such indebtedness or any part thereof, and for the other purposes hereinafter stated in the manner and under the conditions hereinafter prescribed. ('27, c. 331, §1; Mar. 27, 1931, c. 100, §1.)

1946-6. Bonds may be sold by public subscription.

—In lieu of, or in addition to, receiving bids for such bonds, or any thereof, the governing body may cause the same to be offered for and sold by public subscription from time to time; and in any case the holder of outstanding bonds or other indebtedness of the village, town or district may use and apply the same and any interest or other items legally accrued thereon in payment, in whole or in part, for bonds herein authorized purchased by him. Such village, town or school district may fund or refund all or any part of such indebtedness, but no bonds shall be issued hereunder unless such indebtedness to be funded or refunded is due or unless the holders thereof shall have consented to accept payment thereof with interest and other items legally accrued thereon and surrender and satisfy the same, such consent to be by written instrument filed with the recording officer, provided that the maturities of any indebtedness not funded or refunded hereunder shall be considered in determining the maturities of the bonds issued hereunder as prescribed by Section 3 hereof. ('27, c. 331, §4; Mar. 27, 1931, c. 100, §2.)

1946-7. Same—Tax levy for interest and sinking fund.

Village treasurer has right to pay bonds and interest when due out of funds collected for that purpose, though ordered not to do so by village council. Op. Atty. Gen., July 14, 1933.

1946-11. Same—Compromise or settlement with creditors.

Payment of sum by school district to architect for work in connection with building not constructed, held proper as in nature of settlement or compromise. Krohnberg v. P., 187M73, 244NW329. See Dun. Dig. 6746.

1946-13. Villages may issue bonds for certain purposes.—Any village in the State of Minnesota is hereby authorized to issue bonds of such village to fund the outstanding floating indebtedness thereof as represented by its orders or warrants or bonds outstanding and unpaid on February 15, 1929; provided, however, that the aggregate face value of the bonds which shall be issued by any village under the provisions of this act shall not exceed the sum of \$10,000, nor shall such bonds together with all other indebtedness of such village bring the total net bonded indebtedness of such village in excess of 5% of the assessed valuation of such village. (Act Apr. 16, 1929, c. 204, §1.)

1946-14. Bonds—Rate of interest—Execution.—Before any bonds are issued under the provisions of this act, the issuance of such bonds shall be authorized by a resolution adopted by the affirmative vote of all the members of the village council. Said bonds shall bear interest at not to exceed five and one-half per cent per annum, payable semi-annually, shall mature as provided by Section 3, Chapter 131, Laws 1927 [Mason's Minn. Stat. 1927, §1938-5], shall be in such form as the governing body shall by resolution determine, shall be signed by the president and countersigned by the clerk or recorder, and shall be sold in the manner prescribed by Section 1943, General Statutes 1923; and prior to the issuance of such bonds the governing body shall levy a tax for the payment thereof in the manner prescribed by Section 5 of Chapter 131, Laws 1927 [§1938-7]. Provided, that no such bonds shall be issued unless the village council issuing such bonds shall pass the resolution authorizing the issuance thereof under this act within 90 days after the passage and approval of this act. (Act Apr. 16, 1929, c. 204, §2.)

1946-15. Limitation.—This act shall not be construed as limiting the power of a municipality to levy taxes to pay its obligations issued hereunder, but the governing body of every municipality shall have the authority and it shall be its duty to levy any taxes necessary to provide revenue to pay such obligations. (Act Apr. 16, 1929, c. 204, §3.)

1946-16. Acts Supplemental.—The provisions of this act shall be supplementary and additional to the powers in that regard now conferred by law on villages. (Act Apr. 16, 1929, c. 204, §4.)

1946-17. Definitions—who may issue bonds.—The term "municipality" as used in this act shall include any county, town, school district, city, village, or borough, and any unorganized territory in any county governed by the provisions of Chapter 328, Session Laws for 1921 [Mason's Minn. Stat. 1927, §§2850 to 2870-1], and acts amendatory thereof. Any such municipality, whose bonded, judgment and floating indebtedness exceeds twenty-five per cent of the assessed valuation of all taxable property therein, exclusive of moneys and credits, or in which taxes on more than 25 per cent of the lands on the tax lists have been delinquent for three years or more, may issue, negotiate and sell its bonds, at one time or from time to time, for the purpose of funding and/or refunding such indebtedness or any part thereof and/or of paying its outstanding obligations, in the manner and under the conditions hereinafter prescribed. (Laws 1929, c. 351, §1; Apr. 13, 1931, c. 155, §1.)

Sewer warrants issued pursuant to §§1880 to 1893, and acts amendatory thereof, are not a part of outstanding obligations of city within meaning of Laws 1929, c. 351, §1, and Laws 1931, c. 155, §1. *Leslie v. C.*, 186M543, 243 NW786. See Dun. Dig. 6579.

When limit of indebtedness has been reached by county, remedy becomes matter of legislative relief or enactment of such laws as will relieve such conditions. Op. Atty. Gen., Apr. 29, 1932.

1946-18. May vote to issue bonds for certain purposes.—The governing body of any such municipality may by resolution, of their own motion, and shall, on petition of voters thereof to the number of ten per cent, of those who voted therein at the last preceding general or municipal election, submit to the voters thereof a proposition to fund and/or refund and/or pay its existing indebtedness and obligations, or any part or class thereof, and may include therein outstanding warrants or orders, and outstanding bonds or certificates or other evidence of indebtedness or liability, whether due or to become due, and the interest thereon, or any thereof. Upon the adoption of such resolution or filing of such petition, there shall be prepared forthwith by the recording officer, by direction of the governing body, and kept on file in his office a complete, itemized list of all warrants, orders, bonds, certificates and other indebtedness and liability so to be funded and/or refunded, specifying the dates, names of payees, and holders, if known, purposes, amounts, maturities, rates of interest, and dates from which interest remains unpaid, of each item thereof, with such other information as the governing body shall prescribe, classifying said items according to the purposes for which tax levies may be made and indebtedness incurred. Such list shall be at all times open to public inspection, and copies thereof shall be furnished on request, certified if desired, on payment of a fee not exceeding five cents per folio. (Act Apr. 25, 1929, c. 351, §2.)

1946-19. Bonds.—Maturity.—Rate of interest.—Said proposition shall contemplate the issuance of bonds payable serially in annual installments, as specified therein, the first thereof (except in cases of bonds to be sold to the state) to become due and payable in not more than three years from the date thereof, and the last installment thereof to become due and payable not more than fifty years from their date. No annual maturing installment of principal, except such as are payable within five years from the date of issue, and except as hereinafter provided, shall exceed

the installment of principal payable in any preceding year; but in the discretion of the governing body, exercised by resolution at any time before the issuance and sale of said bonds, any or all thereof may be made payable on or before their respective maturity dates, with such provisions as to calling and notice thereof as shall be deemed advisable; bids for said bonds may be in the alternative for such bonds with or without the "on or before" privilege, and the most favorable bid or bids may be accepted. None of said bonds shall be sold for less than their full face value and accrued interest, nor bear interest in excess of six per cent per annum, payable annually or semi-annually. (Act Apr. 25, 1929, c. 351, §3.)

1946-20. Obligations not matured to be taken into consideration.—If there be any outstanding bonds or other evidences of indebtedness or contract obligations, not yet due and not refunded or to be refunded by the proceedings herein authorized, the amounts and maturities of such outstanding bonds and other evidences and obligations shall be taken into consideration in determining the maturities of the bonds issued hereunder, so that, as nearly as may be, after the issuance of the bonds herein authorized, the maturities of the installments of all such indebtedness of the county, town, school district or municipality shall comply with the provisions hereof. Provided, the funding and/or refunding and/or payment of any or all of such indebtedness and/or obligations, not yet due, may be contemplated in the proposition aforesaid, in which event the issuance and sale of at least so much of the bonds as equal such items not yet due shall be deferred until required from time to time to pay same. (Act Apr. 25, 1929, c. 351, §4.)

1946-21. Bond election to be called.—Upon the completion and filing of such list, it shall be approved or revised by the governing body, who shall thereupon cause notice to be given of an election to vote on said proposition, specifying that such election is called pursuant to and for the purposes of this act, and that the list aforesaid, and the approval or revision thereof, are on file, open to public inspection, and otherwise complying in detail with the procedure otherwise required by law for an election to authorize funding bonds of such municipality; provided, if the purpose, amount, maturities and other incidents of such proposed bond issue be of the character of such bonds which may be purchased by the State of Minnesota, the notice, in addition to the details specifically above provided, and the further procedure thereon may comply with the provisions of law applicable to bonds issued to said state; provided, further, the governing body, in their discretion, may submit said proposition at the next election or meeting thereafter regularly held for the election of officers of such municipality, for which notice thereof may be given in the manner so required by law. (Act Apr. 25, 1929, c. 351, §5.)

1946-22. Must receive majority of all votes cast.—If the proposition so submitted to the voters shall receive the affirmative votes of a majority of the qualified electors voting on the same, the bonds may be advertised for sale and issued and sold in accordance with the provisions of Section 1943, General Statutes 1923, and acts amendatory thereof. In lieu of, or in addition to, receiving bids for such bonds, or any thereof, if the proposition submitted to the voters shall have specifically so authorized, the governing body may cause same to be offered for and sold by public subscription from time to time, and may permit the holder of outstanding bonds or other indebtedness herein contemplated to use and apply same and any interest or other items legally accrued thereon in payment, in whole or in part, for bonds herein authorized, purchased by him. (Act Apr. 25, 1929, c. 351, §6.)

1946-22½. May issue bonds without vote in certain cases.—In lieu of submitting such proposition to the voters, said governing body at any regular or duly called special meeting thereof, after the proceedings,

other than the elections hereinbefore contemplated, may adopt, by majority vote, a resolution reciting the proceedings theretofore taken, stating the authority of law under which the right is claimed to issue such bonds, the purpose for which it is proposed to issue the same, the number and the face value of each thereof, and the time when each bond to be issued thereunder shall mature, and any further details with respect thereto in this act authorized to be contemplated by such proposition, and directing that such bonds be issued, negotiated and sold, as in this act and said resolution provided. Such last mentioned resolution may be published not less than one nor more than three weeks successively in a legal newspaper published in such municipality, or in the county seat of the county, if there be no such newspaper in said municipality, and proof of the publication thereof filed in the office of the recording officer. But if, within ten days after the first publication of said last mentioned resolution, or prior thereto, there be filed with such recording officer a petition of ten per cent of the voters of such municipality, determined as hereinbefore provided, praying that such proposition and the details thereof be submitted to the voters of said municipality, the same shall thereupon be so submitted to the legal voters of such municipality, and favorably voted upon by them, before it shall be authorized to take effect. (Laws 1929, c. 351, §6½; Apr. 13, 1931, c. 155, §2.)

1946-23. Tax Levy.—Before the issuance of any of the bonds herein authorized, except in cases of bonds sold to the state, the governing body shall levy for each year, until the principal and interest are paid in full, a direct annual tax in an amount not less than five per cent, in excess of the sum required to pay the principal and interest thereof and of the other outstanding indebtedness and obligations mentioned in Section 4 hereof, when and as such principal and interest mature. Thereupon and thereafter the other provisions of Sections 5, 6, 7, 8, 9 and 10 of Chapter 131, Laws of 1927 [§§1938-7 to 1938-12], shall apply. (Act Apr. 25, 1929, c. 351, §7.)

1946-24. Outstanding warrants, etc., legalized.—Any and all outstanding warrants, orders and other indebtedness and obligations of any such municipality which shall be funded or refunded in the manner authorized by this act, and which have been issued or incurred for purposes for which public moneys thereof might lawfully be expended, are hereby declared to have been valid and enforceable obligations thereof; and the favorable action of the voters at the election on the funding or refunding proposition shall finally and conclusively bind the municipality to the validity of the items in the list provided for in Section 2 [§1946-18], approved or revised as provided in Section 5 [§1946-21]; provided, if at the time of the election an action is pending involving or affecting the validity of any or all of such indebtedness, the item or items in controversy shall not be paid unless and until the validity thereof is upheld. In any case, no bonds sold by authority of this act more than thirty days after such election shall be questioned by reason of the invalidity of any indebtedness included in the list aforesaid, nor of any informality, irregularity or defect in the proceedings. (Act Apr. 25, 1929, c. 351, §8.)

1946-25. Levy to be fixed by voters.—The proposition submitted to the voters as aforesaid may contemplate and specify that the amount which may be included by any such municipality in its annual tax levy in the year in which the bonds herein authorized shall be issued, and in each year thereafter, shall not in the aggregate exceed the amount otherwise authorized by law, less all or such part, as is in said proposition specified, of the amount hereinbefore required to be levied for the same year to pay principal and interest on bonds herein authorized, and/or that the amount levied for any of the classes of purposes for which the funded or refunded indebtedness was in-

curred shall not exceed the amount otherwise authorized by law for that class of purposes, less all, or such part, as is so specified, of that proportion of the amount levied for the same year to pay such principal and interest which is chargeable, pro rata, to funded or refunded indebtedness incurred for that class of purposes; provided, the amount of principal of such bonds payable in each of the first five years after the issuance thereof which is in excess of the average amount of principal payable in each of the years thereafter shall not be deducted from the amount of such authorized tax levies for current purposes, unless the proposition approved by the voters shall expressly so require. (Act Apr. 25, 1929, c. 351, §9.)

1946-26. Governing body to make budget.—The governing body of each municipality issuing bonds under this act shall annually at its first meeting in each fiscal year determine the amount of funds which will be available during the current year for all and each of its public purposes, from the proceeds of the tax levy lawfully made therefor in the preceding year and from state aid and from other sources known or reasonably anticipated to be due and payable into its treasury during such year, and shall thereupon, at such meeting, make and spread on its minutes a definite budget of the expenditures made and to be made and indebtedness incurred and to be incurred by it for all and each of such purposes during such year, which expenditures and indebtedness shall in no case exceed the aggregate amount of revenues so determined to be available for all and each of such purposes for such year. Such budget shall first allot, and there shall be first set aside and payable, out of the receipts for such year, the amount required to meet principal and interest due in that year on the bonds herein authorized and on any outstanding bonds and items not funded or refunded, contemplated by Section 4 [§1946-20] hereof. There shall then be allotted, respectively, such amounts as shall be required and appropriate to pay outstanding warrants or orders and for each of the necessary current purposes, and such amount as shall be deemed necessary for an emergency fund, and what remains may be allotted to be expended on new undertakings of construction, improvement, extension or otherwise to which it is lawfully appropriate. As nearly as may be, a specific program of expenditures shall be determined upon and the amount to be expended on each item determined and allotted; and no change in such program shall be made, nor additional expenditures made nor indebtedness incurred, which shall cause to be diverted to other purposes any part of the amount herein required to be allotted for payment of principal and interest, and for payment of outstanding warrants or orders and for necessary current purposes and for the emergency fund, nor which shall cause the expenditures made or indebtedness incurred in any year to exceed the total revenues determined, as aforesaid, to be available for such year. The emergency fund may be used to pay extraordinary items of lawful expenditures occasioned by emergency which could not be anticipated when the budget was made. (Act Apr. 25, 1929, c. 351, §10.)

The provisions for a budget are mandatory. Op. Atty. Gen., Dec. 24, 1931.

1946-26½. May apply to court for authority to issue bonds.—If in any year it shall become actually necessary to incur indebtedness or expend funds for the purpose of meeting court expenses, mothers' pension allowances, poor relief and other items, the amounts of which are beyond the control of the governing body of such municipality and could not be reasonably and definitely anticipated and fixed at the time of making the budget contemplated by Section 10 [§1946-26], the governing body of such municipality may apply to the proper district court for an order permitting the incurring and payment of such additional expenditures. Such application shall be publicly heard by said court at the county seat of the county,

after two weeks published notice thereof; and, if the court shall find such additional indebtedness or expenditures to be actually necessary and within the terms of this section, and that the amount thereof could not have been reasonably and definitely anticipated at the time of making the budget, and could not be reasonably met by or out of allotments in the budget to such purposes, or by or out of the emergency fund, said court may make an order permitting and authorizing such additional indebtedness or expenditures, or so much thereof as it shall find to be proper. (Laws 1929, c. 351, §10½ Apr. 13, 1931, c. 155, §3.)

This section is a valid and constitutional limitation on the powers of county boards. Op. Atty. Gen., Dec. 24, 1931.

When limit of indebtedness has been reached by county, remedy becomes matter of legislative relief or enactment of such laws as will relieve such conditions. Op. Atty. Gen., Apr. 29, 1932.

1946-27. Recording officer to keep records.—The recording officer shall keep a record showing accurately the amount allotted to each item of the budget for each year and the amounts incurred and expended from time to time on account of each of such items, which record shall be presented and examined at each meeting of the governing body and show the true condition of affairs at the date of such meeting. No indebtedness shall be incurred for any purpose except pursuant to action of the governing body while in meeting assembled, specifying, as nearly as may be the purposes and the amount thereof. (Act Apr. 25, 1929, c. 351, §11.)

1946-28. Claims must be filed.—All claims against any such municipality must be filed with the recording officer within thirty days after the accrual thereof; if not so filed, no liability shall exist therefor unless and until funds shall be appropriate therefor without disturbing the preferred funds specified in Section 10 [§1946-26] hereof and without increasing expenditures or indebtedness beyond the limits therein prescribed. It shall be the duty of the recording officer after any such claim has been filed with him to present same to the governing body at its next meeting, and at such meeting such claim shall be acted upon; provided, in case of counties, all expenditures for constructing, improving, maintaining or repairing any public road or bridge by day labor may be paid for by the time check method as provided by Section 30, of Chapter 323, Laws 1921 [§2570, Mason's Minn. Stat., 1927], and acts amendatory thereof; but no such time check shall be honored by the auditor, nor shall any claim thereon be valid against the county, unless the duplicate thereof be duly filed in the office of the county auditor within thirty days after the date of the issuance thereof, or unless and until funds shall be appropriate therefor as provided in the first sentence of this section. (Act Apr. 25, 1929, c. 351, §12.)

1946-29. Violation a misdemeanor.—Any member of the governing body or other officer or employee of such municipality knowingly authorizing or participating in any violation of this act shall be guilty of a misdemeanor, punishable by a fine not exceeding one hundred dollars or imprisonment in the county jail not exceeding three months for each offense. Every contract entered into or indebtedness or pecuniary liability attempted to be incurred in violation of the provisions of this act shall be null and void in respect to any obligation sought thereby to be imposed upon the municipality; and no claim therefor shall be allowed by the governing body, nor shall any officer issue or pay any warrant, order or other evidence of debt on account thereof. Each member of the governing body or other officers or employee so knowingly participating in or authorizing any violation of this act shall be individually liable to the corporation or to any other person for any damages caused thereby; and for the purpose of enforcing such liability without impairing any other remedy, one-fourth of the salary of each such officer and employee shall be withheld

from him and applied towards reimbursing the corporation or any other such person for such damages, until all claims by reason thereof have been paid. Each member of the governing body present at a meeting thereof when any action is taken with reference to paying money or incurring indebtedness or entering into any contract shall be deemed to have participated in and authorized the same unless he shall cause his dissent therefrom to be entered on the minutes of the meeting. (Act Apr. 25, 1929, c. 351, §13.)

1946-30. Provisions may be modified by voters.—Except so far as the rights of creditors shall be substantially impaired thereby, the voters of any such municipality may at any regular or special election, upon due submission of the question to them, modify the application of any provision of this act to the extent that its application in the first instance was discretionary with them; and with like exception as to impairing substantial vested rights, nothing herein shall preclude amendment or repeal of this act, or any part of it. (Act Apr. 25, 1929, c. 351, §14.)

1946-31. Provisions severable.—If any section, part or provision hereof be found unconstitutional, such determination shall not affect the validity of the remaining provisions not clearly dependent thereon. (Act Apr. 25, 1929, c. 351, §15.)

1946-32. Application.—This act shall not be construed to repeal or modify any other act or part of act having similar import or purpose to any part hereof but shall be deemed to provide an additional cumulative and optional remedy for the financial situation of municipalities within the class defined in section 1 [§1946-17]. No limitations of net indebtedness prescribed in any other act, except as herein expressly provided, shall affect the validity of any bonds issued by authority hereof. (Act Apr. 25, 1929, c. 351, §16.)

1946-33. Exceptions.—This act shall not apply to any county whose assessed valuation, exclusive of moneys and credits, is in excess of \$100,000,000, nor to any other municipality whose per capita assessed valuation, exclusive of moneys and credits, is in excess of \$500. (Act Apr. 25, 1929, c. 351, §17.)

1946-34. Independent school districts may issue bonds to fund floating indebtedness.—Any independent school district with territorial limits which coincide with the territorial limits of any city of the first class in the State of Minnesota, and the government of which independent school district is not provided for in the charter of said city, may issue its bonds to an amount not exceeding one (1) per cent of the assessed value, as last determined, of all the taxable property within such district including moneys and credits, to fund its floating indebtedness or a portion thereof in the manner hereinafter provided, without submitting the question of such issue to the electors of such district and without regard to the amount of any or all other outstanding debts of such district and notwithstanding any existing limitations. (Act Mar. 3, 1933, c. 54, §1.)

1946-35. Funding bonds to retire outstanding obligations in certain school districts.—Such funding bonds shall be the direct and general obligations of the independent school district issuing same and shall be authorized by resolution duly adopted by the governing body of such district, which resolution shall set out the amount of the floating indebtedness to be funded and provide for the details of the bonds to be issued. Such bonds shall bear interest at not to exceed six per cent per annum payable semi-annually and shall mature in not to exceed twenty (20) years from the date thereof but otherwise said bonds shall mature in such amounts and at such times and shall be subject to such conditions as to redemption or payment before maturity as may be authorized by resolution duly adopted by the said governing body. (Act Mar. 3, 1933, c. 54, §2; Apr. 21, 1933, c. 383.)

1946-36. Sale of bonds to be advertised.—Such bonds shall be sold in such amounts and at such times as may be determined by the governing body of any

such district and pursuant to at least two weeks' notice asking for bids published in a newspaper designated by said governing body. Said bonds shall not be sold for less than their par value. The proceeds from all bonds so sold shall be applied by said school district to the payment of its outstanding floating indebtedness set out in the resolution authorizing the funding bonds, but no purchaser or owner of any such bonds shall be under any obligation whatever with respect to the application of the proceeds when received by said school district. (Act Mar. 3, 1933, c. 54, §3.)

1946-37. Tax levy to retire bonds.—The governing body of any independent school district issuing bonds under the provisions of this Act shall before the issuance thereof, levy for each year, until the principal and interest are paid in full a direct annual tax in an amount not less than five per cent (5%) in excess of the sum required to pay the principal and interest thereof when and as same mature notwithstanding any existing limitation. After such bonds have been delivered to the purchaser thereof, such tax shall be irrevocable until such bonds have been paid and no further action of the governing body shall be necessary to authorize the extensions, assessments, and collection of such tax. The recording officer of such independent school district shall forthwith furnish a certified copy of such levy to the county auditor or county auditors of the county or counties in which such district is situated, together with full information regarding the bonds for which the tax is levied and such county auditor or county auditors shall enter the same in the register provided for such cases and shall extend and assess the tax so levied. (Act Mar. 3, 1933, c. 54, §4.)

1946-38. Statute remedial.—The fact that due to delinquencies in tax collections such independent school districts have outstanding floating indebtedness which should be funded so as to protect the credit of such districts necessitates the passage of this Act which is hereby declared to be remedial in character. No funding bonds shall be issued under authority of this Act unless a resolution authorizing such issuance as hereinbefore provided shall be adopted by the governing body of such independent school district within ninety (90) days after this Act is in force. The term, "floating indebtedness," as used in this Act shall include all the outstanding obligations of said independent school districts with accrued interest existing at the time this Act becomes effective, exclusive of bonded indebtedness and interest thereon.

In order to facilitate the issuance of the funding bonds hereinbefore authorized, the floating indebtedness of any such independent school district outstanding at the time this Act becomes effective is hereby validated. (Act Mar. 3, 1933, c. 54, §5.)

1946-39. Effective on passage.—The provisions of this Act shall be paramount and controlling, notwithstanding any other Act or part thereof which may be inconsistent herewith, and this Act shall take effect and be in force from and after its passage. (Act Mar. 3, 1933, c. 54, §6.)

1946-40. Bond issue authorized.—Any county in this State, having an assessed valuation, exclusive of moneys and credits, of less than \$5,000,000.00, and in which the real and personal property taxes levied in 1931, payable in 1932, were delinquent as of January 1, 1933, in excess of 40% of the amount so levied, is hereby authorized to issue, negotiate, sell or exchange its bonds, at one time or from time to time, for the purpose of funding and refunding the indebtedness of such county heretofore issued and outstanding, or any part thereof, in the manner and under the conditions hereinafter prescribed. (Act. Mar. 31, 1933, c. 137, §1.)

1946-41. County Board to adopt resolution.—Before any such bonds shall be issued, the county board shall at any regular or duly called special meeting thereof adopt by a four-fifths vote a resolution setting forth

the necessity of the issuance of such bonds, the portion of the outstanding indebtedness to be funded or refunded at that time, the authority of law under which the right is claimed to issue such bonds, the amount of bonds proposed to be issued under such resolution and direct the auditor to prepare a list of the items of indebtedness to be funded or refunded pursuant to such resolution, which list shall be filed by the auditor in his office and may be referred to in the resolution so adopted. Such list shall at all times be open to public inspection and copies thereof shall be furnished on request, certified if desired, on payment of a fee not exceeding five cents per folio. Said resolution shall be published once in each week for two successive weeks in the official newspaper of said county and the county board shall upon petition of ten per cent of the number of voters voting for Governor at the last general election submit to the voters of the county at a regular or special election the proposition of issuing such bonds, and, in such case, the affirmative vote of a majority of those voting on the proposition shall be sufficient to authorize the same; provided, that unless said petition is filed within twenty days after the first publication of said resolution, such petition shall be void and of no effect. In any case, no bonds sold by authority of this act more than thirty days after the first publication of such authorizing resolution, shall be questioned by reason of the invalidity of the indebtedness so to be funded or refunded thereby nor of any informality, irregularity or defect in the proceedings. From time to time the county board may in similar manner provide for the funding or refunding of all or part of the remaining portion of such outstanding indebtedness. (Act Mar. 31, 1933, c. 137, §2.)

1946-42. Funding and refunding bonds.—Said proposition shall contemplate the issuance of bonds payable serially in annual installments, the first thereof to become due and payable in not more than five years from their date and the last installment thereof to become due and payable in not more than twenty-five years from their date, no annual maturing installment of principal, except as hereinafter provided, shall be more than two times the smallest maturing installment of principal; provided, however, that in fixing the installments of bonds issued at any one time hereunder, the maturities of bonds previously issued hereunder may be taken into consideration as to the amount of bonds maturing in any one year. Bonds issued hereunder to take up outstanding warrants shall be called "Funding Bonds" and bonds issued to take up outstanding bonds shall be called "Refunding Bonds". Such bonds may be sold, and in the word "sold" as used herein is included the exchange of such bonds for the indebtedness or any part thereof to be funded or refunded, at such time to times and in such manner as the county board shall determine, but such bonds shall not be sold for less than their par value and accrued interest and shall not bear interest in excess of six per cent per annum, payable semi-annually. Such bonds shall be in denominations of \$100, \$500 and \$1,000 and in case of the exchange of outstanding warrants for any such bonds, the county board is authorized to direct the issuance of a warrant for the difference between the amount of warrants so exchanged and the face value of the bonds exchanged therefor. (Act Mar. 31, 1933, c. 137, §3.)

1946-43. County Auditor to prepare statement.—The county auditor of any county issuing bonds under this act shall annually prepare and submit to the county board at its regular meeting in July a statement showing the amount of taxes levied which were payable in the preceding year, the amount of such taxes which has been paid at the time such report was made, an estimate of the amount which should be levied for each of the several county funds to maintain them on a cash basis and the amount which will be required for the payment of principal and interest

of any bonds hereunder during the ensuing year. Thereupon the county board shall at such annual meeting make up a budget of the amounts needed to maintain the several funds on a cash basis and, taking into account the anticipated delinquency in tax collections, shall levy an amount sufficient to provide for the payment of the bonds authorized hereunder and interest thereon and to maintain the several funds of the county on a cash basis. Provided, further, that if any warrants remain outstanding and unpaid on any of the funds of the county, the board shall levy an annual tax of 3 mills to retire the same. (Act Mar. 31, 1933, c. 137, §4.)

1946-44. Tax levy to be used for bonds only—All moneys received from taxes levied for the payment of principal and interest of bonds shall be applied solely to the purpose for which such taxes were levied; all moneys received from taxes levied for the payment of outstanding warrants shall be applied solely to the payment of such warrants; all moneys received from taxes levied for road and bridge purposes shall be kept intact and applied first to any deficiency which may arise in the funds for the payment of bonds issued hereunder and the interest thereon, second to any deficiency which may arise in the revenue or other funds of the county. If at the end of any year there remains a balance in the road and bridge fund from the collection of taxes levied for that purpose in excess of \$10,000.00, the county board may use such excess for the construction and maintenance of roads and bridges in the county; provided, however, that nothing herein shall be construed as affecting the expenditure of moneys received by the county from the State as its portion of any general state levy for roads or its share of any gasoline tax. (Act Mar. 31, 1933, c. 137, §5.)

1946-45. Expenditures limited—No expenditures shall be made or indebtedness incurred in excess of the budget adopted and no warrants shall be issued in excess of the cash on hand in the fund against which such warrant is issued; provided, however, that if the moneys received from the collection of taxes are insufficient to meet the ordinary expenses of the county as provided for in the budget for the revenue fund, the county board may authorize the issuance of warrants to be payable solely from the proceeds of taxes previously levied and uncollected; but in no event shall such expenditures exceed the amount set forth in the budget adopted by the county board at its annual July meeting. Such warrants shall be known as Delinquent Tax Warrants and all moneys derived from the collection of Delinquent Tax Warrants shall be placed in a separate fund and used solely for the payments of such warrants until all such warrants are paid. (Act Mar. 31, 1933, c. 137, §6.)

1946-46. Filing of claims—All claims against any such county must be filed with the Auditor within sixty days after the accrual thereof; if not so filed, no such claim shall be paid unless and until there exists in the fund against which such claim is made a sufficient cash surplus to pay the same. It shall be the duty of the auditor after any such claims have been filed with him to present same to the county board at its next meeting and at such meeting such claim shall be acted upon; provided, all expenditures for constructing, improving, maintaining or repairing any public road or bridge by day labor may be paid by the time check method as provided by Section 30, of Chapter 323, Laws 1921, and acts amendatory thereof; but no such time check shall be honored by the auditor, nor shall any claim thereon be valid against the county, unless the duplicate thereof be duly filed in the office of the county auditor within thirty days after the date of the issuance thereof, nor unless and until funds be appropriate therefor as hereinbefore provided. (Act Mar. 31, 1933, c. 137, §7.)

1946-47. Violations a misdemeanor—Any member of the county board or other officer or employee of the county knowingly authorizing or participating in any violation of this act shall be guilty of a misdemeanor, punishable by a fine not exceeding \$100 or imprisonment in the county jail not exceeding three months for each offense. Every contract entered into or indebtedness or pecuniary liability attempted to be incurred in violation of the provisions of this act shall be null and void in respect to any obligation sought thereby to be imposed upon the county and no claim therefor shall be allowed by the county board, nor shall any officer issue or pay any warrant, order or other evidence of debt on account thereof. Each member of the governing body or other officer or employee so knowingly participating in or authorizing any violation of this act shall be individually liable for any damages caused thereby; and for the purpose of enforcing such liability, without impairing any other remedy, one-fourth of the salary of each such member of the governing body or officer or employee shall be withheld from him and applied toward the payment of such damages until all claims by reason thereof have been paid. (Act Mar. 31, 1933, c. 137, §8.)

1946-48. Provisions separable—If any section, part or provision hereof be found unconstitutional, such determination shall not affect the validity of the remaining provisions not clearly dependent thereon. (Act Mar. 31, 1933, c. 137, §9.)

1946-49. Limitations of act—This act shall not be construed to repeal or modify any other act or part of act having similar import or purpose to any part hereof but shall be deemed to provide an additional cumulative and optional remedy for the financial situation of any such county. No limitations of net indebtedness prescribed in any other act, except as herein expressly provided, shall affect the validity of any bonds issued by authority hereof, and the bonds issued by the authority of this act shall not be included in determining the net indebtedness of any such county. (Act Mar. 31, 1933, c. 137, §10.)

1946-50. Refunding bonds for unorganized territory—Bonds issued by any county, city, village, borough, township, school district or county board of education for unorganized territory for the purpose of refunding outstanding bonds shall be chargeable against all the territory that was chargeable with the payment of the bonds thereby refunded. Any such municipality issuing refunding bonds is hereby empowered to levy taxes for the payment thereof against all the territory that was chargeable with the payment of the refunded bonds, and the county auditor shall extend such levy against the taxable property in all such territory. (Act Apr. 17, 1933, c. 306.)

1946-51. Certificates of indebtedness may be issued in certain cases—In all villages, towns and school districts in this state now or hereafter operating on a cash basis system, under and pursuant to the authority of statutes affecting such villages, towns and school districts, which statutes prohibit the issuance of checks or warrants until there is money in the treasury available to pay the same, and which provide for the issuance of certificates of indebtedness against taxes to be collected, the governing body of such village, town and school district, if unable to sell such certificates of indebtedness in the manner prescribed by such laws, may issue such certificates of indebtedness to the village, town and school district treasurer, or his order, and deposit the same with him. Certificates so issued shall be held by the treasurer until they may be sold, and shall bear interest at six per cent per annum. The village, town and school district may thereupon, as long as such certificates are on deposit, with the treasurer, issue warrants upon the funds against which such certificates were issued, the total principal amount of such warrants not to exceed the total principal amount of the

certificates so held by the treasurer. Such warrants shall bear interest at six per cent per annum from and after the date they are presented to the treasurer and stamped "Not paid for want of funds, but protected by certificates of indebtedness now held by me." (Act Apr. 15, 1933, c. 272, §1; Dec. 31, 1933, Ex. Ses., c. 36, §2.)

Act Dec. 31, 1933, Ex. Ses., c. 36, §1, amends the title of Act Apr. 15, 1933, c. 272, to read as follows: "An Act to empower villages, towns and school districts operating on a cash basis system, under the laws of this state, under which system certificates of indebtedness are issued, and under which system checks or warrants cannot be issued until there is money in the treasury available to pay the same, to issue warrants against certificates of indebtedness held by the village treasurer, when such certificates of indebtedness cannot be sold in the manner prescribed by law."

1946-52. Sale of certificates—disposition of proceeds.—Such certificates of indebtedness may be sold by the village council town and school district and the proceeds of such sale shall be used to take up such warrants in the order presented for payment. Such certificates of indebtedness shall be paid at the same time and in the same manner as if they had been issued to a purchaser thereof. (Act Apr. 15, 1933, c. 272, §2; Dec. 31, 1933, Ex. Ses., c. 36, §3.)

1946-53. Warrants in excess of certificates void.—All warrants attempted to be issued hereunder and all obligations for indebtedness attempted to be incurred hereunder, in excess of the principal amount of the certificates of indebtedness so held by such treasurer, shall be void. Neither the governing body of such village, town and school district, nor any officer, board or employee thereof shall have the power, and no power shall exist to create any indebtedness or obligation of such village, town and school district contrary to the terms of the law regulating the issuance of certificates of indebtedness and the incurring of obligations in such village, town and school district, as amended hereby. (Act Apr. 15, 1933, c. 272, §3, as amended Dec. 31, 1933, Ex. Ses., c. 36, §4.)

1949. Investing of sinking funds in school districts.—The treasurer of any school district in the state is authorized to invest any of the sinking funds in his hands belonging to such school district in bonds of the United States, of the State of Minnesota, or of any other state, or in bonds of any county, school district, city, town or village of the state but no investment shall be made in bonds issued to aid in the construction of any railroad; provided, however, that the net return of any such investment, taking into account the price paid for the bonds, the date when the same fall due and the rate of interest thereon, shall be at a rate not less than $3\frac{1}{2}$ per cent per annum for the whole period elapsing before the maturity thereof; and provided further, that any such investment shall be made only after the same has been duly authorized at a general or special meeting of the board of directors or trustees of such school district. ('07, c. 354, §1; G. S. '13, §1867; Feb. 19, 1929, c. 25.)

School cannot use money in building sinking fund to take up interest bearing warrants of the district. Op. Atty. Gen., Apr. 15, 1929.

"Of the state" refers to the State of Minnesota, and school district cannot invest money in bonds of a county of another state. Op. Atty. Gen., Sept. 16, 1929.

Amendment made by Laws 1929, c. 25, did not have the effect of repealing or superseding the provisions of Laws 1927, c. 131, §9, and school district may invest its sinking fund in warrants issued by a municipality having a definite maturity date. Op. Atty. Gen., Feb. 23, 1931.

Investment of a school district sinking fund is now governed by §1938-11, and not by this section. Op. Atty. Gen., Sept. 17, 1931.

Amendment by Laws 1929, c. 25, did not repeal or supersede Laws 1927, c. 131, §9, Mason's Minn. Stat., §1938-11. Op. Atty. Gen., May 5, 1932.

School districts have no authority to invest any funds other than money in sinking fund. Op. Atty. Gen., Oct. 2, 1933.

Surplus moneys of school district may not be invested in municipal bonds where not part of a sinking fund. Op. Atty. Gen., Oct. 9, 1933.

1950-1. Investment of village sinking funds.

Where village sells gas plant and bondholders will not accept payment before maturity, it may create a sinking fund. It cannot pay the bondholders a premium for privilege of liquidating the bonds. Op. Atty. Gen., Aug. 14, 1929.

1956. Loans, how made.

State can loan money to a municipality which desires to fund its floating indebtedness under Laws 1927, c. 131, notwithstanding limitations as to maturity contained in §1956. Op. Atty. Gen., Oct. 14, 1933.

1957. Limit of debt—Authorization, etc.

State board of investment cannot purchase village bonds where total indebtedness of village exceed 15% of assessed valuation of real property. Op. Atty. Gen., July 28, 1933.

1958-1. School district tax levies for payment of interest.

Intended to apply where bonds fall due serially. Op. Atty. Gen., Sept. 17, 1931.

School board having made and certified a levy of a definite amount for a period of years has authority to change it. Op. Atty. Gen., Sept. 17, 1931.

School board has authority to transfer a surplus in the general fund to the sinking fund for the purpose of purchasing bonds of the district before maturity. Op. Atty. Gen., Sept. 17, 1931.

1959. Sale of bonds to state—Municipality defined.

This and following sections do not restrict authority given by §2798 to school meetings to rescind previous action, the contract authorized thereby not having taken effect. Independent School Dist. No. 68 of Faribault County v. R., 185M261, 240NW649.

1962. Where vote of electors is required—etc.

Irregularity in one notice of election upon issuance of school bonds to the State stating that the rate of interest was $4\frac{1}{2}$ % when, instead, it was $4\frac{1}{4}$ %, held not to invalidate the election or bond issue. *Boyes*, Appeal of, 183M542, 237NW412. See Dun. Dig. 867a.

In view of this section architects' charges for plans and specifications may be paid from the proceeds of a bond issue. Op. Atty. Gen., Jan. 14, 1930.

A city desirous of issuing new bonds to take up outstanding water bonds held by the state must submit the matter to the voters. Op. Atty. Gen., July 30, 1931.

Where clerk of independent school district called special meeting to vote upon rescission of authority for bond issue in amount of \$120,000 for construction of school, but before holding of election, school board adopted resolution for issuance of \$60,000 of bonds and special election was called on second proposition and authority for \$120,000 of bonds was rescinded, second special election was valid. Op. Atty. Gen., Apr. 13, 1932.

If village council, on its own initiative, passed resolution calling for special election to vote upon construction of waterworks system and issuing bonds, it had right to reconsider matter and rescind action taken. Op. Atty. Gen., June 15, 1932.

It is mandatory that notice of election to authorize bond issue be in statutory form. Op. Atty. Gen., May 19, 1933.

Procedure and forms for special election for erection of waterworks system and issuing bonds, discussed. Op. Atty. Gen., Aug. 17, 1933.

1963. Election—Form of ballot—Several propositions.

Form of ballot set forth herein must be used. Op. Atty. Gen., May 19, 1933.

Statement "erecting a grade school and erecting an addition to the high school building," constitutes two propositions which should be voted on separately. Op. Atty. Gen., Aug. 23, 1933.

1964. Election, how held, etc.

Op. Atty. Gen., May 11, 1933; note under §1229. School district has authority to issue its bonds to state when authorized by voters. Op. Atty. Gen., Aug. 23, 1933.

1968. Validity of bonds not to be questioned, except, etc.

State board of investment may purchase village bonds upon which it has received no bids without an election, but it has not done so. Op. Atty. Gen., July 28, 1933.

1968-1. Purchase of municipal bonds by State Board of Investment.

Act validates all municipal bonds purchased by state board of investment. Laws 1933, c. 150.

State may purchase municipal bonds issued under Laws 1927, c. 331, or Laws 1929, c. 351, etc. Laws 1933, c. 389.

State board of investment cannot purchase village bonds where total indebtedness of village exceeds 15% of assessed valuation of real property. Op. Atty. Gen., July 28, 1933.

Village selling bonds to federal government under National Industrial Recovery Act need not advertise for bids. Op. Atty. Gen., Aug. 21, 1933.

1968-3. State board of investments may purchase certain bonds.—In its discretion the state board of investment is hereby authorized to purchase and take, in the name of the State of Minnesota, within the limitations hereinafter expressed, except as provided in Section 5 hereof, not more than fifty per cent of the bonds heretofore or hereafter issued by any municipality under the provisions of Laws 1927, Chapter 331 [§§1946-3 to 1946-12], and/or Laws 1929, Chapter 351 [§§1946-17 to 1946-33], and acts amendatory thereof. The procedure to that end on the part of the municipality shall substantially comply with the provisions of Mason's Minnesota Statutes, 1927, Sections 1961 to 1968-2, inclusive, so far as applicable and adaptable to the provisions of the act under which said bonds are or were issued; but the requirements of Section 1963 as to maturities and as to limiting the bonds to a percentage of the assessed valuation shall not apply. The bonds issued to the State may bear a lower rate of interest than those sold upon competitive bids; and the municipality may issue new bonds to the State to replace or refund and call in not over fifty per cent of outstanding bonds issued under either of the acts aforesaid. (Act Apr. 21, 1933, c. 389, §1.)

Not unconstitutional as revenue measure originating in senate or as lending credit of state. Op. Atty. Gen., June 7, 1933.

1968-4. State board of investments to investigate loans.—In acting on the application of any municipality for a loan hereunder, the state board of investment shall diligently consider the reasonable safety of the investment, and the fiscal and other conditions bearing thereon, also the importance to the general credit of the State and all its political subdivisions and municipalities of preserving the credit and solvency of the applicant, and shall, when requested, furnish to the municipality such study, advice and supervision with respect to its financial situation and the improvement thereof as are practicable. The funds used for the purchase of bonds hereunder shall be derived as hereinafter provided and not otherwise; and the principal of bonds at any time held by the State acquired hereunder, shall not exceed the sum of two million dollars. (Act Apr. 21, 1933, c. 389, §2.)

1968-5. State may issue certificates of indebtedness.—When an application for a loan, or any part thereof, shall be approved by the state board of investment, the state auditor, on its request, shall issue and call certificates of indebtedness of the State in an aggregate sum not to exceed the maximum amount to be paid out by the State in completing the purchase contemplated by such application and approval, such certificate to be numbered serially and to be of such denomination and bear such dates of issue and of maturity and bear interest at such rate, not exceeding five per cent per annum, and payable at such intervals, as the state auditor shall determine; provided none of such certificates of indebtedness shall run beyond a time reasonably feasible for its retirement out of collections on the bonds for the purchase of which it was issued. The interest on such certificates shall be less, by at least one-fourth of one per cent and not more than one per cent, than the interest on the bonds so purchased by the State. Such certificate shall be so issued from time to time as the proceeds thereof are needed for the taking of the municipal bonds contemplated to be purchased. Said certificates shall be in such form and upon such terms and conditions, not inconsistent with the terms of this act, as the State Auditor shall determine, shall be signed by the Governor and attested by the state auditor and shall be sold for not less than par. Such certificates may be purchased by the State Board of Investment for the Permanent School Fund, Swamp Land Fund, Internal Improvement Land Fund or any

other trust fund of the State of Minnesota, and shall be deemed "authorized securities" within the provisions of Mason's Stat., 1927, Section 7731, and acts amendatory thereof or supplementary thereto. (Act Apr. 21, 1933, c. 389, §3.)

1968-6. Tax levy to retire certificates.—There is hereby levied for payment in each year in which an instalment or instalments of interest and/or principal of all certificates issued under this act shall become due the aggregate of the same becoming due thereunder for such year, less the amount remaining in the fund applicable thereto at the time of the certification of state taxes payable in such year, after satisfaction of all obligations payable therefrom for the preceding year. The levy so made shall be certified and extended upon the tax rolls for the tax levy payable in each such year, and shall be collected as other state taxes are certified and extended and collected; and the proceeds of such levies, together with the proceeds of collections of interest and principal of municipal bonds purchased by the State hereunder, are hereby appropriated and pledged to the payment of the interest and principal of the certificates of indebtedness issued pursuant to this act. (Act Apr. 21, 1933, c. 389, §4.)

1968-7. May purchase certain county bonds.—The State Board of Investment, in its discretion is also hereby authorized to purchase and take in the name of the State of Minnesota the full issue of bonds of any county in this state in which a game preserve has been created or established by Laws 1929, Chapter 258 [§§5620-1 to 5620-13], or a Reforestation area has been created or established by Laws 1931, Chapter 407 [§§6452-1 to 6452-13], and which bonds are issued under the provisions of Laws 1929, Chapter 351, as amended by Laws 1931, Chapter 155 [§§1946-17 to 1946-33]; provided that the loan to any one county under this section shall not exceed \$150,000.00. All of the provisions of this act which are applicable to the purchase and taking of bonds as provided in Section 1 of this act shall be applicable to the purchase and taking of bonds under this section. (Act Apr. 21, 1933, c. 389, §5.)

Sec. 6 of act Apr. 21, 1933, cited, provides that the act shall take effect from its passage.

1968-8. Sale of bonds to the United States—advertisement—rate of interest.—That any municipality in this state, as such term is defined in Mason's Minnesota Statutes of 1927, Section 1959, which has, or may hereafter have, authority to issue and sell its bonds for the purpose of carrying on public works, the cost of which will be defrayed in part from funds granted by the United States of America through its public works administration, under the provisions of the National Industrial Recovery Act, shall have full authority, and is hereby expressly authorized, to sell and dispose of any of its said bonds to said United States of America, by contract therefor entered into between any such municipality and said federal government, upon such terms and conditions as the governing body of any such municipality shall deem to be in the public interest, without advertising for bids for the purchase thereof; provided the maximum rate of interest on any such bonds shall not exceed four per cent per annum payable semi-annually. (Act Dec. 23, 1933, Ex. Ses., c. 17, §1.)

1968-9. Same—Acts legalized.—That any and all Acts heretofore performed by any such municipality in entering into contract with said federal government for the purchase or sale of any such bonds, are hereby legalized and declared valid in all respects. (Act Dec. 23, 1933, Ex. Ses., c. 17, §2.)

1968-10. Same—repeal.—That any and all Acts conflicting with the provisions of this Act are hereby expressly repealed insofar as necessary to give effect to this Act. (Act Dec. 23, 1933, Ex. Ses., c. 17, §3.)

1969. Bonds purchased by state legalized.
Repealed, Laws 1929, c. 32; Laws 1931, c. 203.
Reenacted Apr. 4, 1933, c. 150.

1972. Laws as to outstanding bonds continued.**POWERS OF CITIES OF THE FIRST CLASS WITH RESPECT TO BONDS**

Laws 1929, c. 112, legalizes bonds issued or ordered to be issued for two or more distinct improvements.

Act Dec. 20, 1933, c. 2, Ex. Ses., legalizes anticipation certificates of indebtedness theretofore issued and proceedings for issue of bonds, and authorizes bond issue accordingly. Omitted as temporary.

Act Ex. Ses., Dec. 20, 1933, c. 3, authorizes cities of the second class situated on navigable river, which the federal government is regulating by the construction of dams, to issue bonds for the construction of a sewage improvement project. Omitted as of local application.

POWERS OF CITIES OF THE SECOND CLASS WITH RESPECT TO BONDS

Act authorizing cities of second class not operating under home rule charter to issue bonds to provide additional school buildings, grounds and equipment. Laws 1931, c. 112.

POWERS OF CITIES OF THE FOURTH CLASS WITH RESPECT TO BONDS

Act Feb. 13, 1931, c. 11, legalizes funding bonds issued by fourth class cities having home rule charter in excess of bond debt limit.

Laws 1931, c. 154, legalizing funding bonds.

Laws 1931, c. 172, legalizes storm sewer bonds.

Act Ex. Ses., Dec. 23, 1933, c. 12, validates bonds theretofore issued in excess of 10% of assessed valuation to secure loan of federal funds under National Recovery Act. Omitted as temporary.

Act Ex. Ses., Dec. 23, 1933, c. 13, validates bonds theretofore issued for sewage disposal plant. Omitted as temporary.

POWER OF COUNTIES WITH RESPECT TO BONDS

Act Feb. 26, 1929, c. 41, authorizes bonds not to exceed \$15,000 to fund outstanding warrants for cleaning and repairing ditches; the resolution of the county board to be adopted within 90 days after passage of this act. It is omitted as temporary.

Laws 1929, c. 116, authorizes counties having bonded debt not exceeding \$7,500,000, assessed valuation of not less than \$200,000,000, 96% of which is in cities to issue bonds or certificates of indebtedness for roads, streets, bridges and parkways.

Laws 1929, c. 121, authorizes counties having assessed valuation of \$25,000,000 or more, bonded debt of not more than \$21,000, exclusive of drainage and road bonds, and entitled to reimbursement from state road and bridge fund to amount of \$200,000 or more, to issue funding bonds of not more than \$300,000.

Laws 1929, c. 127, declares that in counties with assessed valuation of \$175,000,000, 95% of which is in cities, proceeds of bonds shall not be used until projects have been determined. Amended by Laws 1931, c. 194.

Laws 1929, c. 342, authorizes counties having assessed valuation of not more than \$4,000,000, and bonded debt of not more than \$30,000, to issue funding bonds to take up road and bridge warrants.

Act Feb. 10, 1931, c. 10, legalizes bonds issued by counties having assessed valuation, exclusive of moneys and credits, of not less than \$9,000,000 and bonded debt of not more than \$415,000, and which have revolved to issue funding bonds in amount not exceeding \$50,000.

Laws 1931, c. 80, validates proceedings of county board relating to funding bonds.

Counties with assessed valuation not exceeding \$6,500,000, net debt not exceeding \$525,000, and outstanding warrants of more than \$200,000, etc. Laws 1931, c. 102, authorizes issue of funding bonds and levy of tax.

Laws 1931, c. 239, validates funding bonds.

Act Apr. 15, 1933, c. 258, and act Apr. 17, 1933, c. 290, provide that counties having assessed valuation of not more than \$12,000,000, bonded debt of \$26,000, exclusive of drainage bonds, and outstanding road warrants not exceeding \$50,000, may issue refunding bonds.

Laws 1933, c. 285, amends § 1 of c. 127, Laws 1929, as amended by Laws 1931, c. 194.

Laws 1933, c. 387, provides that the county board in counties having population of 200,000 to 240,000, and assessed valuation, including moneys and credits, of less than \$350,000,000, may sell bonds heretofore or hereafter authorized to be issued.

Act Ex. Ses., Dec. 23, 1933, c. 18, legalizes special road bonds issued pursuant to special election held within 6 months prior to passage of act. Omitted as temporary.

Act Ex. Ses., Dec. 23, 1933, c. 20, authorizes counties having \$2,000,000 to \$3,000,000 assessed valuation, in which warrants drawn on general and poor funds have been paid from other funds, to issue funding bonds not exceeding \$35,000. Omitted as local.

Act Ex. Ses., Dec. 27, 1933, c. 24, authorizes counties having assessed valuation of \$300,000,000 to \$350,000,000, bonded debt of less than \$3,000,000 and overdraft on work farm fund of not more than \$65,000, to issue funding bonds.

Act Ex. Ses., Dec. 28, 1933, c. 31, authorizes counties having assessed valuation, including moneys and credits, of \$4,000,000 to \$5,000,000, population of 13,000 to 15,000, area of 17 to 19 townships, and outstanding warrants in excess of \$60,000, and counties having assessed valuation, including moneys and credits, of \$6,000,000 to \$8,000,000, population of 9,000 to 10,000, area of 15 to 17 townships and outstanding warrants exceeding \$30,000, to issue refunding bonds. Omitted as local.

Act Ex. Ses., Jan. 5, 1934, c. 44, authorizes counties having assessed valuation, exclusive of moneys and credits, of less than \$9,000,000, and bonded debt, exclusive of road bonds, of over \$1,250,000, on more than 50% of which interest is in default for six months or more, to issue refunding bonds. Omitted as local.

Act Jan. 6, 1934, Ex. Ses., c. 44, authorizes counties having assessed valuation, inclusive of moneys and credits, of \$9,000,000 to \$11,000,000, population of 16,000 to 18,000, area of 17 to 19 townships, and outstanding warrants against road and bridge fund of not more than \$200,000, to issue funding bonds to take up such warrants. Omitted as local.

Act Jan. 9, 1934, Ex. Ses., c. 64, authorizes counties having assessed valuation, exclusive of moneys and credits, of \$12,000,000 to \$15,000,000, population of 10,000 to 20,000, and bonded debt of not to exceed 1% of assessed valuation, to issue bonds not exceeding \$25,000 for repair of courthouse. Omitted as local.

Act Jan. 9, 1934, Ex. Ses., c. 65, legalizes bonds issued by counties having assessed valuation of \$10,000,000 to \$15,000,000 to refund outstanding warrants. Omitted as local and temporary.

Laws 1921, c. 117.

Op. Atty. Gen., May 22, 1931; note under § 1938-6.

1973. Bonds of school districts.

Where electors authorize addition to school house and issuance of bonds, school board subsequently elected could issue the bonds. Op. Atty. Gen., May 13, 1932.

Where school board submits matter of addition to school house to voters and majority vote for addition and issuance of bonds, board cannot subsequently refuse to issue bonds. Op. Atty. Gen., May 13, 1932.

Consolidated school district may not issue bonds for purpose of paying running expenses of school, but may issue bonds to fund floating indebtedness originally incurred in paying such running expenses. Op. Atty. Gen., Mar. 8, 1933.

1973-½. Cities of second class may issue bonds for school buildings.—That in any city of the second class in the State of Minnesota and not operating under a Home Rule Charter, the Board of Education is hereby authorized and empowered to issue and sell bonds of said City to an amount not exceeding \$100,000.00 for the purpose of providing funds for the erection or replacement of school buildings and to provide equipment, heating and lighting apparatus and other necessary equipment for the same and to secure additional grounds if required for a site for such building, providing, such issue shall have been authorized or may be authorized by a vote of a majority of the electors of such city voting upon such proposition providing for the issuance of an aggregate amount of bonds for such purpose within a period of two years just preceding such issuance. (Act Apr. 1, 1931, c. 112, § 1.)

1973-½a. Bonds—denomination—rate of interest.

—Such bonds shall be of the denomination of \$1,000.00 each and shall bear interest to be represented by coupons attached thereto at the lowest attainable rate, not to exceed four and one-half per cent, per annum, payable semi-annually. The principal thereof shall be made to mature and fall due at such different times and in such amounts as said Board may prescribe, providing however that all of the said bonds shall be made to mature and fall due at or before five years from the date of issuance thereof. Said bonds and the coupons attached thereto shall be signed severally by the President and the Clerk of said Board and drawn payable to bearer, and shall have the seal of said Board affixed thereto. (Act Apr. 1, 1931, c. 112, § 2.)

1973-½b. Shall not be sold for less than par.

—Such bonds shall not be sold at less than their par value, and the proceeds arising from their sale shall be deposited with the city treasurer and held subject to the order of said board for application to the purposes for which the bonds were issued. The full faith and credit of each such city shall be pledged and all

of the taxable property in each such city shall be liable for the payment of the principal and interest of said bonds when issued. Provided, however, that no bonds shall be issued under this act if such issue shall make the total indebtedness of said city aggregate more than ten per cent of the assessed valuation of such city according to the last preceding assessment. (Act Apr. 1, 1931, c. 112, §3.)

1973-½c. Tax levy to retire.—When any of the bonds herein authorized shall have been issued and sold as above provided, it shall thereafter be the duty of the board of education to provide for and secure the levy of an annual tax of such amount as may be necessary to pay the principal and interest of such bonds as the same become due, and such annual tax shall be certified, levied and collected in the same manner as other school taxes are certified, levied and collected, and when collected shall be paid over to the city treasurer to be applied to the payment of the principal and interest of said bonds and to no other purpose. (Act Apr. 1, 1931, c. 112, §4.)

POWER OF SCHOOL DISTRICTS WITH RESPECT TO BONDS

Act Ex. Ses., Dec. 21, 1933, c. 5, authorizes board of education in any district embracing an entire county in which is located a city of the second class, and which board has power to levy school taxes, to issue bonds or certificates of indebtedness not exceeding \$300,000 for erection of an additional grade school building to replace old buildings. Omitted as local in application.

Act Jan. 9, 1934, Ex. Ses., c. 75, authorizes independent school districts within cities of the first class, the charters of which do not provide for school government, to issue bonds not exceeding \$17,500 in amount to pay cost of improvements on school property. It is omitted as local and temporary.

Where electors of Wells school district voted to issue bonds in the sum of \$120,000, and a request for a special election to vote upon rescinding authorization for issuance of bonds was filed, it would be confusing and possibly invalid to call another election to vote upon proposition of issuing bonds for a lesser amount without having first rescinded the original authorization. Op. Atty. Gen., Mar. 7, 1932.

CHAPTER 10A

Depositories of Public Funds

1973-1. Depository bonds.—Any bank or trust company authorized to do a banking business in this state, designated as a depository of county, city, village, borough, town or school district funds, as provided by law, may, in lieu of the corporate or personal surety bond required to be furnished to secure such funds, deposit with the treasurer of the municipality making such designations, such bonds, certificates of indebtedness or warrants, except bonds secured by real estate, as are legally authorized investments for savings banks under the laws of the state of the bonds of any of the insular possessions of the United States, or the bonds of any state, or its agency, the payment of the principal and interest of which, or either, is provided for otherwise than by direct taxation—, or notes secured by first mortgages of future maturity, upon which interest is not past due, on improved real estate free from delinquent taxes, within the county wherein said bank or trust company is located, or within counties immediately adjoining such county in the State of Minnesota. The total in amount of such collateral computed at its market value shall be at least ten per cent more than the limit of deposit which would be permitted if a corporate or personal surety bond was furnished. The depository may in its discretion furnish both a bond and collateral aggregating the required amount. Any collateral so deposited shall be accompanied by an assignment thereof to the municipality designating such depository, which assignment shall recite that such depository shall pay over to the treasurer, or his order, on demand, or if a time deposit when due, free of exchange or any other charges all moneys deposited therein at any time during the period such collateral shall be so deposited, and to pay the interest thereon when due at the agreed rate; and that in case of any default upon the part of the depository the governing body of the municipality making the designation shall have full power and authority to sell such collateral, or as much thereof as may be necessary to realize the full amount due the municipality and to pay over any surplus to the depository, or its assigns. A depository may in its discretion deposit collateral of a value less than the total designation and may from time to time during the period of its designation deposit additional collateral and make withdrawals of excess collateral, or substitute other collateral for that on deposit, or any part thereof. Authority is vested in the treasurer to return the collateral to the depository when the trust so created is terminated and he shall in the case of a reduction of the deposit permit the depository to

withdraw the excess portion thereof. All interest on the collateral so deposited when collected shall be paid to the depository so long as it is not in default. Before any collateral is deposited with the treasurer it shall first be approved by the same authority that designated the depository but no such authority shall be necessary for the withdrawal of collateral. The closing of a depository shall be deemed a default upon the part of the depository and no demand upon the part of the municipality, or its treasurer, shall be necessary to establish such default. If a depository shall close, any time deposit placed therein shall immediately become due and payable. If both bond and collateral is furnished by a depository, all or any part of the collateral may be withdrawn without in any way impairing the full force and effect of the bond unless it shall contain a provision that the collateral shall not be withdrawn without the consent of the surety thereon. If a corporate surety bond is furnished by a depository it shall be in a penal sum not to exceed the amount designated as the limit of deposit therein notwithstanding any other provisions of law to the contrary. At no time shall the treasurer maintain a deposit in any depository against collateral in excess of ninety per cent of the market value thereof. Any provision of law authorizing any county, city, village, borough, town or school district to designate banks as depositories shall be construed to include trust companies authorized to do a banking business. All bonds furnished under the provisions of this Act shall be approved by the governing body of the municipality making such designation and shall be filed in the office of the county auditor as provided by Chapter 118, of the Laws of the State of Minnesota for the year 1927, and all collateral deposited under the provisions of this Act shall be approved by the governing body of the municipality making such designation and after such approval be deposited with the treasurer of such municipality, unless the governing body of such municipality shall by resolution fix and determine some other place for the safe keeping of such collateral. Provided such collateral shall not be re-deposited in the bank or trust company furnishing the same. ('25, c. 173, §1; Apr. 25, 1929, c. 370, §1; Mar. 1, 1933, c. 41, §1.)

Sec. 2 provides that the act shall take effect from its passage.

City did not have a preferred claim against an insolvent depository bank in which city treasurer had made deposits in excess of securities deposited by the bank, the overdeposit not constituting an offense under §10303. 172M324, 215NW174.