

Nineteen Hundred Thirty-One
Supplement

to

Mason's Minnesota Statutes

(1927 thru 1931)

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



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CITER-DIGEST CO.
ST. PAUL, MINNESOTA
1931

ployee in a police department operated under civil service as in this chapter provided for, shall be guilty of a misdemeanor. (Act Apr. 23, 1929, c. 299, §15.)

§1933-63. Commission to be vested with powers in certain cases.—Whenever any city or village has a civil service commission, the council may provide that such commission be vested with the powers and duties of the police civil service commission, as set forth herein. (Act Apr. 23, 1929, c. 299, §16.)

§1933-64. Villages and townships may cooperate in support of cemeteries.—Where a village or township owns and maintains an established cemetery or burial ground, either within or without the municipal limits, said village or township may by mutual agreement with contiguous villages and townships each having an assessed valuation of not less than \$1,000,000.00, join together in the maintenance of such public cemetery or burial ground for the use of the inhabitants of each

of such municipalities; and each such municipality is hereby authorized by action of its council or governing body to levy a tax or make an appropriation for the support and maintenance of such cemetery or burial ground, provided, the amount thus levied or appropriated by each municipality shall not exceed a total of \$1,000.00 in any one year. (Act Apr. 20, 1931, c. 262, §1.)

§1933-65. Limit to appropriations.—Such appropriation by each municipality shall not exceed the per capita amount paid by any other municipality sharing therein, based on the populations of the respective units; provided, also, that any arrangement hereunder shall not alter the management, control or ownership of any cemetery. (Act Apr. 20, 1931, c. 262, §2.)

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.

CHAPTER 10

Public Indebtedness

§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.

§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.

§1938. Limit of debt—Excess void.

§1938-3. Obligations of cities, etc.

175M201, 220NW606.

This act [§§1938-3 to 1938-13] does not repeal §§1593 to 1600, and does not govern Minneapolis. 174M509, 219NW872.

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

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

§1938-5. Same—Obligations—Maturity.

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

§1938-6. Same—Obligations—Etc.

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.

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

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., April 4, 1931.

§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 Statutes, §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.

§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 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 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.

§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.)

§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. St., 1927, §1938-6]. Op. Atty. Gen., May 24, 1929.

§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.

§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.

§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. (As amended 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. (As amended Mar. 27, 1931, c. 100, §2.)

§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. St. 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 un-

organized territory in any county governed by the provisions of Chapter 328, Session Laws for 1921 [Mason's Minn. St. 1927, §§2850 to 2870-1], and acts amendatory thereof. Any such municipality, whose bonded, judgment and floating indebtedness exceeds twenty-five percent 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, as amended Apr. 13, 1931, c. 155, §1.)

§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 Stat-

utes 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 or take effect. (Laws 1929, c. 351, §6½, added 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 incurred 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 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. 25, 1929, c. 351, §10.)

§1946-26 ½. 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, §10 ½, added Apr. 13, 1931, c. 155, §3.)

§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 appropriable 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 claims 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 of 1921 [§2570, Mason's Minn. St., 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 appropriable 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 govern-

ing body present at a meeting thereof when any actions 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.)

§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 3½ 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. (As amended 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.

§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.

§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 4½% when, instead, it was 4¼%, held not to invalidate the election or bond issue. Boyes, Appeal of, 237 NW412. See Dun. Dig., 8674a.

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.

§1969. Bonds purchased by state legalized.

Repealed, Laws 1929, c. 32; Laws 1931, c. 203.

§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.

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.

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 resolved 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.

Laws 1921, c. 117.

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

§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.)

§1973-½ a. 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 percent, 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.)

§1973-½ b. 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.)

§1973-½ c. 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.)

CHAPTER 10A

Depositories of Public Funds

§1973-1. Securities in lieu of 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 or 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. 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,