

1940 Supplement  
To  
**Mason's Minnesota Statutes**  
1927

(1927 to 1940)  
(Superseding Mason's 1931, 1934, 1936 and 1938  
Supplements)

Containing the text of the acts of the 1929, 1931, 1933, 1935, 1937 and 1939 General Sessions, and the 1933-34, 1935-36, 1936 and 1937 Special Sessions of the Legislature, both new and amendatory, and notes showing repeals, together with annotations from the various courts, state and federal, and the opinions of the Attorney General, construing the constitution, statutes, charters and court rules of Minnesota together with digest of all common law decisions.



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**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, §109.**

City council may acquire land outside corporate limits for an airport without submission of question to voters. Op. Atty. Gen. (59a-40), May 20, 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.

Cities organized under this act are governed by this section and not by §1941, 1942, of Mason's Stats. of 1927, and city of Cloquet may issue sewage disposal bonds without vote of electors, if effect of issuance will not raise city's indebtedness above 5% of taxable property of city. Op. Atty. Gen. (59a-7), Oct. 10, 1935.

**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, §133.**

City may erect a building or arena to be used as indoor skating rink and bathhouse, and issue bonds therefor. Op. Atty. Gen. (59b-11), Nov. 21, 1935.

City council of Red Lake Falls has authority to purchase land and erect a building to be used as a municipal liquor store without submitting matter to city electors. Op. Atty. Gen. (218p), Apr. 7, 1937.

**Laws 1895, c. 8, §135.**

Mason's Stat. 1927, §1799-1, et seq., does not apply to city of Cloquet with respect to construction of sewage disposal plant, but such city has authority to establish such a plant pursuant to Mason's Stat. 1927, §1880, et seq. Op. Atty. Gen. (387b-9), Aug. 7, 1935.

**Laws 1895, c. 8, §142.**

City of Cloquet cannot grant electric and power franchise without advertisement or bid. Op. Atty. Gen. (624c-6), July 15, 1936.

**Laws 1895, c. 8, §146.**

Mason's Stat., §10939-1, does not take precedence over provisions of this section. Op. Atty. Gen., Dec. 13, 1933.

This act is applicable to 5 cities. Id.

**Laws 1895, c. 8, §149.**

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

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

**Laws 1895, c. 8, §186.**

City of Cloquet may accept donation of a building to be used as a civic recreational center in connection with its park system. Op. Atty. Gen. (700d-16), Nov. 2, 1936.

**Laws 1895, c. 8, §207.**

Neither members of board of equalization of Red Lake Falls nor assessor of the city are entitled to compensation, other than compensation received as councilmen and assessor. Op. Atty. Gen. (406c), Aug. 3, 1934.

**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.

**Laws 1895, c. 8, §296.**

City of Cloquet may consider an automobile a necessary expenditure for superintendent of poor, for which reimbursement may be had from county. Op. Atty. Gen. (339m), Mar. 31, 1936.

## CHAPTER 10

## Public Indebtedness

**1934. Scope of chapter.**

Utility bonds legalized. Laws 1939, c. 137.

Fourth class cities, villages or boroughs, located in counties having 350 to 400 sq. miles area, 13,500 to 15,000 population and \$5,000,000 to \$10,000,000 valuation, and an area of 225,000 to 230,000 acres, may levy 2 mills for municipal bond purposes. Laws 1939, c. 421.

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.

City of Little Falls under its charter may issue bonds without vote of electors. Op. Atty. Gen. (624d-1), Oct. 22, 1935.

Town board may not issue bonds to improve existing town roads. Op. Atty. Gen. (43b-4), Jan. 30, 1939.

Municipalities may purchase insurance from mutual companies provided there is a limitation upon liability of members and contingent liability is within maximum indebtedness of municipality. Op. Atty. Gen. (487c-1), August 23, 1939.

An outline of municipal bond procedure in Minnesota. 20 MinnLawRev 583.

**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.

Unaccrued rent is not a debt or present obligation of a city. Ambrozich v. C., 200M473, 274NW635. See Dun. Dig. 6579, 6701.

Public service contracts calling for payment in installments as services are rendered do not create an indebtedness against municipality until service is performed at which time installments fall due. Id.

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

Taxes levied and in process of collection cannot be deducted from the present indebtedness in determining debt limit of city. Op. Atty. Gen. (519c), May 26, 1936.

Obligation mentioned under subdivisions, 1, 3, 4, 5 of this section may be deducted in determining indebtedness of village under Laws 1885, c. 145, §22. Op. Atty. Gen. (59a-51), Nov. 20, 1936.

Power of village of Jeffers to issue certificates of indebtedness for purchase of fire apparatus and equipment is derived from Laws 1885, c. 145, and power of erecting a building to house the equipment is derived from §1942, but procedure for issuing certificates of indebtedness and bonds is restricted by general bonding statute, §§1938-3 to 1938-12. Op. Atty. Gen., (688c), June 27, 1938.

Drainage ditch bonds did not lose their character by reason of refunding. Op. Atty. Gen. (140f), June 10, 1939.

(2). Function of a permanent improvement revolving fund is to make fund immediately available to pay for improvements, but to be replenished by special assessments. Op. Atty. Gen. (44a-4), March 6, 1939.

**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 theretofore 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.

Railroad property on which gross earnings taxes are paid cannot be included in assessed valuation for purposes of determining maximum indebtedness of school district. Op. Atty. Gen. (2161), May 4, 1936.

An outline of municipal bond procedure in Minnesota. 20 MinnLawRev 583.

**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.

City of Duluth may adopt ordinance declaring sewage disposal plants to be a public utility and issue bonds to pay cost of completing same payable out of rentals or charges for use of such plants, without an election, and sell them to the state. Op. Atty. Gen. (387b-9), Sept. 23, 1937.

Hastings home rule charter, c. 5, §3, and not §1938-6, controls with reference to votes required to authorize bond issue for a new city hall in that city. Op. Atty. Gen., (63b-3), Aug. 10, 1938.

**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.

Authority of villages to purchase personal property under conditional sales contract and necessity for bids, discussed. Op. Atty. Gen. (707a-15), Dec. 4, 1934.

A school district cannot insure in mutual company where there is unlimited liability, but can where there is a fixed, limited liability. Op. Atty. Gen. (487c-5), Dec. 28, 1934.

State board of investment may loan state funds to a village upon its bonds in an amount not exceeding 15% of assessed valuation of taxable property. Op. Atty. Gen. (44a-7), Feb. 9, 1937.

**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.**

Act Jan. 13, 1936, c. 18, Sp. Sess. 1935-36, legalizes certificates of indebtedness issued by independent school districts in specified amounts for constructing addition to existing school building, and authorizes levy of tax. Counties having 22 to 24 townships and population of 16,500 to 18,000 and valuation of \$7,000,000 to \$9,000,000 may levy 1½ mills above legal limit for two years. Laws 1935, c. 176.

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, 219 NW872.

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.

Laws 1921, c. 417 [§§2061 to 2066], Laws 1929, c. 206 [§§1186, 2061], are special and remedial in nature and intended to take care of special situations existing upon the iron range, whereas, Laws 1927, c. 131 [§§1938-3 to 1938-13], is a general law applying generally to municipalities throughout the state. Op. Atty. Gen., Mar. 2, 1934.

Laws 1929, c. 206, merely adds to and reenacts Laws 1921, c. 417, and in no wise repeals, qualifies or modifies Laws 1927, c. 131, insofar as latter chapter applies generally to municipalities throughout state. Id.

Laws 1927, c. 110 [§§2060-2 to 2060-4], is similar to Laws 1921, c. 417, except that it applies only to towns and as to such towns to which it applies on the iron ranges, it was intended to be remedial and to take care of special situations and was not repealed by Laws 1927, c. 131. Id.

Irrevocable future pledging of profit of electric power plant may be had for payment of bonds used in purchasing or constructing power plants by city of Eveleth. Op. Atty. Gen. (59a-7), May 31, 1935.

Debt limitation does not apply in issuing bonds to pay cost of electric light plant. Op. Atty. Gen. (44a-4), July 9, 1935.

Ditch bonds being general obligations of county are a part of entire bonded indebtedness. Op. Atty. Gen. (37b-2), July 10, 1936.

City of Le Sueur may exceed its debt limitation in purchasing Diesel engine to be used in operating an electric light and power plant, but cannot expend more than \$1,000 therefor without a vote of electors. Op. Atty. Gen. (624e-8), Dec. 7, 1936.

State board of investment may loan state funds to a village upon its bonds in an amount not exceeding 15% of assessed valuation of taxable property. Op. Atty. Gen. (44a-7), Feb. 9, 1937.

City of Duluth may adopt ordinance declaring sewage disposal plants to be a public utility and issue bonds to pay cost of completing same payable out of rentals or charges for use of such plants, without an election, and sell them to the state. Op. Atty. Gen. (387b-9), Sept. 23, 1937.

School district which has levied tax may issue warrants and sell them to the general public where PWA director requires that funds be immediately available in cash as a condition precedent to receiving federal money. Op. Atty. Gen. (159a-5), Dec. 3, 1937.

Bonds issued for construction or improvement of a municipal water works system are to be deducted in determining net indebtedness though they are general obligations of municipality. Op. Atty. Gen. (44a-4), Feb. 23, 1938.

A village with an assessed valuation of \$132,000 cannot expend more than 10% of such amount upon a sewer system in reliance upon §1189, unless bonds are to be sold to state of Minnesota or are payable wholly or partly from fees or special assessments. Op. Atty. Gen. (44a-4), Feb. 23, 1938.

Water and light bonds are not included as part of net debt. Op. Atty. Gen. (476a-4), Apr. 5, 1938.

Warrants issued pursuant to §1946-51 are not included as part of net debt of a municipality within §1938-3. Id.

Money in various funds is not deductible in order to arrive at net indebtedness in view of provisions for deduction of orders and warrants having no definite or fixed maturity and which are payable from various funds. Id.

Bonds of village may bear interest not to exceed 6%, and if sold to state may bear 3%. Op. Atty. Gen. (44b-17), Apr. 6, 1938.

Bonds issued for acquisition, construction, maintenance, repair or improvement of public water works systems are excluded in determining net debt, and may be issued in whatever amount electors may authorize, unless they are to be paid from general tax levy, in which case they may not exceed 10% of assessed valuation of all taxable property, including money and credits. Id.

Where village was unable to sell certificates of indebtedness and deposited them with village treasurer and issued warrants upon funds against which such certificates were issued, in accordance with §1225-80, and as a result of litigation assessed valuation of mineral properties was decreased 35%, and delinquent taxes on forfeited lands were cancelled, a sale of the certificates of indebtedness by the village at their face value and accrued interest would have no effect on their status as deductible items in net indebtedness calculations. Op. Atty. Gen. (476a-4), April 25, 1939.

An outline of municipal bond procedure in Minnesota 20 MinnLawRev 583.

**(C).**

Warrants issued by city of Anoka for improvements payable wholly or partly from collections of special assessments levied on property benefited thereby, even though general obligations of city, are not to be considered in determining limits of indebtedness under city charter, c. X, §7(5). Op. Atty. Gen. (59a-51), July 18, 1939.

**(D).**

Taxes levied and in process of collection cannot be deducted from the present indebtedness in determining debt limit of city. Op. Atty. Gen. (519c), May 26, 1936.

**1938-4. Same—Amount of limitation on net indebtedness—Special existing limitations not increased—Elections, where required.**—No municipality, except school districts, shall hereafter incur or be subject to a net debt beyond ten per cent of the last assessed valuation, as finally equalized, of all taxable property therein, including moneys and credits, provided, however, that municipalities receiving special state aid under the provisions of Chapter 259, Laws of 1923 [§§2087-1 to 2087-4] may incur, by a vote of a majority of the electors of such municipality, an indebtedness not to exceed twenty per cent of such assessed valuation, and no school district shall incur or become subject to a net debt beyond twenty per cent of such assessed valuation; provided that no city of the first class shall be subject to a net debt beyond five per cent (5%) of such assessed valuation unless the Charter for such city contains a provision to that effect; provided that this act shall not be construed as increasing the limit of debt, if any, prescribed by the special law or home rule charter under which any municipality is organized; provided further, that no independent school district located wholly or partly within a city of the first class shall have power to issue any bonds or any evidence of indebtedness unless first thereunto authorized by a two-thirds vote of the legislative body of the city within which such school district is situated in whole or in part; and no such school district shall have power to issue bonds or any evidence of indebtedness running more than two years, whenever the aggregate of the outstanding bonds and evidences of indebtedness of such district equals or exceeds three and one-half per cent of the assessed value of all the taxable property within such school district; provided, further, however, that if the net indebtedness of any municipality shall exceed the limit applicable thereto as provided herein, at the time this act takes effect, but was not in excess of the limit of debt prescribed by law at the time the indebtedness was incurred, such municipality may issue and sell, pursuant to the provisions hereof, obligations to refund any of such indebtedness at the time of the maturity thereof, if there are not sufficient funds to pay the same. (27, c. 131, §2; (eff. Sept. 1, 1927); Apr. 24, 1935, c. 256; Apr. 19, 1937, c. 285, §1.)

See Act Jan. 13, 1936, Sp. Ses., 1935-36, c. 24.

School districts debt limit where 60% of property is exempt from local taxation. Laws 1939, c. 35, app. Feb. 28.

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.

A village or other municipality may insure its buildings against loss by fire in a mutual insurance company provided liability does not exceed maximum statutory liability which may be incurred by such municipality. Op. Atty. Gen., Dec. 26, 1933.

This section is not applicable if proposed bonds are to be sold to the state of Minnesota, but proceedings must conform to §1995, et seq. Op. Atty. Gen. (44a-3), Nov. 18, 1935.

Debt limitations as to issuance of bonds for sewage systems by villages under different circumstances, stated. Op. Atty. Gen. (387g-2), Dec. 30, 1936.

Where old school building is torn down, and a new building constructed, and funds on hand are not sufficient to install a heating system, an emergency exists which authorizes issuance of warrants in excess of statutory limitation. Op. Atty. Gen. (159c-6), Oct. 20, 1937.

Emergency for voting bonds in excess of limit for construction of school building held not shown. Op. Atty. Gen. (426a), Dec. 6, 1937.

Valuation for indebtedness is not affected by homestead exemptions, but value of nontaxable lands cannot be included. Op. Atty. Gen. (159a-4), May 31, 1938.

Power of village of Jeffers to issue certificates of indebtedness for purchase of fire apparatus and equipment is derived from Laws 1885, c. 145, and power of erecting a building to house the equipment is derived from §1948, but procedure for issuing certificates of indebtedness and bonds is restricted by general bonding statute, §§1938-3 to 1938-12. Op. Atty. Gen. (688c), June 27, 1938.

Municipality cannot create a net indebtedness beyond that fixed whether debt is incurred to state by a vote of electors or otherwise. Op. Atty. Gen. (28a-8), July 28, 1939.

Effect of special fund doctrine on debt limitations. 23 MinnLawRev391.

**1938-5. Same—Obligations—Maturity.**

'37, c. 2, legalizes bond issues under this section. Op. Atty. Gen. (476b-14), June 12, 1934; note under §1229.

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.

Sewer and water system could be voted upon as a single question. Op. Atty. Gen., Nov. 27, 1933.

Bonds cannot be issued under §§1938 to 1938-15 with an on or before privilege of payment as provided in §§1946-5 and 1946-19. Op. Atty. Gen. (44a), Mar. 11, 1937.

(A).  
Maximum term of bond is 30 years where issued to private individual. Op. Atty. Gen. (159a-3), Feb. 7, 1935.

**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.

Notice of special election called to authorize building of new village hall and issuance of bonds held to comply with statutory provisions. Op. Atty. Gen. (476b-8), Apr. 24, 1934.

This section was not intended to permit issuance of bonds, even for funding outstanding warrants or bonds without approval of electors, except in cases where under existing laws this was permitted. Op. Atty. Gen. (44b-12), Nov. 23, 1934.

Villages operating under Laws 1885, c. 145, and those operating under general statutes are authorized to issue refunding obligations without submitting proposition to a vote of electors to refund matured bond issued in connection with purchase of power plant and payable out of earnings of such plant. Op. Atty. Gen. (476a-12), July 9, 1935.

Refunding bonds may be issued without vote of electors to take up certificates of indebtedness of a village payable out of earnings of water and light funds. Op. Atty. Gen. (476a-12), July 25, 1935.

Power of county to issue funding bonds to take up floating indebtedness represented by warrant overdrawing poor funds as applied to administration of old age assistance act. Op. Atty. Gen. (5211-2), Mar. 26, 1936.

City of Pipestone under its charter may issue bonds to carry out agreement with the state highway commissioner for improvement of street without vote of electors, but resolution authorizing bonds must receive four-fifths vote of all members of council. Op. Atty. Gen. (36c-7), June 6, 1936.

Refunding bonds may be issued under Laws 1937, c. 62, §2, without a vote of electors. Op. Atty. Gen. (44b-12), June 2, 1937.

Laws 1931, c. 131 (§§1938-3 to 1938-12), supersede §1941 and a majority of votes cast by electors is sufficient to authorize issuance of bonds by an independent school district to finance building of an addition to school house and to install heating, ventilating and plumbing plants. Op. Atty. Gen. (159a-3), June 7, 1937.

City of Eveleth held authorized to issue without vote of electors bonds to refund certificates of indebtedness issued in 1933, 1934, and 1935. Op. Atty. Gen. (36i), Aug. 6, 1937.

Hastings home rule charter determines number of voters necessary to authorize bond issue by that city. Op. Atty. Gen. (63b-3), Aug. 10, 1938.

A blank ballot may be disregarded in computing vote actually required to carry proposition. Op. Atty. Gen. (44B-8), May 22, 1939.

County may purchase an existing garage building to be used as an annex to court house for welfare and relief offices, sewing room, office of rural rehabilitation and surplus commodities, house road equipment, etc., without a vote of electors, if court house is overcrowded and a real emergency exists and suitable space cannot be rented, if there is sufficient money to pay therefore out of general revenue fund, and no bonds are to be issued. Op. Atty. Gen. (125a-20), July 25, 1939.

No vote of electors is necessary for issuance of refunding bonds to take up bonds of a school district outstanding at time of passage of Laws 1935, c. 119, in view of

Laws 1939, c. 223, amending §1942. Op. Atty. Gen. (159a-5), July 25, 1939.

**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.

Bond obligations have a preference over current operating expenses of city to extent that provision must be made by city for sufficient tax levy to take care of the principal and interest before provision is made for current operating expenses, but when a tax levy has been made in proper amount and collections prove insufficient to take care of principal and interest, bondholders have no right to look to other tax revenue funds levied for other city purposes for the payment of the bonds. Op. Atty. Gen. (59a-7), May 31, 1935.

School board of city of Stillwater may not levy in excess of 23 mills for school purposes without approval of city council. Op. Atty. Gen. (519m), Dec. 17, 1937.

City of Mankato under its home rule charter may issue water works bonds as general obligations and levy an ad valorem tax each year to take care of principal and interest payments in conformity with this act. Op. Atty. Gen. (624d-1), Feb. 14, 1938.

**1938-11. Same—Sinking funds—Investment of surplus.**

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. 15, 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.

Village may invest surplus money in sinking fund in its own warrants which have a definite or fixed maturity. Op. Atty. Gen., Jan. 18, 1934.

A village may not lend its funds to a school district for building school where district is independent of village but village may be invested in school district certificates of indebtedness. Op. Atty. Gen., Mar. 5, 1934.

Credit union may not be designated as city depository nor may city funds be invested in securities thereof. Op. Atty. Gen. (53b), Nov. 21, 1935.

Surplus utility funds may be invested in city's municipal bonds and such bonds are sold when funds are needed for purpose for which the same were created. Op. Atty. Gen. (59a-22), Dec. 5, 1935.

This section controls class of securities in which public utility reserve fund of Granite Falls may be invested. Op. Atty. Gen. (616d-12), Jan. 18, 1937.

City may invest surplus money in sinking fund in its own warrants having a definite or fixed maturity. Op. Atty. Gen. (59a-22), Jan. 23, 1939.

**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 deter-

mine 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 per cent of the assessed valuation of real property in such taxing district. Provided further that this act shall not apply to any school district in a city of the first class which constitutes one single school district. (Act Apr. 15, 1931, c. 159, §1; Apr. 8, 1937, c. 180, §1.)

A salary schedule adopted by board of education of Duluth prior to enactment of the Teachers' Tenure Act does not determine the yearly salary to be paid its teachers after such act went into effect. The power of defendant to contract for the yearly salary of teachers is limited to the funds it is authorized to provide for conducting the schools for the same period. Teachers are charged with knowledge of extent of its power to contract. *Sutton v. B.*, 197M125, 266NW447. See *Dun. Dig.* 8672.

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.

Tax anticipation certificates may not be sold against delinquent taxes for poor relief purposes. *Op. Atty. Gen.* (3391-4), Oct. 2, 1934.

Board of education of city of Duluth is not required to take into account debts which were contracted by such board during same year but which have already been paid, and proceeds of taxes levied for year in which indebtedness is incurred will not have to be used to take care of prior debts which have already been paid. *Op. Atty. Gen.* (161b-10), Dec. 3, 1934.

Board of education of city of Duluth has authority to contract indebtedness in any calendar year in anticipation of collection of taxes levied or to be levied for such year, when such indebtedness is not in excess of the average amount actually received in tax collections on the levy for the three previous calendar years, plus 10% thereof, unless provisions of §2062, §2070 or Laws 1921, c. 332 are violated. *Id.*

Authority of villages to purchase personal property under conditional sales contract and necessity for bids, discussed. *Op. Atty. Gen.* (707a-15), Dec. 4, 1934.

Village of Winnebago has no authority to issue warrants in anticipation of tax collections for purpose of procuring funds at a rate of interest lower than 6% with which to pay bills for which otherwise warrants bearing 6% interest must be issued. *Op. Atty. Gen.* (476c-4), Jan. 17, 1935.

County may issue warrants for purchase of land for county fair purposes, but only when there is money in treasury sufficient to pay the same, or a tax is in process of collection pursuant to a tax levy, proceeds of which will be available for payment of warrants. *Op. Atty. Gen.* (107a-13), Oct. 17, 1935.

Warrants or orders may not be issued against county road and bridge fund in excess of average tax collection, or in anticipation of state aid from state gasoline tax which has been allotted to county but not received, but this statute does not limit amount of tax levy that may be made by county. *Op. Atty. Gen.* (107a-13), May 11, 1937.

School districts may issue tax anticipation warrants in connection with construction of building, but must first set aside funds for salaries, and necessary maintenance. *Op. Atty. Gen.* (426a), Dec. 6, 1937.

Where no levy has been made for building purposes, tax anticipation warrants cannot be issued against "building fund," and tax anticipation warrants may not be issued without vote of electors if payments thereof would depend upon future levies. *Op. Atty. Gen.* (159c-4), Mar. 24, 1938.

Section refers to actual amount collected in dollars and cents. *Op. Atty. Gen.*, (519m), Dec. 6, 1938.

Section relates solely to taxes levied by school districts and not taxes levied by county or state for benefit of school districts. *Id.*

Financial condition of school district held to authorize issuance of bonds and warrants for a school gymnasium-auditorium. *Op. Atty. Gen.* (159c-6), Dec. 16, 1938.

Warrants may be issued only where there is money on hand for the payment thereof, or where taxes have been levied and are in process of collection which, when collected, will be available for the purpose of paying such warrants, and should not be used for a substitute method of financing, nor to swell district bank deposit for purpose of meeting demands of a WPA grant. *Op. Atty. Gen.* (159c-6), June 29, 1939.

A municipality may not incur an indebtedness by issuing warrants for water and sewer expenses in excess of amount of money actually on hand and in process of collection from taxes actually levied. *Op. Atty. Gen.* (476c-4), Sept. 1, 1939.

(1) Independent school districts may within limitations purchase their own bonds at a discount before maturity and issue warrants in payment thereof, but only in such an amount that it will be able to issue additional warrants necessary to take care of other indebtedness. *Op. Atty. Gen.* (40), Apr. 21, 1934.



**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.)

**1938-23. Funding and refunding bonds may be issued in certain cases.**—A municipality may issue bonds under the provisions of this act for the purpose of funding and refunding indebtedness existing as of January 1, 1937, at any time prior to July 1, 1939, provided that any plan which has been approved and accepted, in any proceeding taken under or by authority of this act, on or before said date may be consummated within a reasonable time thereafter. The terms "municipality" and "obligations" as used herein shall mean the same as defined in Section 1938-3 Mason's Minnesota Statutes. The term "governing body" as used herein shall refer to the board of county commissioners, board of supervisors, board of trustees, school board, or other body of the particular municipality exercising the administrative functions thereof. (Act Apr. 5, 1935, c. 119, § 1; Mar. 25, 1937, c. 104, § 1.)

Words "existing indebtedness" apply only to indebtedness at time of passage of act. Op. Atty. Gen. (159s-5), July 24, 1936.

County operating on cash basis pursuant to §1946-26½ may issue warrants or other evidence of indebtedness pursuant to §1938-23, without complying with the former, and may sell such evidence of indebtedness pursuant to §1944-1. Op. Atty. Gen. (107b-22), Dec. 15, 1936.

No vote of electors is necessary for issuance of refunding bonds to take up bonds of a school district outstanding at time of passage of Laws 1935, c. 119, in view of Laws 1939, c. 223, amending §1942. Op. Atty. Gen. (159a-5), July 25, 1939.

**1938-24. Resolution to recite plan in detail.**—Any municipality may by resolution of the governing body propose or accept and adopt a plan of adjustment of its indebtedness existing as of January 1, 1937, and provide therein for funding and refunding its obligations existing as of January 1, 1937, or any part thereof. Such a resolution shall recite the plan in detail, containing such provisions, not inconsistent with this act, as shall be found to be for the best interests of the municipality, its creditors, and its taxpayers. The plan may contemplate the issuance of bonds to refund any or all of its outstanding obligations, including those not matured; and may provide that bonds be exchanged, in whole or in part, for such obligations with the consent of the holders thereof given voluntarily or obtained in proceedings authorized in Section 3 hereof, or may provide for the sale or exchange of bonds from time to time as needed to meet maturing obligations. Any such plan may provide for the issuance of one series of bonds or more than one series. The governing body may fix a time limit within which creditors may surrender obligations for payment or exchange and may thereafter extend such time if it is found beneficial to the municipality to do so. The plan may require the consent of any specified percentage or amount of the holders of the obligations included in such plan before it becomes effective, and may provide that it shall become effective only upon condition that plans adopted under this act by any other municipality or municipalities whose territorial limits overlap, in whole or in part, those of the particular municipality shall also become effective. (Act Apr. 5, 1935, c. 119, § 2; Mar. 25, 1937, c. 104, § 2.)

Village organized under general laws need not submit propositions of issuing refunding bonds to a vote of electors but is necessary to advertise for bids unless statutory provision pursuant to which such bonds are issued authorizes sale of same without bids. Op. Atty. Gen. (44b-12), June 17, 1935.

Bonds may be issued without vote of people, and may be issued to cover part of indebtedness. Op. Atty. Gen. (159a-5), Feb. 27, 1936.

**1938-25. May file petitions—court approval.**—In connection with, or independently of, a plan proposed or adopted under this act and for the purpose of rendering effective the privileges and benefits of Sections 78, 79 and 80 of the Act of Congress of July 1, 1898, as amended by the Act approved May 24, 1934, being Public Number 251 of the 73rd Congress, 48 United States Statutes at Large 798, and acts amendatory thereof or supplementary thereto, municipalities are hereby authorized and empowered to avail themselves of the provision of said Act, and acts amendatory thereof or supplementary thereto, to file petitions and otherwise institute, conduct and carry out any and all proceedings provided for thereunder, including the payment, subject to approval by the court having jurisdiction, of any fees and expenses necessary to make use of said Act. Such proceedings may be instituted pursuant to resolution of the governing body of the municipality without the necessity of any further action by the State of Minnesota. (Act Apr. 5, 1935, c. 119, § 3.)

**1938-26. Must list indebtedness.**—Such resolution must list, or refer to a document on file in the office of the recording officer which lists all indebtedness proposed to be funded or refunded thereunder with sufficient detail to identify the obligations referred to, and, if the governing body so directs, the recording officer shall cause to be published in one issue of an official newspaper or other newspaper designated by the governing body a notice of the filing of such plan and list and a statement that notice is given pursuant to this section. The validity and enforceability of any item of indebtedness so listed shall never be questioned in any action or proceeding unless the same shall be commenced prior to a date sixty days after the date of such publication. The failure to correctly describe any valid obligation shall not prevent the refunding of such obligation. (Act Apr. 5, 1935, c. 119, § 4.)

**1938-27. May sell funding or refunding bonds.**—Upon any plan becoming effective according to its provisions, the municipality may sell or exchange funding and refunding bonds. The bonds shall be issued upon authority of a resolution adopted by a majority vote of the governing body, without submitting the matter to a vote of the electors, and no such resolution or any proceedings respecting any such plan or any such bond issue shall be subject to referendum vote under any law or home rule charter provision. The bonds shall be in such form and shall be executed in such manner as the governing body may determine and shall bear interest at a rate or rates fixed by the governing body not to exceed six per cent per annum, payable semi-annually. The annual interest rate on the bonds shall not exceed the annual rate on the indebtedness funded or refunded thereby. Each bond shall recite on its face that it is issued pursuant to this act. Bonds may be issued hereunder without regard to any limitation on net indebtedness. In event the debt refunded thereby shall be payable only from a special fund, such bonds shall be payable from such fund. All other bonds shall be general obligations of the municipality and the full faith, credit and unlimited taxing powers shall be pledged to their payment unless the plan and the terms of the bonds expressly provide otherwise.

The bonds of any series may mature serially. In such case, the first installment shall become due in not more than five years and the last installment in not more than thirty years from the date of issue; one installment shall fall due each year; and the largest installment shall not be more than five times the smallest preceding installment. Serial bonds may be made redeemable on any specified date or dates by appropriate provisions therein.

In the event that the bonds of any series do not mature serially, all such bonds must mature on a single date not more than thirty years after the date of issue, and shall be redeemable on any interest payment date at par and accrued interest, and the municipality shall agree to retire not less than a certain

percentage of such bonds each year commencing not later than the fifth year. Said bonds may be retired by purchase or by redemption. At any time there is any money in the special fund for such series in excess of the amount required to pay interest during the next ensuing year, the governing body may cause published advertisement to be made for offers to surrender bonds, and may use such money to purchase bonds below par by accepting the offers deemed most favorable. Any money not so used prior to thirty days before the next ensuing interest payment date shall be used for redemption. At least thirty days before each interest payment date, the treasurer shall specially deposit in the bank or with the institution at which such bonds are payable any money then remaining in such fund in excess of said interest requirements sufficient to retire one or more bonds, together with a list of the serial numbers and denominations of the bonds of such series then outstanding and a list of the names and addresses of holders thereof in so far as they are known. For such purpose, the recording officer shall keep a register showing the names and addresses of the holders in so far as such information is furnished to him by the holders of any such bonds. Thereupon the paying agent shall determine by lot which of the outstanding bonds shall be redeemed. Notices of call for redemption shall be mailed to the holders thereof, if known, at the last known address. The bonds so called, with interest to the redemption date, shall be paid out of the money so specially deposited on presentation thereof with all unmatured coupons attached. The bonds called for redemption shall cease to bear interest on the redemption date, and the accrued interest thereon shall not be paid unless the bond with unmatured coupons shall be surrendered for payment. The municipality shall pay to the paying agent reasonable compensation for its services hereunder. (Act Apr. 5, 1935, c. 119, § 5.)

Bonds may be issued without vote of people, and may be issued to cover part of indebtedness. Op. Atty. Gen. (159a-5), Feb. 27, 1936.

**1938-28. May be sold for cash or exchanged.**—Bonds may be sold for cash or may be exchanged for outstanding obligations or part sold and part exchanged, but none shall be sold or exchanged upon such terms that the interest costs of the proceeds will be more than six percent per annum computed to the maturities of the bonds of the series according to standard tables of bond values now in general nationwide use by financial institutions and insurance companies; provided, that bonds may be sold for cash only in the manner prescribed by Mason's Minnesota Statutes of 1927, Section 1943, and no bonds shall be exchanged pursuant hereto unless the municipality shall have offered them for sale in accordance with said section and shall have received no bid of par and accrued interest or better. The officers may use the proceeds of bonds sold to purchase outstanding obligations, for the refunding of which such bonds were issued, at the best price obtainable, not exceeding par and accrued interest to date of purchase, or may use such proceeds to pay a certain percentage of all obligations surrendered for exchange and deliver bonds in exchange for the remainder of said bonds or indebtedness. Prior to or contemporaneously with the delivery of bonds, at least an equal par value of outstanding bonds or other indebtedness shall be surrendered and cancelled. In so far as any exchanges are made, the outstanding obligations shall be taken at not more than the face amount with accrued interest, and the bonds delivered shall be valued at not less than the face amount with accrued interest. (Act Apr. 5, 1935, c. 119, § 6; Jan. 18, 1936, Ex. Sess., c. 38.)

Series A bonds may be purchased by state board of investment without first offering same for sale. Op. Atty. Gen. (928a-2), Mar. 18, 1936.

**1938-29. Tax levy to retire bonds.**—Prior to the issuance of bonds, the governing body shall cause a levy to be made upon all the taxable property in the municipality of a direct, annual, irrepealable tax for

each series of general obligation bonds sufficient to pay the principal of and interest on the bonds of such series when due. The levy for each of the years during which the bonds shall be outstanding shall be separately stated. If the bonds are of serial maturities, the levy shall be at least in such amount that if collected before delinquency the proceeds, together with any other money appropriated to such fund, will be sufficient to meet the payment of principal and interest as the same become due. If the bonds are of a single maturity, the levy for the first three years must be sufficient to pay the interest, and thereafter each annual levy shall be not less than an amount such that levies in the same amount for each ensuing year would be sufficient to amortize and pay the full principal and interest of the bonds on or before maturity date. A certified copy of the tax levy resolution or ordinance shall be filed with the county auditor of the county in which the municipality is located prior to the delivery of the bonds, and the tax shall be carried into the tax roll of the municipality from year to year and collected as other taxes are collected. In the event that, after a certified copy of the levy is delivered to the county auditor, any part of the bonds shall not be issued or a part of the issued bonds shall be cancelled, the governing body may cancel a proportionate amount of the levy, but the amount of taxes remaining uncanceled shall not be less than the amount required to pay principal of and interest on the bonds issued and then remaining outstanding. The governing body shall create a special fund for each series of bonds and shall cause to be placed therein all proceeds of taxes levied on account thereof, together with the proceeds of taxes levied for the payment of bonds or other indebtedness funded or refunded thereby and any other money appropriated thereto. The special fund shall be used for no other purpose than to pay principal of and interest on the bonds of such series or to purchase the same as herein provided. If upon payment of all the bonds of any series any money remains in the special fund, the same may be transferred to the general fund. The foregoing provision shall not be construed as limiting the power of any municipality to levy taxes for the payment of the bonds and it shall be the duty of the proper officers to levy any and all taxes which may be necessary to pay or discharge principal and interest of all general obligation bonds issued hereunder regardless of any statutory or charter tax levy limitation. At the time of making the annual tax levy, the governing body shall determine the amount of taxes which will be collected during the ensuing year from property on which no taxes are then delinquent, and if such amount will not be sufficient to meet principal and interest requirements during said year an additional tax levy shall be made sufficient to make up such deficiency. Provided, that nothing herein shall authorize levies in excess of the limitations contained in Laws 1921, Chapter 417, as amended by Laws 1929, Chapter 206, or contained in Laws 1927, Chapter 110, [§§2061 to 2066], except as excess levies are specifically authorized by such laws; provided, further, that nothing herein shall modify the requirements of any cash basis laws or cash basis charter provisions governing the manner of levying for bonded or floating indebtedness in cities, villages, towns or school districts, more than 60 per cent of the assessed valuation of which consists of mined or unmined iron ore. (Act Apr. 5, 1935, c. 119, § 7.)

**1938-30. Shall operate under budget.**—Any municipality issuing bonds hereunder shall thereafter operate under a budget as provided in Chapter 351, Laws of 1929 and amendments thereto [§§1946-17 to 1946-33], and all provisions of said act and amendments relating to the manner of making a budget, payment of claims, and levying taxes and imposing penalties for violation thereof, shall apply to municipalities issuing bonds hereunder. (Act Apr. 5, 1935, c. 119, § 8.)



**1938-31. Trustees or savings bank may enter into agreement.**—All corporate trustees and savings banks, sinking fund commissions of municipalities, and any other person, board, or body whose investments are regulated or restricted under any law of this state or any home rule charter adopted pursuant to Article IV, Section 36 of the Constitution of Minnesota, which may have any of the funds under its or their control invested in any obligations of any municipality or adopting a plan under this law, may, notwithstanding any provision of law regulating or restricting said investments, enter into such plan and accept funding or refunding bonds issued hereunder in exchange for said obligations. (Act Apr. 5, 1935, c. 119, §9.)

**1938-32. State board of investment may purchase bonds.**—The State Board of Investment is authorized to purchase bonds issued pursuant to this act in the same manner and subject to the limitations as expressed in Laws 1933, Chapter 389 [§§1968-3 to 1968-7], and any amendments thereof and all the powers granted to the State Board of Investment by Laws 1933, Chapter 389, and any amendments thereof shall apply in connection with the purchase of bonds issued hereunder. (Act Apr. 5, 1935, c. 119, §10.)

Under §1968-3 investment board can only purchase up to 50% of bonds issued by school district under §1938-32. Op. Atty. Gen. (928a-11), July 13, 1937.

**1938-33. Bonds shall be binding and valid obligations.**—This act shall be deemed and construed as complete in and of itself, and the bonds issued in compliance herewith shall be the valid and binding obligations of the municipality according to their terms, whether or not such municipality shall have complied with any other law or charter provision authorizing or regulating the issuance of bonds by such municipality. This act is intended to be an additional remedial measure and shall not be deemed to have amended or repealed any existing law. (Act Apr. 5, 1935, c. 119, §11.)

**1938-34. Provisions severable.**—If any section, clause, sentence, or provision of this act or the application of such section, clause, sentence, or provision to any person, party or circumstance shall be held unconstitutional or otherwise invalid, the remainder of this act or the application of such section, clause, sentence, or provision to parties or circumstances other than those as to which it is held invalid shall not be affected thereby. (Act Apr. 5, 1935, c. 119, §12.)

### 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.

Village cannot borrow money on its promissory note, but indebtedness must be evidenced by bonds or certificates of indebtedness. Op. Atty. Gen. (476a-10), Dec. 31, 1935.

Amount of warrants which may be issued by municipality, when there is not money available in treasury for payment thereof, is limited to amount which may be available from taxes levied and in process of collection, and any further obligation must be in form of bonds or certificates of indebtedness. Op. Atty. Gen. (476b-8), June 2, 1938.

An outline of municipal bond procedure in Minnesota. 20 MinnLawRev 583.

### 1941. Vote required.

Sec. 3 of Act Apr. 3, 1921, c. 209, provides that the Act shall take effect from its passage, and that nothing therein contained shall affect the powers conferred upon school districts by c. 272 of General Laws of Minnesota for 1905 (§1973 herein).

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.

Since legislature has provided an exclusive remedy for contesting validity of "elections" called and conducted in an illegal manner, a prayer for equitable relief pre-

mitted solely upon alleged invalidity of school bond "election" was properly denied. Repsold v. I., 285 NW827. See Dun. Dig. 2981.

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.

Election in village to authorize new well and bonds requires a five-eighths vote. Op. Atty. Gen., Dec. 5, 1933.

A village operating under general laws may issue its bonds to refund maturing bonded indebtedness without a vote of electors. Op. Atty. Gen. (44b-12), Nov. 23, 1934.

Vote of electors is not necessary for issuance of school district refunding bonds. Op. Atty. Gen. (40c-1), Dec. 7, 1934.

Where electors have voted for a bond issue, and village council has adopted a defective resolution, it may adopt a second resolution amending the former resolution, so as to make it conform to statutory requirements. Op. Atty. Gen. (44a), Dec. 31, 1934.

Where existing bonded, judgment and floating indebtedness exceeds 20% of assessed valuation, exclusive of moneys and credits, a school district may issue bonds for funding and refunding purposes either with or without a vote of electors of district, unless ten or more voters and taxpayers petition that matter be submitted to voters, and where indebtedness is less than 20% of assessed valuation, refunding bonds may be issued without a vote of the electors. Op. Atty. Gen. (159a-3), Feb. 5, 1935.

As regards construction of an addition to a school on land to be acquired, a ballot designating the site, authorizing construction of addition, and authorizing bond issue is not correct unless such three questions are placed on ballot so as to permit each separate issue to be voted on. Op. Atty. Gen. (159a-3), Feb. 7, 1935.

A village council has power to construct a village hall without vote of electors, unless bond issue is necessary, or to erect a building as a memorial to war veterans with vote of electors, but has no authority direct to erect a community building with or without vote of electors. Op. Atty. Gen. (476b-8), Feb. 11, 1935.

Village must submit proposition of issuing bonds to pay for an electric light plant to the electors and obtain a five-eighths vote, unless the village plant should sell the bonds to the state, in which case only a majority vote is required. Op. Atty. Gen. (44a-4), July 9, 1935.

Villages operating under Laws 1885, c. 145, and those operating under general statutes are authorized to issue refunding obligations without submitting proposition to a vote of electors to refund matured bond issued in connection with purchase of power plant, and payable out of earnings of such plant. Op. Atty. Gen. (476a-12), July 9, 1935.

Refunding bonds may be issued without vote of electors to take up certificates of indebtedness of a village payable out of earnings of water and light funds. Op. Atty. Gen. (476a-12), July 25, 1935.

If bonds of a village are to be sold to state, only majority of those voting on question is necessary. Op. Atty. Gen. (44b-5), Oct. 1, 1935.

Cities organized under Laws 1895, c. 8, are governed by §126 of that act, and not by this section, with respect to issuance of bonds, and city of Cloquet may issue sewage disposal bonds without vote of electors, if effect of issuance will not raise the city's indebtedness above 5% limitation of taxable property of city. Op. Atty. Gen. (59a-7), Oct. 10, 1935.

City of Little Falls under its charter may issue bonds without vote of electors. Op. Atty. Gen. (624d-1), Oct. 22, 1935.

State board of investment may lend money to city of Chisholm to refund outstanding certificates of indebtedness, and city may issue bonds without vote of electors. Op. Atty. Gen. (59a-51), Feb. 4, 1936.

City of Chisholm has power to refund certificates of indebtedness without a vote of its electors, and state board of investment has authority to purchase such bonds. Op. Atty. Gen. (59a-51), Feb. 4, 1936.

Power of county to issue funding bonds to take up floating indebtedness represented by warrant overdrawing poor funds as applied to administration of old age assistance act. Op. Atty. Gen. (521/-2), Mar. 26, 1936.

Where a home rule charter provides method of issuing bonds of a city, charter provisions control insofar as inconsistent with state statute. Op. Atty. Gen. (36c-7), June 6, 1936.

City of Pipestone under its charter may issue bonds to carry out agreement with the state highway commissioner for improvement of street without vote of electors, but resolution authorizing bonds must receive four-fifths vote of all members of council. Id.

City of Le Sueur may purchase Diesel engine for light plant costing more than \$1,000 and issue without vote of people bonds or certificates of indebtedness payable from net revenues of power and water plants. Op. Atty. Gen. (624a-8), Feb. 18, 1937.

Home rule charter electing to come under Laws 1913, c. 303, may proceed thereunder notwithstanding provisions of charter. Op. Atty. Gen. (36c-9), Feb. 19, 1937.

Laws 1927, c. 131 (§§1938-3 to 1938-12), supersede § 1941 and a majority of votes cast by electors is sufficient to authorize issuance of bonds by an independent school district to finance building of an addition to school house and to install heating, ventilating and plumbing plants. Op. Atty. Gen. (159a-3), June 7, 1937.

If village has funds on hand sufficient for purpose, or will have such funds when taxes already levied have been collected, village warrants or orders may be issued in anticipation of collection of taxes for construction of a village community hall without an election, but if such funds are not available, it is necessary to submit to voters proposition of issuing bonds or certificates of indebtedness. Op. Atty. Gen. (476b-8), Aug. 13, 1937.

Delay of two years in issuing bonds after authorization does not constitute unreasonable delay which would affect validity. Op. Atty. Gen. (44a), Sept. 20, 1937.

City of Duluth may adopt ordinance declaring sewage disposal plants to be a public utility and issue bonds to pay cost of completing same payable out of rentals or charges for use of such plants, without an election, and sell them to the state. Op. Atty. Gen. (387b-9), Sept. 23, 1937.

Surplus derived from taxes levied for general school purposes may be used for paying part of cost of constructing new school building where bond issue voted is inadequate. Op. Atty. Gen. (159b-2), Nov. 16, 1937.

School board has authority to issue warrants without approval of electors for construction of a new heating plant where an emergency exists. Op. Atty. Gen. (159a-5), Dec. 3, 1937.

Where electors of school district authorize issuance of bonds for purpose of remodeling and building an addition to a school, board may not issue bonds in a lesser amount for use only in constructing a new plant in present building. Id.

City of Little Falls cannot issue bonds for purpose of constructing storm sewers without submitting question to electors. Op. Atty. Gen. (387b-10), Feb. 15, 1938.

In voting on issuance of bonds to establish a municipal water works and sewer system in a village, a five-eighth majority is required unless bonds are to be sold to state, in which case only a majority is required. Op. Atty. Gen. (44b-17), Apr. 6, 1938.

Village contemplating issuance of bonds for widening, grading, surfacing, installation of curbs, gutters, sidewalks, and street lighting need submit only two questions to the voters, first with reference to streets and second with reference to sidewalks, and it is not necessary to state approximate sum to be used for each purpose. Op. Atty. Gen. (396c-6), June 9, 1939.

Section does not apply to cities of the fourth class, such as North Mankato, with reference to issuance of refunding bonds. Op. Atty. Gen. (361), July 22, 1939.

**1942. Bonds—For what purposes.**—When the governing body of any municipality shall have resolved that it is expedient to borrow money, for one or more of the purposes hereinafter named, and to an amount which will not increase its net indebtedness beyond the limit fixed by law, and a proposal so to do, if required by law, shall have been duly submitted to and approved by the voters thereof, the bonds of such corporation may be issued and sold, conformably to the provisions of this chapter, to the amount so authorized, as follows:

1. In the case of a city, village or borough, for the acquisition, construction, maintenance, or improvement of any of the public conveniences mentioned in Mason's Minnesota Statutes of 1927, Section 1935, Subdivision 4; for the purposes of a permanent improvement revolving fund; for the purchase or erection of needful public buildings; for establishing and maintaining garbage crematories, or other means of garbage disposal, hospitals, schools, libraries, museums, and art galleries; for the construction of sewers, subways, streets, sidewalks, pavements, culverts, and parks and parkways; and for changing, controlling, or bridging streams and other waterways within the corporate limits, and constructing and repairing bridges and roads within two miles of the corporate limits thereof.

2. In the case of counties, for the erection and furnishing of a court house and jail, or either of them; for the purchase of a poor farm and equipping the same with suitable buildings, tools and stock; for establishing morgues and hospitals; for laying out, opening, building and improving public highways in the nature of county roads; for laying out and opening steam traction roads or other special public highways authorized by law; and for the bridging of waters within the county or bordering thereon.

3. In the case of towns, for the erection and furnishing of a town hall, and for the laying out and opening of town roads, and the building of bridges thereon.

4. In the case of school districts, whether lying within a city or village or not, for the purchase of sites for school houses, and for defraying the expenses incurred or to be incurred in building, rebuilding, remodeling, repairing and furnishing school houses, teacherages and school garages, and installing heating, ventilating and plumbing plants in the same, and equipping schools with libraries, apparatus and other school furniture, and for the purchase of school buses and other equipment essential to the transportation of pupils.

5. In the case of all of the before-mentioned municipal corporations, for paying any judgment lawfully rendered against them, or for refunding outstanding bonds or for funding floating indebtedness; provided, however, that bonds hereafter issued for the purpose of funding floating indebtedness under authority of this act shall be payable in annual installments, as nearly equal in amount as conveniently may be, the first of which installments shall be due in not more than three years from the date of the issue, and the last of which installments shall be due in not more than 15 years from the date of the issue. (As amended Apr. 13, 1939, c. 223.)

Counties having 40 to 50 townships, population of 18,000 to 22,000 and valuation of \$4,000,000 to \$8,000,000, may issue funding bonds. Laws 1939, c. 18.

Counties having 25 townships and less than 15,000 population and \$5,000,000 valuation and outstanding warrants of more than \$100,000, may issue bonds. Laws 1939, c. 81.

Counties having 13 to 15 townships and 11,000 to 13,000 population and a valuation of less than \$6,000,000, may issue bonds to liquidate warrants. Laws 1939, c. 83.

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.

Cities operating under home rule charter may issue bonds to pay costs of construction of a hospital. Op. Atty. Gen. (59a-7), May 22, 1935.

City of Ely has authority to construct and maintain a community building and issue bonds therefor. Op. Atty. Gen. (59a-7), Aug. 5, 1935.

City of Renville may not issue certificates of indebtedness to pay costs of street improvements in conjunction with a federal works project without a vote of the people. Op. Atty. Gen. (59a-51), Aug. 23, 1935.

Village may construct curbing and gutters for trunk highway and pay for the same with certificates of indebtedness, but if it issues bonds there must be vote of electors, and improvement may be paid out of general fund without assessment against abutting owners. Op. Atty. Gen. (476a-4), Aug. 29, 1935.

City of Ada may issue bonds to pay cost of constructing a hospital pursuant to Laws 1893, c. 204, notwithstanding limitations in home rule charter. Op. Atty. Gen. (36g), Dec. 24, 1936.

City of Eveleth held authorized to issue without vote of electors bonds to refund certificates of indebtedness issued in 1933, 1934 and 1935. Op. Atty. Gen. (361), Aug. 6, 1937.

A "storm sewer", also being part of general sewer system of a city, may properly be classified as a "sewer" within meaning of this section. Op. Atty. Gen. (387b-10), Feb. 15, 1938.

City charter may provide for payment of hospital bonds in hospital services rather than in money. Op. Atty. Gen. (59b-5), Apr. 21, 1938.

Power of village of Jeffers to issue certificates of indebtedness for purchase of fire apparatus and equipment is derived from Laws 1885, c. 145, and power of erecting a building to house the equipment is derived from §1942, but procedure for issuing certificates of indebtedness and bonds is restricted by general bonding statute, §§1938-3 to 1938-12. Op. Atty. Gen. (688c), June 27, 1938.

Where electors voted to change district from a common district to an independent district, new board elected by common district did not have authority to call an election for purpose of issuing bonds. Op. Atty. Gen. (159a-5), Aug. 6, 1938.

A building to house council room, public library, public rest room, fire fighting equipment, pump station, public drinking fountains, would be a "needful public building", although it contained a hall with a stage where public meetings and entertainment might be had. Op. Atty. Gen. (476B-8), June 26, 1939.

Section does not apply to cities of the fourth class, such as North Mankato, with reference to issuance of refunding bonds. Op. Atty. Gen. (361), July 22, 1939.

No vote of electors is necessary for issuance of refunding bonds to take up bonds of a school district outstanding at time of passage of Laws 1935, c. 119, in view of Laws 1939, c. 223, amending this section. Op. Atty. Gen. (159a-5), July 25, 1939.

Village may not borrow money for purchase of a fire truck. Op. Atty. Gen. (476B-7), Sept. 21, 1939.

An outline of municipal bond procedure in Minnesota. 20 MinnLawRev 583.

(1).

A sewage disposal plant is included within the meaning of "sewers" under this subdivision. Op. Atty. Gen. (387b-2), July 12, 1934.

Village may issue bonds to pay cost of land for park purposes upon approval by electors. Op. Atty. Gen. (44b-10), June 6, 1935.

City may issue certificates of indebtedness to be payable out of earnings of hospital without submitting question of issuance to voters. Op. Atty. Gen. (59a-51), Nov. 6, 1936.

Debt limitations as to issuance of bonds for sewage systems by villages under different circumstances, stated. Op. Atty. Gen. (387g-2), Dec. 30, 1936.

Sewage disposal plant as well as interceptor sewers are included within meaning of "sewers." Id.

Village may purchase a building to be used as a village hall. Op. Atty. Gen. (476b-8), Mar. 4, 1938.

School district which has levied tax may issue warrants and sell them to the general public where PWA director requires that funds be immediately available in cash as a condition precedent to receiving federal money. Op. Atty. Gen. (159a-5), Dec. 3, 1937.

Levy by village operating under cash basis law for bond and interest payment must be included within limitations provided by Laws 1933, c. 72. Op. Atty. Gen. (519q), July 8, 1938.

(3).

A town in which assessed valuation of platted lands exceeds 50% of assessed valuation of all lands may vote to establish waterworks system but may not issue bonds therefor. Op. Atty. Gen., Mar. 13, 1934.

Town board may not issue bonds to improve existing town roads. Op. Atty. Gen. (43b-4), Jan. 30, 1939.

(4).

State board of investment may purchase bonds of common school district to pay cost of constructing "teacherage". Op. Atty. Gen. (159a-5), July 15, 1938.

Independent school district may issue bonds and construct a recreation field as part of a school house site. Op. Atty. Gen. (40c-2), April 3, 1939.

(5).

Vote of electors is not necessary for issuance of school district refunding bonds. Op. Atty. Gen. (40c-1), Dec. 7, 1934.

Where existing bonded, judgment and floating indebtedness exceeds 20% of assessed valuation, exclusive of moneys and credits, a school district may issue bonds for funding and refunding purposes either with or without a vote of electors of district, unless ten or more voters and taxpayers petition that matter be submitted to voters, and where indebtedness is less than 20% of assessed valuation, refunding bonds may be issued without a vote of the electors. Op. Atty. Gen. (159a-3), Feb. 6, 1935.

Refunding bonds may be issued without vote of electors to take up certificates of indebtedness of a village payable out of earnings of water and light funds. Op. Atty. Gen. (476-12), July 25, 1935.

**1943. Sale of bonds.**

County Board v. B., 193M525, 259NW67; note under §2867.

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

Village council may sell bonds to federal government pursuant to National Recovery Act without advertising for bids. Op. Atty. Gen., Jan. 4, 1934.

Town board of town operating under cash basis law must offer certificates of indebtedness for sale on bids after published notice. Op. Atty. Gen., Feb. 14, 1934.

While requirements as to notice set up in this section are not binding in case of sale of certificates of indebtedness under §6041, it would be wise to follow those requirements. Op. Atty. Gen. (770b-3), July 27, 1934.

Where village advertises for bids on sale of certificates of indebtedness and no bids are received on day of opening bids, certificates may be sold to a bid later made, and it is not necessary to readvertise. Op. Atty. Gen. (707a-10), Oct. 12, 1934.

Village organized under general laws need not submit propositions of issuing refunding bonds to a vote of electors but it is necessary to advertise for bids unless statutory provision pursuant to which such bonds are issued authorizes sale of same without bids. Op. Atty. Gen. (44b-12), June 17, 1935.

Certificate of indebtedness should be offered for sale on bids after published notice. Op. Atty. Gen. (476a-4), Jan. 4, 1936.

Bonds issued under §3164-3 may be sold in manner provided by §1944-1. Op. Atty. Gen. (37a-11), May 19, 1938.

Statutory directions as to time and manner of opening bids are intended for protection of public and are man-

datory, but after bids have been opened officers are entitled to a reasonable time for comparison and calculation necessary to enable them to ascertain who is lowest or most favorable bidder. Op. Atty. Gen. (707a), June 7, 1939.

An outline of municipal bond procedure in Minnesota. 20 MinnLawRev 583.

**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.

Where school district electors vote bonds to build swimming pool and gymnasium, school board cannot erect gymnasium alone where funds are not sufficient to erect both. Op. Atty. Gen. (161b-13), Oct. 1, 1937.

Proceeds of bond issue may be used to erect schoolhouse on site different than that chosen at time of issuance of the bonds upon vote of electors. Op. Atty. Gen., (159a-5), Oct. 11, 1938.

Where project is discontinued, funds may not be transferred to general fund to take care of outstanding warrants, but may be used for another public improvement authorized by law and approved by vote of electors. Op. Atty. Gen. (476a-15), July 24, 1939.

**1944-1. Certain municipalities to sell evidences of public indebtedness by popular subscriptions.**—The governing body of any city, village, borough, town, county, or school district, however any of the foregoing are organized, is hereby given the power to sell its respective bonds, certificates of indebtedness, warrants, orders, or other forms of evidence of public indebtedness, whether pledging the general obligation of the respective public organizations, or only a certain fund, or both, or otherwise, which sale is otherwise permitted by law, by popular subscription, individual sales, according to the terms of a resolution passed by a majority vote of said governing body, which resolution shall fix the cash selling price, not less than par, the rate of interest, the denominations thereof, the amount of purchase thereof allowed to any one purchaser, the time and place of the actual sale thereof, with limitation that a sale can be made only to persons actually present at the said sale without previous reservations permitted, and any other condition or matter relating to said sale. At least one published notice of said public sale shall be given at least ten (10) days prior to said public sale, but a failure to duly publish said notice shall not invalidate the said public sale. Where the respective public organization has an official newspaper the said notice shall be so given therein. (Act Apr. 5, 1935, c. 121, §1.)

Sec. 2 of Act Apr. 5, 1935, cited, provides that the act shall take effect from its passage.

Villages operating under Laws 1885, c. 145, and those operating under general statutes are authorized to issue refunding obligations without submitting proposition to a vote of electors to refund matured bond issued in connection with purchase of power plant, and payable out of earnings of such plant. Op. Atty. Gen. (476a-12), July 9, 1935.

Power of county to issue funding bonds to take up floating indebtedness represented by warrant overdrawing poor funds as applied to administration of old age assistance act. Op. Atty. Gen. (521i-2), Mar. 26, 1936.

Procedure stated for issuance of warrant for old age assistance. Op. Atty. Gen. (521i-2), Apr. 21, 1936.

County may sell warrants or certificates of indebtedness issued against poor fund. Op. Atty. Gen. (107a-13), Aug. 11, 1936.

County may issue warrants bearing interest at 3% to take up outstanding warrants on road and bridge funds bearing 6%. Op. Atty. Gen. (107a-10), Dec. 4, 1936.

County operating under town system may issue evidence of indebtedness such as warrants in cases of emergency to raise funds for poor relief purposes. Op. Atty. Gen. (107b-22), Dec. 7, 1936.

County operating on cash basis pursuant to §1946-26½ may issue warrants or other evidence of indebtedness pursuant to §1938-23, without complying with the former, and may sell such evidence of indebtedness pursuant to §1944-1. Op. Atty. Gen. (107b-22), Dec. 15, 1936.

This section does not add any further rights to power to issue bonds or certificates of indebtedness but merely prescribes different method of sale. Op. Atty. Gen. (159a-4), Feb. 15, 1937.

If warrants issued to take care of old age assistance are ordinary outstanding warrants, county board cannot pay annual interest unless money is available, but if warrants were sold to local banks under §1944-1, interest may be paid in accordance with terms of resolution of county board authorizing same. Op. Atty. Gen. (521b-1), Mar. 23, 1937.

Entire issue of bonds not being sold by popular subscription, balance of issue cannot be sold to bonding

houses, unless another resolution is passed calling for sale of such balance under general statute, relating to calling of bids. Op. Atty. Gen. (159a-5), Dec. 10, 1937.

Bonds issued under §3164-3 may be sold in manner provided by §1944-1. Op. Atty. Gen. (37a-11), May 19, 1938.

#### 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.

If levy of taxes exceeds 2% of assessed valuation of property in a village, county auditor must reduce the levy, unless more than 2% is necessary to meet maturing bond obligations and absolutely necessary governmental function. Op. Atty. Gen. (481a-4), Dec. 5, 1935.

On dissolution of village operating under Laws 1385, c. 145, village council can make levy of taxes only for one year in amount limited by the statutes, and any other necessary amounts must be added by county auditor during subsequent year. Op. Atty. Gen. (469a-4), Aug. 20, 1936.

School board cannot invalidate resolution setting terms of tax levy in bond issue by adopting new resolution without consent of all bondholders. Op. Atty. Gen. (161a-2), May 6, 1937.

Levy by village operating under cash basis law for bond and interest payment must be included within limitations provided by Laws 1933, c. 72. Op. Atty. Gen. (519q), July 8, 1938.

#### 1946. Selling bonds by popular subscription.

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

Section 1944-1 merely prescribes different method of selling bonds or certificates of indebtedness and warrants, and does not add any further rights to power to issue bonds. Op. Atty. Gen. (159a-4), Feb. 15, 1937.

Published notice of sale to private citizens is necessary. Op. Atty. Gen. (63b-3), Jan. 20, 1939.

#### 1946-1. Refunding bonds of municipal corporations—Municipal corporation defined.

Act Apr. 22, 1935, c. 232, in its title, purports to amend this section, but the only amendment is of the title of the act, which is made to read as follows: "An act relating to funding and refunding bonds of municipal corporations as defined by General Statutes 1913, section 1847." Section 1847 of G. S. 1913 is §1934, Mason's Minn. St. 1927.

#### 1946-2. Same—Validity need not be inquired into.

—No purchaser or owner of bonds already or hereafter issued by a municipal corporation for the purpose of refunding its outstanding bonds or floating indebtedness under any law of this state, shall be obligated to inquire into the validity of the debts by such bonds refunded, but the determination by resolution of the governing body of any such municipal corporation to issue its bonds for such purpose, shall be conclusive evidence as to such purchaser or owner of the validity of the debts thereby refunded. Provided, that nothing herein shall be construed as authorizing or legalizing the issuing by any municipality of bonds which will increase its net indebtedness beyond the limit fixed by law; and provided further, that, as between any municipality and any owner or holder of any bond, warrant or order of such municipality, nothing herein shall be construed as validating any such invalid bond, warrant or order. ('21, c. 185, §2; Apr. 22, 1935, c. 232, §2.)

State Board of Investment need not inquire into validity of outstanding warrants before making a loan to pay same. Op. Atty. Gen. (928a-11), Aug. 3, 1934.

Better practice requires school in connection with issuance of refunding bonds to adopt resolution provided for in this section. Op. Atty. Gen. (40c-1), June 26, 1939.

**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 15 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 herein-after stated, in the manner and under the conditions hereinafter prescribed. ('27, c. 331, §1; Mar. 27, 1931, c. 100, §1; Apr. 11, 1935, c. 148, §1.)

Curative act: Act July 15, 1937, Sp. Sess., c. 66, applicable to refunding bonds issued by certain villages under this act.

"Existing" indebtedness refers to indebtedness at time of bond issue. Op. Atty. Gen., (159a-4), May 20, 1938.

An outline of municipal bond procedure in Minnesota. 20 MinnLawRev 583.

#### 1946-4. Same—Resolution for issue of bonds, etc.

Where existing bonded, judgment and floating indebtedness exceeds 20% of assessed valuation, exclusive of moneys and credits, a school district may issue bonds for funding and refunding purposes either with or without a vote of electors of district, unless ten or more voters and taxpayers petition that matter be submitted to voters, and where indebtedness is less than 20% of assessed valuation, refunding bonds may be issued without a vote of the electors. Op. Atty. Gen. (159a-3), Feb. 5, 1935.

#### 1946-5. Same—Maturity, interest, and sale of bonds.

Bonds cannot be issued under §§1938 to 1938-15 with an on or before privilege of payment as provided in §§1946-5 and 1946-19. Op. Atty. Gen. (44a), Mar. 11, 1937.

#### 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.)

Village organized under general laws need not submit propositions of issuing refunding bonds to a vote of electors but it is necessary to advertise for bids unless statutory provision pursuant to which such bonds are issued authorizes sale of same without bids. Op. Atty. Gen. (44b-12), June 17, 1935.

#### 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.

Moneys levied for a sinking fund to retire bonds cannot be diverted to other uses until bonds have been retired and paid, though they may be temporarily loaned. Op. Atty. Gen., (37a-12), Nov. 30, 1938.

#### 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.

Bonds issued for refunding purposes may be purchased by village at discount out of fund loaned by the state for the retirement of bonds. Op. Atty. Gen. (476a-12), June 5, 1935.

**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.)

Bonds cannot be issued under §§1938 to 1938-15 with an on or before privilege of payment as provided in §§1946-5 and 1946-19. *Op. Atty. Gen.* (44a), Mar. 11, 1937.

**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.)

**1946-22 ½. 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, §6 ½; 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 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 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 in-



debtedness 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.

Anticipatory warrants may be issued up to the amount allotted in the revenue fund during the year to take up the warrant. Op. Atty. Gen. (107a-13), Apr. 17, 1934.

**1946-26 1/2. 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.

Provided, however, that any such municipality by resolution of its governing body, and without submitting the proposition to the electors thereof, may issue and sell its tax anticipation notes which may pledge the general obligation of the respective municipality, or only a certain fund, or both, or otherwise, in anticipation of and in an amount not exceeding sixty per cent of the uncollected taxes levied for the current year at any time during said year when the governing body shall determine it shall be actually necessary, up to the amount of the budget for said current year, without application to the District Court. Such tax anticipation notes shall mature not later than December 31st of the year next succeeding that in which the taxes so anticipated were levied, and shall be in such form and denomination, and shall be executed in such manner, as the governing body shall determine, provided the same must be sold for cash only in the manner prescribed by Mason's Minnesota Statutes of 1927, Section 1943. (Laws 1929, c. 351, §10 1/2; Apr. 13, 1931, c. 155, §3; Mar. 2, 1937, c. 56, §1.)

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.

A county may levy tax or issue bonds for poor purposes though operating under the town system of poor relief, but cannot issue registered warrant unless there are moneys in treasury sufficient to pay the same or a tax is in actual process of collection pursuant to a tax levy for that purpose. Op. Atty. Gen. (107a-10), Dec. 9, 1935.

County operating on cash basis pursuant to §1946-26 1/2 may issue warrants or other evidence of indebtedness pursuant to §1938-23, without complying with the former and may sell such evidence of indebtedness pursuant to §1944-1. Op. Atty. Gen. (107b-22), Dec. 15, 1936.

**1946-26 1/2 a. Same—Application of act.**—This Act shall not apply to any municipality governed by any special law. (Mar. 2, 1937, c. 56, §2.)

**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 [sic] 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 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 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 irrepealable 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 appropriable 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. Provided, however, that where any town or school district has heretofore issued or shall hereafter issue bonds and such town or school district has been or shall be duly divided into two or more towns or school districts while such bonds are outstanding, the indebtedness represented by such bonds may, by written agreements between such towns or school districts and the holders of unmatured bonds, be apportioned between such towns or school districts and thereupon each of such towns or school districts may issue refunding bonds to take up, pay, and retire the outstanding bonds apportioned to and assumed by it, and such refunding bonds shall be obligations of and payable only from taxes levied upon the property in the respective towns or school districts issuing such refunding bonds. Such town's refunding bonds may be exchanged for such outstanding bonds without advertised sale thereof, but such refunding bonds shall not bear interest at a rate higher than the rate on the bonds refunded, and upon such exchange the refunding bonds shall be valued at not less than par and the bonds refunded shall be valued at not more than par. Except as herein otherwise specifically provided, the proceedings for the issuance of such refunding bonds and the form and terms thereof, shall comply with the provisions of Mason's Minnesota Statutes of 1927, Chapter 10, as amended [1934 to 1973-½e]. (Act Apr. 17, 1933, c. 306, §1; Apr. 11, 1935, c. 152, §2; Apr. 8, 1939, c. 163.)

**Title amended.**—The title of Laws 1933, Chapter 306, is amended by Act Apr. 11, 1935, c. 152, §1, to read as follows: "An act providing that refunding bonds shall be chargeable against all the territory that was chargeable with the bonds refunded, with certain exceptions, and providing for tax levy thereon."

**1946-51. Certificates of indebtedness may be issued in certain cases renewal.**—In all villages, cities, 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, cities, 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, city, 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, city, 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, city, 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." Any such village, municipality, city, town, or school district may issue its certificates of indebtedness against any or all funds up to an amount equal to, but not exceeding, 95% of its tax levy for such fund for such year notwithstanding any provisions of cash basis laws or cash basis charter provisions fixing a different percentage; provided, no such municipality shall during any year anticipate by issuance of certificates of indebtedness more than 50% of its tax levy for any of its funds during the period prior to July 1 of any calendar year, and not more than the remaining 45% of the tax levy for any of its funds during the period subsequent to July 1 and prior to December 31 of any calendar year; provided further that any such municipality may renew any outstanding certificates of indebtedness of any prior year or any prior six months period, or issue new certificates notwithstanding the fact that prior certificates are unpaid, whenever the inability to pay such outstanding certificates is due to failure to collect sufficient moneys from the tax levy for said year to discharge such certificates; in the event such certificates are renewed such municipality may pay accrued interest thereon at the time of renewal. (Act Apr. 15, 1933, c. 272, §1; Dec. 31, 1933, Ex. Sess. c. 36, §2; Feb. 9, 1935, c. 10, §2.)

**Title amended.**—Act Feb. 9, 1935, c. 10, §1, amends the title of Laws 1933, Chapter 272, as amended by Special Laws 1933-34, Chapter 36, to read as follows: An act to empower villages, cities, 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 treasurer, of such municipalities when such certificates of indebtedness can not be sold in the manner prescribed by law, and changing the limitations relating to the issuance of such certificates and authorizing the renewal thereof in certain cases.

Village has no authority to issue warrants authorized under §1946-51 beyond the 60% provision of §2066-4. Op. Atty. Gen. (5191), Aug. 11, 1934.

Warrants issued pursuant to §1946-51 are not included as part of net debt of a municipality within §1938-3. Op. Atty. Gen. (476a-4), Apr. 5, 1938.

**1946-52. Sale of certificates—disposition of proceeds.**—Such certificates of indebtedness may be sold by the village, city, 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; Feb. 9, 1935, c. 10, §3.)

Town board of town operating under cash basis law must offer certificates of indebtedness for sale on bids after published notice. Op. Atty. Gen., Feb. 14, 1934.

**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, city, 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, city, 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, city, town and school district, as amended hereby and by Section 2 of this Act. (Act Apr. 15, 1933, c. 272, §3; Dec. 31, 1933, Ex. Ses., c. 36, §4; Feb. 9, 1935, c. 10, §4.)

**1946-54. Definitions.**—The term "municipality" as used herein, which includes any village, city, town or school district operating upon a cash basis system under which certificates of indebtedness are issued, and under which system checks and warrants cannot be issued until there is money in the treasury. (Act Feb. 9, 1935, c. 10, §5.)

**1946-55. Inconsistent acts repealed.**—All Acts or parts of Acts inconsistent herewith are hereby repealed. (Act Feb. 9, 1935, c. 10, §6.)

**1946-56. Act to be supplementary.**—This Act shall not be construed as limiting the power of any home rule chartered city, but shall be construed as being supplementary and in addition thereto. (Act Feb. 9, 1935, c. 10, §7.)

**1946-57. Villages may issue bonds.**—Any village in the State of Minnesota whose existing bonded judgment and floating indebtedness is less than 20 per cent of the assessed value of its taxable property, exclusive of money and credits, is hereby authorized to issue the bonds of such village to refund or fund any such indebtedness, in the manner hereinafter provided. (Act Mar. 25, 1935, c. 66, §1.)

**1946-58. Issuance of bonds—rate of interest.**—Before any bonds are issued pursuant to the provisions of this act, the issuance of such bonds shall be authorized by resolution adopted by the affirmative vote of a majority of the members of the village council. Such bonds shall bear interest at not to exceed four per cent, payable semi-annually, and shall be in such form as the governing body shall by resolution determine, shall be signed by the president and countersigned by the clerk, and may be sold at either private or public sale, with or without notice, as may be determined by such village council. (Act Mar. 25, 1935, c. 66, §2.)

Bonds may be issued without vote of electors. Op. Atty. Gen. (476a-12), Oct. 28, 1935.

**1946-59. School districts may purchase bonds.**—The governing body of any school district lying wholly or partially within the corporate limits of such village may purchase any bonds refunded or funded pursuant to the provisions hereof by a resolution duly adopted to that effect by the governing body of such school district, and by a vote of the majority of the members of the governing body of such school district. (Act Mar. 25, 1935, c. 66, §3.)

**1946-60. Act not to limit power to levy tax.**—This act shall not be construed as limiting the powers of a municipality to levy taxes to pay obligations issued hereunder, and the governing body of each municipality shall have authority and it shall be its duty to levy any taxes necessary to provide revenue to pay such obligations. (Act Mar. 25, 1935, c. 66, §4.)

**1946-61. Act supplemental.**—The provisions of this act shall be supplemental and additional to the

powers in that regard now conferred by law on villages. (Act Mar. 25, 1935, c. 66, §5.)

**1946-62. Proceedings to be initiated within nine months.**—Any proceedings initiated under the proceedings of this act shall be commenced within nine months after the enactment of this act. (Act Mar. 25, 1935, c. 66, §6.)

**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. ('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 made by Laws 1929, c. 25, did not have per se 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.

**1953. Division of bonded indebtedness of townships and villages.**

This section relates only to situations where township and village are jointly liable, and not to a situation where town issued bonds prior to incorporation of village. Op. Atty. Gen. (440a), Mar. 25, 1937.

**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.

City charter debt limits have no binding application where bonds are to be purchased by state board of investment. Op. Atty. Gen. (59a-7), April 15, 1939.

If valid when issued warrants do not become invalid later on by reason of a change in assessed valuation which municipal charter uses as yardstick, and a funding operation creates no new debts. Id.

**1957. Limit of debt—Authorization, etc.**

Op. Atty. Gen. (928a-8), Apr. 25, 1934; note under §1968.

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.

State board of investment may lend money to city of Chisholm to refund outstanding certificates of indebtedness, and city may issue bonds without vote of electors. Op. Atty. Gen. (59a-51), Feb. 4, 1936.

City of Chisholm has power to refund certificates of indebtedness without a vote of its electors, and state board of investment has authority to purchase such bonds. Op. Atty. Gen. (59a-51), Feb. 4, 1936.

**1958. Special tax levy.**—The annual tax levy for the payment of principal and interest on account of such bonds shall be for an amount fifty per cent in excess of the sum to be paid therefrom. The state auditor, at the time of certifying the state tax, shall also certify to each county auditor the amount necessary to pay such principal and interest. When collected so much of such tax as may be necessary shall be paid into the state treasury. The excess remaining shall be held over in the county treasury to be applied on the next future payment due on such bonds, and the amount of such excess shall be reported by the county auditor to the state auditor on or before August first of each year, who shall deduct the same from his next annual tax levy for such purpose. The remainder, when such bonds are paid in full, shall be credited to the general fund of the municipality; and in case a portion of the territory embraced in such municipality at the time such bonds were issued, have since been set off to another municipality, such remainder shall be divided with such other municipality, using as a basis for such division the last assessed valuation of the territory affected by such bonds. Provided, that any such municipality which shall make payment to the state of the full amount of principal and interest due on account of such bonds prior to the extending of such tax therefor by the state auditor shall be exempt from the provisions of this section.

In the case of loans to any municipal corporation more than 70 per cent of the valuation of which consists of iron ore, the State auditor shall each year fix the amount of the tax levy therefor at such amount not exceeding the amounts above provided, as in his opinion will produce sufficient monies to pay the principal and interest falling due during the next ensuing year, after taking into consideration the probable collections upon such levy and the probable collections during said year on tax levies previously made therefor.

The County Auditor, upon authorization by the State Auditor, may amend the 1935 levy of any such municipality by reducing the state loan levy by such amount as the State Auditor may find to be in excess of requirements for the year 1936, and increasing the levy for general purposes by an amount not exceeding the reduction in the state loan levy in any case where:

(a) The State Auditor finds that the levy for state loan purposes has been spread at an amount in excess of that needed to meet principal and interest falling due in the year 1936, and

(b) The levy for general purposes of such municipality has been reduced by the county auditor below that levied by the municipality for general purposes in order to permit the spread of the state loan levy without raising the total levy above statutory limitations, and

(c) The levy for general purposes will not be increased by such amendment above the amount originally levied for such purposes by the municipality, or above the statutory limitations upon such levy. (R. L., §790. Amended '09, c. 94, §1; G. S. '13, §1878; Jan. 24, 1936, Ex. Ses., c. 81.)

On dissolution of villages operating under Laws 1885, c. 145, village council can make levy of taxes only for one year in amount limited by the statutes, and any other necessary amounts must be added by county auditor during subsequent year. Op. Atty. Gen. (469a-4), Aug. 20, 1936.

Town which levied tax to pay principal and interest on bonds sold to the state cannot apply the money to something else, even though it may be able to refund bonds. Op. Atty. Gen. (43B-3), July 5, 1939.

**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 pur-

chasing bonds of the district before maturity. Op. Atty. Gen., Sept. 17, 1931.

School board cannot invalidate resolution setting terms of tax levy in bond issue by adopting new resolution without consent of all bondholders. Op. Atty. Gen. (161a-2), May 6, 1937.

**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.

An outline of municipal bond procedure in Minnesota. 20 MinnLawRev 583.

**1960. Power of municipality.**

City of Duluth may adopt ordinance declaring sewage disposal plants to be a public utility and issue bonds to pay cost of completing same payable out of rentals or charges for use of such plants, without an election, and sell them to the state. Op. Atty. Gen. (387b-9), Sept. 23, 1937.

State board of investment may purchase bonds of common school district to pay cost of constructing "teacherage". Op. Atty. Gen., (159a-5), July 15, 1938.

**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, 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.

Statement in published notice of village election of items of indebtedness held not to constitute items of separate provisions to be voted on separately and thus not to vitiate an election to issue bond to pay pre-existing indebtedness. Op. Atty. Gen., Jan. 2, 1934.

If school district does not contain 10 freeholders who are also residents of district, it cannot take advantage of this section. Op. Atty. Gen. (771b), Apr. 23, 1934.

Where vote of electors is required, notice of election and publication of same must comply substantially with statutes. Op. Atty. Gen. (928a-8), May 18, 1934.

Section 393-8, relating to registration of voters, does not modify or amend §1962, as respects election for issuance of bonds to be sold to state. Op. Atty. Gen. (159a-3), Oct. 7, 1936.

Site and building bonds may be stated as one proposition on ballot. *Id.*

City of Eveleth held authorized to issue bonds to refund certificates of indebtedness issued in 1933, 1934 and 1935. Op. Atty. Gen. (361), Aug. 6, 1937.

Delay of two years in issuing bonds after authorization by electors of school district did not constitute unreasonable delay and recital of expediency in resolution calling election was not necessary. Op. Atty. Gen. (928a-11), Oct. 1, 1937.

City bonds held prima facie valid though there was no recital of an expediency in resolution calling election, election notice did not give location of several polling places within city, and bonds for less interest than that authorized by resolution and ballot. Op. Atty. Gen. (928a-8), Oct. 13, 1937.

Procedure for issuing bonds or warrants for water works and sewer system payable from earnings or special assessments. Op. Atty. Gen., (476b-15), Sept. 21, 1938.

Application of a village for a loan of state funds was returned without approval where there was only 10 days' published notice of election. Op. Atty. Gen. (295a), March 7, 1939.

Village contemplating issuance of bonds for widening, grading, surfacing, installation of curbs, gutters, sidewalks, and street lighting need submit only two questions to the voters, first with reference to streets and second with reference to sidewalks, and it is not necessary to state approximate sum to be used for each purpose. Op. Atty. Gen. (396c-6), June 9, 1939.



**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.

After electors voted on proposition of issuing bonds to PWA, village council could pass resolution amending former resolutions so as to conform with provisions with reference to date of maturity of proposed bond issue for purposes of sale to the state. Op. Atty. Gen., Jan. 6, 1934.

Form of ballot where village bonds are to be sold to state must comply with this section. Op. Atty. Gen. (44a-7), Feb. 9, 1937.

Ballots must contain statement that bonds are to be sold to state. Op. Atty. Gen. (159a-3), June 7, 1937.

Ballot on question of issuance of bonds for purpose of installing a heating system in a school house and building an addition held sufficient. Op. Atty. Gen. (159a-3), May 12, 1938.

Application for loan was not in conformity with law where resolution and ballot contained three items "\$3,000 water tank, pump and equipment, \$3,000 repairing pump house, housing fire truck and council room, \$4,000 reserved for continuing sewer work in the village", all being voted on as one proposition. Op. Atty. Gen. (928a-8), June 29, 1939.

An outline of municipal bond procedure in Minnesota. 20 MinnLawRev 533.

**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.

A school district may issue its bonds to the state by majority vote. Op. Atty. Gen., Dec. 5, 1933.

Village installing new well and equipment under §1229 authorized by five-eighths vote, may issue bonds to state by majority vote of electors. Id.

Village must submit proposition of issuing bonds to pay for an electric light plant to the electors and obtain a five-eighths vote, unless the village plant should sell the bonds to the state, in which case only a majority vote is required. Op. Atty. Gen. (44a-4), July 9, 1935.

If village bonds voted on under §1941 are to be sold to the state, only majority of voters is necessary. Op. Atty. Gen. (44b-5), Oct. 1, 1935.

Only ballots cast at special election and not total cast at general election held on same day should be considered, and blank ballots should be excluded in computing total votes. Op. Atty. Gen. (64t), Nov. 10, 1936.

Number of polling places in independent school district on special bond election is in discretion of board. Op. Atty. Gen. (187b-3), May 14, 1937.

**1965. Purchase of bonds by state.**

Section 1938-4 does not apply to limit amount of loan made pursuant to this section. Op. Atty. Gen. (44a-3), Nov. 18, 1935.

Taxes levied and in process of collection cannot be deducted from the present indebtedness in determining debt limit of city. Op. Atty. Gen. (519c), May 26, 1936.

City of Ada may issue bonds to pay cost of constructing a hospital pursuant to Laws 1933, c. 204, notwithstanding limitations in home rule charter. Op. Atty. Gen. (36g), Dec. 24, 1936.

State board of investment may loan state funds to a village upon its bonds in an amount not exceeding 15% of assessed valuation of taxable property. Op. Atty. Gen. (44a-7), Feb. 9, 1937.

In taxable property should be included real property, personal property, and money and credit. Op. Atty. Gen. (44B-8), May 22, 1939.

**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.

Maximum amount that state board of investment may loan to a village cannot exceed 15% valuation of its real and personal property. Op. Atty. Gen. (928a-8), Apr. 25, 1934.

**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.

Act Jan. 30, 1937, c. 4, §5, authorizes board to purchase securities issued under old age assistance appropriation act.

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.

Village organized under general laws need not submit propositions of issuing refunding bonds to a vote of electors but it is necessary to advertise for bids unless statutory provision pursuant to which such bonds are issued authorizes sale of same without bids. Op. Atty. Gen. (44b-12), June 17, 1935.

Where farmers are dependent for a living on their crops and will be unable to harvest them unless assistance is provided, county board has authority to borrow money and issue bonds without vote of electors to provide twine and repairs to harvesting machinery, where such bonds are sold to the state. Op. Atty. Gen. (125a-37), July 12, 1935.

**1968-2. Same—Information furnished to Board.**

Record entered by clerk of school district in record book as record of a meeting, and not notes taken by clerk during meeting, are official records of meeting. Op. Atty. Gen. (162f), Nov. 15, 1935.

**1968-3. State board of investment 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.)

Act Apr. 14, 1937, c. 209, §4, authorizes board to purchase certificates issued by state executive council under act.

Laws 1937, c. 220, §7, authorizes board to purchase bonds issued under the act.

Act Apr. 24, 1937, c. 394, §7, authorizes investment board to purchase funding bonds of certain counties.

Act Apr. 26, 1937, c. 489, authorizes board to purchase certificates issued for old age assistance.

Act July 14, 1937, Sp. Sess., c. 23, legalizes proceedings had under Act Apr. 24, 1937, c. 394.

Act Apr. 8, 1939, c. 173, authorizes the investment board to purchase the issue of refunding bonds by any unorganized school territory having 60 or more congressional townships and which has a bonded indebtedness of over 50% of the total assessed valuation of said school district for 1938, exclusive of moneys and credits, which bonds are issued on the unanimous vote of the board of education pursuant to §§1946-17 to 1946-34.

Act Apr. 10, 1939, c. 182, authorizes board to purchase funding bonds of Clearwater County.

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

Bonds issued for refunding purposes may be purchased by village at discount out of fund loaned by the state for the retirement of bonds. Op. Atty. Gen. (476a-12), June 5, 1935.

Under §1968-3 investment board can only purchase up to 50% of bonds issued by school district under §1938-32. Op. Atty. Gen. (928a-11), July 13, 1937.

**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 \$4,000,000.00. (Act Apr. 21, 1933, c. 389, §2; Apr. 29, 1935, c. 329, §1.)

**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.

Act Apr. 24, 1937, c. 385, §10, authorizes investment board to purchase state certificates of indebtedness for buildings at state educational institutions.

**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.)

Village council may sell bonds to federal government pursuant to National Recovery Act without advertising for bids. Op. Atty. Gen., Jan. 4, 1934.

This act is not unconstitutional because bill was passed with long title in house and short title in senate. Op. Atty. Gen. (86a-8), Oct. 18, 1934.

**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.)

**1968-11. Proceedings and bonds legalized.**—Where any city of the third class has heretofore initiated proceedings for the issuance of bonds, and has heretofore held an election upon the question of issuing the same, and had advertised for bids and received and accepted bids for the sale of said bonds, such proceedings and the election thereunder are hereby legalized and validated as against any claim that the notice of election was not posted for the length of time or in the number of places required by law or by charter provision, if such notice of election was posted at least ten days before the election, in at least three public places in said city, and as against the objection that the maturities of said bonds were not determined by the governing body prior to the advertisement for bids or receipt of bids thereon, if such maturities were stated in the bid of a successful bidder and agreed to by the governing body in accepting the same. (Act Mar. 19, 1935, c. 53, §1.)

**1968-12. 1935 validating act.**—This Act may be cited as "The 1935 Validating Act." (Act Mar. 20, 1935, c. 58, §1.)

**1968-13. Definitions.**—The following terms, wherever used or referred to in this Act, shall have the following meaning:

(a) The term "public body" shall mean any city of any class, including a city organized under a charter framed pursuant to Section 36, Article 4 of the constitution, town, village, borough, county or any school, road, sanitary or drainage district.

(b) The term "bonds" includes bonds, notes, warrants, debentures, certificates of indebtedness, temporary bonds, temporary notes, interim receipts, interim certificates and all instruments or obligations evidencing or representing indebtedness, or evidencing or representing the borrowing of money, or evi-

dencing or representing a charge, lien or encumbrance on specific revenues, income or property of a public body, including all instruments or obligations payable from a special fund. (Act Mar. 20, 1935, c. 58, §2.)

**1968-14. Bonds validated.**—All bonds heretofore issued for the purpose of financing or aiding in the financing of any work, undertaking or project by any public body to which any loan or grant has heretofore been made by the United States of America through the Federal Emergency Administrator of Public Works for the purpose of financing or aiding in the financing of such work, undertaking or project, including all proceedings for the authorization and issuance of such bonds, and the sale, execution and delivery thereof, are hereby validated, ratified, approved and confirmed, notwithstanding any lack of powers (other than constitutional) of such public body, or the governing board or commission or officers thereof, to authorize and issue such bonds, or to sell, execute or deliver the same, and notwithstanding any defects or irregularities (other than constitutional) in such proceedings, or in such sale, execution or delivery; and such bonds are and shall be binding, legal, valid and enforceable general obligations against all of the taxable property of such public body. (Act Mar. 20, 1935, c. 58, §3.)

**1968-15. Not to affect pending actions.**—This act shall take effect from and after its passage, provided this act shall not apply to or affect any action or proceedings now pending in which the validity of such proceedings or bonds is questioned. Nothing herein shall be construed as repealing, abrogating or amending any existing statutes relating to penal or civil liability concerning any specific expenditure or disbursement included in such bond issue. (Act Mar. 20, 1935, c. 58, §4.)

**1968-16. Notice of redemption of bonds.**—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, which district has outstanding bonds which reserve on their face the right of such district to redeem such bonds, and which bonds and the statute pursuant to which they were issued make no provision for the manner in which notice of redemption shall be given, may redeem said bonds by publishing a notice of redemption once a week for four successive weeks, the first publication thereof to be at least thirty days before the date fixed for redemption, in a newspaper published in the district and in a financial paper published in the City of New York, in the State of New York. (Act Mar. 20, 1935, c. 59, §1.)

**1968-17. Bonds validated.**—All of said outstanding bonds are hereby ratified, validated and confirmed, and refunding bonds may be issued without the approval of the voters of such independent school district to redeem said outstanding bonds, pursuant to the provisions of Chapter 10 of Mason's Minnesota Statutes of 1927. (Act Mar. 20, 1935, c. 59, §2.)

**1968-18. Provisions severable.**—If any provision of this act shall be declared to be unconstitutional, it shall not affect any of the remaining provisions of this act, all of which remaining provisions shall continue to be in full force and effect. (Act Mar. 20, 1935, c. 59, §3.)

**1968-19. Effective date.**—This act shall take effect and be in force from and after its passage. (Act Mar. 20, 1935, c. 59, §4.)

**1968-20. Independent school district may issue bonds in certain cases.**—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. 26, 1935, c. 67, §1.)

**1968-21. Issuance of bonds—rate of interest—maturity.**—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. 26, 1935, c. 67, §2.)

**1968-22. Sale of bonds.**—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. 26, 1935, c. 67, §3.)

**1968-23. Tax levy.**—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 irrepealable 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 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. 26, 1935, c. 67, §4.)

**1968-24. Act 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 Four (4) months 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 district 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. 25, 1935, c. 67, §5.)

**1968-25. Act paramount and controlling.**—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. 26, 1935, c. 67, §6.)

**1968-26. Definitions.**—The word "municipality," as used herein, shall be held to mean and include the various counties, cities, villages, boroughs, towns and school districts in the State of Minnesota. (Act Apr. 24, 1935, c. 294, §1.)

**1968-27. Bonds validated.**—Whenever the State Board of Investment shall have heretofore loaned the funds of the State of Minnesota to any municipality in this state, the validity of the bonds issued by said municipality to the state shall never be questioned except upon the ground that the same and the loan made thereon was not approved by the State Board of Investment; that the bond in question made the entire bonded indebtedness exceed fifteen (15) per cent of the assessed valuation of the taxable property of the municipality issuing such bonds; that such bonds bear a lower rate of interest than three (3) per cent; that such bonds run for a shorter period than five years, or for a longer period than twenty years; or that the principal thereof was never paid by the state to, or received by, the officers of the municipality issuing the same; and no change of the boundary lines of any such municipality shall relieve the real property therein at the time of the issuing of such bonds from any liability from taxation to pay for the same, and all such bonds so purchased are hereby declared to be the valid and subsisting indebtedness of each municipality respectively issuing the same. (Act Apr. 24, 1935, c. 294, §2.)

**1968-28. Federal aid projects—1937 Validating act.**—This Act may be cited as "The 1937 Validating Act". (Apr. 21, 1937, c. 327, §1.)

Independent school district proceeding legalized to validate bond issue of less than \$40,000. Laws 1939, c. 134.

**1968-29. Same—Definitions.**—The following terms, wherever used or referred to in this Act, shall have the following meaning:

(a) The term "public body" shall mean any city of any class, including a city organized under a charter framed pursuant to Article 4, Section 36 of the constitution, town, village, borough, county or any school, road, sanitary, or drainage district.

(b) The term "bonds" includes bonds, notes, warrants, debentures, certificates of indebtedness, temporary bonds, temporary notes, interim receipts, interim certificates and all instruments or obligations evidencing or representing indebtedness, or evidencing or representing the borrowing of money, or evidencing or representing a charge, lien or encumbrance on specific revenues, income or property of a public body, including all instruments or obligations payable from a special fund. (Apr. 21, 1937, c. 327, §2.)

**1968-30. Same—Bonds validated.**—All bonds heretofore issued for the purpose of financing or aiding in the financing of any work, undertaking or project by any public body to which any loan or grant has heretofore been made by the United States of America through the Federal Emergency Administrator of Public Works for the purpose of financing or aiding in the financing of such work, undertaking or project, including all proceedings for the authorization and issuance of such bonds, and the sale, execution and delivery thereof, are hereby validated, ratified, approved and confirmed, notwithstanding any lack of powers (other than constitutional) of such public

body, or the governing board or commission or officers thereof, to authorize and issue such bonds, or to sell, execute or deliver the same, and not withstanding any defects or irregularities (other than constitutional) in such proceedings, or in such sale, execution or delivery; and such bonds are and shall be binding, legal, valid and enforceable general obligations against all of the taxable property of such public body. (Apr. 21, 1937, c. 327, §3.)

**1968-31. Same—Not to affect pending actions.**—This act shall take effect from and after its passage, provided this act shall not apply to or affect any action or proceedings now pending in which the validity of such proceedings or bonds is questioned. Nothing herein shall be construed as repealing, abrogating or amending any existing statutes relating to penal or civil liability concerning any specific expenditure or disbursement included in such bond issue. (Apr. 21, 1937, c. 327, §4.)

**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.**  
Act Apr. 12, 1937, c. 290, validates municipal bonds purchased by the state investment board.  
Home rule charter city electing to come under Laws 1913, c. 303, may proceed thereunder notwithstanding provisions of charter. Op. Atty. Gen. (36c-9), Feb. 18, 1937.

**1973. [Repealed.]**

Repealed Apr. 5, 1935, c. 123, §1, saving pending proceedings involving validity of bonds.

Sec. 3 of Act Apr. 8, 1921, c. 203, provides that nothing therein contained shall affect the powers conferred upon school districts by this section.

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.

Upon insolvency of bank, county may sell bonds held as collateral, though not yet due, and prior to such sale banking department is not obligated to entertain claim against bank. Op. Atty. Gen. (29b-5), May 25, 1934.

School districts cannot issue bonds for purpose of buying school busses. Op. Atty. Gen. (159a-5), Dec. 12, 1936.

**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 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.)

Act Feb. 8, 1935, c. 9, repeals and re-enacts Act Jan. 9, 1934, Ex. Ses., c. 75. Omitted as local and temporary. Act Jan. 13, 1936, c. 14, §1, validates bonds issued by independent districts having assessed value of not more than \$275,000.

Act Jan. 21, 1936, Sp. Ses. 1935-36, c. 60 legalizes bonds theretofore authorized or issued for erecting school buildings by school districts in fourth class cities pursuant to Laws 1935, c. 121.

**1973-½d.** Bonds validated.—All bonds otherwise valid heretofore issued by any school district under authority of any law other than General Statutes 1894, Section 3688, as amended by Laws 1905, Chapter 272, Section 1, being Mason's Minnesota Statutes of 1927, Section 1973, are hereby legalized and validated, notwithstanding any failure of the school district, its officers or officials, to comply with the provisions of said section in the issuance thereof. (Act Apr. 5, 1935, c. 123, §2.)

**1973-½e.** Not to affect pending litigation.—This act shall not apply to or affect any action or proceedings now pending in which the validity of such proceedings or bonds is questioned. (Act Apr. 5, 1935, c. 123, §3.)

#### 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.

Act Jan. 18, 1936, Sp. Ses. 1935-36, c. 44, authorizes cities of the first class having bonded debt not exceeding \$10,000,000 to issue bonds not exceeding \$150,000 for carrying out federal or state aided projects.

Act Jan. 18, 1936, Sp. Ses. 1935-36, c. 40, provides that in cities of the second class in counties constituting

#### 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.

Act Jan. 18, 1936, Sp. Ses. 1935-36, c. 40, provides that in cities of the second class in counties constituting

single school district the board of education may issue bonds in the sum of \$325,000 to construct school buildings.

#### 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.

Laws Sp. Ses. 1935-36, c. 15, validates bonds issued for fire fighting equipment in fourth class cities to amount not exceeding \$3,000.

Act Apr. 5, 1937, c. 142, provides that in cities of the fourth class operating under home rule charters and having population of 2,750 to 2,850, the governing body may issue bonds for community building to amount authorized by city council.

Act Apr. 21, 1937, c. 332, validates securities issued by fourth class cities with home rule charter less than 8,000 population and over \$9,000,000 assessed valuation.

Act Apr. 24, 1937, c. 462, provides that state treasurer and state investment board may surrender bonds of fourth class city in counties of over 450,000 inhabitants, where such bonds have been paid.

Act July 16, 1937, Sp. Sess., c. 75, legalizes street improvement proceedings and authorizes issuance of certificates of indebtedness to complete same.

Act Ex. Ses., c. 3, legalizing bonds for community hall.

Act Apr. 4, 1939, c. 142, legalizes bonds and certificates of indebtedness, to amount of not more than \$8,000, issued by fourth class cities having a home rule charter, located in counties having 39 to 40 congressional townships, population of 21,000 to 25,000, assessed valuation, exclusive of moneys and credits, of \$6,000,000 to \$10,000,000. The act is omitted as local and special within Const. Art. 4, §33.

#### 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. Amended, Laws 1939, c. 278.

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. 337, 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. 49, 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 1935, c. 101. Counties having 11,000 to 13,000 population and 13 to 15 townships and valuation of less than \$6,000,000 and indebtedness of less than \$400,000, may issue \$25,000 bonds to repair bridges.

Laws 1935, c. 219. Counties having valuation of more than \$400,000,000 and bonded indebtedness of less than \$4,000,000 and operating on a budget, may issue bonds to fund outstanding warrants and certificates of indebtedness.

Laws 1935, c. 222. Counties having valuation of less than \$15,000,000 and indebtedness in excess of \$1,750,000, may issue bonds to fund and refund outstanding indebtedness.

Laws 1935, c. 275. Counties having valuation of \$6,000,000 to \$9,000,000 and population of 25,000 to 28,000 and 27 to 29 townships, may issue bonds to fund warrants.

Laws 1935, c. 374, amends Laws 1929, c. 127, §1, as amended by Laws 1931, c. 194, as amended by Laws 1933, c. 285.

Act Feb. 5, 1937, c. 14, authorizes certain counties to issue bridge bonds and legalizes proceedings already had.

Act Feb. 24, 1937, c. 40, authorizes counties having 15 to 17 townships, 12,000 to 13,000 population, and assessed valuation of \$5,000,000 to \$10,000,000, to issue bonds to refund warrants and reimburse certain funds.

Act Mar. 12, 1937, c. 65, §6, authorizes borrowing of money to make seed loans to needy farmers for 1937 crop.

Act Apr. 2, 1937, c. 136, legalizes proceedings for issuance of funding bonds to retire floating indebtedness.

Act Apr. 6, 1937, c. 159, provides that counties having assessed value of over \$400,000,000, and bonded debt of not more than \$4,000,000, exclusive of reimbursible highway bonds, may issue \$50,000 bonds to repair courthouse.

Act Apr. 8, 1937, c. 176, provides that counties having assessed valuation of not less than \$400,000,000, inclusive of money and credits, and bonded indebtedness, outside of reimbursible highway bonds, of not exceeding \$4,000,000, may issue bonds not to exceed \$200,000 to fund outstanding warrants.

Act Apr. 14, 1937, c. 220, provides that in counties having 20 to 22 townships, 13,500 to 14,500 inhabitants, and assessed valuation of \$5,000,000 to \$9,000,000, bonds may be issued to fund outstanding warrants.

Act Apr. 24, 1937, c. 394, provides that in counties having 15 to 16 townships, population of 11,000 to 12,000, assessed valuation, exclusive of money and credits, of \$5,000,000 to \$7,000,000, bonds may be issued to fund or refund warrants.

Act July 14, 1937, Sp. Sess., c. 23, legalizes proceedings had under Act Apr. 24, 1937, c. 394.

Act Feb. 17, 1939, c. 18, authorizes counties having 40 to 50 congressional townships, 18,000 to 22,000 inhabitants, and assessed valuation of \$4,000,000 to \$8,000,000, to issue bonds to fund outstanding warrants existing Jan. 1, 1939, such issuance to occur within 3 months after passage of act.

Act Mar. 25, 1939, c. 81, authorizes counties having not less than 25 congressional townships, population of not more than 15,000, assessed valuation, exclusive of moneys and credits, of not less than \$5,000,000, and outstanding road and bridge warrants in excess of \$100,000, to issue bonds to fund such warrants, to be issued prior to July

1, 1939, without vote of electors. Probably unconstitutional as involving improper classification.

Act Mar. 25, 1939, c. 83, authorizes counties having 13 to 15 congressional townships, population of 11,000 to 13,000, assessed valuation of not more than \$6,000,000, to issue bonds to refund outstanding warrants existing as of Mar. 1, 1939.

Bond issues for relief of poor in certain counties, Laws 1929, c. 371; 1935-1936, Ex. Ses., c. 90; 1939, c. 178.

In counties having 29 to 31 townships and 9,400 to 9,700 population and valuation of \$1,600,000 to \$1,900,000 refunding bonds for outstanding warrants may be issued. Laws 1939, c. 182.

In counties having 25,000 to 30,000 population and valuation of \$14,000,000 to \$18,000,000 and outstanding bonds of \$700,000 to \$1,000,000, a \$20,000 bond issue is legalized. Laws 1939, c. 317.

Laws 1921, c. 117.

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

#### POWER OF VILLAGES WITH RESPECT TO BONDS

Laws 1935, c. 83. Legalizes bond issue for less than \$5,500 for construction of village hall, where vote indicated over ¾ favorable vote for issuance.

Act Jan. 13, 1936, c. 24, Sp. Ses. 1935-36, legalizes bonds of villages issued for several different purposes.

Act Mar. 2, 1937, c. 47, validates bonds authorized at election at which aggregate amount for two or more distinct purposes was voted.

Act Mar. 8, 1937, c. 62, authorizes villages whose indebtedness is less than 20% of assessed valuation to issue bonds to fund or refund indebtedness, power to be exercised within one year from Mar. 8, 1937, date of approval.

Act Apr. 14, 1937, c. 231, applicable to villages having 900 to 1,500 population, validates sewer proceedings, and authorizes issuance of warrants.

Act Apr. 17, 1937, c. 277, legalizes proceedings for issue of refunding bonds in certain villages.

Act Apr. 23, 1937, c. 378, provides that villages of 300 inhabitants or less, not over \$200,000 assessed valuation, debt less than 5% of such valuation and which has constructed sewers with federal aid, may issue certificates not to exceed \$3500, and validates proceedings already taken.

Act Apr. 24, 1937, c. 392, legalizes contracts by villages of less than 1,500 population for improvement of power plant.

Act July 14, 1937, Sp. Sess., c. 20, legalizes prior proceedings for laying water mains, and authorizes issuance of certificates of indebtedness not exceeding \$15,000.

Act July 15, 1937, Sp. Sess., c. 66, legalizes refunding bonds issued by certain villages.

Act Mar. 31, 1939, c. 98, validates bonds issued by special school districts in cities of the fourth class operating under home rule charter.

Act Apr. 1, 1939, c. 134, legalizes bonds issued for gymnasium-auditorium.

Act Apr. 14, 1939, c. 262, legalizes bond issue by specially described school district for construction of auditorium-gymnasium. Probably unconstitutional as local and special.

Act Apr. 14, 1939, c. 239, authorizes Hibbing to issue bonds for sewage disposal plant. Probably unconstitutional as local and special.

Laws 1937, c. 52, permitting villages to issue bonds to retire existing indebtedness without vote of people, is constitutional. Op. Atty. Gen. (476a-3), Feb. 2, 1938.

#### 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.

Laws 1935, c. 9. Authorizes independent school district with territorial limits which coincide with territorial limits of city of first class to issue bonds not exceeding \$17,500 and repealing Laws Ex. Ses. 1934, c. 75.

Act Jan. 28, 1937, c. 2, legalizes bond issues for school buildings.

Act Apr. 21, 1937, c. 338, effective Apr. 1, 1938, provides that independent school districts having a village of less than 1,000 population, situated in counties having 13 to 14 townships, 12,000 to 13,000 population, and assessed valuation, exclusive of moneys and credits, of \$2,000,000 to \$4,000,000, may issue bonds, not exceeding \$40,000, to construct addition to high school, if approved by voters.

Act Apr. 22, 1937, c. 363, validates bonds issued by independent consolidated school districts to build addition to school house.

Act Apr. 24, 1937, c. 461, provides that independent school districts in counties having 200,000 to 275,000 population, 200 to 205 townships, and assessed valuation, exclusive of moneys and credits, of not less than \$200,000, may issue bonds not to exceed \$25,000.



Independent school district bond issue legalized. Laws 1939, c. 262.

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 propo-

sition of issuing bonds for a lesser amount without having first rescinded the original authorization. Op. Atty. Gen., Mar. 7, 1932.

Vote of electors is not necessary for issuance of school district refunding bonds. Op. Atty. Gen. (40c-1), Dec. 7, 1934.

## 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.

A bank has no power to pledge any of its assets to secure the repayment of the deposits, except as given by statute. 174M286, 219NW163.

Where an unauthorized pledge of assets is made by bank and it becomes insolvent, receiver may recover assets pledged, or damages, if they have been converted. 174M286, 219NW163.

A commercial bank has no power to pledge bills receivable to secure deposits, even though it be to induce an extension of a past-due deposit. 175M363, 221NW242.

Surety held not liable where bank continued to do business several years after the close of the year covered by the bond. 175M482, 221NW369.

This section must be construed as a part of a depository bond, and liability of sureties is limited to the penalty of the bond, and where the bank closes, the liability of the sureties becomes absolute, and when they pay the loss they are subrogated to the rights of the obligee, and such right of subrogation cannot be questioned by the sureties on the treasurer's bond. 181M271, 232NW320. See Dun. Dig. 2701, 9045.

Bondsmen of depository for school district, designated without any specifications as to time, were liable to school district where bank was taken over for liquidation three years and two days after designation. School Dist. No. 75 of Kittson County v. F., 182M381, 234NW594. See Dun. Dig. 2701, 2702.

The evidence is not sufficient to sustain a finding that Liberty bonds deposited with the defendant bank, a designated depository of the plaintiff school district, were a substitute or in lieu of a bond executed with individual sureties, or that the taking of Liberty bonds discharged such bond, or that another bank was designated as a depository; and the trial court was right in so directing the jury. School Dist. No. 75 of Kittson County v. F., 182M381, 234NW594. See Dun. Dig. 2701.

City treasurer had authority to make agreements with depositories as to interest rates and to agree or consent to changes in such interest rates from time to time, as