

FINANCE, TAXATION, AND SPECIAL ASSESSMENTS

CHAPTER 426

FINANCE AND TAXATION

426.04 TAXES FOR GENERAL PURPOSES.

The state by virtue of its sovereignty has an inherent power to tax, limited only by the restrictions imposed by the Constitution; but municipal corporations have no such inherent power and can tax only in the manner and to the extent provided by law. *State ex rel v Ely*, 129 M 40, 151 NW 545.

The legislature may by subsequent general act supersede or repeal the provisions of a home rule charter. In the instant case the general rule of statutory construction that a general act ordinarily will not repeal a previous special act without express words of repeal, does not apply. The very plain legislative intention must be given effect. *State v Brown*, 189 M 257, 248 NW 822, 249 NW 569.

Limitation of tax levies in relation to municipal bond procedure. 20 MLR 583.

426.05 WHEELAGE TAX.

Amended by L. 1947 c. 613 s. 1.

Laws 1921, c. 454, s. 1, subd. 1, providing that the wheelage tax shall not exceed 20 per cent of the state tax is not void for indefiniteness or uncertainty; and although subdivision 3 of section 1 is unconstitutional, it is not so connected with the remainder of the act as to render the other subdivisions unconstitutional, and there is left a workable and constitutional statute providing for a wheelage tax. *Fairley v City of Duluth*, 154 M 375, 185 NW 390.

426.06 TREASURER; DUTIES, BOND, ACCOUNTS.

If the village treasurer has reason to know that a warrant presented to him for payment is in excess of legal limitations, it is his duty to refuse payment. OAG Feb. 17, 1941 (476-A-16).

Any member of the village council, and the treasurer, must not serve as book-keeper for the municipal liquor store for compensation. OAG Feb. 25, 1946 (218-R).

426.07 CLERK TO PREPARE FINANCIAL STATEMENT.

If the owner of the only newspaper in the village is an officer the village may legally publish its official publications in the newspaper, notwithstanding his official position. OAG Jan. 25, 1943 (90-A-1).

The village council must designate an official newspaper before the clerk has authority to publish financial statement. OAG Oct. 4, 1944 (277-B-2).

Section 426.07 prescribes the publication of the annual statement in detail. A mere summary is not sufficient. *State ex rel v Elmquist*, 201 M 403, 276 NW 735.

426.075 CLAIMS, HOW AUDITED AND PAID; INTEREST.

A taxpayer may sue to compel a restoration of funds illegally taken from the treasury of a municipal corporation; but he has no right to bring action unless he has first requested the proper officers to bring it and they refuse, or unless it appears it would be futile to make such a request. *Burns v Essling*, 154 M 304, 191 NW 899.

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426.09 LOCAL IMPROVEMENT FUND IN CITIES OF SECOND CLASS.

When a municipal corporation by authority of law creates a particular fund with reference to which it contracts any indebtedness arising on such contract is payable therefrom only; and one who purchases a municipal warrant is charged with notice of the law under and by virtue of which such obligation is issued. *Judd v City of St. Cloud*, 198 M 590, 272 NW 577.

426.10 VIOLATIONS.

Where money is illegally drawn from the city treasury a taxpayer may request the city officials to compel restitution of the money, and if the officials neglect or refuse to bring the action an action may be brought in the name of the taxpayer. *Burns v Essling*, 154 M 304, 191 NW 899; *Burns v Van Buskirk*, 163 M 48, 203 NW 608.

426.19 MUNICIPAL LIQUOR STORE PROFITS.

Section 426.19 authorizes the city to use revenue from the municipal liquor store to (1) pay cost of construction of sanitary sewage system, or (2) pledge the revenue to meet future bonds issued for a sanitary sewage system, or (3) use the revenue to pay the cost of water mains without making an assessment against abutting property. OAG Feb. 25, 1946 (218-RO); OAG March 20, 1946 (218-R).