

PUBLIC INDEBTEDNESS AND BORROWING

CHAPTER 475

PUBLIC INDEBTEDNESS

475.01 SCOPE.

Amended by L. 1947 c. 296 s. 1.

A school district cannot mortgage its property and cannot borrow money except under the provisions of chapter 475. OAG June 17, 1946 (622-I-7).

A village cannot borrow money by note or by issuance of a village warrant. It may borrow by issuance of bonds or certificates of indebtedness as provided in chapter 475 and not otherwise. OAG Dec. 3, 1946 (476-A-10).

Invalid bonds; quasi contract liabilities to holders. 4 MLR 155.

Outline of municipal bond procedure in Minnesota. 20 MLR 583.

Debt limitations; special fund doctrine. 23 MLR 392.

475.02 CHARTER POWERS NOT MODIFIED.

Where the home rule charter of a city prohibits a debt in excess of ten per cent of the assessed valuation of the property therein, no greater indebtedness may be incurred; except that cost of building a hospital may be financed by sale of bonds which are to be paid out of the hospital earnings. OAG Dec. 17, 1946 (36-C).

A city of the fourth class under home rule charter, having no applicable provision, must amend its charter to obtain authority to issue bonds for garbage disposal plant. OAG Dec. 31, 1946 (59-B-4).

475.03 ASSESSED VALUE.

Amended by L. 1947 c. 296 s. 2.

In computing the assessed value of the taxable property of a school district upon which the three and one-half per cent limitation prescribed by G. S. 1913, s. 1862, is based, moneys and credits are included. *Hicken v Board*, 153 M 120, 189 NW 709.

A contract by a city to pay a stipulated sum every six months during a term of years to a company for water and lights furnished for public use is not one creating an indebtedness for the full amount which may become due thereunder, and for that reason void, where such an indebtedness would be beyond the constitutional or statutory limit, since the furnishing of the water and lights contracted for during the preceding six months is a condition precedent to liability for each payment thereunder; and, where each payment provided for is within the ordinary revenues of the city, raised by lawful means, whether by direct taxation alone or partly from licenses, the contract is valid. *Anoka Water Works v City of Anoka*, 109 F. 580.

A contract by a city for a street improvement, which binds the city only to levy and collect a special assessment on abutting property to pay the cost, as required by statute, does not create an indebtedness against the city, within the meaning of a statute fixing the limit of its permissible indebtedness; nor is an action to recover a judgment against the city for the amount of the contract price because of its refusal to levy and collect such special assessment one founded on a debt, but it is one sounding in tort, the liability of the city arising out of its refusal to perform a statutory duty. *City of Mankato v Barber Asphalt Paving Co.*, 142 F. 330.

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In determining net debt limitations for loans from the state board of investment, bonds issued for water works purposes need not be taken into account. OAG June 8, 1945 (980-A-8).

This section limits the extent of village indebtedness. OAG Feb. 28, 1946 (476-A-3).

If the obligations are to be paid from special assessments levied upon the property benefited by the improvements, and such bonds are not general obligations of the municipality, the net indebtedness of ten per cent does not apply. OAG May 16, 1947 (44-A-4).

School districts may not incur obligations beyond statutory limitation. The statute cannot be repealed by election. OAG Dec. 17, 1946 (519-m).

Municipal bond procedure. 20 MLR 583.

Limit of indebtedness. 20 MLR 587.

475.04 OBLIGATIONS; DEFINITIONS.

Superseded by section 475.03 as amended.

475.05 EXEMPTION OF TAX-ANTICIPATED LOANS.

Repealed by L. 1947 c. 296 s. 6.

475.06 LIMIT OF DEBT; EXCESS VOID.

Repealed by L. 1947 c. 296 s. 6.

475.07 BONDS.

Amended by L. 1947 c. 296 s. 3.

The grant to counties under sections 475.07 and 475.14 carries with it power to do whatever is essential to the efficient exercise of the power expressly granted; and a county may agree to pay a reasonable sum for necessary and proper assistance in disposing of its bonds. First Nat'l Bank v County of Cook, 146 M 103, 177 NW 1013.

475.08 [Superseded] (See, section 475.31).

475.09 DEBT LIMIT INCREASED IN CERTAIN SCHOOL DISTRICTS.

Repealed by L. 1947 c. 296 s. 6.

475.091 LIMITATION ON NET INDEBTEDNESS.

Repealed by L. 1947 c. 296 s. 6.

475.10 INTEREST RATE ON BONDS IN CITIES OF FIRST CLASS IN EXCESS OF RATE FIXED BY CHARTER.

Repealed by L. 1947 c. 296 s. 6.

475.12 REGISTERED BONDS.

A village may issue warrants and pledge the credit of the village to pay the principal and interest of sewer district warrants, in anticipation of the collection of special assessments, when the moneys on hand in the appropriate sewer district fund are insufficient for such purpose. This may be done without a vote of the electorate. 1944 OAG 182, Sept. 15, 1944 (476-C-1).

475.13 [Superseded] (See, sections 475.14, 475.25).

475.14 BOND ISSUES; PURPOSES.

Amended by L. 1947 c. 296 s. 4.

All lakes or parts of lakes wholly or partly within the territory comprising the city of Minneapolis, as defined and set off by Sp. L. 1887, c. 10, to the extent within the same, are embraced in the municipal limits, and subject to the authority and jurisdiction of the city, the shores thereof not being made the boundary line; and a bridge over and across Lake Nokomis may be financed under the provisions of L. 1919, c. 6. *Mpls. Real Estate Board v City of Mpls.* 145 M 379, 177 NW 494.

The grant to counties to issue and sell their bonds carries with it authority to agree to pay a reasonable sum for necessary and proper assistance in disposing of them. *First Nat'l Bank v County of Cook*, 146 M 103, 177 NW 1013.

Section 127.04 does not limit the indebtedness which may be created in the erection of school buildings; and contracts for the construction of such buildings, entered into when sufficient bonds have been authorized to meet the amount of the contracts are not a violation of section 275.27 even though the mill tax levied is not sufficient to care for the interest and the maturing bonds. *Oliver Iron Mining v Independent District*, 155 M 400, 193 NW 949.

The trial court properly construed the several statutes relating to the matter at issue, and properly held that as of the date of the trial a village could not issue refunding bonds without the approval of the voters in the manner prescribed by statute. *Hill v Village of Aurora*, 157 M 469, 196 NW 465.

The only manner in which a school board may borrow money is by the issuance of bonds. Money may not be borrowed for use in constructing a drainage ditch for the benefit of the school. 1944 OAG 103, Sept. 5, 1944 (159-B-8).

A county may not borrow to buy road and bridge equipment. OAG April 24, 1945 (37-B-7).

Where a well has been drilled, and the village desires to borrow from the state board of investment to pay cost of same, the electorate should be furnished a financial statement of the village affairs prior to voting on the borrowing. OAG July 12, 1945 (928-a-8).

For the purpose of improving its roads, a town cannot borrow from the state board of investment in excess of five per cent of its assessed valuation. OAG July 12, 1945 (928-a-9).

School board may not issue bonds to pay expense of constructing a drain for basement of building but may establish the drain out of available funds. OAG Aug. 3, 1945 (622-A-19).

There is no authority under section 475.14 permitting a town to borrow for the purpose of purchasing road and bridge equipment. OAG Aug. 21, 1945 (928-a-9).

A town has no authority to borrow from the state board of investment for purchase of a motor patrol. OAG Feb. 21, 1946 (928-A-9).

In addition to powers conferred by section 475.14, town under L. 1905, c. 64, may issue bonds for building roads. OAG March 8, 1946 (43-B-4).

No authority exists under which the village council may purchase land for speculative purpose. Only land needed, or ultimately to be needed, may be purchased. OAG June 7, 1946 (469-A-12).

School board has no power to raise money by a bond issue for the patriotic purpose of purchasing government bonds; but if a bond issue is sold, and market conditions delay the building proposed, the money may be temporarily invested in government bonds, or at least the officials cannot be held responsible in case of loss. OAG July 11, 1946 (159-A-13).

Public funds may not be spent to build a baseball park. OAG Oct. 8, 1946 (36-c-9).

Where a city charter contains no provision authorizing a bond issue to pay cost of garbage disposal plant and acquisition of grounds for a site, such authority can only be obtained by the proper charter amendment. OAG Dec. 24, 1946 (59-B-4).

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A village is not authorized to issue full faith and credit bonds for the purpose of buying liquor stock. OAG Dec. 23, 1946 (218-R).

The revenue certificates under consideration were authorized by resolution adopted by unanimous vote of all members of the city council. The certificates pertain to acquisition of property for public uses. The charter provides property may be so acquired by resolution. The electors had 30 days in which to request the submission of the matter to the voters. If there had been any opposition to the issuance of the revenue certificates or the procedure in connection therewith, ample opportunity was afforded prior to the sale of the certificates for the electors to manifest such opposition. In my opinion, all applicable charter provisions and legal requirements were substantially complied with in the issuing of the revenue certificates, and there is no valid reason for holding that they were not legally issued. OAG Jan. 25, 1947 (29a-19).

Bonds of a town may not be issued for the purpose of raising money to grade and gravel established roads. But see, L. 1947, c. 296. OAG April 15, 1947 (43-B-4).

The village of Edina qualifies under the provisions of L. 1941, c. 94, and where revenue bonds are to be issued for water supply system by the village, no vote of the people is necessary. OAG June 5, 1947 (44-B-17).

475.15 SALE OF BONDS.

The contract imposed on the plaintiff the duty to take the bonds not later than January 1, 1921, and the damage resulting from his failure to take them equaled or exceeded the amount of the certified check deposited to insure performance. *Gates v First National Bank*, 152 M 284, 188 NW 571.

The call for bids, requiring the bidder to be ready to take and pay for the bonds forthwith, did not deter bidders or prevent competition. *State ex rel v Trask*, 155 M 213, 193 NW 121.

Before investing its own unused moneys in bond issues of some other department, it must nevertheless advertise for bids. OAG Oct. 3, 1946 (59-A-22).

This section requires two weeks' published notice before sale of bonds by municipal corporation except in the cases therein specified. OAG May 2, 1947 (707-A-10).

In the sale of town bonds the responsibility of determining which is the most favorable bid rests upon the town board. OAG July 15, 1947 (707-a-14).

475.17 CERTAIN MUNICIPALITIES TO SELL EVIDENCES OF PUBLIC INDEBTEDNESS BY POPULAR SUBSCRIPTIONS.

Subject to the debt limitation provisions of section 475.23, a city may, without a vote of the electors, sell by popular subscription bonds to finance construction of extensions to water mains, sewers, and certain street improvements. OAG June 8, 1946 (624-D-1).

475.18 DELIVERY; PROCEEDS.

One who purchases obligations of a municipality is presumed to have notice of the law authorizing the obligation issue. *Judd v City of St. Cloud*, 198 M 590, 272 NW 577.

Owners of sinking fund fractional certificates issued by sinking fund committee of St. Paul are entitled, in virtue of sections 219 to 223 of the city charter, to interest on certificates at rate fixed by said committee, but not to gain on income from securities held by the committee against such certificates. *Weiss v City of St. Paul*, 211 M 170, 300 NW 795.

475.22 LIMITATION OF TAX LEVIES; STATEMENT.

To be included in the term "floating indebtedness," warrants must have been lawfully issued, and such being the case may include outstanding town warrants

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drawn on the road and bridge fund, duly presented and unpaid. OAG March 8, 1946 (43-B-4).

475.23 AMOUNT OF LIMITATION ON NET INDEBTEDNESS; SPECIAL EXISTING LIMITATIONS NOT INCREASED; ELECTIONS, WHERE REQUIRED.

Amended by L. 1947 c. 296 s. 5.

The trial court properly restrained the city of St. Paul and its officers from adopting and making effective a budget and the appropriations thereunder for year 1931. The total cost of government, including schools, as limited by section 201 of the charter, covers the entire cost of operating and maintaining the public schools of the city, including state and federal aids. In fixing the amount to be raised, in August and September 1930, to be expended during 1931, the population basis to be used is the federal census, announced in July, 1930. *Sommers v City of St. Paul*, 183 M 545, 237 NW 427.

Power to acquire property by purchase, condemnation, or otherwise includes the power to acquire it by lease, and a lease made pursuant to such power may be subsequently canceled, rescinded, modified, or amended. Members of the city council may exercise functions of their office including the last day. Unaccrued rent is not a "debt" or "present obligation" within the meaning of the charter provision as to a limit on net indebtedness. *Ambrozich v City of Eveleth*, 200 M 473, 274 NW 635.

A village may drill a public well and thereafter apply to the state board of investment for the money to pay for it. OAG July 12, 1945 (928-A-8).

A town may lay out and open town roads, but if the money is to be borrowed from the state board of investment, (1) the amount of the entire indebtedness of the town must not exceed 15 per cent of the assessed valuation of the taxable property of the town; nor (2) can the amount of the bond issue make a net debt as defined by section 475.03 exceed 10 per cent of the assessed valuation of the taxable property. OAG July 13, 1945 (928-A-9).

This section now controls the extent of the limitation on the indebtedness of towns. OAG Oct. 15, 1945 (43-B-4).

When a village has reached the limit of the amount of its authorized bonded indebtedness, it must not issue certificates of indebtedness. OAG Feb. 28, 1946 (476-A-3).

Subject to debt limit requirements, a town may issue bonds for the purpose of maintaining a telephone system. OAG May 17, 1946 (43-B-5).

Subject to debt limitation, a city, under provisions of section 475.17, may without a vote of the electors sell evidences of indebtedness to finance extension of water mains, and sewer and street improvements. OAG June 8, 1946 (624-D-11).

Issuances of bonds under section 163.04 and 475.23 is not authorized where the road improvement is not permanent, and does not constitute laying out a new road. OAG Sept. 16, 1946 (43-B-4).

L. 1905, c. 11, and L. 1905, c. 64, as amended by L. 1907, c. 63, have not been repealed and are still in effect except as the same are inconsistent with Minnesota Statutes 1945, sections 475.23 to 475.32. Towns may have, according to their objectives, a choice in proceeding under the 1905 acts, or under section 163.04. OAG Sept. 16, 1946 (43-B-4).

School districts may not incur obligations beyond statutory limitations. The statute cannot be repealed by election. OAG Dec. 17, 1946 (519-m).

The net debt limit of villages is ten per cent as provided in section 475.23. OAG April 1, 1947 (707-a-15).

475.24 OBLIGATIONS; MATURITY.

Limitation of actions on municipal warrants. 12 MLR 762.

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475.25 OBLIGATIONS; ELECTIONS TO DETERMINE ISSUE.

Instances where the municipality had legal authority to issue bonds without submitting the question to voters: *Pike v City of Marshall*, 146 M 413, 178 NW 1006; *Roe v City of Duluth*, 153 M 68, 189 NW 429; *Bergman v Village of Golden Valley*, 201 M 28, 275 NW 297; *Struble v Nelson*, 217 M 610, 15 NW(2d) 101.

Where the voters were not misled, insertion in notice by inadvertence that bonds were to be issued to the state did not vitiate election authorizing sale of bonds to lowest interest bidder. *Wester v Village of Albany*, 210 M 553, 299 NW 214.

The legislature has provided an exclusive remedy for contesting the validity of "elections" called and conducted in an illegal manner; and a prayer for equitable relief premised solely upon the alleged invalidity of an "election" was properly denied. *Repsold v Independent School District*, 205 M 316, 285 NW 827.

There must be a vote of the electors to authorize the issuance of bonds for the laying of general water mains, or the construction of a sewage disposal plant. OAG Feb. 28, 1946 (476-A-3).

Whether in a new or an old county seat the question of issuance of bonds for erection of a new court house must be submitted to popular vote; but L. 1921, c. 117, relating to emergency cases has never been repealed. OAG April 12, 1946 (125-A-19) (137-B-1).

In the city of Waseca an issue of library bonds requires an affirmative vote of a majority of those voting at the general election. The charter provision, rather than the state law, applies. OAG March 28, 1947 (36-c-3).

Municipal bond procedure. 20 MLR 585.

Special fund doctrine. 23 MLR 392.

475.26 TAX LEVY FOR PAYMENT OF OBLIGATIONS; SINKING FUNDS.

Before issuing bonds, the town board must make an anticipatory tax levy. OAG March 8, 1946 (43-B-4).

475.30 SINKING FUNDS; INVESTMENT OF SURPLUS.

The city of Granite Falls, after advertising for bids as required by section 475.15, may invest its public utility reserve fund, or its permanent improvement revolving funds in its own newly issued bonds. OAG Oct. 3, 1946 (59-a-22).

An independent school district in the village of Spring Valley floated a bond issue for building purposes, but due to prevailing conditions cannot now build. The village of Spring Valley desires to borrow \$50,000 of the money the school board has on hand and issue its warrant therefor. This cannot be done. The village can borrow only by issuance of bonds or certificates as provided in chapter 475, and school boards may invest surplus funds only as provided in section 475.30. OAG Dec. 3, 1946 (476-A-10).

There is no statutory authority authorizing towns to borrow money from a bank by the issuance of town orders, but the town board may issue current town orders for the amount of funds on hand together with the amount which will accrue from taxes levied, and these warrants so issued are purchasable from those to whom they are issued. OAG April 2, 1947 (442-B-6).

475.331 RELIEF BONDS; DEFINITIONS.

HISTORY. 1947 c. 174 s. 1.

475.332 BORROWING; PLEDGE OF CREDIT; LIMIT OF DEBT NOT INCREASED.

HISTORY. 1947 c. 174 s. 2.

475.333 PROCEDURE.

HISTORY. 1947 c. 174 s. 3.

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475.334 USE LIMITED TO RELIEF.

HISTORY. 1947 c. 174 s. 4.

475.335 ISSUANCE AND SALE.

HISTORY. 1947 c. 174 s. 5.

475.336 CERTAIN LAWS SUSPENDED.

HISTORY. 1947 c. 174 s. 6.

475.337 BONDS HERETOFORE ISSUED LEGALIZED.

HISTORY. 1947 c. 174 s. 7.

475.338 EFFECTIVE UNTIL DECEMBER 31, 1948.

HISTORY. 1947 c. 174 s. 8.