

## CHAPTER 475

### PUBLIC INDEBTEDNESS

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#### 475.51 DEFINITIONS.

*[For text of subs 1 to 3, see M.S.1994]*

**Subd. 4. Net debt.** "Net debt" means the amount remaining after deducting from its gross debt the amount of current revenues which are applicable within the current fiscal year to the payment of any debt and the aggregate of the principal of the following:

(1) Obligations issued for improvements which are payable wholly or partly from the proceeds of special assessments levied upon property specially benefited thereby, including those which are general obligations of the municipality issuing them, if the municipality is entitled to reimbursement in whole or in part from the proceeds of the special assessments.

(2) Warrants or orders having no definite or fixed maturity.

(3) Obligations payable wholly from the income from revenue producing conveniences.

(4) Obligations issued to create or maintain a permanent improvement revolving fund.

(5) Obligations issued for the acquisition, and betterment of public waterworks systems, and public lighting, heating or power systems, and of any combination thereof or for any other public convenience from which a revenue is or may be derived.

(6) Debt service loans and capital loans made to a school district under the provisions of sections 124.42 and 124.431.

(7) Amount of all money and the face value of all securities held as a debt service fund for the extinguishment of obligations other than those deductible under this subdivision.

(8) Obligations to repay loans made under section 216C.37.

(9) Obligations to repay loans made from money received from litigation or settlement of alleged violations of federal petroleum pricing regulations.

(10) Obligations issued to pay pension fund liabilities under section 475.52, subdivision 6, or any charter authority.

(11) All other obligations which under the provisions of law authorizing their issuance are not to be included in computing the net debt of the municipality.

*[For text of subs 5 to 14, see M.S.1994]*

**History:** 1995 c 256 s 24

#### 475.52 BOND ISSUES; PURPOSES.

*[For text of subs 1 to 5, see M.S.1994]*

**Subd. 6. Certain purposes.** Any municipality may issue bonds for paying judgments against it; for refunding outstanding bonds; for funding floating indebtedness; or for funding all or part of the municipality's current and future unfunded liability for a pension or retirement fund or plan referred to in section 356.20, subdivision 2, as those liabilities are most recently computed pursuant to sections 356.215 and 356.216. The board of trustees or directors of a pension fund or relief association referred to in section 69.77 or chapter 422A must consent and must be a party to any contract made under this section with respect to the fund held by it for the benefit of and in trust for its members.

**History:** 1995 c 256 s 25

**475.53 LIMIT ON NET DEBT.**

*[For text of subs 1 to 5, see M.S.1994]*

**Subd. 6. Portion of expenditure for technical college.** Only that proportion of the principal amount of obligations issued by a school district or districts for the acquisition or betterment of a technical college equal to the percentage of the total principal amount of the obligations which is or would be currently borne by the district, shall be included in calculating the district's net debt. The commissioner of children, families, and learning shall certify to each district upon request the current percentage of the total principal amount of the obligations which is or would be borne by the district, which certification shall be conclusive in favor of the holders of the obligations as against the district.

*[For text of subs 7 and 8, see M.S.1994]*

**History:** 1Sp1995 c 3 art 16 s 13

**475.58 OBLIGATIONS; ELECTIONS TO DETERMINE ISSUE.**

**Subdivision 1. Approval by majority of electors; exceptions.** Obligations authorized by law or charter may be issued by any municipality upon obtaining the approval of a majority of the electors voting on the question of issuing the obligations, but an election shall not be required to authorize obligations issued:

- (1) to pay any unpaid judgment against the municipality;
- (2) for refunding obligations;
- (3) for an improvement or improvement program, which obligation is payable wholly or partly from the proceeds of special assessments levied upon property specially benefited by the improvement or by an improvement within the improvement program, or of taxes levied upon the increased value of property within a district for the development of which the improvement is undertaken, including obligations which are the general obligations of the municipality, if the municipality is entitled to reimbursement in whole or in part from the proceeds of such special assessments or taxes and not less than 20 percent of the cost of the improvement or the improvement program is to be assessed against benefited property or is to be paid from the proceeds of federal grant funds or a combination thereof, or is estimated to be received from such taxes within the district;
- (4) payable wholly from the income of revenue producing conveniences;
- (5) under the provisions of a home rule charter which permits the issuance of obligations of the municipality without election;
- (6) under the provisions of a law which permits the issuance of obligations of a municipality without an election;
- (7) to fund pension or retirement fund liabilities pursuant to section 475.52, subdivision 6;
- (8) under a capital improvement plan under section 373.40; and
- (9) to fund facilities as provided in subdivision 3.

*[For text of subs 1a and 2, see M.S.1994]*

**Subd. 3. Youth ice facilities.** (a) A municipality may, without regard to the election requirement under subdivision 1 or under any other provision of law or a home rule charter, issue and sell obligations to finance acquisition, improvement, or construction of an indoor ice arena intended to be used predominantly for youth athletic activities if all the following conditions are met:

- (1) the obligations are secured by a pledge of revenues from the facility;
- (2) the facility and its financing are approved by resolutions of at least two of the following governing bodies of (i) the city in which the facility is located, (ii) the school district in which the facility is located, or (iii) the county in which the facility is located;
- (3) the governing body of the municipality finds, based on analysis provided by a professional experienced in finance, that the facility's revenues and other available money will be sufficient to pay the obligations, without reliance on a property tax levy or the municipality's general purpose state aid; and

(4) no petition for an election has been timely filed under paragraph (b).

(b) At least 30 days before issuing obligations under this subdivision, the municipality must hold a public hearing on the issue. The municipality must publish or provide notice of the hearing in the same manner provided for its regular meetings. The obligations are not exempt from the election requirement under this subdivision, if:

(1) registered voters equal to ten percent of the votes cast in the last general election in the municipality sign a petition requesting a vote on the issue; and

(2) the petition is filed with the municipality within 20 days after the public hearing.

(c) This subdivision expires December 31, 1997.

**History:** 1995 c 256 s 26,27

#### 475.60 SALE OF BONDS.

*[For text of subs 1 to 7, see M.S.1994]*

**Subd. 8. Continuing disclosure agreements.** Any officer of a municipality charged with the responsibility of issuing bonds for or on behalf of the municipality is authorized to enter into written agreements or contracts relating to the continuing disclosure of information necessary to comply with, or facilitate the issuance of bonds in accordance with, federal securities laws, rules and regulations, including securities and exchange commission rules and regulations, section 240.15c2-12. An agreement may comprise covenants with purchasers and holders of bonds set forth in the resolution authorizing the issuance of the bonds, or a separate document authorized by resolution.

**History:** 1995 c 256 s 28

#### 475.61 TAX LEVIES.

**Subdivision 1. Debt service resolution.** The governing body of any municipality issuing general obligations shall, prior to delivery of the obligations, levy by resolution a direct general ad valorem tax upon all taxable property in the municipality to be spread upon the tax rolls for each year of the term of the obligations. The tax levies for all years for municipalities other than school districts shall be specified and such that if collected in full they, together with estimated collections of special assessments and other revenues pledged for the payment of said obligations, will produce at least five percent in excess of the amount needed to meet when due the principal and interest payments on the obligations. The tax levies for school districts shall be specified and such that if collected in full they, together with estimated collection of other revenues pledged for the payment of the obligations, will produce between five and six percent in excess of the amount needed to meet when due the principal and interest payments on the obligations; except that, with the permission of the commissioner of children, families, and learning, a school board may specify a tax levy in a higher amount if necessary either to meet an anticipated tax delinquency or for cash flow needs to meet the required payments from the debt redemption fund. Such resolution shall irrevocably appropriate the taxes so levied and any special assessments or other revenues so pledged to the municipality's debt service fund or a special debt service fund or account created for the payment of one or more issues of obligations. The governing body may, in its discretion, at any time after the obligations have been authorized, adopt a resolution levying only a portion of such taxes, to be filed, assessed, extended, collected, and remitted as hereinafter provided, and the amount or amounts therein levied shall be credited against the tax required to be levied prior to delivery of the obligations.

*[For text of subs 2 to 5, see M.S.1994]*

**Subd. 6. Other temporary obligations.** When all conditions exist precedent to the offering for sale of obligations of any municipality in any amount for any purpose authorized by law, the governing body may issue and sell temporary obligations not exceeding the total amount authorized, maturing in not more than three years from the date the obligations are issued, in anticipation of the issuance of the permanent obligations. To the extent that the principal of and interest on the temporary obligations cannot be paid when due from other sources pledged or appropriated for the purpose, they shall be paid from the proceeds of per-

manent bonds or additional temporary bonds which the governing body shall offer for sale in advance of their maturity but the indebtedness funded by an issue of temporary bonds shall not be extended by the issue of additional temporary bonds for more than six years from the date of the first issue. The holders of any temporary bonds shall have and may enforce, by mandamus or other appropriate proceedings, all rights respecting the levy and collection of taxes that are granted by law to holders of permanent bonds, except the right to require the levies to be collected prior to the maturity of the temporary bonds. If any temporary bonds are not paid in full at maturity, the holders may require the issuance in exchange for them, at par, of new temporary bonds maturing within one year from their date of issue but not subject to any other maturity limitation, and bearing interest at the maximum rate permitted by law. The governing body may by resolution adopted prior to the sale of any temporary bonds pledge the full faith, credit, and taxing power of the municipality for the payment of the principal and interest, in addition to all provisions made for their security in the authorizing resolution. If it does so, the bonds will be designated as general obligation temporary bonds, and the governing body shall levy taxes for their payment in accordance with this section. Proceeds of permanent bonds or temporary bonds not yet sold may be treated as pledged revenues, in reduction of the tax otherwise required by this section to be levied prior to delivery of the obligations. Funds of a municipality may be invested in its temporary bonds in accordance with section 471.56, and may be purchased upon their initial issue, but shall be purchased only from funds which the municipality determines will not be required for other purposes before the maturity date, and shall be resold before maturity only in the case of an emergency.

**History:** 1995 c 256 s 29; 1Sp1995 c 3 art 16 s 13

#### **475.62 REGISTER.**

Each county auditor shall keep a register in which shall be entered, as to each issue of such obligations by any municipality located, in whole or in part, in the county, a record of the aggregate amount authorized, the aggregate amount issued, the purpose for which issued, the number, denomination, date, and maturity of each, the rate of interest, the time of payment, the place of payment of principal and interest, and the amount of tax levied for the payment thereof. The auditor shall also enter in said register the date and amount of each debt service loan and capital loan made by the state to any school district situated wholly or partly within the county, in accordance with section 124.42, subdivision 2, or 124.431, subdivision 13, and shall enter on or before November 1 in each year thereafter the amount of the maximum effort debt service levy and the additional amount of the levy for interest on state loans to be extended on the tax rolls in that year, as certified by the commissioner of children, families, and learning in accordance with sections 124.42, subdivision 4, and 124.431, subdivision 11. In each such year the auditor shall extend on the tax rolls against all taxable property within each such district either (a) the aggregate amount of all tax levies required by section 475.61 to be so extended in such year, less the principal amount of any new debt service loan granted in the current year, or (b) the maximum effort debt service levy of the district as certified by the commissioner of children, families, and learning, if greater than the levy required by the preceding clause (a); adding in either case (c) the amount of the levy for interest on state loans as certified by the commissioner of children, families, and learning, including interest on any new debt service loan granted in the current year. If the school district is situated in more than one county, the aggregate levy shall be apportioned among the counties as provided in section 475.61, subdivision 2, by the county auditor of the county in which is situated the largest portion by net tax capacity of the taxable property within the school district.

**History:** 1Sp1995 c 3 art 16 s 13

#### **475.63 CERTIFICATE AS TO REGISTRATION.**

Before any obligations payable in whole or in part from taxes shall be delivered to the purchaser, the municipality shall obtain and deliver to the purchaser a certificate of the county auditor that the issue has been entered on the register. If a tax levy is required by law, such certificate shall also recite that such tax has been levied as required by law.

**History:** 1995 c 256 s 30

**475.66 DEBT SERVICE FUND.**

*[For text of subs 1 and 2, see M.S.1994]*

Subd. 3. Subject to the provisions of any resolutions or other instruments securing obligations payable from a debt service fund, any balance in the fund may be invested

(a) in governmental bonds, notes, bills, mortgages, and other securities, which are direct obligations or are guaranteed or insured issues of the United States, its agencies, its instrumentalities, or organizations created by an act of Congress, excluding mortgage-backed securities that are defined as high risk pursuant to subdivision 5, or in certificates of deposit secured by letters of credit issued by federal home loan banks,

(b) in shares of an investment company (1) registered under the Federal Investment Company Act of 1940, whose shares are registered under the Federal Securities Act of 1933, and (2) whose only investments are in (i) securities described in the preceding clause, (ii) general obligation tax-exempt securities rated A or better by a national bond rating service, and (iii) repurchase agreements or reverse repurchase agreements fully collateralized by those securities, if the repurchase agreements or reverse repurchase agreements are entered into only with those primary reporting dealers that report to the Federal Reserve Bank of New York and with the 100 largest United States commercial banks,

(c) in any security which is (1) a general obligation of the state of Minnesota or any of its municipalities, or (2) a general obligation of another state or local government with taxing powers which is rated A or better by a national bond rating service, or (3) a general obligation of the Minnesota housing finance agency, or (4) a general obligation of a housing finance agency of any state if it includes a moral obligation of the state, or (5) a general or revenue obligation of any agency or authority of the state of Minnesota other than a general obligation of the Minnesota housing finance agency. Investments under clauses (3) and (4) must be in obligations that are rated A or better by a national bond rating service and investments under clause (5) must be in obligations that are rated AA or better by a national bond rating service,

(d) in bankers acceptances of United States banks eligible for purchase by the Federal Reserve System,

(e) in commercial paper issued by United States corporations or their Canadian subsidiaries that is of the highest quality and matures in 270 days or less, or

(f) in guaranteed investment contracts issued or guaranteed by United States commercial banks or domestic branches of foreign banks or United States insurance companies or their Canadian or United States subsidiaries; provided that the investment contracts rank on a parity with the senior unsecured debt obligations of the issuer or guarantor and, (1) in the case of long-term investment contracts, either (i) the long-term senior unsecured debt of the issuer or guarantor is rated, or obligations backed by letters of credit of the issuer or guarantor if forming the primary basis of a rating of such obligations would be rated, in the highest or next highest rating category of Standard & Poor's Corporation, Moody's Investors Service, Inc., or a similar nationally recognized rating agency, or (ii) if the issuer is a bank with headquarters in Minnesota, the long-term senior unsecured debt of the issuer is rated, or obligations backed by letters of credit of the issuer if forming the primary basis of a rating of such obligations would be rated in one of the three highest rating categories of Standard & Poor's Corporation, Moody's Investors Service, Inc., or similar nationally recognized rating agency, or (2) in the case of short-term investment contracts, the short-term unsecured debt of the issuer or guarantor is rated, or obligations backed by letters of credit of the issuer or guarantor if forming the primary basis of a rating of such obligations would be rated, in the highest two rating categories of Standard and Poor's Corporation, Moody's Investors Service, Inc., or similar nationally recognized rating agency.

The fund may also be used to purchase any obligation, whether general or special, of an issue which is payable from the fund, at such price, which may include a premium, as shall be agreed to by the holder, or may be used to redeem any obligation of such an issue prior to maturity in accordance with its terms. The securities representing any such investment may be sold or hypothecated by the municipality at any time, but the money so received remains a part of the fund until used for the purpose for which the fund was created.

*[For text of subs 4 to 6, see M.S.1994]*

**History:** 1995 c 122 s 3

#### **475.79 POWERS AVAILABLE TO OTHER POLITICAL SUBDIVISIONS.**

Any powers granted to a municipality under this chapter, other than the power to issue general obligation bonds and levy taxes, may be exercised by any other governmental unit. This grant of authority does not limit the powers granted to an entity under any other law. In connection with the issuance of bonds authorized to be issued by any law or charter provision other than this chapter, a governmental unit determining to exercise any power under any of sections 475.54, 475.55, 475.553, 475.56, 475.561, 475.60, 475.61, 475.65, 475.66, 475.67, 475.69, 475.70, and 475.78 may do so notwithstanding any contrary provision in the authorizing law or charter unless the authorizing law or charter provides that this chapter or the specific section does not apply. This section is, in part, remedial in nature. Obligations issued prior to June 2, 1995, are not invalid or unenforceable for providing terms, consequences, or remedies that are authorized by this section and chapter 475.

**History:** 1995 c 256 s 31