

## CHAPTER 475

## DEBT OF DEFINED MUNICIPALITIES

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475.01 [Repealed, 1949 c 682 s 26]

475.02 [Repealed, 1949 c 682 s 26]

475.03 [Renumbered 475.51]

475.04 [Superseded by 475.03]

475.05 [Repealed, 1947 c 296 s 6]

475.06 [Repealed, 1947 c 296 s 6]

475.07 [Renumbered 475.55]

475.08 [Superseded by 475.31]

475.09 [Repealed, 1947 c 296 s 6]

475.091 [Repealed, 1947 c 296 s 6]

475.10 [Repealed, 1947 c 296 s 6]

475.11 [Renumbered 475.56]

475.12 [Renumbered 475.71]

475.13 [Superseded]

475.14 [Renumbered 475.52]

475.15 [Repealed, 1949 c 682 s 26]

475.16 [Repealed, 1949 c 682 s 26]

475.17 [Repealed, 1949 c 682 s 26]

475.18 [Renumbered 475.65]

475.19 [Renumbered 475.69]

475.20 [Renumbered 475.70]

475.21 [Renumbered 475.64]

- 475.22 [Renumbered 471.69]  
475.23 [Renumbered 475.53]  
475.24 [Renumbered 475.54]  
475.25 [Renumbered 475.58]  
475.26 [Repealed, 1949 c 682 s 26]  
475.27 [Renumbered 475.62]  
475.28 [Renumbered 475.63]  
475.29 [Repealed, 1949 c 682 s 26]  
475.30 [Renumbered 475.66]  
475.31 [Repealed, 1949 c 682 s 26]  
475.32 [Renumbered 475.72]  
475.33 [Renumbered 471.70]  
475.34 [Renumbered 475.67]  
475.35 [Repealed, 1949 c 682 s 26]  
475.36 [Superseded]  
475.37 [Superseded]  
475.38 [Superseded]  
475.39 [Repealed, 1949 c 682 s 26]  
475.40 [Repealed, 1949 c 682 s 26]  
475.41 [Renumbered 475.68]  
475.42 [Repealed, 1949 c 682 s 26]  
475.43 [Repealed, 1949 c 682 s 26]

#### 475.51 DEFINITIONS.

Subdivision 1. **Terms.** For the purposes of this chapter, the terms defined in this section shall have the meanings given them.

Subd. 2. **Municipality.** "Municipality" means a city of any class, county, town, or school district.

Subd. 3. **Obligation.** "Obligation" means any promise to pay a stated amount of money at a fixed future date or upon demand of the obligee, regardless of the source of funds to be used for its payment, made for the purpose of incurring debt, including the purchase of property through an installment purchase contract or any other deferred payment agreement, for which funds are not appropriated in the current year's budget.

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 126C.68 and 126C.69.

(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.

**Subd. 5. Net tax capacity.** "Net tax capacity" means the latest valuation for purposes of taxation, as finally equalized, of all property taxable within the municipality.

**Subd. 6. Debt service fund.** "Debt service fund" means any money and investments in the treasury of a municipality appropriated to pay the principal, interest, or premiums for the redemption of any of its obligations. "Sinking fund" means debt service fund. A separate balance sheet need not be maintained for any debt service fund, and the fund need not be segregated from other funds of the municipality in a separate bank deposit account or in a separate investment fund or account, unless so provided in a resolution or other instrument securing obligations payable from the debt service fund; but a separate bookkeeping account or accounts shall be maintained in the official financial records of the municipality reflecting all receipts and disbursements of money and investments of principal and income appropriated for the purposes of each debt service fund.

**Subd. 7. Acquisition.** "Acquisition" includes purchase, condemnation, construction, and acquisition of necessary land, easements, buildings, structures, machinery or equipment.

**Subd. 8. Betterment.** "Betterment" includes reconstruction, extension, improvement, repair, remodeling, lighting, equipping, and furnishing.

**Subd. 9. Governing body.** "Governing body" means the board, council, commission, or other body of the municipality charged with the general control of its financial affairs; provided, that where any charter or law confers bond issuing power on a particular board or body of a municipality, such board or body is the governing body under the provisions of sections 475.51 to 475.74.

**Subd. 10. General obligations.** "General obligations" means any obligations which pledge the full faith and credit of the municipality to their payment.

**Subd. 11. Reporting dealer to the Federal Reserve Bank of New York.** "Reporting dealer to the Federal Reserve Bank of New York" means a securities broker-dealer licensed pursuant to chapter 80A, or an affiliate thereof, which makes primary markets in United States government securities and reports daily to the federal reserve bank of New York its position with respect to such securities held by it and amounts borrowed thereon.

Subd. 12. **Reverse repurchase agreement.** "Reverse repurchase agreement" means an obligation incurred by a municipality to repurchase at a fixed future date and price a security sold by it to a financial institution on the date of the agreement, or another security identical as to the issuer, source of payment, principal amount, interest rate, maturity, and redemption provisions. The principal amount of the obligation is the sale price of the security, excluding any accrued interest thereon paid to the municipality. The interest payable by the municipality on the obligation is the difference between the sale price and the repurchase price of the security, excluding any accrued interest thereon received by the financial institution.

Subd. 13. **Other governmental unit.** "Other governmental unit" means any public corporation, authority, governmental unit, or other political subdivision of the state of Minnesota that is not a municipality.

Subd. 14. **Bond reinvestment program.** "Bond reinvestment program" means a program under which a municipality, either directly or through an agent employed for the purpose, offers and sells its obligations to the holders of other obligations of the municipality. These offers and sales are directed at the reinvestment in new obligations of funds derived from maturing principal and interest and may also include offers and sales of additional newly issued obligations in addition to the reinvestment of principal and interest paid or to be paid on outstanding obligations and provision for the temporary investment of funds received for the purchase of new obligations in tax-exempt securities pending the issuance of the new obligations.

**History:** (1936) RL s 778; 1943 c 656 s 30 subd 3; 1947 c 296 s 2; 1949 c 682 s 1; 1951 c 422 s 1; 1961 c 752 s 8; 1971 c 903 s 1; 1973 c 123 art 5 s 7; 1974 c 380 s 1; 1976 c 324 s 1,2,26; 1977 c 259 s 1; 1978 c 674 s 41; 1987 c 289 s 4; 1987 c 312 art 1 s 10; 1987 c 344 s 17; 1988 c 719 art 5 s 84; 1989 c 329 art 13 s 20; 1989 c 355 s 15,16; 1990 c 562 art 11 s 6; 1995 c 256 s 24; 1996 c 399 art 2 s 11; 1997 c 7 art 1 s 158; 1998 c 397 art 11 s 3

#### 475.52 BOND ISSUES; PURPOSES.

Subdivision 1. **Statutory cities.** Any statutory city may issue bonds or other obligations for the acquisition or betterment of public buildings, means of garbage disposal, hospitals, nursing homes, homes for the aged, schools, libraries, museums, art galleries, parks, playgrounds, stadia, sewers, sewage disposal plants, subways, streets, sidewalks, warning systems; for any utility or other public convenience from which a revenue is or may be derived; for a permanent improvement revolving fund; for changing, controlling or bridging streams and other waterways; for the acquisition and betterment of bridges and roads within two miles of the corporate limits for the acquisition of development rights in the form of conservation easements under chapter 84C; and for acquisition of equipment for snow removal, street construction and maintenance, or fire fighting. Without limitation by the foregoing the city may issue bonds to provide money for any authorized corporate purpose except current expenses.

Subd. 2. **Home rule charter cities.** Any city governed by a home rule charter may issue bonds for any purpose enumerated in subdivision 1 unless forbidden by its charter, except that any such city may issue bonds for the acquisition of ambulances and related equipment notwithstanding the provisions of its charter; and for other purposes as authorized by its charter.

Subd. 3. **Counties.** Any county may issue bonds for the acquisition or betterment of courthouses, county administrative buildings, health or social service facilities, correctional facilities, law enforcement centers, jails, morgues, libraries, parks, and hospitals, for roads and bridges within the county or bordering thereon and for road equipment and machinery and for ambulances and related equipment for the acquisition of development rights in the form of conservation easements under chapter 84C, and for capital equipment for the administration and conduct of elections providing the equipment is uniform countywide, except that the power of counties to issue bonds in connection with a library shall not exist in Hennepin county.

Subd. 4. **Towns.** Any town may issue bonds for the acquisition and betterment of town halls, town roads and bridges, nursing homes and homes for the aged, and for

acquisition of equipment for snow removal, road construction or maintenance, and fire fighting for the acquisition of development rights in the form of conservation easements under chapter 84C and for the acquisition and betterment of any buildings to house and maintain town equipment.

Subd. 5. **School districts.** For capital improvements any school district may issue bonds for the acquisition or betterment of school facilities, including gymnasiums, athletic fields, stadia, teacherages, school garages, school buses, and all other facilities for administration, academic instruction, and physical and vocational education.

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:** (1942) *RL s 784; 1907 c 297 s 1; 1909 c 261 s 1; 1921 c 209 s 2; 1939 c 223 s 1; 1945 c 126 s 1; 1947 c 296 s 4; 1949 c 682 s 2; 1959 c 42 s 2,3; 1961 c 51 s 1; 1967 c 583 s 4; 1969 c 333 s 5,6; 1973 c 123 art 5 s 7; 1974 c 69 s 1; 1976 c 324 s 3; 1978 c 743 s 17; 1985 c 109 s 15; 1Sp1985 c 14 art 8 s 49; 1986 c 314 s 2; 1988 c 519 s 3; 1995 c 256 s 25; 1999 c 243 art 5 s 39-41.*

#### 475.525 MUNICIPAL DISTRICT HEATING BONDS.

Subdivision 1. **General obligation bonds.** A municipality may, by resolution, authorize, issue and sell general obligation bonds or obligations to finance any expenditure by the municipality for the acquisition, construction, expansion, modification or operation of a district heating system and for the purpose of loaning the proceeds of the bonds or obligations to any person, firm or public or private corporation to acquire, construct, expand or modify a district heating system. Except with regard to the net debt limit as provided in section 465.74, subdivision 4, the general obligation bonds or obligations authorized by this subdivision shall be authorized, issued and sold in the same manner and subject only to the same conditions as those provided in chapter 475: When revenues from the operation of a district heating system are pledged to the repayment of the bonds or obligations, the estimated collections of said revenues so pledged may be deducted from the taxes otherwise required to be levied before the issuance of the bonds or obligations under section 475.61, subdivision 1, or the collections thereof may be certified annually to reduce or cancel the initial tax levies in accordance with section 475.61, subdivision 1 or 3.

Subd. 2. **Revenue bonds.** Notwithstanding any other law, general or special, or the provisions of any home rule charter to the contrary, a municipality may, by resolution, authorize, issue and sell revenue bonds or obligations payable solely from all or a portion of revenues derived from a district heating system located wholly or partially within a municipality to finance the acquisition, construction, expansion, modification, or operation of a district heating system and for the purpose of loaning the proceeds of the bonds or obligations to any person, firm or public or private corporation to acquire, construct, expand or modify a district heating system. The bonds or obligations shall mature as determined by resolution of the municipality and may be issued in one or more series and shall bear such date or dates, bear interest at such rate or rates, be in such denomination or denominations, be in such form either coupon or registered, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable in medium of payment at such place or places, and be subject to such terms of redemption, with or without premium, as such resolution, its trust indenture or mortgage may provide. The bonds or obligations may be sold at public or private sale at the price or prices as the municipality by resolution shall determine, and any provision of any law to the contrary notwithstanding, shall be fully negotiable. In any suit, action, or proceedings involving the validity or enforceability of

any bonds or obligations of the municipality or the security therefor, any bond or obligation reciting in substance that it has been issued by the municipality to aid in the acquisition, construction, expansion, modification or operation of a district heating system shall be conclusively deemed to have been issued for such purpose. Neither the municipality nor any council member, officer, employee or agent of the municipality nor any person executing the bonds or obligations shall be liable personally on the bonds or obligations by reason of the issuance thereof. The bonds or obligations may be further secured by a pledge and mortgage of all or any portion of the property in aid of which the bonds or obligations are issued and such covenants as the municipality shall deem by such resolution to be necessary and proper to secure payment of the bonds or obligations. The bonds or obligations, and the bonds or obligations shall so state on their face, shall not be payable from nor charged upon any funds other than the revenues and property pledged or mortgaged to the payment thereof, nor shall the issuing municipality be subject to any liability thereon or have the powers to obligate itself to pay or pay the bonds or obligations from funds other than the revenues and properties pledged and mortgaged and no holder or holders of the bonds or obligations shall ever have the right to compel any exercise of any taxing power of the issuing municipality or any other public body to pay the principal of or interest on any such bonds or obligations, nor to enforce payment thereof against any property of the municipality or other public body other than that expressly pledged or mortgaged for the payment thereof.

Subd. 3. **Redevelopment agency.** A municipality may itself, or by ordinance authorize any redevelopment agency as defined in section 469.153, subdivision 3, acting for the municipality, to exercise any and all of the powers granted to the municipality under subdivision 2 and to the redevelopment agency under any other law for the purpose of financing all or any portion of the district heating system and any conversion facilities for modifying the user's heating or water system to use the heat energy converted from the steam or hot water furnished by the district heating system including, but without limitation, the payment of interest during construction and for a reasonable time thereafter and the establishment of reserves for bond payment and for working capital, in which event if the issuer is a redevelopment agency the sources of revenue that may be pledged to the payment of revenue bonds or obligations shall include any revenues of the redevelopment agency. The proceeds of bonds or obligations issued by the municipality or redevelopment agency may be used to make or purchase loans for facilities which the issuer estimates will require such financing, and, for the purpose of making or purchasing such loans the issuer shall have power to enter into loan agreements and other related agreements, both before and after the issuance of the obligations, with such persons, firms, public or private corporations, federal or state agencies, governmental units, and under such terms and conditions as the issuer shall deem appropriate; and any governmental unit in the state shall have the power to apply, contract for, and receive the loans without limitation under any other provisions of this chapter.

**History:** 1981 c 334 s 7; 1Sp1981 c 4 art 4 s 4,5; 1987 c 291 s 239

#### 475.53 LIMIT ON NET DEBT.

Subdivision 1. **Generally.** Except as otherwise provided in sections 475.51 to 475.74, no municipality, except a school district or a city of the first class, shall incur or be subject to a net debt in excess of two percent of the market value of taxable property in the municipality.

Subd. 2. [Repealed, 1Sp1981 c 4 art 1 s 193]

Subd. 3. **Cities first class.** Unless its charter permits a greater net debt a city of the first class may not incur a net debt in excess of two percent of the market value of all taxable property therein. If the charter of the city permits a net debt of the city in excess of two percent of its valuation, it may not incur a net debt in excess of 3-2/3 percent of the market value of the taxable property therein.

The county auditor, at the time of preparing the tax list of the city, shall compile a statement setting forth the total net tax capacity and the total market value of each class of taxable property in such city for such year.

Subd. 4. **School districts.** Except as otherwise provided by law, no school district shall be subject to a net debt in excess of 15 percent of the actual market value of all taxable property situated within its corporate limits, as computed in accordance with this subdivision. The county auditor of each county containing taxable real or personal property situated within any school district shall certify to the district upon request the market value of all such property. Whenever the commissioner of revenue, in accordance with section 127A.48, subdivisions 1 to 6, has determined that the net tax capacity of any district furnished by county auditors is not based upon the market value of taxable property in the district, the commissioner of revenue shall certify to the district upon request the ratio most recently ascertained to exist between such value and the actual market value of property within the district. The actual market value of property within a district, on which its debt limit under this subdivision is based, is (a) the value certified by the county auditors, or (b) this value divided by the ratio certified by the commissioner of revenue, whichever results in a higher value.

Subd. 5. **Certain independent school districts.** No independent school district located wholly or partly within a city of the first class shall issue obligations with a term of more than two years, whenever the aggregate of the outstanding obligations of the district equals or exceeds 0.7 percent of the market value of the taxable property within the school district.

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.

Subd. 7. **Adjustment of debt limits.** If the amount of debt a municipality may incur is limited by special law or city charter to a stated percentage or proportion of assessed value, the limit must be calculated as a percentage or proportion of tax capacity. The percentage or proportion provided in the special law or charter provision must be multiplied by 8.2 to determine the applicable percentage or proportion of gross tax capacity and must be multiplied by 10.2 to determine the applicable percentage or proportion of net tax capacity.

Subd. 8. **Debt limit reservation.** A municipality may, by ordinance, reserve a portion of its unencumbered debt limit for the purpose of providing proof of financial responsibility for the contingency action portion of the response costs at a solid waste disposal facility, subject to the rules adopted by the pollution control agency under section 116.07, subdivision 4h. Reservation of a portion of a municipality's debt limit under this subdivision may not be revoked by the municipality until the expiration of the required time period for maintaining proof of financial responsibility or the municipality adopts and adequately funds, as of the date of implementation, an alternate method of financial responsibility under the rules of the agency, whichever occurs earlier. If the municipality reserves its debt limit under this subdivision, the debt limit is computed as if the municipality had issued obligations; subject to the limit, in the amount of the reservation specified in the ordinance. Notwithstanding the amount of market value in the municipality, the reserved amount of the limit is available for issuance of bonds to pay the municipality's response costs.

**History:** (1938-4) 1927 c 131 s 2; 1935 c 256; 1937 c 285 s 1; 1943 c 480 s 1; 1945 c 549 s 1; 1947 c 296 s 5; 1949 c 682 s 3; 1955 c 304 s 1; 1955 c 356 s 1; 1955 c 656 s 1; 1957 c 879 s 1; 1961 c 560 s 37; 1965 c 875 s 11; 1969 c 6 s 46; 1969 c 1056 s 10; 1971 c 480 s 1; 1973 c 582 s 3; 1974 c 380 s 2-6; 1979 c 303 art 7 s 14; 1981 c 358 art 1 s 48; 1984 c 593 s 42-44; 1987 c 258 s 12; 1987 c 268 art 7 s 54; 1988 c 719 art 5 s 65,84; 1989 c 1 s 7-9; 1989 c 246 s 2; 1989 c 277 art 2 s 65; 1989 c 329 art 15 s 20; 1990 c 604 art 10 s 21; 1994 c 614 s 16; 1Sp1995 c 3 art 16 s 13; 1997 c 7 art 1 s 159; 1998 c 397 art 11 s 3; 1Sp2001 c 5 art 2 s 26

475.533 [Repealed, 1969 c 1056 s 11]

**475.54 MATURITIES; REDEMPTION.**

Subdivision 1. **In installments; exception; annual limit.** Except as provided in subdivision 3, 5a, 15, or 17, or as expressly authorized in another law, all obligations of each issue shall mature or be subject to mandatory sinking fund redemption in installments, the first not later than three years and the last not later than 30 years from the date of the issue; or 40 years or the useful life of the asset, whichever is less, for municipal water and wastewater treatment systems and essential community facilities financed or guaranteed by the United States Department of Agriculture. No amount of principal of the issue payable in any calendar year shall exceed an amount equal to the smallest amount payable in any preceding calendar year ending three years or more after the issue date multiplied:

(1) by five, in the case of obligations maturing not later than 25 years from the date of issue; and

(2) by six, in the case of obligations maturing 25 years or later from the date of issue.

Subd. 2. **Schedule; refunding.** A serial maturity schedule conforming to subdivision 1 may be established for each new issue of obligations of a municipality, or the governing body may in its discretion adjust such schedule so that the combined maturities of the new issue and any other designated issue or issues will conform to subdivision 1, provided that all such issues are general obligations or all are payable from a common fund. Notwithstanding the provisions of any other general or special law, any school district having an outstanding state loan or loans, if it issues and sells bonds on the public market for any purpose other than refunding such loans, or refunding outstanding bonds as provided in this subdivision shall adjust the schedule of the maturities thereof so that the total amount of principal and interest to become due on these bonds and on all other bonds of the school district, during each of the 30 fiscal or calendar years next following, will be as nearly equal as practicable, provided that the annual amounts of maturing principal may be fixed at multiples of \$5,000. A school district which has an outstanding state loan or loans may refund outstanding bonds, provided that the school loan committee established in section 126C.67 approves such refunding. The committee shall approve refunding outstanding bonds only if such refunding results in lower annual debt service payments than the district made prior to the refunding.

Subd. 3. **Maturities if paid from special fund.** Obligations payable solely from a special fund, for payment of which the full faith and credit of the issuer is not pledged, may mature at any time or times within 30 years from date of issue, (40 years or the useful life of the asset, whichever is less; if for municipal water and wastewater treatment systems and essential community facilities financed or guaranteed by the United States Department of Agriculture) if the receipts pledged to the fund are estimated by the governing body to be sufficient and are irrevocably appropriated first to pay annual or semiannual interest on all obligations payable from the fund and to provide such reserve as may be agreed upon for the security of interest payments, and then to retire a specified portion of the principal in each year according to a schedule of redemption and prepayment which conforms to the requirements for the maturity schedule of other obligations in subdivision 1.

Subd. 4. **Redemption.** Any obligation may be issued reserving the right of redemption and payment thereof prior to maturity, at par and accrued interest or at such premium and at such time or times as shall be determined by the governing body. Notice of the call of any prepayable obligation shall be published in a daily or weekly periodical published in a Minnesota city of the first class, or its metropolitan area, which circulates throughout the state and furnishes financial news as a part of its service; provided that published notice of the call need not be given if the obligation is in registered form and notice has been mailed to the registered holder of the obligation. When any such obligation has been validly called for redemption in accordance with its terms, and the principal thereof and all interest thereon to the date



of redemption have been paid or deposited with the paying agent, interest thereon shall cease; provided that no obligation issued subsequent to July 1, 1967, shall be deemed validly called for redemption unless the notice herein required has been published or so mailed prior to the date fixed for its redemption. If actual notice of the call has been given through a different means of communication, the holder of an obligation may waive published or mailed notice.

Subd. 5. [Repealed, 1971 c 903 s 6]

Subd. 5a. **Tender.** Any obligation may be issued giving its owner the right to tender, or the municipality to demand tender of, the obligation to the municipality or another person designated by it, for purchase at a specified time or times, if the municipality has first entered into an agreement with a suitable financial institution obligating the financial institution to provide funds on a timely basis for purchase of bonds tendered. The obligation shall not be deemed to mature on any tender date, within the meaning of subdivision 1, and the purchase of a tendered obligation shall not be deemed a payment or discharge of the obligation by the municipality. Obligations tendered for purchase may be remarketed by or on behalf of the municipality or any other purchaser. The municipality may enter into agreements deemed appropriate to provide for the purchase and remarketing of tendered obligations, including provisions under which undelivered obligations may be deemed tendered for purchase and new obligations may be substituted for them, provisions for the payment of charges of tender agents, remarketing agents, and financial institutions extending lines of credit or letters of credit assuring repurchase, and for reimbursement of advances under letters of credit, which charges and reimbursements may be paid from the proceeds of the obligations or from tax and other revenues appropriated for the payment and security of the obligations, and similar or related provisions.

Subd. 6. [Repealed, 1971 c 903 s 6]

Subd. 6a. **Foreign currency obligations.** Any obligation issued as part of a series in a principal amount of \$25,000,000 or more may be payable in currency other than currency of the United States if at the time of issue of the obligation the municipality enters into an agreement with a bank or dealer described in section 118A.06, that provides for payments to the municipality in the foreign currency at the times and in the amounts necessary to pay principal and interest on the obligations when due and payable in the foreign currency and corresponding payments by the municipality in United States currency of a determinate amount or amounts and at the times the agreement specifies. For purposes of chapter 475, the outstanding amount of the municipality's obligations payable in a foreign currency is the principal component of all remaining payments to be made by the municipality in United States currency under the agreement and the amount or rate of interest on the obligations is the interest component of the payments.

Subd. 7. [Repealed, 1971 c 903 s 6]

Subd. 8. [Repealed, 1971 c 903 s 6]

Subd. 9. [Repealed, 1971 c 903 s 6]

Subd. 10. [Repealed, 1971 c 903 s 6]

Subd. 11. [Repealed, 1971 c 903 s 6]

Subd. 12. [Repealed, 1971 c 903 s 6]

Subd. 13. [Repealed, 1971 c 903 s 6]

Subd. 14. [Repealed, 1971 c 903 s 6]

Subd. 15. **If pay secured by investment.** For purposes of determining the amount of principal that may be payable in any calendar year under subdivision 1, any principal payment obligation secured by an investment, the face amount of which is equal to or greater than the amount of principal, may be disregarded if the investment matures or is callable by the holder thereof on or before the maturity date of the principal.

Subd. 16. **Pact for interest rate exchange.** A municipality may enter into an agreement for an exchange of interest rates pursuant to this subdivision if the agreement either is with or is guaranteed by a party whose equivalent obligations are

rated A+ or better by a nationally recognized rating agency. A municipality with outstanding obligations or a municipality which has determined to issue obligations it is authorized to issue may agree to pay sums equal to interest at a fixed rate or at a variable rate determined pursuant to a formula set out in the agreement on an amount not exceeding the outstanding principal amount of the obligations at the time of payment, in exchange for an agreement by the counterparty to pay sums equal to interest on a like amount at a fixed rate or a variable rate determined pursuant to a formula set out in the agreement or to provide for an interest rate cap or floor. The agreement to pay the counterparty is not an obligation of the municipality as defined in section 475.51, subdivision 3. For purposes of calculation of a debt service levy, determination of a rate of interest on a special assessment or other calculation based on the rate of interest on an obligation, a municipality which has entered into an interest rate swap agreement described in this subdivision may determine to treat the amount or rate of interest on the obligation as the net rate or amount of interest payable after giving effect to the swap agreement. Subject to any applicable bond covenants, the municipality may pledge to the payment of amounts due or to become due under the swap agreement, including termination payments, sources of payment pledged or available to pay debt service on the obligations with respect to which the swap agreement was made or from any other available source of the municipality. A municipality may issue obligations under section 475.67 to provide for any payment, including a termination payment, due or to become due under a swap agreement.

Subd. 17. **Maturities if primary source sufficient, irrevocable.** Obligations payable primarily from a source other than ad valorem taxes may mature at any time or times within 30 years after the date of issue, if the governing body estimates that the primary source of payment is sufficient to pay when due the principal of and interest on the obligations and if the primary source of payment is irrevocably appropriated to payment of the obligations.

**History:** (1938-5) 1927 c 131 s 3; 1949 c 682 s 4; 1951 c 422 s 2; 1955 c 179 s 1; 1959 c 687 s 11; Ex1959 c 27 s 11; 1963 c 825 s 1; 1965 c 435 s 1,2; 1967 c 481 s 1,2; 1967 c 583 s 5; 1975 c 432 s 83; 1Sp1985 c 14 art 8 s 50,51; 1987 c 344 s 20-22; 1988 c 702 s 9,10; 1989 c 355 s 17,18; 1994 c 614 s 17; 1996 c 297 s 2,3; 1996 c 399 art 2 s 12; 1998 c 397 art 11 s 3; 2001 c 214 s 42.

#### 475.55 EXECUTION; NEGOTIABILITY; INTEREST RATES.

Subdivision 1. **Form.** All obligations shall be securities as provided in the Uniform Commercial Code, chapter 336, article 8, may be issued as certificated securities or as uncertificated securities, and if issued as certificated securities may be issued in bearer form or in registered form, as defined in section 336.8-102. The validity of an obligation shall not be impaired by the fact that one or more officers authorized to execute it by the governing body of the municipality shall have ceased to be in office before delivery to the purchaser or shall not have been in office on the formal issue date of the obligation. Every obligation, as to certificated securities, or transaction statement, as to uncertificated securities, shall be signed manually by one officer of the municipality or by a person authorized to act on behalf of a bank or trust company, located in or outside of the state, which has been designated by the governing body of the municipality to act as authenticating agent. Other signatures and the seal of the issuer may be printed, lithographed, stamped, or engraved thereon and on any interest coupons to be attached thereto. The seal need not be used. A municipality may do all acts and things which are permitted or required of issuers of securities under the Uniform Commercial Code, chapter 336, article 8, and may designate a corporate registrar to perform on behalf of the municipality the duties of a registrar as set forth in those sections. Any registrar shall be an incorporated bank or trust company, located in or outside of the state, authorized by the laws of the United States or of the state in which it is located to perform the duties. If obligations are issued as uncertificated securities, and a law requires or permits the obligations to contain a statement or recital, whether on their face or otherwise, it shall be sufficient compliance with the law that the statement or recital is contained in the transaction statement or in an

ordinance, resolution, or other instrument which is made a part of the obligation by reference in the transaction statement as provided in section 336.8-202.

Subd. 1a. **Interest.** Interest on obligations issued after April 1, 1986, is not subject to any limitation on rate or amount.

Subd. 2. **Supersession.** The provisions of this section shall supersede any maximum interest rate fixed by any other law or a city charter with respect to obligations of the state or any municipality or governmental or public subdivision, district, corporation, commission, board, council, or authority of whatsoever kind, including warrants or orders issued in evidence of allowed claims for property or services furnished to the issuer.

Subd. 3. **Special assessments.** Notwithstanding any contrary provisions of law or charter, special assessments pledged to the payment of obligations may bear interest at the rate the governing body by resolution determines, not exceeding the maximum interest rate permitted to be charged against the assessments under the city charter pursuant to which the assessments were levied.

Subd. 4. **Rate determination.** On or before the 20th day of each month, the commissioner of finance shall determine the most recently published yield for the Bond Buyer's Index of 20 Municipals. This rate plus one percent and rounded to the next highest percent per annum shall be the rate for the next succeeding month for the purpose set forth in subdivision 7. The commissioner of finance shall publish the maximum rate in the State Register each month.

Subd. 5. [Repealed, 1987 c 344 s 37]

Subd. 6. **Registration data private.** All information contained in any register maintained by a municipality or by a corporate registrar with respect to the ownership of municipal obligations is nonpublic data as defined in section 13.02, subdivision 9, or private data on individuals as defined in section 13.02, subdivision 12. The information is not public and is accessible only to the individual or entity that is the subject of it, except if disclosure:

(1) is necessary for the performance of the duties of the municipality or the registrar;

(2) is requested by an authorized representative of the state commissioner of revenue or attorney general or of the commissioner of internal revenue of the United States for the purpose of determining the applicability of a tax;

(3) is required under section 13.03, subdivision 4; or

(4) is requested at any time by the corporate trust department of a bank or trust company acting as a tender agent pursuant to documents executed at the time of issuance of the obligations to purchase obligations described in section 475.54, subdivision 5a, or obligations to which a tender option has been attached in connection with the performance of such person's duties as tender agent, or purchaser of the obligations.

A municipality or its agent may use the information in a register for purposes of offering obligations under a bond reinvestment program.

Subd. 7. **Assumed maximum interest rate for other laws.** If an obligation is not subject to a maximum interest rate pursuant to subdivision 1, paragraph (1) and another law provides for a calculation of a debt service levy, determination of a rate of interest on a special assessment, or other factor based on an assumption that a maximum interest rate applies to the obligation, the governing body of the municipality may estimate or determine an assumed maximum interest rate for purposes of that law. If the municipality does not determine, specify or estimate the maximum interest rate for such purpose, then the maximum interest rate for purposes of the other law is the interest rate determined by the commissioner of finance under subdivision 4. This subdivision does not limit the interest rate that may be paid on obligations under subdivision 1a.

Subd. 8. **Bond reinvestment programs.** In connection with a bond reinvestment program, the governing body may by resolution delegate to any appropriate officer of

the municipality authority to establish from time to time the interest rate or rates, subject to limitations imposed by law, on such obligations and other terms of obligations issued under a bond reinvestment program. Obligations issued under a bond reinvestment program may be in any denomination as determined by the governing body or an officer acting pursuant to delegation from the governing body.

**History:** (1939) *RL s 781*; 1947 *c 296 s 3*; 1949 *c 682 s 5*; 1951 *c 422 s 3*; 1969 *c 93 s 1*; 1971 *c 903 s 2*; 1976 *c 324 s 4*; 1980 *c 607 art 8 s 2*; 1982 *c 523 art 3 s 2*; 1982 *c 642 s 19*; 1984 *c 563 s 2-4*; 1986 *c 465 art 2 s 18,19*; 1987 *c 344 s 23-29*; 1989 *c 355 s 19,20*.

#### **475.551 EXCESSIVE INTEREST, VALIDATION.**

In all cases where obligations have been or shall hereafter be issued and sold upon terms and conditions conforming to the provisions of section 475.55, and otherwise in conformity with law, such issuance and sale are hereby authorized, legalized and validated.

**History:** 1969 *c 93 s 2*

#### **475.552** [Repealed, 1971 *c 903 s 6*]

#### **475.553 PAYING AGENT; DESTRUCTION OF OBLIGATIONS AND COUPONS.**

**Subdivision 1. Principal office within issuer's area; exception.** The governing body may appoint as paying agent for an issue of obligations one or more national banks, or banks incorporated under the laws of any state, provided that no bank shall be appointed as paying agent for obligations of any issuer except one within whose corporate limits the principal office of the bank is situated, unless it is authorized to execute corporate trust powers pursuant to the laws under which it is organized; and the governing body may direct the treasurer to remit funds for payment of both principal and interest to such paying agent although such paying agent has not complied with statutes relating to public depositories. It may also direct the county treasurer to remit any proceeds from assessments or taxes levied for payment of obligations directly to such paying agent. In such case, the county treasurer shall furnish a duplicate statement of each remittance to the treasurer of the municipality who shall enter the amount on the treasury's books.

**Subd. 2. Agreement with bank.** The governing body may by resolution direct that all bonds, obligations, coupons appertaining thereto, or any specified obligations or coupons, when paid, shall be canceled by the paying agent and destroyed as herein provided. Before such authority is granted, the municipality shall enter into an agreement with a bank or banking association incorporated under the laws of the United States or of any state and authorized by such laws to exercise corporate trust powers, specifying (a) the obligations and coupons to be destroyed, (b) the method of destruction, (c) the information to be recorded in a certificate of destruction to be delivered to the municipality and the paying agent, (d) the indemnification of the municipality in the event of duplicate payment, wrongful and improper payment to unauthorized persons and nonpayment to authorized persons occurring as a result of any destruction of bonds, obligations, or coupons, and (e) such other terms and conditions as may be determined by the governing body of such municipality. Obligations and coupons may be destroyed by cremation, shredding, or any other effective means.

**Subd. 3. Certificates of destruction.** Certificates provided under subdivision 2 shall be retained in the official records of the municipality and the paying agent. Such certificates may subsequently be destroyed at the times and upon the conditions otherwise permitted by law, but no earlier than the time of final payment and redemption of all obligations of the respective issues to which they pertain.

**Subd. 4.** [Repealed, 1976 *c 324 s 27*]

**Subd. 5. Officers have powers of body; state auditors requirements; other law.** Any obligation, as defined in section 475.51, issued or to be issued by the state or any agency, instrumentality, or subdivision thereof, by written order and agreement execut-

ed by the officer or officers authorized by law to issue such obligations, may be destroyed as provided herein, and for this purpose such officers shall have all the powers granted herein to governing bodies of municipalities. The state auditor, pursuant to the Administrative Procedure Act, may formulate and prescribe requirements for resolutions, orders, agreements, and certificates relating to the destruction of public obligations and coupons. The provisions of any other law relating to the destruction of public records shall not apply to the destruction of obligations and coupons.

*History: 1951 c 422 s 10; 1953 c 64 s 1; 1963 c 833 s 1; 1973 c 492 s 7; 1976 c 324 s 5-8; 1986 c 444*

#### **475.56 INTEREST RATE.**

(a) Any municipality issuing obligations under any law may issue obligations bearing interest at a single rate or at rates varying from year to year which may be lower or higher in later years than in earlier years. Such higher rate for any period prior to maturity may be represented in part by separate coupons designated as additional coupons, extra coupons, or B coupons, but the highest aggregate rate of interest contracted to be so paid for any period shall not exceed the maximum rate authorized by law. Such higher rate may also be represented in part by the issuance of additional obligations of the same series, over and above but not exceeding two percent of the amount otherwise authorized to be issued, and the amount of such additional obligations shall not be included in the amount required by section 475.59 to be stated in any bond resolution, notice, or ballot, or in the sale price required by section 475.60 or any other law to be paid; but if the principal amount of the entire series exceeds its cash sale price, such excess shall not, when added to the total amount of interest payable on all obligations of the series to their stated maturity dates, cause the average annual rate of such interest to exceed the maximum rate authorized by law. This section does not authorize a provision in any such obligations for the payment of a higher rate of interest after maturity than before.

(b) Any municipality issuing obligations under any law may sell original issue discount obligations having a stated principal amount in excess of the authorized amount and the sale price, provided that:

(1) the sale price does not exceed by more than two percent the amount of obligations otherwise authorized to be issued;

(2) the underwriting fee, discount, or other sales or underwriting commission does not exceed two percent of the sale price; and

(3) the discount rate necessary to present value total principal and interest payments over the term of the issue to the sale price does not exceed the lesser of the maximum rate permitted by law for municipal obligations or ten percent.

(c) Any obligation may bear interest at a rate varying periodically at the time or times and on the terms, including convertibility to a fixed rate of interest, determined by the governing body of the municipality, but the rate of interest for any period shall not exceed any maximum rate of interest for the obligations established by law. For purposes of section 475.61, subdivisions 1 and 3, the interest payable on variable rate obligations for their term shall be determined as if their rate of interest is the lesser of the maximum rate of interest payable on the obligations in accordance with their terms or the rate estimated for such purpose by the governing body, but if the interest rate is subsequently converted to a fixed rate the levy may be modified to provide at least five percent in excess of amounts necessary to pay principal of and interest at the fixed rate on the obligations when due. For purposes of computing debt service or interest pursuant to section 475.67, subdivision 12, interest throughout the term of bonds issued pursuant to this subdivision is deemed to accrue at the rate of interest first borne by the bonds. The provisions of this paragraph do not apply to general obligations issued by a statutory or home rule charter city with a population of less than 7,500, as defined in section 477A.011, subdivision 3, or to general obligations that are not rated A or better, or an equivalent subsequently established rating, by Standard and Poor's

Corporation, Moody's Investors Service or other similar nationally recognized rating agency, except that any statutory or home rule charter city, regardless of population or bond rating, may issue variable rate obligations as a participant in a bond pooling program established by the league of Minnesota cities that meets this bond rating requirement.

**History:** (1938-2 1/2) 1933 c 171; 1949 c 682 s 6; 1959 c 36 s 1; 1963 c 829 s 1; 1967 c 481 s 3; 1974 c 380 s 7; 1Sp1985 c 14 art 8 s 52; 1986 c 465 art 2 s 20; 1987 c 344 s 30; 1999 c 248 s 13; 2000 c 493 s 16

#### 475.561 TAXABLE STATUS; SPECIAL PROVISIONS.

Subdivision 1. **Increase or decrease in interest.** (a) Obligations may be issued which provide, if interest on the obligations is determined under the terms of the obligations to be subject to federal income taxation, for an increase in the rate of interest payable on the obligations, from the date of issuance or another date, to a rate provided under the terms of the obligations.

(b) If the municipality issues obligations it intends to be exempt from federal income taxation but bond counsel cannot provide an opinion that the interest on the obligations will be exempt from federal income taxation under pending legislation or regulations existing or proposed with retroactive effect or otherwise, the municipality may provide for the obligations to bear interest at a rate that will decrease, if the obligations are subsequently determined to be exempt from federal income taxation, to a rate and from a date to be determined under the provisions of the obligations.

(c) For purposes of section 475.61, subdivisions 1 and 3, the increase or decrease in interest rate permitted by this subdivision need not be taken into account until the increase or decrease occurs. Upon occurrence of the increase or decrease, the levy must be modified to provide at least five percent in excess of the amount necessary to pay principal and interest at the new rate of interest on the obligations.

Subd. 2. **Arbitrage rebate.** A municipality may, from the proceeds of bonds, investment earnings, or any other available money of the municipality, pay to the United States or an officer, department, agency or instrumentality of the United States a rebate of excess earnings payment required by federal law to maintain the interest as tax exempt. A covenant to make a payment or payments pursuant to this subdivision is not an obligation of the municipality as defined in section 475.51, subdivision 3.

Subd. 3. **Prepayment or purchase of bonds.** A municipality that issues obligations it intends to be exempt from federal income taxation may agree to prepay or purchase the obligations (a) at the time and in the amount it determines necessary or desirable to maintain the obligations as exempt from federal income taxation or (b) upon a determination that the obligations are taxable. A municipality may make arrangements to have money available with which to purchase or prepay the obligations as the municipality determines necessary or desirable. If arrangements are made with a financial institution pursuant to section 475.54, subdivision 5a or this subdivision and if the municipality owes the financial institution money under the arrangement, the agreement to pay the financial institution is not an obligation of the municipality as defined in section 475.51, subdivision 3, unless and until the amount to be paid or reimbursed is determined and becomes due and payable, whereupon, the obligation is, as provided by the agreement, a general or special obligation of the municipality, and may also be paid from the proceeds of refunding bonds issued pursuant to this chapter. The agreement may not be or become a general obligation of the municipality unless the underlying, originally issued obligation was a general obligation of the municipality. For purposes of section 475.61, subdivisions 1 and 3, money necessary to make the purchase or prepayment are not amounts needed to meet when due principal and interest payments on the obligations.

Subd. 4. **Ratification.** This section is, in part, remedial in nature. Obligations issued prior to March 26, 1986 are not invalid or unenforceable for providing terms, consequences or remedies that are authorized by this section.

**History:** 1986 c 465 art 2 s 22

**475.57. INITIATION OF PROCEEDINGS; RESOLUTION.**

Proceedings for issuing bonds under sections 475.51 to 475.74 shall be initiated by a resolution of the governing body of the municipality stating the amount proposed to be borrowed and the purpose for which the debt is to be incurred. Such resolution may provide for the submission of the question to vote of the electors. A town board may adopt such resolution without a statement for special town meeting being filed with the clerk.

*History: 1949 c 682 s 7; 1997 c 7 art 1 s 160*

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

Subdivision 1. **Approval by 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) under sections 469.1813 to 469.1815 (property tax abatement authority bonds), if the proceeds of the bonds are not used for a purpose prohibited under section 469.176, subdivision 4g, paragraph (b).

Subd. 1a. **Resubmission limitation.** If the electors do not approve the issuing of obligations at an election required by subdivision 1, the question of authorizing the obligations for the same purpose and in the same amount may not be submitted to the electors within a period of 180 days from the date the election was held. If the question of authorizing the obligations for the same purpose and in the same amount is not approved a second time it may not be submitted to the electors within a period of one year after the second election.

Subd. 2. **Funding, refunding.** Any county, city, town, or school district whose outstanding gross debt, including all items referred to in section 475.51, subdivision 4, exceed in amount 1.62 percent of its market value may issue bonds under this subdivision for the purpose of funding or refunding such indebtedness or any part thereof. A list of the items of indebtedness to be funded or refunded shall be made by the recording officer and treasurer and filed in the office of the recording officer. The initial resolution of the governing body shall refer to this subdivision as authority for the issue, state the amount of bonds to be issued and refer to the list of indebtedness to be funded or refunded. This resolution shall be published once each week for two successive weeks in a legal newspaper published in the municipality or if there be no

such newspaper, in a legal newspaper published in the county seat. Such bonds may be issued without the submission of the question of their issue to the electors unless within ten days after the second publication of the resolution a petition requesting such election signed by ten or more voters who are taxpayers of the municipality, shall be filed with the recording officer. In event such petition is filed, no bonds shall be issued hereunder unless authorized by a majority of the electors voting on the question.

Subd. 3. [Expired.]

Subd. 3a. **Youth ice facilities.** A municipality may, without regard to the election requirement under subdivision 1 or under any other provision of law or home rule charter, issue and sell obligations to refund existing debt of an indoor ice arena that is used predominantly for youth athletic activity if all the following conditions are met:

(1) the obligations are secured by a pledge of revenues from the facility; and

(2) 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.

Subd. 3b. **Street reconstruction.** (a) A municipality may, without regard to the election requirement under subdivision 1, issue and sell obligations for street reconstruction, if the following conditions are met:

(1) the streets are reconstructed under a street reconstruction plan that describes the streets to be reconstructed, the estimated costs, and any planned reconstruction of other streets in the municipality over the next five years, and the plan and issuance of the obligations has been approved by a vote of all of the members of the governing body following a public hearing for which notice has been published in the official newspaper at least ten days but not more than 28 days prior to the hearing; and

(2) if a petition requesting a vote on the issuance is signed by voters equal to five percent of the votes cast in the last municipal general election and is filed with the municipal clerk within 30 days of the public hearing, the municipality may issue the bonds only after obtaining the approval of a majority of the voters voting on the question of the issuance of the obligations.

(b) Obligations issued under this subdivision are subject to the debt limit of the municipality and are not excluded from net debt under section 475.51, subdivision 4.

Subd. 4. **Proper use of bond proceeds.** The proceeds of obligations issued after approval of the electors under this section may only be spent: (1) for the purposes stated in the ballot language; or (2) to pay, redeem, or defease obligations and interest, penalties, premiums, and costs of issuance of the obligations. The proceeds may not be spent for a different purpose or for an expansion of the original purpose without the approval by a majority of the electors voting on the question of changing or expanding the purpose of the obligations.

**History:** (1938-6) 1927 c 131 s 4; 1949 c 682 s 8; 1951 c 422 s 4; 1955 c 298 s 1; 1969 c 446 s 1; 1971 c 886 s 1; 1971 c 903 s 3; 1973 c 123 art 5 s 7; 1974 c 380 s 8,9; 1Sp1985 c 14 art 8 s 53; 1988 c 519 s 4; 1988 c 719 art 5 s 84; 1989 c 329 art 13 s 20; 1990 c 480 art 9 s 22; 1991 c 342 s 16; 1995 c 256 s 26,27; 1996 c 463 s 48; 1998 c 389 art 3 s 25; art 8 s 24; 1999 c 248 s 14; 2001 c 214 s 43; 1Sp2001 c 5 art 15 s 28; 2002 c 390 s 18

#### 475.59 MANNER OF SUBMISSION; NOTICE.

When the governing body of a municipality resolves to issue bonds for any purpose requiring the approval of the electors, it shall provide for submission of the proposition of their issuance at a general or special election or town or school district meeting. Notice of such election or meeting shall be given in the manner required by law and shall state the maximum amount and the purpose of the proposed issue. In any school district, the school board or board of education may, according to its judgment and discretion, submit as a single ballot question or as two or more separate questions in the notice of election and ballots the proposition of their issuance for any one or more



of the following, stated conjunctively or in the alternative: acquisition or enlargement of sites, acquisition, betterment, erection, furnishing, equipping of one or more new schoolhouses, remodeling, repairing, improving, adding to, betterment, furnishing, equipping of one or more existing schoolhouses. In any city, town, or county, the governing body may, according to its judgment and discretion, submit as a single ballot question or as two or more separate questions in the notice of election and ballots the proposition of their issuance, stated conjunctively or in the alternative, for the acquisition, construction, or improvement of any facilities at one or more locations.

**History:** 1949 c 682 s 9; 1957 c 318 s 1; 2001 c 214 s 44

#### 475.60 SALE OF BONDS.

Subdivision 1. **Advertisement.** All obligations shall be negotiated and sold by the governing body, except when authority therefor is delegated by the governing body or by the charter of the municipality to a board, department, or officers of the municipality. Except as provided in section 475.56, obligations shall be sold at not less than par value plus accrued interest to date of delivery and not greater than two percent greater than the amount authorized to be issued plus accrued interest. Except as provided in subdivision 2 all obligations shall be sold at competitive sale after notice given as provided in subdivision 3.

Subd. 2. **Requirements waived.** The requirements as to public sale shall not apply to:

(1) obligations issued under the provisions of a home rule charter or of a law specifically authorizing a different method of sale, or authorizing them to be issued in such manner or on such terms and conditions as the governing body may determine;

(2) obligations sold by an issuer in an amount not exceeding the total sum of \$1,200,000 in any 12-month period;

(3) obligations issued by a governing body other than a school board in anticipation of the collection of taxes or other revenues appropriated for expenditure in a single year, if sold in accordance with the most favorable of two or more proposals solicited privately;

(4) obligations sold to any board, department, or agency of the United States of America or of the state of Minnesota, in accordance with rules or regulations promulgated by such board, department, or agency;

(5) obligations issued to fund pension and retirement fund liabilities under section 475.52, subdivision 6, obligations issued with tender options under section 475.54, subdivision 5a, crossover refunding obligations referred to in section 475.67, subdivision 13, and any issue of obligations comprised in whole or in part of obligations bearing interest at a rate or rates which vary periodically referred to in section 475.56;

(6) obligations to be issued for a purpose, in a manner, and upon terms and conditions authorized by law, if the governing body of the municipality, on the advice of bond counsel or special tax counsel, determines that interest on the obligations cannot be represented to be excluded from gross income for purposes of federal income taxation;

(7) obligations issued in the form of an installment purchase contract, lease purchase agreement, or other similar agreement;

(8) obligations sold under a bond reinvestment program; and

(9) if the municipality has retained an independent financial advisor, obligations which the governing body determines shall be sold by private negotiation.

Subd. 3. **Published notice.** The notice of sale to prospective bidders, where required, shall specify the maximum principal amount of the obligations, the place of receipt and consideration of bids and other details as to the obligations and terms of sale as the governing body or the municipality's authorized financial consultant deems suitable. The notice shall either specify the date and time for receipt of bids or specify the manner in which notice of the date or amount of the sale will be given to prospective bidders. Notification of prospective bidders shall be given by mail, facsimi-

le, electronic data transmission or other form of communication common to the municipal bond trade at least two days (omitting Saturdays, Sundays, and legal holidays) before the date for receipt of bids to at least five firms determined by the governing body or its financial consultant to be prospective bidders, or shall be published in a newspaper or other periodical which circulates throughout the state and furnishes financial news as part of its service. Failure to give the notice as described in this subdivision shall not affect the validity of the obligations. Bids may be accepted by facsimile or other electronic transmission or in writing as specified by the governing body or its financial consultant. The governing body may employ an agent to receive and open the bids at any place within or outside the corporate limits of the municipality, in the presence of an officer of the municipality or the officer's designee, but the obligations shall not be sold except by action of the governing body or authorized officers of the municipality after communication of the bids to them. Additional notice may be given for such time and in such manner as the governing body deems suitable. At the time and place so fixed, the bids shall be considered and the offer complying with the terms of sale and deemed most favorable shall be accepted, but the governing body may reject any and all such offers, in which event, or if no offers have been received, it may award the obligations to any person who within 30 days thereafter presents an offer complying with the terms of sale and deemed more favorable than any received previously, or upon like notice the governing body may invite other bids upon the same or different terms and conditions.

**Subd. 4. Public subscription.** In lieu of calling for bids, obligations may be sold on public subscription, after notice given in the manner required for public sale. Such notice of call for public subscription shall specify the interest rate and all terms of sale, including the date and place of delivery of the obligations.

**Subd. 5. Compliance mandatory.** No contract for the sale and delivery of obligations shall be enforceable unless made in accordance with this section.

**Subd. 6. Prohibitions and penalties.** Any officer of any municipality who shall enter into or approve any contract or agreement for the sale of obligations contrary to the provisions hereof or which lessens, restricts or tends to prevent competitive bidding shall be guilty of a misdemeanor.

**Subd. 7. Investment of proceeds.** A municipality, after it has contracted for the sale of obligations, may enter into a contract for the future purchase of securities described in section 118A.04, for a purchase price, including accrued interest on it, not in excess of the sale price of the obligations, excluding accrued interest on them. The contract shall provide a settlement date for the purchase of the securities which is not earlier than the anticipated delivery date of the obligations.

**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:** 1949 c 682 s 10; 1965 c 583 s 1; 1971 c 903 s 4; 1976 c 324 s 9,10; 1978 c 764 s 128; 1980 c 607 art 8 s 3; 1982 c 523 art 3 s 3; 1984 c 563 s 5,6; 1Sp1985 c 14 art 8 s 54; 1986 c 465 art 2 s 21; 1987 c 344 s 31; 1988 c 702 s 11; 1989 c 355 s 21-23; 1991 c 342 s 17; 1995 c 256 s 28; 1996 c 399 art 2 s 12; 1999 c 248 s 15,16

#### 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.

**Subd. 2. Filing; certification; assessment; extension.** The recording officer of the municipality shall file in the office of the county auditor of each county in which any part of the municipality is located a certified copy of the resolution, together with full information regarding the obligations for which the tax is levied. No further action by the municipality is required to authorize the extension, assessment and collection of the tax, but the municipality's liability on the obligations is not limited thereto and its governing body shall levy and cause to be extended, assessed and collected any additional taxes found necessary for full payment of the principal and interest. The county auditor shall forthwith certify to the municipality that the obligations have been entered in the register required by sections 475.51 to 475.74 and that the tax levy required by sections 475.51 to 475.74 has been made. The auditor shall annually assess and extend upon the tax rolls the amount specified for such year in the resolution, unless the amount has been reduced as authorized below or, if the municipality is located in more than one county, the portion thereof which bears the same ratio to the whole amount as the net tax capacity of taxable property in that part of the municipality located in the auditor's county bears to the net tax capacity of all taxable property in the municipality.

**Subd. 3. Irrevocability.** (a) Tax levies so made and filed shall be irrevocable, except as provided in this subdivision.

(b) For purposes of this subdivision, "excess debt redemption fund balance" means the greater of zero or the balance in the district's debt redemption fund as of June 30 of the fiscal year ending in the year before the year the levy is certified, minus any debt redemption fund balance attributable to refunding of existing bonds, minus the amount of the levy reduction for the current year and the prior year under paragraphs (e) and (f), minus five percent of the district's required debt service levy for the next year.

(c) By July 15 each year, a district shall report to the commissioner of children, families, and learning the amount of the districts' debt redemption fund balance as of June 30 of the prior year attributable to refunding of existing bonds.

(d) By August 15 each year, the commissioner shall determine the excess debt redemption fund balance for each school district, and shall certify the amount of the excess balance to the school district superintendent.

(e) In each year when a district has an excess debt redemption fund balance, the commissioner shall report the amount of the excess to the county auditor and the auditor shall reduce the tax levy otherwise to be included in the rolls next prepared by the amount certified.

(f) The school board may, with the approval of the commissioner, retain all or part of the excess balance if it is necessary to ensure the prompt and full payment of its

obligations and any call premium on its obligations, will be used for redemption of its obligations in accordance with their terms, or to level out the debt service tax rate, excluding the debt excess adjustment, for its obligations over the next two years. A school district requesting authority to retain all or part of the excess balance shall provide written documentation to the commissioner describing the rationale for its request by September 15 including the issuance of new obligations within the next year or the refunding of existing obligations. A school district that retains an excess may request to transfer the excess to its operating capital account in the general fund under section 123B.80. The school board may, with the approval of the commissioner, specify a tax levy in a higher amount if necessary because of anticipated tax delinquency or for cash flow needs to meet the required payments from the debt redemption fund.

(g) If the governing body, including the governing body of a school district, in any year makes an irrevocable appropriation to the debt service fund of money actually on hand or if there is on hand any excess amount in the debt service fund, the recording officer may certify to the county auditor the fact and amount thereof and the auditor shall reduce by the amount so certified the amount otherwise to be included in the rolls next thereafter prepared.

**Subd. 4. Surplus funds.** (a) All such taxes shall be collected and remitted to the municipality by the county treasurer as other taxes are collected and remitted, and shall be used only for payment of the obligations on account of which levied or to repay advances from other funds used for such payments, except that any surplus remaining in the debt service fund when the obligations and interest thereon are paid may be appropriated to any other general purpose by the municipality. However, the amount of any surplus remaining in the debt service fund of a school district when the obligations and interest thereon are paid shall be used to reduce the general education levy authorized pursuant to section 126C.13 and the state aids authorized pursuant to chapters 123B, 126C, and 127A.

(b) The reduction to state aids equals the lesser of (1) the amount of the surplus times the ratio of the district's debt service equalization aid to the district's debt service equalization revenue for the last year that the district qualified for debt service equalization aid; or (2) the district's cumulative amount of debt service equalization aid.

(c) The reduction to the general education levy equals the total amount of the surplus minus the reduction to state aids.

**Subd. 5. Temporary obligations anticipating grant or loan.** When all conditions exist precedent to the offering for sale of obligations of any municipality in any amount for any purpose authorized by law, and the municipality has applied for a grant or loan of state or federal funds to aid in payment of cost incurred for the authorized purpose, its governing body may by resolution issue and sell temporary obligations not exceeding the total amount authorized, maturing within not more than three years from the date such obligations are issued. In this event so much of the proceeds of the grant or loan when received shall be credited to the debt service fund for the temporary obligations as may be needed for the payment thereof, with interest, when due, and the tax which would otherwise be required by subdivision 1 need not be levied. Any amount of the temporary obligations which cannot be paid at maturity, from the proceeds of the grant or loan or from any other funds appropriated by the governing body for the purpose, shall be paid from the proceeds of definitive obligations to be issued and sold before the maturity date; or if sufficient funds are not available for payment in full of the temporary obligations at maturity, the holders thereof shall have the right to require the issuance in exchange therefor of definitive obligations secured in the manner provided in subdivision 1 and bearing interest at the maximum rate permitted by law.

**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 permanent 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 118A.04, 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:** 1949 c 682 s 11; 1951 c 422 s 5; 1955 c 811 s 8; 1957 c 187 s 1; 1961 c 673 s 1; 1974 c 380 s 10; 1976 c 324 s 11,26; 1977 c 447 art 7 s 27; 1982 c 548 art 4 s 16-18; 1982 c 642 s 2; 1983 c 314 art 1 s 22; art 7 s 36; 1984 c 463 art 9 s 7,8; 1986 c 444; 1987 c 268 art 6 s 52; 1988 c 486 s 93; 1988 c 719 art 5 s 84; art 6 s 17; 1989 c 329 art 13 s 20; 1991 c 265 art 8 s 13; 1993 c 224 art 5 s 40; art 8 s 12; 1994 c 647 art 5 s 16; 1995 c 256 s 29; 1Sp1995 c 3 art 16 s 13; 1996 c 399 art 2 s 12; 1997 c 7 art 1 s 161; 1998 c 397 art 11 s 3; 1Sp2001 c 6 art 5 s 9

#### 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 126C.68, subdivision 2, or 126C.69, subdivision 12, 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 126C.68, subdivision 4, and 126C.69, subdivision 14. 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:** (1938-8) 1927 c 131 s 6; 1949 c 682 s 12; 1965 c 875 s 12; 1988 c 719 art 5 s 84; 1989 c 329 art 13 s 20; 1990 c 562 art 11 s 7; 1Sp1995 c 3 art 16 s 13; 1998 c 397 art 11 s 3

#### 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:** (1938-9) 1927 c 131 s 7; 1949 c 682 s 13; 1951 c 422 s 6; 1986 c 444; 1995 c 256 s 30

#### 475.64 LEVY BY AUDITOR.

In the event no method of levying a tax for the payment of the indebtedness of any municipality and the interest thereon is provided, or the municipal authorities fail to cause such levy to be made, the county auditor shall add to the other taxes charged upon the property taxable in the municipality an amount sufficient to meet such obligations when due, which additional levy shall be extended and collected with the other taxes of the year.

**History:** (1945) RL s 787; 1949 c 682 s 14

#### 475.65 DELIVERY OF BONDS; USE OF PROCEEDS.

Upon payment to the treasurer of the purchase price by the successful bidder, the obligations shall be delivered, and the treasurer shall account for the receipt and disbursement of the proceeds thereof for the use named in the resolution or other instrument or instruments authorizing such obligations, in a separate fund or account in the official financial records of the municipality. Pending such use the proceeds may be invested and reinvested in accordance with law, and the income and gain therefrom shall be held as part of the proceeds and applied to such use or to the payment of the obligations and interest thereon or otherwise as provided in any city charter or any other law. The purchaser shall not be obligated to see to the application of the purchase price. When the use authorized is the acquisition or betterment of any land, easements, buildings, structures, machinery, or equipment, the proceeds may be used to pay all expenses, incurred and to be incurred, which are reasonably necessary and incidental to such acquisition or betterment, including, but without limitation, the cost of necessary professional planning studies to determine desirable locations, architectural, engineering, legal, financial advisory, and other professional services, printing and publication, and interest to accrue on the obligations prior to the anticipated date of commencement of the collection of taxes or special assessments to be levied or other funds pledged for the payment of the obligations and interest thereon. When the obligations are payable wholly from the income from a utility or other project, for the acquisition or betterment of which the obligations are issued, the proceeds may be used in part to establish a reserve as further security for the payment of such principal and interest when due. If the contemplated use be afterward abandoned, or if any balance of the proceeds of the obligations remains after the use is accomplished, or if the governing body determines that at least 85 percent of the cost of the use has been paid or finally determined and retains in the fund an amount sufficient to pay the estimated costs of completion, the remainder of the fund may be devoted to any other public use authorized by law, and approved by resolution adopted or vote taken in the manner required to authorize bonds for such new use and purpose. Any balance remaining

after the improvement has been completed and paid for, unless devoted to a new use as herein authorized, shall become a part of the debt service fund of the municipality.

**History:** (1944) *RL s 786; 1949 c 682 s 15; 1967 c 481 s 4; 1969 c 183 s 1; 1976 c 324 s 12,26; 1983 c 365 s 3*

**475.66** [Repealed, 1996 c 399 art 1 s 11]

**475.67 REFUNDING BONDS, OTHER OBLIGATIONS; VALIDITY; PROCEDURE.**

Subdivision 1. **Resolution conclusive as to validity.** No purchaser or owner of bonds or other obligations issued by a municipality for the purpose of refunding its outstanding obligations or floating indebtedness need inquire into the validity of the debts refunded by such bonds or other obligations. The determination by resolution of the governing body to issue the bonds or other obligations of the municipality for such purpose, as to such purchaser or owner, shall be conclusive evidence of the validity of the debts thereby refunded.

Subd. 2. **Invalid not made valid.** As between the municipality and the owner or holder of any bond, warrant, or order so refunded, nothing in this section validates any invalid bond, warrant, or order.

Subd. 3. **Refunding conditions.** (a) Any or all obligations and interest thereon may be refunded if and when and to the extent that for any reason the taxes or special assessments, revenues, or other funds appropriated for their payment are not sufficient to pay all principal and interest due or about to become due thereon.

(b) Any or all obligations of one or more issues regardless of their source of payment and interest thereon may be refunded before their due dates, if:

- (1) consistent with covenants made with the holders thereof; and
- (2) determined by the governing body to be necessary or desirable:
  - (i) for the reduction of debt service cost to the municipality; or
  - (ii) for the extension or adjustment of the maturities in relation to the resources available for their payment; or
  - (iii) for the issuance of obligations bearing a fixed rate of interest in the case of obligations bearing interest at a rate varying periodically; or
  - (iv) in the case of obligations payable solely from a special fund, for the more advantageous sale of additional obligations payable from the same fund or to relieve the municipality of restrictions imposed by covenants made with the holders of the obligations to be refunded.

(c) The amount of interest which may be refunded from the proceeds of the refunding obligations shall not exceed the amount of proceeds estimated to be required in excess of the principal amount of refunded obligations to retire the refunded obligations in accordance with subdivision 6.

(d) No general obligations, for which the full faith and credit of the issuer is pledged, shall be issued to refund special obligations previously issued for any purpose; payable solely from a special fund, unless the issuance is authorized by the election, hearing, petition, resolution, or other procedure that would have been required as a condition precedent to the original issuance of general obligations for the same purpose.

Subd. 4. **Deadline for refunding obligations; conditions.** Refunding obligations shall not be issued and sold more than six months before the date on which all obligations to be refunded thereby will have matured or have been called for redemption in accordance with their terms, unless the actions and conditions described in the following subdivisions of this section are taken or exist at or before the time when the refunding obligations are delivered to the purchasers.

Subd. 5. **Deposits.** The proceeds of the refunding obligations, less any accrued interest or premium thereon required to be taken into account for purposes of meeting the debt service savings test set forth in subdivision 12 or otherwise deposited in the debt service fund established for the refunding obligations, less any amount set aside to

pay the expenses of the refunding described in subdivision 12, shall be deposited, together with any other funds available and appropriated by the governing body for the purpose, in escrow with a suitable banking institution within or without the state, whose deposits are insured by the Federal Deposit Insurance Corporation, and whose combined capital and surplus is not less than \$500,000.

Subd. 6. **Investment.** The funds so deposited shall be invested in securities maturing or callable at the option of the holder on such dates and bearing interest at such rates as shall be required to provide funds sufficient, with any cash retained in the escrow account, to pay when due the interest to accrue on each obligation refunded to its maturity or, if prepayable and called for redemption, the earlier date on which it is called for redemption, and to pay the principal amount of each such obligation at maturity or, if prepayable and called for redemption, at such earlier redemption date, and to pay any premium required for redemption on that date; and the governing body shall irrevocably appropriate for these purposes the escrow account and all payments of principal and interest on the securities deposited therein, provided that any funds in the escrow account in excess of the amounts from time to time needed for the foregoing purposes may be remitted to the municipality.

Subd. 7. **Notice of call.** Provision shall be made for notice of the call of any refunded obligations to be redeemed before maturity to be given in accordance with their terms, and in accordance with section 475.54, subdivision 4, no later than 30 days after issuance of the refunding obligations.

Subd. 8. **Escrow account securities.** Securities purchased for the escrow account shall be limited to:

(a) general obligations of the United States, securities whose principal and interest payments are guaranteed by the United States, and securities issued by the following agencies of the United States: Banks for Cooperatives, Federal Home Loan Banks, Federal Intermediate Credit Banks, Federal Land Banks, and the Federal National Mortgage Association; or

(b) obligations issued or guaranteed by any state or any political subdivision of a state, which at the date of purchase are rated the highest or the next highest rating given by Standard and Poor's Corporation, Moody's Investor's Service, or a similar nationally recognized rating agency, but not less than the rating on the refunded bonds immediately prior to the refunding.

Subd. 9. **Escrow agent agreement.** The municipality shall enter into an agreement with the banking institution acting as escrow agent under which the agent shall acknowledge receipt of the cash and securities and their sufficiency to comply with the requirements of this section, and shall agree to hold them, and all money received in payment of principal and interest on the securities, in a special trust account, and to remit from this account to each paying agent for the refunded obligations sufficient funds to pay the principal and interest due thereon at each maturity, interest payment date, and redemption date. The agent may be directed to reinvest the balance held in the account from time to time in other securities of the kinds authorized in this section, maturing or subject to redemption at the times and in the amounts required to meet all payments of principal and interest when due on the refunded obligations, which securities may be purchased from its own investment department at prices not higher than those at which similar securities are currently being sold by it to others.

Subd. 10. **Republication; failure.** The escrow agent shall be directed to cause notice of the call of the refunded obligations which are to be prepaid to be republished not more than 90 nor less than 45 days before the date fixed for their redemption, in the manner provided in subdivision 7; but failure to republish shall not affect the validity of the call for redemption.

Subd. 11. [Repealed, 1987 c 344 s 37]

Subd. 12. **Additional conditions.** In the refunding of general obligations, for which the full faith and credit of the issuing municipality has been pledged, the following additional conditions shall be observed: each such obligation, if repayable, shall be called for redemption prior to its maturity in accordance with its terms no later than



either (i) the earliest date on which it may be redeemed without payment of any premium, or (ii) if the obligation is only prepayable with payment of a premium, on the earliest date on which it may be redeemed with payment of the least premium required by its terms. No refunding obligations shall be issued and sold more than six months before the refunded obligations mature or are called for redemption in accordance with their terms, unless either (i) as a result of the refunding the average life of the maturities is extended at least three years or (ii) as of the nominal date of the refunding obligations the present value of the dollar amount of the debt service on the refunding obligations, computed to their stated maturity dates, after deducting any premium, is lower by at least three percent than the present value of the dollar amount of debt service, on all general obligations refunded, exclusive of any premium, computed to their stated maturity dates; provided that in computing the dollar amount of debt service on the refunding obligations, any expenses of the refunding payable from a source other than the proceeds of the refunding obligations or the interest derived from the investment thereof shall be added to the dollar amount of debt service on the refunding obligations. For purposes of this subdivision, the present value of the dollar amount of debt service means the dollar amount of debt service to be paid, discounted to the nominal date of the refunding obligations at a rate equal to the yield on the refunding obligations. Expenses of the refunding include the amount, if any, in excess of the proceeds of the refunding obligations or the principal amount of obligations to be refunded, whichever is the greater, which is required to be deposited in escrow to provide cash and purchase securities sufficient to retire the refunded obligations and unaccrued interest thereon in accordance with subdivision 6; charges of the escrow agent and of the paying agent for the refunding obligations; and expenses of printing and publications and of fiscal, legal, or other professional service necessarily incurred in the issuance of the refunding obligations.

Subd. 13. **Crossover refunding obligations.** Crossover refunding obligations may be issued by a municipality without regard to the limitations in subdivisions 4 to 10. The proceeds of crossover refunding obligations, less any proceeds applied to payment of the costs of their issuance, shall be deposited in a debt service fund irrevocably appropriated to the payment of principal of and interest on the refunding obligations until the date the proceeds are applied to payment of the obligations to be refunded. The debt service fund shall be maintained as an escrow account with a suitable financial institution within or without the state and amounts in it shall be invested in securities described in subdivision 8 or in an investment contract or similar agreement with a bank or insurance company meeting the requirements of section 118A.05, subdivision 5. Excess proceeds, if any, of the tax levy pursuant to section 475.61, subdivision 1, made with respect to the obligations to be refunded, and any other available amounts, may be deposited in the escrow account. In the resolution authorizing the issuance of crossover refunding obligations, the governing body may pledge to their payment any source of payment of the obligations to be refunded. The resolution may provide that the refunding obligations are payable solely from the escrow account prior to the date scheduled for payment of the obligations to be refunded and that the obligations to be refunded shall not be discharged if the amounts on deposit in the escrow account on that date are insufficient. Subdivision 12 applies to crossover refunding obligations, but the present value of debt service on the refunding and refunded obligations shall be determined as of the date the proceeds are applied to payment of the obligations to be refunded. Subject to section 475.61, subdivision 3, in the case of general obligation bonds, taxes shall be levied pursuant to section 475.61 and appropriated to the debt service fund in the amounts needed, together with estimated investment income of the debt service fund and any other revenues available upon discharge of the obligations refunded, to pay when due the principal of and interest on the refunding obligations. The levy so imposed may be reduced by earnings to be received from investments on hand in the debt service fund to the extent the applicable recording officer certifies to the county auditor that the earnings are expected to be received in amounts and at such times as to be sufficient, together with

the remaining levy, to satisfy the purpose of the levy requirements under section 475.61.

**History:** (1946-1, 1946-2) 1921 c 185 s 1,2; 1933 c 232 s 2; 1949 c 682 s 17; 1971 c 903 s 5; 1973 c 494 s 13; 1976 c 324 s 14,15; 1978 c 521 s 1; 1Sp1985 c 14 art 8 s 55,56; 1987 c 344 s 33,34; 1988 c 702 s 13,14; 1991 c 342 s 19; 1993 c 271 s 6,7; 1996 c 399 art 2 s 12

#### 475.68 JOINT LIABILITY OF TOWN AND STATUTORY CITY.

In the event a town and a statutory city are jointly liable for the payment of any bonded indebtedness or in the event all the property within any town or statutory city is liable to be taxed for the payment of any such indebtedness, any such town or statutory city, at the time bonds mature, may pay that proportion of such indebtedness that the amount of the last assessment of property situate in the town or the statutory city bears to the net tax capacity of both the town and the statutory city. If either the town or the statutory city deems such assessment to be inequitable, its governing body may demand, in writing, that the commissioner of revenue appoint a disinterested assessor, not a resident of either the town or the statutory city, to make a reassessment of all the property situate in the town and the statutory city. Thereupon the commissioner shall appoint such assessor. The reassessment so made governs in the division of such indebtedness. Any such town or statutory city may issue bonds for the payment of the amount thereof for which it is liable.

**History:** (1953) 1909 c 254 s 1; 1949 c 682 s 18; 1973 c 123 art 5 s 7; 1973 c 582 s 3; 1988 c 719 art 5 s 84; 1989 c 329 art 13 s 20

#### 475.69 DEFACED BONDS; DUPLICATES.

When any obligation of a municipality becomes unfit for circulation, it may be surrendered and canceled. Upon the authorization of the governing body, a duplicate of the obligation except as to signatures and a duplicate of any unpaid coupons, may be issued to the owners. These duplicates shall be marked "DUPLICATE" and the date of issue shown thereon. Such marking shall be signed by the treasurer then in office.

**History:** (1970) RL s 791; 1949 c 682 s 19

#### 475.70 LOST INSTRUMENTS; INDEMNITY.

If the owner of any obligation which is destroyed or lost, first gives a satisfactory surety bond to the municipality, in a sum double the amount of such obligation, conditioned to save it harmless in the premises, the governing body thereof may authorize the issuance of another to the owner in its place, corresponding with the missing obligation as to number, date, amount, and unpaid coupons. Such obligation shall be signed by the proper officials who are then in office, and shall be marked and dated as provided in section 475.69. The treasurer shall keep a record of all reissues and duplicates showing the date of issue and the persons to whom issued.

**History:** (1971) RL s 792; 1949 c 682 s 20

475.71 [Repealed, 1984 c 563 s 7]

#### 475.72 VIOLATIONS AND PENALTIES.

Any officer of any municipality who knowingly fails to comply with any provision of Laws 1949, chapter 682 is guilty of a misdemeanor.

**History:** (1938-12) 1927 c 131 s 10; 1949 c 682 s 22

#### 475.73 STATE BOARD OF INVESTMENT.

Subdivision 1. **May purchase these bonds; conditions.** Obligations sold under the provisions of section 475.60 may be purchased by the state board of investment if the obligations meet the requirements of section 11A.24, subdivision 2, upon the approval of the attorney general as to form and execution of the application therefor, and under rules as the board may specify, and the state board shall have authority to purchase the

same to an amount not exceeding 3.63 percent of the market value of the taxable property of the municipality, according to the last preceding assessment. The obligations shall not run for a shorter period than one year, nor for a longer period than 30 years and shall bear interest at a rate to be fixed by the state board but not less than two percent per annum. Forthwith upon the delivery to the state of Minnesota of any obligations issued by virtue thereof, the commissioner of finance shall certify to the respective auditors of the various counties wherein are situated the municipalities issuing the same, the number, denomination, amount, rate of interest and date of maturity of each obligation.

**Subd. 2. Tax levy.** The annual tax levy for the payment of principal and interest on account of such obligations shall be for an amount 50 percent 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 obligations, and the amount of such excess shall be reported by the county auditor to the state auditor on or before August first each year, who shall deduct the same from the 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 obligations were issued, has 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 net tax capacity of the territory affected by such obligations. Any such municipality which shall make payment to the state of the full amount of principal and interest due on account of such obligations prior to the extending of such tax therefor by the state auditor shall be exempt from the provisions of this section.

**History:** 1949 c 682 s 23; 1973 c 492 s 14; 1980 c 607 art 14 s 44; 1986 c 444; 1988 c 719 art 5 s 84; 1989 c 329 art 13 s 20; 1990 c 480 art 9 s 23

#### **475.74 LAW LIMITING TAXES NOT APPLICABLE.**

The provisions of any law limiting taxes shall not limit the power of any city of the first or second class or any independent school district in any city of the first class, or any special school district in a city of the second class having a population of not less than 28,000 nor more than 32,000 according to the 1950 federal census, to levy taxes to pay its general obligation bonds nor shall such provisions limit the power of any municipality to levy taxes to make good any deficiency in any prior levies made pursuant to section 475.61. The governing body shall levy such taxes without limitation as to rate or amount.

**History:** 1949 c 682 s 24; 1951 c 422 s 8; 1957 c 43 s 1; 1957 c 743 s 1; 1Sp1989 c. 1 art 5 s 43

**475.75** [Repealed, 1996 c 310 s 1]

#### **475.753 MUNICIPALITIES ARE SUBJECT TO THIS CHAPTER.**

All municipalities are subject to the provisions of this chapter in the issuance of obligations and may incur indebtedness to the extent of but not in excess of the debt limit in said chapter notwithstanding any home rule charter provision or charter law adopted prior to April 1, 1951. Nothing herein shall prevent the adoption after that date of additional debt limitations or restrictions. This section shall not be deemed to amend or otherwise affect or change section 475.53, subdivision 3.

**History:** 1951 c 422 s 9

#### **475.754 DISASTER, PUBLIC EMERGENCY; CERTIFICATES OF INDEBTEDNESS.**

If in any fiscal year the receipts from taxes or other sources are insufficient to meet the expenses incurred or to be incurred in said year by any city however organized, county or town by reason of any natural disaster or other public emergency

requiring the making of extraordinary expenditures, the governing body of any such city, county or town may authorize the sale of certificates of indebtedness to mature within three years and to bear interest at a rate not to exceed the amount prescribed in this chapter. The certificates may be issued with or without advertising for bids on such terms and conditions as the governing body may determine and shall be in such form as the state auditor in cooperation with the commissioner of commerce shall prescribe. All certificates and interest thereon shall be payable from taxes levied within existing limitations or from other available revenue. The certificates shall not be included in the net debt of the issuing city, county or town.

**History:** 1973 c 61 s 1; 1973 c 123 art 5 s 7; 1973 c 492 s 7; 1983 c 289 s 114 subd 1; 1984 c 655 art 1 s 92; 1Sp1985 c 14 art 4 s 94; 1Sp1989 c 1 art 5 s 44.

**475.76** [Repealed, 1996 c 399 art 1 s 11]

#### **475.77 WHEN BOND ALLOCATION ACT APPLIES.**

Sections 474A.01 to 474A.21 apply to any issuance of obligations which are subject to limitation under a federal tax law as defined in section 474A.02, subdivision 8.

**History:** 1984 c 582 s 21,23; 1Sp1985 c 14 art 8 s 63; 1986 c 465 art 1 s 30; 2000 c 260 s 69

#### **475.78 PERFECTION OF PLEDGE; SECURITY INTERESTS.**

Neither filing nor possession is required to perfect the security interest created by any pledge or appropriation of revenues or funds of the municipality, including any of its investments, to the payment of bonds issued by the municipality. Notwithstanding any contrary provision of law, article 9 of the Uniform Commercial Code does not apply to security interests created by a municipality or the state, except security interests in equipment and fixtures.

**History:** 1987 c 344 s 35; 2000 c 493 s 17

#### **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, 475.67, 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:** 1987 c 344 s 36; 1989 c 355 s 24; 1995 c 256 s 31; 1996 c 399 art 2 s 12

#### **475.80 IF ATTACHED, ANNEXED, COMBINED, CONSOLIDATED, INCORPORATED.**

When all or a part of a municipality is attached, annexed, combined, consolidated, or incorporated into another municipality, the full faith and credit of the surviving or new municipality must secure any general obligation bonds which the surviving or new municipality has assumed or which are payable from property taxes levied on all or any portion of its taxable property, notwithstanding that the bonds may be payable from taxes levied on taxable property in only a portion of the new or surviving municipality. If any general funds of the municipality are used to pay debt service on general obligation bonds payable from taxes levied on taxable property in only a portion of the new or surviving municipality, the general funds must be reimbursed, with or without interest, from taxes levied on the taxable property in that portion of the new or surviving municipality which was primarily responsible for the general obligation bonds.

**History:** 1997 c 219 s 10