

dinance. *Meihost v. Meihost*, 29 W (2d) 537, 139 NW (2d) 116.

Liability for harm caused by stolen automobiles. *Peck*, 1969 WLR 909.

## CHAPTER 67.

### Municipal Borrowing and Municipal Bonds.

The Revisor's Notes in Wis. Annotations, 1930, pp. 428 to 436, give the source of each section of this chapter created by ch. 576, Laws 1921.

**67.01 History:** 1921 c. 576 s. 3; Stats. 1921 s. 67.01; 1923 c. 108 s. 148; 1923 c. 274 s. 9, 10; 1925 c. 385 s. 1, 6; 1939 c. 237, 474; 1943 c. 278; 1947 c. 362; 1959 c. 446; 1963 c. 157, 572; 1965 c. 218, 369; 1967 c. 26, 47; 1969 c. 55, 241.

"The value of taxable property," spoken of in 67.01 (4) and also in sec. 3, art. XI, means the value as determined by the local board of review, in the last assessment, and not the equalized valuation made by the county board. *School Dist. v. First W. Co.* 187 W 150, 203 NW 939.

A "county nursing home" for the care and treatment of the aged infirm and chronic invalids would be a "county building" under 67.01 (1) (a), Stats. 1957, which the county could provide by the issuance of its general obligation bonds. 48 Atty. Gen. 26.

**67.015 History:** 1947 c. 362 s. 2; 1947 c. 417; Stats. 1947 s. 67.015.

**67.02 History:** 1921 c. 576 s. 3; Stats. 1921 s. 67.02; 1925 c. 385 s. 1, 6; 1969 c. 276 s. 608.

On legislative power generally see notes to sec. 1, art. IV.

The subject of submission of proceedings and bonds to the attorney general for approval and certification is discussed in 12 Atty. Gen. 12 and 14 Atty. Gen. 236.

If the certified copy of bond proceedings submitted to the attorney general's office under 67.02 (3), Stats. 1947, were in proper form, said office probably would approve the bond proceedings notwithstanding the fact that a referendum would be held in the near future upon the adoption of a charter ordinance purporting to restrict the issuance of bonds. 37 Atty. Gen. 425.

**67.03 History:** 1921 c. 576 s. 3; Stats. 1921 s. 67.03; 1925 c. 385 s. 1, 6; 1943 c. 20; 1951 c. 339; 1955 c. 220 s. 3, 4; 1959 c. 19 s. 23; 1961 c. 114, 222, 355, 602; 1963 c. 157; 1965 c. 218; 1967 c. 92 s. 22; 1969 c. 276 s. 590 (1); 1969 c. 392.

**Revisor's Note, 1921:** The second subsection limits the limitation in accordance with the decision in *State ex rel. Marinette T. W. R. Co. v. Tomahawk Council*, 96 W 73. [Bill 23-S, s. 3]

On limitation on indebtedness and on direct annual tax see notes to sec. 3, art. XI.

A city has no authority to pledge individual school property as security for the issuance of bonds. 12 Atty. Gen. 511.

The Madison school district and the city of Madison are not separate municipalities, and the board of education of the city has no power to levy taxes for school purposes. Such power is vested solely in the common council, subject to the limitation provided by 62.12 (4), Stats. 1923. 13 Atty. Gen. 440.

Municipal borrowing by means of general obligation bonds. *Quarles*, 12 MLR 18.

**67.035 History:** 1933 c. 101, 177; Stats. 1933 s. 67.035.

**67.04 (Intro. par.) History:** 1921 c. 576 s. 3; Stats. 1921 s. 67.04 (intro. par.); 1925 c. 385 s. 6.

On legislative power generally and on the public-purpose doctrine see notes to sec. 1, art. IV.

The power to become indebted and its limits. *Kiernan*, 1964 WLR 173, 549.

**67.04 (1) History:** 1921 c. 576 s. 3; Stats. 1921 s. 67.04 (1); 1923 c. 228; 1923 c. 274 s. 8; 1925 c. 385 s. 6; 1929 c. 348; 1931 c. 475 s. 14; Spl. S. 1931—32 c. 9; 1933 c. 57; 1935 c. 321, 450; 1935 c. 550 s. 406; 1937 c. 55; 1939 c. 24, 395; 1943 c. 179; 1943 c. 334 s. 9; 1945 c. 301; 1947 c. 50, 219, 606; 1949 c. 12, 53, 334, 390; 1951 c. 302, 330, 441; 1953 c. 570, 673; 1955 c. 146 s. 16; 1955 c. 471, 574; 1957 c. 17, 328, 380; 1959 c. 227; 1959 c. 441 s. 12; 1961 c. 62, 355, 371; 1963 c. 157, 414; 1963 c. 419 s. 3; 1965 c. 54; 1967 c. 92 s. 22; 1969 c. 76, 92; 1969 c. 276 ss. 590 (1), 602 (1), 603 (2), 616.

A resolution for issuance of county highway improvement bonds under the provision of 67.04 (1) (c) is not a resolution for issuance of highway bonds under 67.13 and 67.14; it must contain statements and other information and comply with the requirements of 67.05 (1) and be submitted to and approved by electors in accordance with 67.05 (4). 14 Atty. Gen. 70.

For discussion of financing and leasing of county armories, see 28 Atty. Gen. 663.

A county may not issue general obligation bonds under ch. 67 to finance the cost of fireproofing an existing, previously completed asylum. 37 Atty. Gen. 439.

Bonds may be issued to build a grandstand on county-owned fairgrounds as provided in 59.69 (2), Stats. 1949, where electors have authorized the county board to conduct a county fair pursuant to 59.865. No referendum vote on such bond issue is required. 39 Atty. Gen. 367.

A city and county may construct a joint city-county building which will be known as a "Safety Building" and which will be used for courthouse and city hall purposes. 40 Atty. Gen. 9.

A county does not have the power to issue bonds for the purpose of acquiring a site to be used for a county building under 67.04 (1) (a), unless the building falls within one of the categories for which the issuance of bonds for site acquisition is specifically authorized in ch. 67. 40 Atty. Gen. 176.

Construction of a county courthouse under 67.04 (1) (a) is a different municipal purpose than the construction of a joint county-city building under 67.04 (1) (q). The proceeds of bonds issued and sold by a municipality for one purpose may not be validly diverted to other purposes or uses. 40 Atty. Gen. 287.

Where a city is operating under the city school plan, 40.50-40.60, Stats. 1951, the issuance of bonds by the city to construct schools is under 67.04 (2) (b). 41 Atty. Gen. 324.

A county which proposes to issue bonds under 67.04 (1) (q) to finance its share of the

cost of constructing a joint county and city building, which will be used primarily as a courthouse and city hall, is not required to submit the question of issuing bonds for such purpose to the voters of the county at a special election. 42 Atty. Gen. 110.

**67.04 (2) History:** 1921 c. 576 s. 3; 1921 c. 590 s. 84; Stats. 1921 s. 67.04 (2); 1923 c. 98; 1923 c. 274 s. 8; 1925 c. 385, 422; 1929 c. 348, 458; 1931 c. 430; 1933 c. 118; 1933 c. 159 s. 15; 1935 c. 421, 425; 1937 c. 55; 1939 c. 160, 395, 436, 510; 1943 c. 237, 278; 1943 c. 334 s. 9; 1945 c. 301; 1947 c. 53, 91; 1947 c. 362 s. 2; 1947 c. 606; 1949 c. 12, 53, 247, 334; 1951 c. 33, 247; 1953 c. 147; 1955 c. 82; 1957 c. 98; 1959 c. 15, 196; 1959 c. 441 s. 12; 1959 c. 515; 1959 c. 660 s. 49; 1961 c. 456, 656; 1963 c. 2, 133, 214; 1963 c. 419 s. 3; 1967 c. 339; 1969 c. 276 s. 602 (1); 1969 c. 278 s. 2.

An ordinance for the issuance of bonds "to defray the cost of constructing waterworks and connecting sewers" will be construed as to cover only one scheme. Bonds issued by vote of a city council "to defer the cost of constructing waterworks and connecting sewers" are valid. *Borner v. Prescott*, 150 W 197, 136 NW 552.

The indebtedness that would be created by the issuance of mortgage-revenue bonds by a city for the purpose of reimbursing itself for money previously expended for the construction of its water utility would be an indebtedness of the city and not merely a separate indebtedness of the utility, the utility not being an entity separate from the city. *Roberts v. Madison*, 250 W 317, 27 NW (2d) 233.

Under 66.404 (2) and 67.04 (2) (zm), the city of Milwaukee was authorized to issue its general-obligation bonds to raise money to lend to a housing authority to pay a part of the cost of financing a veterans' housing project, such loan to the housing authority to be secured by a note and mortgage and to be repaid to the city by the housing authority over a period of 20 years; and under such financing plan, which did not involve the issuance of bonds by the housing authority, the credit of the city was not pledged for housing authority bonds. *Palfuss v. Milwaukee*, 258 W 374, 46 NW (2d) 208.

A city has no authority to issue bonds, payment of which is to be extended over a series of years, for the purpose of providing supplies for a waterworks plant or system. It is dangerous to the validity of proceedings for authorization of bonds to omit statutory language in drafting the resolution and other documents required. 14 Atty. Gen. 515.

Officers who issue bonds to aid in the construction of a private toll bridge in contravention of this section are civilly liable to the city and criminally liable under 348.28, Stats. 1931. 20 Atty. Gen. 929.

A city and county may construct a joint city-county building which will be known as a "Safety Building" and which will be used for courthouse and city hall purposes. 40 Atty. Gen. 9.

A city which proposes to issue bonds under 67.04 (2) (w), to finance its share of the cost of constructing a joint city and county building, which will be used primarily for courthouse and for city hall purposes and only in-

centally and in part for the housing of machinery and equipment, must submit the question of issuing said bonds to the voters of the city at a special election. 42 Atty. Gen. 110.

**67.04 (4) History:** 1921 c. 576 s. 3; Stats. 1921 s. 67.04 (4); 1925 c. 385; 1929 c. 348, 424; 1933 c. 118; 1935 c. 425; 1939 c. 160; 1943 c. 334 s. 9; 1945 c. 329; 1969 c. 276 s. 616.

**67.04 (5) History:** 1921 c. 576 s. 3; Stats. 1921 s. 67.04 (5); 1923 c. 85, 98; 1923 c. 274 s. 8; 1925 c. 385 s. 6; 1927 c. 54; 1929 c. 348; 1931 c. 79 s. 9; 1933 c. 118; 1935 c. 425; 1937 c. 55, 407; 1939 c. 513 s. 21; 1943 c. 278; 1943 c. 334 s. 9; 1945 c. 301; 1947 c. 328, 534; 1949 c. 12, 332, 334, 643; 1951 c. 33, 247; 1959 c. 441 s. 12; 1969 c. 500 s. 30 (2) (a).

The grant to municipalities by secs. 942, 945 and 948, Stats. 1919 (incorporated by revision in 67.04 and 67.05) of the right to issue bonds to and in the construction of a railroad was confined to railroads not yet built. The grant was of an extra-municipal power and must be strictly construed, and when exercised must be strictly followed. A railroad already completed and in operation cannot be so aided, and the purchase by it of equipment does not constitute construction. *Herried v. Ettrick & N. R. R. Co.* 179 W 516, 192 NW 54.

A town may borrow money for highway improvements extending over a period of years only by issuing bonds as provided by ch. 67, Stats. 1929. County aid in improvement of highways in a town cannot be compelled by the raising of money in an unauthorized manner. 18 Atty. Gen. 217.

A town board cannot borrow money to repay a county for the construction, maintenance and repair of a highway by the county at the town board's request. 24 Atty. Gen. 772.

**67.04 (6) History:** 1921 c. 576 s. 3; Stats. 1921 s. 67.04 (6); 1923 c. 212, 282; 1923 c. 449 s. 7; 1925 c. 385 s. 6; 1939 c. 510; 1949 c. 157; 1951 c. 14, 372; 1951 c. 734 s. 23; 1953 c. 61; 1955 c. 480; 1959 c. 446 s. 19; 1961 c. 18, 114; 1963 c. 391; 1967 c. 26, 47; 1967 c. 92 s. 22; 1969 c. 55.

**67.04 (7) History:** 1959 c. 296; 1959 c. 446 s. 20; 1959 c. 576; Stats. 1959 s. 67.04 (7); 1961 c. 359, 655; 1965 c. 653; 1969 c. 331.

**67.04 (8) History:** 1965 c. 238; Stats. 1965 s. 67.04 (8).

**67.04 (9) History:** 1927 c. 175; Stats. 1927 s. 67.04 (9); 1933 c. 113; 1937 c. 284 s. 3; 1947 c. 411 s. 11 (220.02 (5)); 1951 c. 511 s. 47; 1969 c. 276 ss. 592 (7), 598 (1).

A school district may not borrow money under 67.04 (9), Stats. 1931, without issuing bonds and levying an irrepealable tax. 22 Atty. Gen. 138.

**67.04 (11) History:** 1935 c. 310; Stats. 1935 s. 67.04 (11); 1941 c. 98.

**67.04 (12) History:** 1933 c. 19, 91; Stats. 1933 s. 67.04 (10); 1935 c. 114; 1937 c. 78, 202; Stats. 1937 s. 67.04 (10), (12); 1939 c. 113; 1941 c. 43; 1957 c. 97 s. 38, 39; Stats. 1957 s. 67.04 (12).

**67.04 (13) History:** 1965 c. 600; Stats. 1965 s. 67.04 (13); 1969 c. 61.

**67.04 (15) History:** 1939 c. 510; Stats. 1939 s. 67.04 (15).

**67.045 History:** 1923 c. 224; Stats. 1923 s. 67.045; 1925 c. 385 s. 6.

**67.05 (1) History:** 1921 c. 576 s. 3; Stats. 1921 s. 67.05 (1); 1925 c. 385 s. 3; 1943 c. 334 s. 10; 1943 c. 390; 1969 c. 500 s. 30 (2) (e).

Under provisions in special charters governing the construction and financing of a railroad, the question of subscription to the stock of a railroad company may be submitted in such form as to provide that the subscription shall be in favor of that one or 2 companies which shall first complete its road according to the proposition. In the absence of fraud a valid subscription to the stock of a railroad company will be enforced though such stock is valueless and though the whole amount of such stock is not subscribed. *Lynch v. Eastern, La F. & M. R. Co.* 57 W 430, 15 NW 743, 825.

Under secs. 942 and 943, R. S. 1878, the action of a city council, before an election on the issue of bonds, determining that the waterworks, if authorized, should be installed in accordance with certain plans, does not preclude a change of the plans after the election. *Ellinwood v. Reedsburg*, 91 W 131, 64 NW 885.

Under sec. 943, Stats. 1898, a proposition to issue bonds for a specific purpose must include the amount thereof or at least the maximum amount which is to be approved by the electors. *Neacy v. Milwaukee*, 142 W 590, 126 NW 8.

Including 2 or more separate purposes in the initial resolution for the issue of municipal bonds, and in the ballot submitting the same to electors is disapproved. A separate resolution for each purpose, enumerated in the statute, should be adopted, and the resolutions should be so submitted on the ballot that electors may vote for or against each proposition independently of their vote on others. Proof of the action of the governing body of the municipality, submitting proceedings and bonds to the attorney general for examination and certification, should be made. Proof of posting notices of the special election should show strict compliance with the requirements of the statute. 11 Atty. Gen. 12; 14 Atty. Gen. 236.

The initial resolution need not, and, preferably, should not, prescribe the form of bond. Statutory requirements of statements of value of taxable property, bonded indebtedness, etc., should be strictly followed, and the language of the statute should be used in both the initial resolution and the bond forms. 14 Atty. Gen. 236.

A resolution of a county board authorizing borrowing can contain but one purpose. 24 Atty. Gen. 459.

See note to 64.29, citing 37 Atty. Gen. 425.

Procedures for issuance of general obligation bonds. *Kubale*, 1964 WLR 406.

**67.05 (2) History:** 1921 c. 576 s. 3; Stats. 1921 s. 67.05 (2); 1925 c. 385 s. 3, 6; 1947 c. 601; 1965 c. 666 s. 22 (26); 1967 c. 26, 47; 1969 c. 55.

Amendment of a bonding resolution at an annual meeting, changing dates of proposed bonds within statutory limitations, and adoption of such amended resolution by electors is a valid adoption of an initial bonding resolution under 67.05 (2) (a), Stats. 1923. 12 Atty. Gen. 342.

**67.05 (3) History:** 1921 c. 576 s. 3; Stats. 1921 s. 67.05 (3); 1925 c. 385 s. 6; 1955 c. 578; 1965 c. 252; 1967 c. 92 s. 22; 1969 c. 100, 325; 1969 c. 392 s. 33g.

Suggestions as to the form of record relative to county bond issues and certification thereof to the attorney general are contained in 13 Atty. Gen. 86.

67.05, Stats. 1923, is construed to mean that a resolution must be offered and read at a regular meeting and that it may not be adopted except at a regular meeting begun after the publication provided for and held within a 60-day period. 13 Atty. Gen. 325.

Suggestions for making up separate bond record and for the clerk's certificate to copy thereof on submission to the attorney general are contained in 14 Atty. Gen. 236.

**67.05 (4) History:** 1921 c. 576 s. 3; Stats. 1921 s. 67.05 (4); 1925 c. 385 s. 6; 1937 c. 55; 1965 c. 666 s. 22 (11), (17); 1969 c. 93.

**67.05 (5) History:** 1921 c. 576 s. 3; Stats. 1921 s. 67.05 (5); 1923 c. 274 s. 11; 1925 c. 385 s. 3; 1929 c. 364, 424, 458, 515; 1929 c. 530 s. 7; 1933 c. 118, 482; 1935 c. 425; 1939 c. 160; 1941 c. 152; 1947 c. 330; 1947 c. 362 s. 2; 1947 c. 614; 1955 c. 82; 1957 c. 338; 1959 c. 515, 686; 1961 c. 456; 1963 c. 152; 1963 c. 419 s. 3; 1965 c. 61; 1965 c. 666 s. 22 (11), (17), (24), (25), (26), (34), (35), (37); 1969 c. 55; 1969 c. 276 s. 602 (1).

Bonds for the purchase of a utility may be issued without a special vote therefor by the electors when they have first voted in favor of such purchase. *Janes v. Racine*, 155 W 1, 143 NW 707.

A city is authorized to issue bonds for constructing veterans' housing projects without a referendum, unless there is filed a petition signed by electors or there is, in the discretion of the city council, a resolution that there shall be a referendum; and when a referendum has been submitted to and approved by the voters for the issuance of bonds in a specified amount for such purposes, the city may thereafter issue its bonds in an additional amount for such purposes without a referendum, unless there is such a petition or such a resolution. *Palfuss v. Milwaukee*, 258 W 374, 46 NW (2d) 208.

The special election, required by 67.05 (5) (b), Stats. 1925, may be called for and held on the day of the general election in November. "Declaration of purpose" referred to in 67.05 (5) (b) should be in the form of the initial resolution adopted in the manner and form provided by 67.05 (1) and (3). 15 Atty. Gen. 382.

A city may issue bonds for the construction of a sewage disposal plant without submitting the proposition to a vote of the electors, unless the petition for referendum is filed as provided by 67.05 (7) (b), Stats. 1931. 22 Atty. Gen. 185.

Municipal bonds issued for the purpose of refunding a loan made for school purposes

through the commissioners of public lands require a vote of electors under 67.05 (5) (b), Stats. 1935, 26 Atty. Gen. 98.

Since the amendment of 67.05 (5) by ch. 330, Laws 1947, villages have authority to issue bonds for airport purposes without a vote of the electors. 36 Atty. Gen. 313.

**67.05 (6) History:** 1921 c. 576 s. 3; Stats. 1921 s. 67.05 (6); 1925 c. 385 s. 6; 1931 c. 79 s. 10; 1965 c. 666 s. 22 (9); 1967 c. 47.

The electors of a common school district who adopted an initial resolution without prior adoption by the school board under 67.05 (2) were not required to again vote thereon at a special meeting under 67.05 (6), such statute being inapplicable where the initial resolution was adopted by the electors themselves. A resolution of the school board adopting a resolution for a bond issue which had been adopted by the electors, and which provided for the levy of a tax is construed to be a levy of the tax by the board. Van Brunt v. Joint School Dist. 185 W 493, 201 NW 755.

**67.05 (6a) History:** 1927 c. 463; Stats. 1927 s. 67.05 (6a); 1943 c. 220; 1955 c. 458; 1965 c. 218; 1965 c. 666 s. 22 (9).

**67.05 (6b) History:** 1955 c. 458; Stats. 1955 s. 67.05 (6b); 1965 c. 218; 1965 c. 666 s. 22 (9).

**67.05 (6m) History:** 1967 c. 47; Stats. 1967 s. 67.05 (6m); 1969 c. 276 s. 616.

**67.05 (7) History:** 1921 c. 576 s. 3; Stats. 1921 s. 67.05 (7); 1923 c. 307 s. 11; 1925 c. 169; 1925 c. 385 s. 3, 6; 1933 c. 61; 1953 c. 176; 1959 c. 446 s. 21; 1961 c. 359; 1965 c. 238; 1969 c. 101, 331.

The 30-day period within which electors of a city may require a referendum on a proposed bond issue does not begin to run until the recording of the initial resolution or ordinance in a separate bond record book after its final adoption by the council. 14 Atty. Gen. 236.

**67.05 (8) History:** 1921 c. 576 s. 3; Stats. 1921 s. 67.05 (8); 1925 c. 385 s. 6.

Where it was agreed that bonds should be delivered to a company on the performance by it of the conditions contained in a proposition, one of which was that it should build a road between certain points, the adoption of the road of another company for several miles, in lieu of building a road of its own, was a failure by the company to perform the condition precedent, and it was not entitled to receive the bonds. Lawson v. Schnellen, 33 W 288.

A proposition submitted by a company and accepted by the voters becomes a contract mutually binding. Bound v. Wisconsin C. R. Co. 45 W 543.

If a contract to issue bonds in the aid of a railway company does not limit the time within which the road shall be completed, and the town has not given notice that unless it was completed within a reasonable time the aid would not be furnished, the company does not lose its right by lapse of time nor by the statute of limitations. Lynch v. Eastern, La F. & M. R. Co. 57 W 430, 15 NW 743, 825.

The submission of a proposition to construct a road in 6 different sections with bonds of

particular numbers to be used in payment of each of the specified sections, and each installment to be delivered when that section was completed, is a definite proposition in writing. Crogster v. Bayfield County, 99 W 1, 74 NW 635, 77 NW 167.

**67.05 (9) History:** 1921 c. 576 s. 3; Stats. 1921 s. 67.05 (9); 1925 c. 385 s. 6.

**67.05 (10) History:** 1921 c. 576 s. 3; Stats. 1921 s. 67.05 (10); 1925 c. 385 s. 6; 1953 c. 147; 1961 c. 353; 1967 c. 92 s. 22.

Keystone L. Co. v. Bayfield, 94 W 491, 69 NW 162, decided that the tax need not be collected until the bonds are delivered to the company. A present levy must be made, so as to exhaust the duty and render the tax irrevocable. Kyes v. St. Croix County, 108 W 136, 83 NW 637.

An ordinance which read "there is hereby levied on all taxable property" in a certain city a certain amount and providing for its collection, a certain amount each year for 20 years, which amount would be sufficient to pay the interest and to constitute a sinking fund to pay the bonds at maturity, complied with sec. 925-133, Stats. 1898. The tax levied for any year need not be for the precise amount payable that year. It is enough that the sums as levied suffice to meet principal and interest as they mature. Borner v. Prescott, 150 W 197, 136 NW 552.

Lands conveyed to the United States or other tax-exempt body are exempt from taxation to pay existing bonded indebtedness (incurred under this chapter) of the county in which the lands are situated. 23 Atty. Gen. 90.

Taxes must be levied in such manner that money is on hand in the treasury to pay interest upon all county bond issues as it falls due. 26 Atty. Gen. 513.

**67.05 (11) History:** 1921 c. 576 s. 3; Stats. 1921 s. 67.05 (11); 1925 c. 385 s. 6; 1969 c. 241.

**67.05 (12) History:** 1921 c. 576 s. 3; Stats. 1921 s. 67.05 (12); 1925 c. 385 s. 6.

The proceedings must be recorded in a separate record book as required by 67.05 (12), recording in the record books of the minutes of the meetings is not a compliance. 11 Atty. Gen. 612; 14 Atty. Gen. 236.

**67.05 (13) History:** 1951 c. 32; Stats. 1951 s. 67.05 (13).

**67.05 (14) History:** 1955 c. 344; Stats. 1955 s. 67.05 (14); 1961 c. 322.

**67.06 History:** 1921 c. 576 s. 3; Stats. 1921 s. 67.06; 1925 c. 385 s. 3; 1927 c. 330; 1931 c. 430; 1957 c. 10; 1969 c. 75.

Under sec. 925-133, Stats. 1898, it is not required that the option that the bonds be paid in instalments be exercised by the city or that the interest be paid semiannually. The words "shall bear interest not exceeding 6 per cent per annum payable semiannually," do not require interest to be paid semiannually but limit the amount to be paid only. The words "all such bonds shall be payable at the option of the city in annual instalments" mean an option to make them payable all at one time or part of them each year. Borner v. Prescott, 150 W 197, 136 NW 552.

**67.07 History:** 1921 c. 576 s. 3; Stats. 1921 s. 67.07; 1925 c. 385 s. 3; 1939 c. 513 s. 22; 1941 c. 28; 1957 c. 10.

**67.08 History:** 1921 c. 576 s. 3; Stats. 1921 s. 67.08; 1925 c. 385 s. 3; 1931 c. 81; 1935 c. 154, 493; 1947 c. 103; 1947 c. 362 s. 2; 1957 c. 305; 1965 c. 252.

A county board having authorized its chairman, the county clerk and the county highway committee to sell highway improvement bonds "after such advertising as in their discretion may seem advisable," and such bond committee having advertised for bids with the requirement that a certified check of a certain amount shall accompany each bid, it may waive the requirement in case of a bid by the commissioner of insurance, or it may reject all bids and sell the bonds to such commissioner. 13 Atty. Gen. 127.

**67.09 History:** 1921 c. 576 s. 3; Stats. 1921 s. 67.09; 1925 c. 385 s. 3, 4; 1957 c. 10; 1969 c. 196.

**67.10 History:** 1921 c. 576 s. 3; Stats. 1921 s. 67.10; 1923 c. 274 s. 3, 4, 5, 6; 1925 c. 385 s. 3, 6, 7; 1931 c. 3; 1931 c. 79 s. 11; 1931 c. 107; 1933 c. 52, 274; 1939 c. 107; 1959 c. 111, 669; 1961 c. 54; 1969 c. 156.

Public securities cannot be sold on credit or for anything but legal tender unless the statute authorizes credit or some other medium of payment. 10 Atty. Gen. 684.

**67.101 History:** 1923 c. 119; Stats. 1923 s. 67.101; 1925 c. 385 s. 7; 1933 c. 26; 1939 c. 373; 1945 c. 316; 1963 c. 422; 1965 c. 100.

**67.11 History:** 1921 c. 576 s. 3; Stats. 1921 s. 67.10 (4); 1923 c. 274 s. 3; Stats. 1923 s. 67.11; 1925 c. 385 s. 3, 6; 1933 c. 175; 1953 c. 620; 1961 c. 319, 353; 1965 c. 218, 252.

Money collected to pay bonds for a training school, when no longer needed, may be turned into the general fund of the county. 11 Atty. Gen. 232.

A sinking fund to pay bonds created under this section is entitled to only its proportional share of taxes actually collected. 22 Atty. Gen. 726.

**67.12 (1) History:** 1921 c. 576 s. 3; Stats. 1921 s. 67.11 (1) to (4); 1923 c. 30; 1923 c. 274 s. 2; 1923 c. 307 s. 12; 1923 c. 449 s. 38; Stats. 1923 s. 67.12 (1) to (4); 1925 c. 385 ss. 3 and 6; 1931 c. 261; Spl. S. 1931 c. 9; 1933 c. 119; 1951 c. 263; 1955 c. 578 s. 4; 1967 c. 92 s. 22; 1969 c. 55; Stats. 1969 s. 67.12 (1) (a) to (d).

On limitation on indebtedness see notes to sec. 3, art. XI.

If the school treasurer was not authorized to make loans in the name of the district, and did not use the funds for school purposes, the bank cannot recover of the district. *First Nat. Bank v. Joint School Dist.* 187 W 547, 203 NW 762.

All who take the obligations of a town to pay money must ascertain whether they were issued by competent authority; and if at the time when a town note was given the statute was not complied with, the note is void. A note given without statutory authority is void even as against one who otherwise is a bona fide holder. *Swiss v. United States Nat. Bank.* 196 W 171, 218 NW 842.

Unanimous vote of 3 members-elect of a town board is necessary for adoption of a resolution required by 67.12 (2), Stats. 1923. After the tax roll is turned over to the town treasurer for collection, the town may obtain further loans. 13 Atty. Gen. 315.

A town board can borrow money to pay current and ordinary expenses and issue promissory notes or town orders; it may also borrow in anticipation of the collection of a tax levied and in the hands of the treasurer for collection, but it must carry on various activities of town, the making up current and ordinary expenses within the amount of the levy as supplemented by provisions for borrowing in this section. 16 Atty. Gen. 338.

A temporary loan made by a county and repaid out of current funds pursuant to a resolution authorizing the loan, where such repayment occurs prior to the time for making up the next tax roll, eliminates the necessity for carrying the tax levied under this subsection into the next tax roll. 28 Atty. Gen. 277.

This section does not authorize temporary borrowing by a county to pay accrued claims for permanent improvements to fairgrounds, which claims were erroneously omitted from the county budget adopted under 65.90, since such claims are not "current and ordinary expenses." 31 Atty. Gen. 95.

**67.12 (5) History:** 1921 c. 576 s. 3; Stats. 1921 s. 67.11 (5); 1923 c. 274 s. 2; Stats. 1923 s. 67.12 (5); 1925 c. 385 s. 6; 1933 c. 119; 1969 c. 55.

**67.12 (6) History:** 1921 c. 576 s. 3; Stats. 1921 s. 67.11 (6); 1923 c. 274 s. 2; Stats. 1923 s. 67.12 (6); 1925 c. 385 s. 6; 1927 c. 473 s. 19.

**67.12 (8) History:** 1925 c. 385; Stats. 1925 s. 67.12 (8); 1933 c. 127; 1943 c. 82; 1945 c. 119; 1953 c. 122; 1959 c. 446 s. 22; 1969 c. 276 s. 589 (2) (a).

A school district which borrows money under 67.12 may issue more than one note. 13 Atty. Gen. 516.

Under 67.12 estimated receipts for a school year as certified by state superintendent and local school clerk do not include district funds tied up in a closed bank. 22 Atty. Gen. 628.

So long as temporary borrowing by a school district for current and ordinary expenses under 67.12 is such that it can be paid out of current revenues collected or in process of collection within the rule of cases cited, such district may borrow without regard to the constitutional debt limit. 28 Atty. Gen. 569.

Under 67.12 (8), if a school district is indebted to the extent of its constitutional debt limit, it may not borrow against any part of the current tax levy before the tax roll has been delivered to the local treasurer for collection. If the tax roll has been delivered to local treasurer for collection, it may borrow up to 50% of estimated receipts for operation and maintenance but not to exceed 100% of the amount included in tax levy for such purpose. It may not borrow at any time against unpaid state aids or tuition claims or transportation claims. The foregoing conclusions would not be changed by the fact that the district had taken action appropriating anticipated receipts to retire the loan made under 67.12 (8). 43 Atty. Gen. 302.

**67.12 (8a) History:** 1957 c. 598; Stats. 1957 s. 67.12 (8a).

67.12 (8a) refers only to "loans required for operating purposes" of a school district. If revenues are due and payable to the district upon a levy including taxes sufficient to pay such a loan, and an assignment of such taxes for payment of the loan has been made, the district is doing business on a cash basis. *School District v. Marine Nat. Ex. Bank*, 9 W (2d) 400, 101 NW (2d) 112.

**67.12 (9) History:** 1933 c. 45; Stats. 1933 s. 67.12 (9).

Under 67.12 (9) (a), Stats. 1933, a town may not borrow against delinquent tax certificates held by a county where the county has liquidated its share and the town is entitled to the entire proceeds. In a proper case, the town may act under the provisions of 67.12 (9) (b). 24 Atty. Gen. 84.

**67.12 (10) History:** 1933 c. 113 s. 2; Stats. 1933 s. 67.12 (10); 1969 c. 55.

**67.12 (11) History:** 1939 c. 474; Stats. 1939 s. 67.12 (11); 1949 c. 177.

**67.12 (12) History:** 1947 c. 341; Stats. 1947 s. 67.12 (12); 1951 c. 262, 734; 1953 c. 123; 1955 c. 578 s. 5; 1957 c. 98, 124, 370; 1957 c. 672 s. 51; 1959 c. 296; 1959 c. 446 s. 23; 1959 c. 515, 576; 1961 c. 322; 1965 c. 238, 252, 599, 618, 653; 1967 c. 26, 27, 47; 1967 c. 92 s. 22; 1969 c. 55, 75, 76, 100; 1969 c. 278 s. 2; 1969 c. 331.

A county may not borrow on promissory notes under 67.12 (12), Stats. 1967, for the purpose of paying its existing obligation to the Wisconsin retirement fund. 56 Atty. Gen. 254.

**67.12 (13) History:** 1955 c. 53; Stats. 1955 s. 67.12 (13).

**67.125 History:** 1933 c. 382; Stats. 1933 s. 67.125; 1951 c. 261 s. 10.

**67.13 (1) History:** 1911 c. 337; Stats. 1911 s. 1317m-12; 1913 c. 668; Stats. 1913 s. 1317m-12 sub. 1; 1917 c. 174; 1917 c. 500 s. 1; 1923 c. 108 s. 149; Stats. 1923 s. 67.13 (1); 1925 c. 385 s. 6; 1937 c. 55; 1943 c. 334 s. 11; 1947 c. 443.

Interest received on "nontaxable" county highway bonds are not exempt from taxation as income, since the legislature, when authorizing counties to issue nontaxable bonds, intended that such bonds should be free from personal property taxation only (chs. 337, 516 and 658, Laws 1911). *Van Dyke v. Tax Comm.* 217 W 528, 259 NW 700.

The county having authorized the issue of bonds for highway improvements under sec. 1317m-12, Stats. 1919, it is the duty of the county clerk to certify the tax levy to pay the principal and interest, even though such bonds have not been sold. The county board may not increase the rate of interest on bonds beyond the maximum allowed by statute. 9 Atty. Gen. 428.

The proceeds of bonds issued pursuant to sec. 1317m-12, Stats. 1919, for the improvement of a state trunk highway may lawfully be used to improve such highway as altered by order of the state highway commission. 10 Atty. Gen. 176.

The fact that a sum which has been allotted

to a highway in a bonding ordinance averages less per mile than the lowest cost of constructing the section of said highway does not prevent contracting for the constructing of such section nor the expending all funds realized from the bond issue. The additional funds needed to complete the several projects, of the ordinance, may be supplied by taxation or by other bond issues. 10 Atty. Gen. 190.

A majority vote of the members of county board present is a sufficient adoption of the bonding resolutions under sec. 1317m-12, Stats. 1921. 11 Atty. Gen. 895.

A resolution for issuing of highway improvement bonds by sole action of a county board for the purpose of providing for grading, draining and surfacing with gravel of certain highways, is valid notwithstanding the fact that the improvements contemplated by such resolution are not a continuation of the highway improvement program embraced in former bond issue and notwithstanding the fact that the bonds run for a longer period than the recognized life of the gravel road. 14 Atty. Gen. 9.

**67.13 (2) History:** 1913 c. 668; Stats. 1913 s. 1317m-12 sub. 2; 1917 c. 174; 1917 c. 500 s. 1; 1923 c. 108 s. 149; Stats. 1923 s. 67.13 (2); 1925 c. 385 s. 6; 1947 c. 443; 1969 c. 500 s. 30 (2) (d), (e).

The county highway bonds cannot be sold below par. A bid for the purchase thereof at par, with a condition that on acceptance of the bid the purchaser shall be made an allowance out of the treasury, necessitates a rejection of the bid. 9 Atty. Gen. 182.

A bid to do highway construction work wherein the contract price is to be paid in bonds is invalid, because it is an evasion of the provision against selling bonds below par. 10 Atty. Gen. 158.

The only persons who can bind the county by signing highway bonds are the county chairman and county clerk who are in office at the time of signing. 10 Atty. Gen. 364.

County highway bonds should be signed by the county chairman who is in office on the day of their date, though they are not to be sold until after his term has expired. 10 Atty. Gen. 633.

The county board may repeal a bonding resolution at any time prior to a sale of the bonds; it may amend the interest rate prior to sale; it may repeal the old and enact a new bonding resolution; and it may apply, to interest on the new, taxes collected for the original bond issue. 11 Atty. Gen. 60.

The statutes do not require advertisement or competition in the sale of county highway bonds; and where a resolution of the board requires publication of notice of sale and such publication is had, but all bids received in response thereto are rejected, the bonds may be sold over the counter without further notice. 11 Atty. Gen. 238.

**67.13 (3) History:** 1913 c. 668; Stats. 1913 s. 1317m-12 sub. 3; 1917 c. 500 s. 2, 3; 1923 c. 108 s. 149; Stats. 1923 s. 67.13 (3); 1925 c. 385 s. 6; 1937 c. 55; 1943 c. 334 s. 11; 1965 c. 593; 1969 c. 500 s. 30 (2) (e).

A premium received on sale of county highway improvement bonds issued under 67.13 and 67.14 must be placed in the county treas-

ury as part of a sinking fund for retirement of such bonds, as provided by 67.11 (1), and may not be used for construction purposes "as proceeds from county bonds" authorized to be used for construction purposes by 67.13. 17 Atty. Gen. 632.

**67.13 (4) History:** 1915 c. 533 s. 18; Stats. 1915 s. 1317m—12 sub. 4; 1917 c. 500 s. 2, 3; 1923 c. 108 s. 149; Stats. 1923 s. 67.13 (4); 1925 c. 385 s. 6; 1969 c. 500 s. 30 (2) (e).

Contracts may be let for highway construction prior to the actual sale of bonds already authorized. 9 Atty. Gen. 133.

**67.14 History:** 1913 c. 668 s. 10; Stats. 1913 s. 1317m—12a; 1917 c. 500 s. 4; 1921 c. 516; 1923 c. 108 s. 150; Stats. 1923 s. 67.14; 1925 c. 385 s. 6; 1929 c. 145; 1937 c. 55; 1943 c. 334 s. 12.

When a highway bonding proposition must be submitted to the electors, a complete bonding resolution must be passed by the county board before the matter can be submitted to the electors. The county board can call a special election for the purpose. The county clerk must give 20 days' notice of the election in the manner prescribed for advertising general county elections. 8 Atty. Gen. 540.

The county board has no power to change the denominations of highway improvement bonds provided for by a bonding resolution submitted to the electors. 12 Atty. Gen. 192.

"Bonds outstanding" as used in 67.14 do not include bonds which have matured and which are unpaid, but for payment of which bonds funds are available in the sinking fund created for that purpose. 20 Atty. Gen. 118.

**67.156 History:** 1943 c. 431; Stats. 1943 s. 67.156.

A county should borrow only to the extent of its equity in tax certificates owned by it; it should set aside tax certificates in which the county has an equity equal to the amount borrowed; and it should set aside, for retirement of the loan, proceeds realized on said certificates to the extent of the county's equity therein. 22 Atty. Gen. 559.

**67.17 History:** 1921 c. 576 s. 3; Stats. 1921 s. 67.12; 1923 c. 274 s. 1; Stats. 1923 s. 67.17; 1925 c. 385 s. 6; 1937 c. 214.

**67.22 History:** 1927 c. 138 s. 2; 1927 c. 541 s. 35; Stats. 1927 s. 67.22.

**67.23 History:** 1935 c. 528; Stats. 1935 s. 67.23.

**67.24 History:** 1957 c. 207; Stats. 1957 s. 67.24.

**67.25 History:** 1959 c. 515; Stats. 1959 s. 67.25.

## CHAPTER 68.

### General Statistics.

**68.01 History:** 1872 c. 150 s. 1; R. S. 1878 s. 1004; 1881 c. 236 s. 1; Ann. Stats. 1889 s. 1004; Stats. 1898 s. 1004; 1917 c. 515 s. 2; 1921 c. 25 s. 2; Stats. 1921 s. 68.01; 1923 c. 435 s. 1; 1925 c. 205 s. 2; 1943 c. 20; 1963 c. 173; 1969 c. 276 s. 590 (1).

**68.02 History:** 1899 c. 143 s. 1 to 4; Supl.

1906 s. 1004a; 1909 c. 212; 1911 c. 262; 1921 c. 25 s. 3; Stats. 1921 s. 68.02; 1943 c. 20; 1969 c. 276 s. 590 (1).

**68.03 History:** 1872 c. 150 s. 2; R. S. 1878 s. 1005; 1881 c. 236 s. 2, 4; Ann. Stats. 1889 s. 1005, 1005b; Stats. 1898 s. 1005; 1903 c. 315 s. 12; Supl. 1906 s. 1005; 1909 c. 212; 1911 c. 262; 1911 c. 664 s. 80; 1921 c. 25 s. 4; Stats. 1921 s. 68.03; 1943 c. 20; 1969 c. 276 s. 590 (1).

**68.04 History:** 1873 c. 210 s. 1, 5; 1874 c. 311 s. 1; R. S. 1878 s. 1007; 1885 c. 64; Ann. Stats. 1889 s. 1007; Stats. 1898 s. 1007; 1903 c. 373 s. 1; Supl. 1906 s. 1007; 1907 c. 522; 1921 c. 25 s. 5; Stats. 1921 s. 68.04; 1943 c. 20; 1969 c. 276 s. 590 (1).

**68.05 History:** 1873 c. 210 s. 2; R. S. 1878 s. 1008; Stats. 1898 s. 1008; 1907 c. 522; 1921 c. 25 s. 6; Stats. 1921 s. 68.05; 1943 c. 20.

**68.06 History:** 1850 c. 105 s. 1; R. S. 1858 c. 18 s. 179; 1873 c. 210 s. 4; 1874 c. 311 s. 2; R. S. 1878 s. 1009; Stats. 1898 s. 1009; 1907 c. 522; 1911 c. 262; 1921 c. 25 s. 7; Stats. 1921 s. 68.06; 1943 c. 20; 1969 c. 276 s. 590 (8).

**68.07 History:** 1874 c. 38 s. 1, 2; 1877 c. 244; 1878 c. 260; R. S. 1878 s. 1010; 1889 c. 226; Ann. Stats. 1889 s. 1010; 1897 c. 24, 122; Stats. 1898 s. 1010; 1899 c. 210 s. 1; 1903 c. 39 s. 1; Supl. 1906 s. 1010; 1907 c. 38; 1909 c. 242; 1917 c. 131; 1921 c. 25 s. 8; Stats. 1921 s. 68.07; 1935 c. 550 s. 8, 407; 1943 c. 229.

**68.09 History:** 1874 c. 43 s. 1; 1875 c. 183 s. 3; 1876 c. 54 s. 1; 1876 c. 186 s. 1; R. S. 1878 s. 1015; 1917 c. 515 s. 4; 1921 c. 25 s. 10; Stats. 1921 s. 68.09; 1939 c. 513 s. 23.

**68.10 History:** 1872 c. 110; R. S. 1878 s. 1017; Stats. 1898 s. 1017; 1921 c. 25 s. 11; Stats. 1921 s. 68.10.

**68.11 History:** 1875 c. 183 s. 2; R. S. 1878 s. 1019; Stats. 1898 s. 1019; 1917 c. 515 s. 5; 1921 c. 25 s. 12; Stats. 1921 s. 68.11.

## CHAPTER 69.

### Collection of Vital Statistics.

**69.01 History:** 1969 c. 366; Stats. 1969 s. 69.01.

**69.02 History:** 1907 c. 469; Stats. 1911 s. 1022—2; 1921 c. 12 s. 2; Stats. 1921 s. 69.02; 1943 c. 503 s. 3, 4; 1945 c. 173; 1951 c. 247 s. 24; 1951 c. 319 s. 205; 1969 c. 366 ss. 53, 117 (1) (a).

**69.03 History:** 1907 c. 469; 1911 c. 663 s. 127; Stats. 1911 s. 1022—3; 1921 c. 12 s. 2; Stats. 1921 s. 69.03; 1943 c. 503 s. 5; 1969 c. 366 s. 117 (1) (a).

The state board of health does not have power under 69.03 and 140.05 (3), Stats. 1947, to promulgate a rule prohibiting distribution of information shown on registrations of births and deaths, except to the extent that such a rule might be made applicable to the state and local registrars in performance of their duties under ch. 69 if it affects efficient administration. 36 Atty. Gen. 633.

**69.04 History:** 1907 c. 469; 1911 c. 663 s. 127; Stats. 1911 s. 1022—4; 1921 c. 12 s. 2;