

CHAPTER 67.

MUNICIPAL BORROWING AND MUNICIPAL BONDS.

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67.01 Definitions and interpretations. In this chapter, unless the context or subject matter otherwise requires:

(1) "Municipality" includes a county, city, village, town, common school district, consolidated district, state graded school district, free high school district, union free high school district, whether any such district is joint or otherwise, a board of education, a board of park commissioners, and any other public body empowered to borrow money and issue written obligations to repay the same out of public funds or revenues.

(2) "Municipal obligation" includes every lawful promise or engagement in writing by a municipality to pay at a specified future time a specified sum of money.

(3) "Governing body" includes a town or county board, the legislative body of a city or village, and the board of any district or other municipality enumerated in subsection (1).

(4) Every reference to the population of a municipality refers to its population according to the last United States census; and every reference to the value of the taxable property in a municipality refers to such value according to the last assessment thereof for state and county taxes.

(5) "Recorded" means copied at length in the record book required by subsection (12) of section 67.05.

(6) "Initial resolution" means any resolution or ordinance adopted pursuant to subsection (1) or subsection (2) of section 67.05, by which a proceeding is instituted for the purpose of authorizing a municipality to borrow money and issue bonds or other municipal obligations.

(7) (a) Proceedings for municipal borrowing or for the issuing of municipal obligations, which may be pending at the time this chapter becomes effective, may be continued to completion, pursuant to the laws under which they were instituted.

(8) This chapter is not applicable:

(a) To the borrowing of moneys belonging to the common school fund, the normal school fund, the university fund or the agricultural college fund; all of which borrowing shall continue to be regulated by chapter 25 of these statutes.

(b) To the issue or payment of street, sewer, harbor or other improvement bonds or certificates which do not constitute a general liability of the municipality issuing them, and for the payment of which specified portions only of the taxable property in such municipality are taxable.

(d) To drainage bonds issued by authority of chapter 88 or 89 of the statutes.

(e) To viaduct bonds issued pursuant to section 59.91.

(f) To special improvement bonds issued pursuant to section 59.92.

(g) To mortgage bonds or mortgage certificates issued for the purpose of acquiring public utilities, including street railways, pursuant to sections 66.06 to 66.078.

(h) To contractor's certificates, general obligation-local improvement bonds or special assessment B bonds issued pursuant to section 66.54 except as therein specified. [1939 c. 237, 474; 1943 c. 278; 1947 c. 362]

Note: Under the "city school plan" (secs. 40.50, citing 205 W 389, 236 NW 553; 210 W 40.50 to 40.60) the board of education has no power to issue bonds; see annotations to 381, 245 NW 640; 215 W 409, 253 NW 598.

67.015 Housing authorities exempted. This chapter shall not be applicable to borrowing by housing authorities or county veterans' housing authorities under sections 66.39 to 66.404. [1947 c. 362, 417]

67.02 Procedure validated. (1) Validations heretofore effected by legislative enactments of defective or irregular procedure in the creation, execution, or issue of municipal obligations continue unaffected by the repeal of said enactments or by the consolidation and revision of them in this chapter.

(2) Defects and irregularities in any such proceeding hereafter had which is for a lawful purpose, is unaffected by fraud, and does not exceed any statutory or constitutional limitation of amount, shall not invalidate the bonds issued or the indebtedness incurred after the bonds have been sold or hypothecated and the proceeds thereof received and appropriated by the municipality to such lawful purpose, nor after the performance of a contract has been entered upon by a party whose performance of the contract is the consideration for such bonds or other obligations.

(3) The governing body of any municipality about to issue municipal bonds may, in its discretion, submit to the attorney-general a certified copy of all its proceedings preliminary to such issue, and also the unsigned bonds, for examination and certification as provided by subsection (5a) of section 14.53. As soon as bonds so examined and certified shall be returned the clerk of the municipality shall record such certificate.

Note: Bonds issued and sold by a village for a proper public purpose, to procure electrical service for the village and its inhabitants and rural customers, were not subject to constitutional objections, and their validity could be attacked only for irregularities in the proceedings for their issuance, and hence an action attacking their validity, commenced more than 30 days after the recording of the attorney-general's certificate of validity of the bonds in the office of the village clerk, was barred under 330.23, 14.53 (5a) and 67.02 (3). *Gilman v. Northern States Power Co.*, 242 W 130, 7 NW (2d) 606. Officers of city who issue bonds to aid in the construction of private toll bridge in contravention of 67.04 are civilly liable to city and criminally liable under 343.28. 20 Atty. Gen. 929.

67.03 Grant of power to borrow; general limitations of indebtedness. (1) Every municipality may borrow money and issue municipal obligations therefor for the purposes specified and by the procedure provided in this chapter, and for no other purpose and in no other manner, except as provided otherwise in subsections (7) and (8) of section 67.01; but every municipality is forbidden to become indebted in any manner or for any purpose to any amount, including existing indebtedness, which in the aggregate exceeds five per centum of the value of the taxable property therein, and the principal indebtedness of any county is further limited to not exceeding five per centum of the last equalized assessment thereof for state taxes made by the department of taxation pursuant to section 70.57.

(2) The amount so limited includes such indebtedness only as has been or may be incurred independently by a municipality for its own separate purposes; and does not include any indebtedness, in whole or in part, that has been or may be incurred independently by any other municipality for its own separate purposes, even though the territory and taxable property of either municipality constitutes the whole or a part of the territory and taxable property of the other.

(3) Whenever a municipality acquires a utility or other property of any kind that at the time is incumbered by mortgage, trust deed or otherwise, the municipality does not assume the payment of such incumbrance, nor does the incumbrance constitute any part of the amount limited by subsection (1). Neither is any deferred payment upon a municipal contract a part of said amount, if the contract expressly provides immunity for the municipality from all liability arising from such contract to make such payment. [1943 c. 20]

67.035 Tax limitations not applicable to debt levies. All taxes levied or to be levied by any municipality proceeding under this chapter for the purpose of paying principal and interest on valid bonds or notes now or hereafter outstanding shall be and the same are hereby declared to be without limitation notwithstanding any legislative limitation now or heretofore existing, and all such limitations are hereby repealed in so far as they apply to taxes levied or to be levied to pay principal and interest upon such bonds or notes. [1933 c. 101, 177]

67.04 Purposes and specific limitations of bond issues. Municipalities are empowered to borrow money, subject to the general limitation of amounts prescribed by section 67.03, and subject in some specific cases to the further limitations prescribed by this section, and to issue bonds therefor, for the purposes enumerated in this section. Such bonds may be issued:

(1) By any county:

(a) To provide joint county normal school buildings, county buildings, including county poorhouses, county hospitals, county hospitals or asylums for the insane, county tuberculosis sanatoriums, county workhouses and houses of correction; but all outstanding unpaid bonds for these purposes shall not exceed in amount at one time one and one-half per centum of the value of the taxable property in such county.

(b) In counties having a population of two hundred fifty thousand or more, to provide sites and buildings for the institutions and departments mentioned in section 46.21, and to furnish and equip them for use.

(c) To provide a sum not exceeding in amount one per centum of the value of the taxable property in the county for the original construction and for the improvement and maintenance of highways.

(d) To construct, acquire or maintain, or to aid in constructing, acquiring or maintaining, a bridge over or across any stream or other body of water bordering upon or intersecting any part of the county, including, without limitation because of designation, a bridge project eligible to construction under section 84.11 (1) (a) or (b) or under 82.12 (1) (a) or (b); provided that nothing herein shall be construed to prevent any county from proceeding under sections 67.13 and 67.14 where applicable.

(e) To pay an authorized subscription to the capital stock or mortgage bonds, or both, issued by any railroad company.

(f) Except in counties having a population of one hundred fifty thousand or more, to aid the county road and bridge fund; but all outstanding unpaid bonds for such aid shall not exceed in amount at one time one per centum of the value of the taxable property in the county.

(g) To provide that part of the cost of any breakwater or protection pier which is authorized by section 30.05 to be raised by a bond issue.

(h) To acquire land for county parks and to improve the same.

(i) To provide for or to aid in the erection of memorials to the soldiers, sailors, marines and nurses, residents of the county, who served the nation during any of its wars; but the amount of such bonds shall not exceed 5 mills on the dollar of the value of the taxable property in the county.

(k) To acquire sites for airports or landing fields and to construct hangars, buildings, runways and other equipment and appurtenances necessary for the operation and maintenance of same.

(m) To provide relief and assistance to those in need.

(n) To raise a fund for the purpose of enabling the county to carry delinquent tax certificates.

(o) In counties having a population of two hundred fifty thousand or more, to provide for the acquisition of property, the construction of buildings and public works and the payment of expenses incurred in the exercise of powers and functions conferred by section 59.083 relating to the consolidation of municipal services in such counties.

(p) To refund a prior indebtedness of any county in any case whether or not such indebtedness was created for a purpose for which county bonds might have been issued in the original instance; provided, the time for payment shall not be extended beyond the period authorized in this chapter.

(q) To provide for the erection, construction and equipment of joint county and city buildings for a courthouse, city hall, armory, library, auditorium or music center, municipal center, or any combination thereof; to acquire the site therefor; and to execute, authorize, and do all things necessary to secure financial aid and co-operation of the federal government in the undertaking, construction, maintenance and operation of any such project.

(r) To provide funds for acquiring land by purchase or condemnation and constructing thereon or upon lands otherwise acquired by the county, various types of housing to be sold or rented, upon such terms as the county board may authorize, to honorably discharged members of the armed services of the United States who served in any of its wars and who at the time of induction into such service were residents of such county.

(s) To acquire sites; to prepare, carry out, acquire, lease and operate housing projects for honorably discharged members of the armed services of the United States who served in any of its wars and who at the time of induction into such service were residents of such county and their families and dependents; to provide for the construction, reconstruction, improvement, alteration and repair of any such housing project or any part thereof.

(t) In counties having a population of 500,000 or more, to acquire land and improve the same by the construction of a county stadium, swimming pools or other recreational facilities and all necessary appurtenances therefor.

(2) Cities shall not borrow money or issue bonds therefor for any purpose except only those specified in this subsection, and subject to the general limitation of amounts prescribed by section 67.03, namely:

(a) For the erection, construction, enlargement or repair of a city hall or other public buildings and the purchase of sites for the same; or for the purchase of voting machines.

(b) For the purchase or erection of new school buildings, or additions to old buildings or to purchase school sites, school transportation vehicles or school equipment; to acquire

sites and erect or enlarge buildings thereon, and to equip such new or old buildings, for parental or schools of vocational and adult education, or for use by the local board of vocational and adult education.

(c) For the purchase of sites for engine houses; for fire engines and other equipments of the fire department; for construction of engine houses; and for pumps, water mains, reservoirs and all other reasonable facilities for fire protection.

(d) For the purchase of sites for police stations and for the construction of buildings thereon for the use of the police department.

(e) For the construction and extension of waterworks plants, or the purchase of existing plants; construction and improvement of water mains, sewers and drains; construction and improvement of flushing tunnels, with buildings, equipment and machinery for operating the same; to provide the protection, planning, construction and establishment of a sewage disposal plant or system; or for the erection and construction or enlargement of garbage disposal plants and to purchase sites for the same.

(f) To construct, acquire, enlarge, extend or maintain any plant or equipment, or any part of a plant or equipment for the production, transmission, delivery or furnishing of heat, light, or power, either directly or indirectly, to or for the public; to enlarge or extend such plants or equip any part thereof; or to acquire street railway property.

(g) To purchase or acquire any public utility or any street railway when it deems it necessary or desirable to raise the money for either of those purposes in the course of such acquisition, by proceedings had under sections 193.33 to 193.46, or under sections 196.01 to 197.10; but this paragraph shall not be construed as an amendment of any of said sections nor as impairing, altering or affecting the powers of the railroad commission in any such proceeding.

(h) For the purchase of lands for city markets and the construction of market buildings thereon; or for the construction of public baths and hospitals and the purchase of sites for the same.

(i) For the erection and construction of library and museum buildings and the purchase of sites for the same; to provide for the erection and equipment of auditoriums and music halls; or to acquire sites, erect buildings thereon, and equip them for use as art museums, or to purchase existing art museums.

(j) To acquire land, including submerged land, and to fill in and improve the same for the purpose of providing public parks and park buildings, public drives, boulevards and cemeteries, and to construct the necessary buildings, revetments and retaining walls therefor; and also to provide swimming pools, stadiums or other recreational structures, either in parks or elsewhere.

(k) For the purpose of widening streets, creating boulevards and parkways, and to establish civic and municipal centers, playgrounds and reservations in and about and along and leading to any or all of the same, with authority, after the establishment, layout and completion of such improvements, to convey any such real estate thus acquired and not necessary for such improvements, with reservations for the future use and occupation of such real estate, so as to protect such public works and improvements and their environments and preserve the view, appearance, light, air and usefulness of such public works.

(l) To pay the cost of laying out, opening or widening streets; to provide street improvements; to create either a revolving or a temporary fund out of which to advance the cost of any work for which special assessments may be levied, in anticipation of the collection by the city treasurer of the special assessments, special improvement certificates, special improvement bonds, contractor's certificates, general obligation-local improvement bonds, or special assessment B bonds made or issued for the cost thereof; or to pay the city's portion of the cost of abolishing grade crossings.

(m) For construction of viaducts and bridges and for the acquisition of rights of way for the same; to construct, acquire or maintain, or to aid in constructing, acquiring or maintaining a bridge over or across any stream or other body of water bordering upon or intersecting any part of the city which shall constitute a bridge project eligible to construction under section 84.11 (1) (a) or (b) or 84.12 (1) (a) or (b); to purchase toll bridges and their approaches; or to build, purchase and maintain, or to aid in building, purchasing or maintaining a bridge located or to be located as specified in section 1320, statutes of 1921.

(n) For dredging, docking, and other permanent river or harbor improvements; to provide that part of the cost of any breakwater or protection pier which is authorized by section 30.05 to be raised by a bond issue; or to acquire the necessary sites for, and to construct and maintain thereon, public docks, wharves and approaches.

(o) To provide or assist in providing a park, building, monument or other memorial, located within or without the city, in honor of the soldiers, sailors, marines and nurses, residents of the city, who served the nation during any of its wars.

(p) To purchase, construct, maintain and operate telephone lines and exchanges; or to aid in such construction; but the amount of bonds issued for such aid shall not exceed one-half of the entire cost of the lines and exchanges described in the proposal or request for aid.

(q) To pay an authorized subscription to the capital stock or mortgage bonds, or both, issued by any railroad company.

(r) To refund a prior indebtedness of any city in any case whether or not such indebtedness was created for a purpose for which general municipal bonds might have been issued in the original instance; provided, the time for payment shall not be extended beyond the period authorized in this chapter.

(s) To acquire sites for airports or landing fields and to construct hangars, buildings, runways and other equipment and appurtenances necessary for the operation and maintenance of same.

(t) To replace sums expended for emergency relief purposes during the years of 1929 to 1936, inclusive. This paragraph shall not apply to cities of the first class.

(u) As provided by subsection (13) of section 62.23.

(v) To refund securities heretofore or hereafter issued pursuant to section 66.066 as the same now exists or as it may be hereafter amended.

(w) To provide for the erection, construction, and equipment of joint city and county buildings for a courthouse, city hall, armory, library, auditorium and music center, municipal center, or any combination thereof; to acquire the site therefor; and to execute, authorize, and do all things necessary to secure financial aid and co-operation of the federal government in the undertaking, construction, maintenance and operation of any such project.

(x) To refund any or all of a deposit made pursuant to paragraph (b) of subsection (9) of section 157.11.

(y) In cities having a population of less than 500,000, to acquire sites for municipal parking lots and to construct buildings and other equipment and appurtenances necessary for the operation and maintenance of the same.

(z) To provide or assist in providing for the elimination or removal of railroad grade crossings and the elimination or relocation of railroad switch yards, railroad roundhouses and railroad terminals.

(zm) To acquire sites; to prepare, carry out, acquire, lease and operate housing projects for honorably discharged members of the armed services of the United States who served in any of its wars and who at the time of induction into such service were residents of the county in which the municipality is located and their families and dependents; to provide for the construction, reconstruction, improvement, alteration and repair of any such housing project or any part thereof.

(zn) To acquire land for housing, redevelopment projects and for the clearance of slum and blighted areas.

(4) Villages shall not borrow money or issue bonds for any purpose except only for the following purposes and subject to the general limitation of amounts prescribed by section 67.03.

(a) For any purposes for which a city having a population of less than 500,000 is authorized to issue bonds pursuant to subsection (2), under the circumstances and subject to the limitations therein expressed, and except that the word "city" as used in subsection (2) shall be deemed to include the word "village" for the purposes of this paragraph.

(b) To contribute to the cost of creating, organizing and equipping any county school of agriculture and domestic economy, located within or adjacent to the village, pursuant to sections 41.47 to 41.55; but such contribution shall not exceed one-fifth of the entire cost.

(d) To acquire lands for the purpose of procuring the removal of railroads from any portion of such village; but the consideration received from the sale of the lands so acquired shall be paid into the sinking fund for said bond issue, as provided in section 67.11.

(5) By any town:

(a) To purchase voting machines.

(b) To purchase or build a town hall or other building for the use of the town as provided in section 60.18 (9).

(c) To provide a sum, not exceeding five thousand dollars, sufficient to defray the cost of any bridge in the town costing more than two thousand dollars.

(d) To provide any sum within its constitutional limitation of indebtedness for building roads.

(e) To construct, acquire or maintain, or to aid in constructing, acquiring or maintaining a bridge over or across any stream or other body of water bordering upon or

intersecting any part of the town, including, without limitation because of designation, a bridge project so located which is eligible to construction under section 84.11 (1) (a) or (b) or under 84.12 (1) (a) or (b).

(f) To provide that part of the cost of any breakwater or protection pier which is authorized by section 30.05 to be raised by an issue of bonds.

(g) To purchase, construct, maintain and operate telephone lines and exchanges or to aid in such construction; but the amount of bonds issued for such aid shall not exceed one-half of the entire cost of the lines and exchanges described in the proposal or request for aid.

(h) To pay an authorized subscription to the capital stock or mortgage bonds, or both, issued by any railroad corporation.

(i) To purchase or acquire public utilities or street railways when it is deemed necessary or desirable to raise money for either of those purposes in the course of such acquisitions, under sections 193.33 to 193.46, or under chapter 197; but this paragraph shall not be deemed an amendment of any of said sections, nor shall it impair, alter or affect the powers of the public service commission in any such proceedings.

(j) To purchase land under the circumstances mentioned in subsection (15) of section 60.18.

(k) To provide or to assist in providing a park, building, monument or other memorial located within or without the corporate limits of the town, in honor of the soldiers, sailors, marines and nurses, residents of the town, who served the nation during any of its wars; but the amount of such bonds shall not exceed 5 mills on the dollar of the value of the taxable property of the town.

(l) To construct, acquire, or maintain, or to aid in constructing, acquiring or maintaining a free bridge over a navigable or meandered stream bordering on or intersecting the town, which necessarily will be more than four hundred seventy-five feet long, exclusive of approaches, when located by the state highway commissioners pursuant to section 84.11.

(m) To purchase sites for docks and to construct and maintain such docks, and to improve harbors; provided that the town board of such town has been constituted a "Dock and Harbor Board."

(n) To acquire sites for airports or landing fields and to construct hangars, buildings, runways and other equipment and appurtenances necessary for the operation and maintenance of same.

(o) To replace sums expended for emergency relief purposes during the years of 1929 to 1936, inclusive.

(p) To refund a prior indebtedness, including judgments, of any town, in any case, whether or not such indebtedness was created for a purpose for which general municipal bonds might have been issued in the original instance; provided, the time for payment shall not be extended beyond the period authorized in this chapter.

(q) For the purposes specified in subsection (2) (1) of this section.

(r) For the purchase of sites for engine houses; for fire engines and other equipments of the fire department; for construction of engine houses; and for pumps, water mains, reservoirs and all other reasonable facilities for fire protection.

(6) By any common school district, consolidated district, state graded school district, free high school district, union free high school district, whether any such district is joint or otherwise, or by any board of education, by whatever name designated, which is especially authorized to issue bonds: To purchase, erect or improve school buildings or teacherages, to acquire schoolhouse or teacherage sites or school playgrounds, and to equip such buildings with heat, light, ventilation or other necessary apparatus; to purchase school transportation vehicles; to refund indebtedness heretofore contracted; but no issue of bonds for purchasing a schoolhouse site, a teacherage site, or a school playground, or for purchasing or erecting a teacherage, or for purchasing school transportation vehicles, shall exceed twenty-five thousand dollars, except in counties containing a population of one hundred fifty thousand or more, where the limit of indebtedness that may be incurred for the acquisition of a schoolhouse site or addition thereto is any sum not in excess of an amount certified by the governing body of the town, village or city in which the site is situated as reasonable and necessary for that purpose; and provided that any school district whose territory consists of a city of the fourth class or of a city of the fourth class and a part or the whole of any adjoining town or towns may borrow and issue bonds therefor up to five per cent of its assessed valuation for the purpose of purchasing schoolhouse sites and the construction and equipment of schoolhouses.

(9) By any municipality to provide a sum not exceeding the amount of all funds belonging to such municipality which have lawfully been deposited in a bank, and which are not available to such municipality because such bank has been placed in the hands of the banking commission or is operating under a stabilization and readjustment agreement

approved by the commission, or because such bank has sold a part or all of its assets to another bank which has agreed to pay a part or all of the deposit liability of such selling bank on a deferred payment basis, or because such bank, being a national bank, has been placed in the hands of the comptroller of the currency or is operating under a stabilization and readjustment agreement approved by the state board of deposits.

(10) By any municipality to provide for refunding of a part of a previous bond issue, coming due in the years 1933, 1934, 1935, 1936, 1937, 1938, 1939, 1940 and 1941. Any such municipality may refund a part of a previous bond issue coming due in the year 1942 but not to exceed sixty per cent of all bonds maturing in that year; may also refund a part of a previous bond issue coming due in 1943 but not to exceed forty per cent of all bonds maturing in that year; and may also refund a part of a previous bond issue coming due in 1944 but not to exceed twenty per cent of all bonds maturing that year. The initial resolution adopted by the governing body of any such municipality shall not be submitted to the electors unless within thirty days after the recording thereof there shall be filed with the clerk of such municipality a petition requesting such submission, signed by electors numbering at least ten per cent of the votes cast in such municipality for governor at the last general election. If such petition is filed proceedings shall be had as provided by subsection (4), (5), (6) or (6a), as the case may be, of section 67.05.

(11) By any municipality to refund any of its bonds or other indebtedness which by their terms are subject to redemption before maturity; or to refund any of its bonds prior to maturity pursuant to agreement with the holders thereof provided that no refunding bonds issued to refund called bonds or unmatured bonds shall bear interest at a rate in excess of that borne by the original bonds being refunded. Refunding bonds shall be sold for not less than par and accrued interest or such bonds may be delivered to the holder or holders of the bonds or coupons to be refunded in exchange therefor on a basis of par for par. The initial resolution adopted by the governing body of any such municipality shall not be submitted to the electors unless within thirty days after the recording thereof there shall be filed with the clerk of such municipality a petition requesting such submission, signed by electors numbering at least ten per cent of the votes cast in such municipality for governor at the last general election. If such petition is filed proceedings shall be had as then provided by the pertinent provisions of this chapter.

(12) By any school district, whenever the aggregate maturities of principal and interest on previous indebtedness in any calendar year exceed \$3 33⅓ for each \$1,000 of its assessed valuation as determined during the preceding year. Bonds maturing in such year may be refunded in the manner provided by subsection (10) in an amount not exceeding the difference between such aggregate maturities of principal and interest and a sum equal to \$3 33⅓ for each \$1,000 of its assessed valuation as determined during the preceding year. The provision of this subsection shall not affect or repeal any law authorizing the refunding of bonds by school districts but shall be supplemental thereto. In the issuing of refunding bonds under this subsection, a school district shall proceed as provided by subsection (10) of this section.

(15) By any county, village or town to purchase school transportation vehicles. [1931 c. 79 s. 9; 1931 c. 430; Spl. S. 1931 c. 9 s. 2; 1933 c. 19, 57, 91; 1933 c. 113 s. 1; 1933 c. 118 s. 2; 1933 c. 159 s. 15; 1935 c. 114, 310, 321, 421, 425, 450, 550 s. 406; 1937 c. 55, 78, 202, 284, 407; 1939 c. 24, 113, 160, 395, 436, 510; 1939 c. 513 s. 21; 43.08(2); 1941 c. 43, 98; 1943 c. 179, 237, 278; 1943 c. 334 s. 9; 1945 c. 301, 329; 1947 c. 50, 53, 91, 219, 328, 362, 534, 606; 43.08 (2)]

Note: The indebtedness that would be created by the issue of mortgage-revenue bonds by the 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 NV (2d) 233.

Town may borrow from state trust funds for "building roads," within town for which town is authorized by law to expend money. 21 Atty. Gen. 308.

School district may not borrow money under (9) without issuing bonds and levying irrepealable tax. 22 Atty. Gen. 138.

Resolution of county board can contain but one purpose. 24 Atty. Gen. 459.

Town board cannot borrow money to repay county for construction, maintenance and repair of highway by county at town board's request (5), *Stats. 1935*. 24 Atty. Gen. 772.

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

67.045 Bonds, unexpended proceeds. Whenever any bonds shall have been heretofore authorized by vote of the electors of any city, however incorporated, for the purpose of widening streets, the council of such city, may by ordinance direct that the unexpended residue of the proceeds of any such bonds may be expended for laying out and widening streets other than those streets for which the bonds were authorized, or to acquire land and to improve the same for the purpose of providing public squares, driveways or boulevards. This section shall not apply to any bonds sold prior to the time that this section shall take effect.

67.05 Bond issues; procedure. (1) **INITIAL RESOLUTION BY GOVERNING BODY.** The governing body of any municipality about to issue bonds pursuant to this chapter is required, except where initial action has already been taken by electors under subsection (2), to adopt a resolution stating the amount, or a sum not to exceed a stated amount, and purpose or purposes, which must not conflict with the limitations imposed upon such municipality by sections 67.03 and 67.04; and such other and further matters as the governing body may deem necessary or useful. A resolution for an issue of bonds to provide payment for an authorized subscription to the capital stock or mortgage bonds, or both, of a railroad company, shall embody a copy of the application for such issue required by subsection (8). A resolution for an issue of bonds to provide for the purchase or erection of a telephone line or exchange shall embody a copy of the proposition required by subsection (9). And a resolution for the issue of bonds to provide a free bridge, pursuant to section 84.11, shall embody a copy of the findings required by said section to be filed by the state highway commission.

(2) **INITIAL RESOLUTION BY ELECTORS.** (a) The electors of any town, common school district, consolidated district, state graded school district, free high school district, union free high school district, whether such district is joint or otherwise, or of any municipality other than a county, a city, a village, or a board of park commissioners, may at any annual meeting, or at a special meeting of such electors called for the purpose, adopt the initial resolution prescribed by subsection (1) without any prior adoption thereof by the governing body of such municipality. The vote in such case shall be made by ballot in substantially the following form:

FOR BONDS.

AGAINST BONDS.

(b) The electors of a city may adopt the initial resolution prescribed by subsection (1) in the manner provided by section 10.43.

(3) **INITIAL RESOLUTION, HOW ADOPTED.** Every initial resolution in and for a city shall be offered and read at a regular meeting of the city council, shall be published in the official paper of the city not less than twice during the sixty days next following such reading, and shall be deemed invalid and ineffectual for any purpose unless supported by the affirmative vote of at least three-fourths of all of the members of said council, taken at a regular meeting held after such publication, and within said sixty days; and every initial resolution adopted by the governing body of any municipality, other than a city, shall be deemed invalid and ineffectual for any purpose unless supported by the affirmative vote of at least a majority of the members-elect of such governing body. Every such vote by a county board shall be taken at an annual, or an adjourned annual or a special meeting thereof; and every such vote by any governing body, other than a city council or a county board, shall be taken at a meeting attended by all of its members-elect, or, if any such member is not present, proof by the affidavit of a present member must be made and recorded, showing that the absent member or members were notified of the time, place and purpose of the meeting at least twenty-four hours before such time.

(4) **REFERENDUM IN COUNTIES.** Whenever an initial resolution shall have been so adopted by a county board for an issue of county bonds to provide for the original construction or for the improvement and maintenance of highways, to provide railroad aid, or to construct, acquire or maintain, or to aid in constructing, acquiring or maintaining a bridge over or across any stream or other body of water bordering upon or intersecting any part of the county, the county clerk shall immediately record the same and call a special election for the purpose of submitting the resolution to the electors of the county for approval. The calling, holding and conduct of such special election, including the printing and the distribution of ballots, the canvass of votes, and the declaration of the result, shall be governed by those statutes, so far as applicable, which govern special elections in general, including subsections (8) and (17) of section 6.23, section 6.80, and subsection (2) of section 59.04. The notice of such special election and the ballot used thereat shall embody a copy of the initial resolution, and the question submitted shall be whether the resolution shall be or shall not be approved. No such resolution of a county board other than those specified in this subsection need be submitted to county electors, except as provided otherwise in subsection (7).

(5) **REFERENDUM IN TOWNS, VILLAGES AND CITIES.** (a) Whenever an initial resolution shall have been so adopted by the governing body of a town, the clerk of such municipality shall immediately record the same and call a special election for the purpose of submitting the resolution to the electors of the municipality for approval. The calling, holding and conduct of such special election, including the furnishing of printed ballots, the canvass of votes, and the declaration of the result, shall be governed by those statutes, so far as applicable, which govern special elections in general, including subsections (8) and (17) of section 6.23 and sections 6.80, 10.35, 10.40, 10.43, 10.45, 10.51, 10.54, 10.61

and 60.13. The notice of such special election and the ballot used thereat shall embody a copy of the resolution, and the question submitted shall be whether the resolution shall be or shall not be approved. The ballot may be a separate ballot, or may be printed upon the official ballot, when such special election is held at the same time as a regular town, village or city election. This subsection is limited in its scope by subsection (7).

(b) No city or village shall issue any bonds for any purposes other than for replacing sums expended for emergency relief purposes during the years 1929 to 1936, inclusive, waterworks, lighting works, gas works, bridges, street improvements, street improvement funding, hospitals, airports, harbor improvements, river improvements, breakwaters and protection piers, sewerage, parks and public grounds, veterans' housing projects, street railway property, or paying the municipality's portion of the cost of abolishing grade crossings, for the purchase of sites for engine houses, for fire engines and other equipment of the fire department, for construction of engine houses, and for pumps, water mains, reservoirs and all other reasonable facilities for fire protection apparatus or equipment for fire protection, school purposes or vocational school purposes, for buildings for the housing of machinery and equipment, or for refunding any of the bonds issued for any of the aforesaid purposes, or for bonds issued to refund securities originally issued pursuant to section 66.066, until the proposition for their issue for the special purpose thereof shall have been submitted to the electors of such city or village and adopted by a majority voting thereon. Whenever the common council of any city or the village board of any village shall declare its purpose to raise money by issuing bonds for any purpose other than those above specified, it shall direct by resolution, which shall be recorded at length in the record of its proceedings, the clerk to call a special election for the purpose of submitting the question of bonding the city or village to the electors thereof. Such elections shall be noticed, conducted, canvassed and the result declared as provided in this subsection, except that the notice of such special election and the ballot used thereat need not embody a copy of the resolution, but shall contain a statement of the purpose and the amount of the bonds proposed to be issued.

(6) REFERENDUM IN SCHOOL DISTRICTS. Whenever an initial resolution shall have been so adopted by the governing body of any municipality whatsoever other than a county, a town, a city, a village, or a board of park commissioners, the clerk of such municipality shall immediately record the same and call a special meeting for the purpose of submitting the resolution to the electors of the municipality for ratification or rejection. The calling and conduct of such meeting shall be governed by those statutes, so far as applicable, which govern the calling and conduct of special meetings in general. The notice of the meeting, which shall be publicly read before the balloting shall commence, and the ballot used, shall embody a copy of the resolution; the form of the ballot shall correspond, as near as may be, with form "D" annexed to section 6.23; and the question submitted shall be whether the resolution shall be approved.

(6a) SCHOOL DISTRICT BONDS, REFERENDUM. The provisions of paragraph (a) of subsection (2) and of subsection (6) shall not apply to the issuing of bonds or the borrowing of money in excess of five thousand dollars by any school district which includes within its territory a village, or a city of the fourth class, but in all such cases the procedure shall be as follows:

(a) Whenever the board of any such district, or the electors thereof at a regularly called school meeting, by a majority vote adopt a resolution to raise an amount of money in excess of five thousand dollars, by a bond issue or a loan, the board shall direct its clerk to call a special election for the purpose of submitting the same to the electors for approval or rejection.

(b) Notices containing a statement of the purpose of such special election, giving the amount of money proposed to be raised, the purpose for which it is to be used, and the means by which it is to be raised, and stating the time and place of holding such election and the hours of its opening and closing, shall be published at least twice one week apart in some newspaper published in said school district, if there be one; if there be none, the clerk shall post or cause to be posted such notices at least fifteen days before the date set for such election in at least ten public places in said district.

(c) Such election shall be held and conducted and the votes cast thereat counted, canvassed and returned as at annual town elections. The polls thereat shall be open at 7 a. m. and be closed at 8 p. m.

(d) The school board shall provide all necessary election supplies, ballot boxes and booths and select the necessary election officials. The form of the ballot provided shall correspond as near as may be with form "D" annexed to section 6.23. The notice of such special election and the ballot used thereat, shall embody a copy of the resolution, and the question submitted shall be whether the resolution shall be or shall not be approved.

(e) Nothing in this section shall be construed to apply to borrowing by school boards to meet immediate expenses pursuant to subsection (8) of section 67.12, nor to require a referendum in such cases.

(f) The provisions of this subsection shall not apply in any case where the electors have heretofore authorized the issuing of bonds or the borrowing of money.

(7) REFERENDUM, WHEN REQUIRED BY ELECTORS, WHEN NOT PERMITTED. (a) An initial resolution adopted by a county board for an issue of bonds to provide a memorial for soldiers, sailors and marines, shall not be submitted to the electors unless within thirty days after the recording thereof there shall be filed with the county clerk a petition requesting such submission, signed by electors numbering at least ten per cent of the votes cast in the county for governor at the last general election. If such petition be filed, proceedings shall be had as provided by subsection (4).

(b) An initial resolution adopted by the common council of any city for an issue of bonds for purposes specifically enumerated in subsection (5) need not be submitted to the electors as provided in subsection (5), unless within thirty days after the recording thereof there shall be filed in the office of the city clerk a petition requesting such submission, signed by electors numbering at least ten per cent of the votes cast for governor in the city at the last general election. If such petition be filed, proceedings shall be had as provided by subsection (5). But any such resolution may, in the discretion of the city council, by separate recorded resolution, be submitted to popular vote without waiting for the filing of said petition.

(c) An initial resolution adopted by the common council of a city for an issue of bonds for paying the city's portion of the cost of abolishing grade crossings, shall not be submitted to popular vote.

(d) Whenever the purpose for which any municipality proposes to issue bonds is required by law to be approved by a vote of its electors, such a vote in favor of the issue for that express purpose shall be construed as an approval of the purpose by the electors; and the question of approving the purpose need not be separately submitted.

(e) An initial resolution adopted by the governing body of a village for an issue of bonds to create a revolving fund out of which to advance the cost of any work for which special assessments may be levied, in anticipation of the collection by the village treasurer of the special assessments, special improvement certificates and improvement bonds, made or issued for the cost thereof, need not be submitted to the electors as provided in subsection (5), unless within thirty days after the recording thereof there shall be filed in the office of the village clerk a petition requesting such submission, signed by electors numbering at least ten per cent of the votes cast for governor in the village at the last general election. If such petition be filed, proceedings shall be had as provided by subsection (5). Any such resolution may, in the discretion of the village board, by separate recorded resolution, be submitted to popular vote without waiting for the filing of said petition.

(8) APPLICATION FOR RAILROAD AID BONDS. Whenever any railroad company shall desire a subscription to its stock or mortgage bonds, or both, it shall deliver to the clerk of the county, town, village or city from which said aid is desired a definite proposition in writing, signed by the president and secretary thereof, and sealed with its seal, which shall be, if accepted, irrevocably binding on such company, which proposal shall state the amount of municipal bonds desired in payment of such subscription, the time and place of payment thereof whether payable before maturity at the option of such municipality, the rate of interest they shall bear, when they shall be delivered with reference to the time of the complete construction of such railroad from point to point, and within what time such road shall be so constructed to entitle the company to such bonds or any installment thereof. Said proposition shall also state that in consideration of such municipal bonds the railroad company will issue to such municipality such number of the shares of its capital stock or such of its mortgage bonds, or partly of the one and partly of the other, as will at their par value be equal to the principal sum of such municipal bonds; and shall propose that such municipal bonds and such stocks or bonds, or both, of such railroad company shall be deposited in escrow with some trustee or trustees to be named, to be delivered to the proper parties when and as the conditions of such agreement shall be complied with by the party entitled to the same thereunder. Every such proposition shall be accompanied by advance payment, or security for the payment, of the cost of printing and publishing the notices of the special election required by subsection (4) or subsection (5) and the cost of providing the ballots therefor. Thereupon the proposition shall be filed and recorded and may then be incorporated in a resolution as provided by subsection (1), or rejected, by the governing body.

(9) APPLICATION FOR TELEPHONE AID BONDS. Every town, village and city is forbidden to issue any municipal bonds for the purchase or erection of telephone lines and exchanges unless a proposition setting forth the length, equipment and connections of the

proposed line, the amount and denomination of the bonds desired, the rate of interest they are to bear, how, when and where said bonds and interest shall be payable, when said bonds shall be delivered with reference to the construction of the line from point to point or its final completion, when said line, if not then completed, shall be finished, and providing for escrow of the bonds if the parties so elect, pursuant to the terms of such proposition, shall first be filed with and recorded by the clerk of such municipality, and the same shall thereafter be adopted by its governing body as provided by subsection (1) and approved by its electors as provided by subsection (5). But no action shall be taken on any such proposition unless presented by a person, firm, company or corporation who has filed with the secretary of state a notice of intention to apply under the provisions of this section, together with a bond in such form and amount as in the secretary's judgment shall properly protect the interests of the community concerned.

(10) **DIRECT, ANNUAL, IRREPEALABLE TAX.** The governing body of every municipality proceeding under this chapter shall, at the time of or after the adoption of an initial resolution in compliance with subsection (1) or subsection (2), or, after the approval of such resolution by popular vote when such approval is required, and before issuing any of the contemplated bonds, levy by recorded resolution a direct, annual tax sufficient in amount to pay and for the express purpose of paying the interest on such bonds as it falls due, and also to pay and discharge the principal thereof at maturity. The municipality shall be and continue without power to repeal such levy or obstruct the collection of said tax until all such payments have been made or provided for. After the issue of said bonds such tax shall be from year to year carried into the tax roll of the municipality and collected as other taxes are collected. No further or annual levy for that purpose shall be necessary.

(11) **AUTHORITY TO BORROW AND ISSUE BONDS, WHEN COMPLETE.** Every municipality that has first complied with all the requirements prescribed for and made applicable to it by the preceding subsections of this section, may, but not otherwise, borrow money and issue and sell or hypothecate its municipal bonds to the amount and for the purpose or purposes specified in the initial resolution.

(12) **RECORD OF PROCEEDINGS.** Every municipality shall provide and keep a separate record book or record books in which its municipal clerk shall record a full and correct statement of every step or proceeding had or taken in the course of authorizing and issuing municipal bonds, or of incurring any other municipal obligation under the provisions of this chapter, including a statement of the number of affirmative and negative votes cast by electors. [1931 c. 79 s. 10; 1933 c. 61; 1933 c. 118 s. 1; 1933 c. 482; 1935 c. 425; 1937 c. 55; 1939 c. 160; 1941 c. 152; 1943 c. 220; 1943 c. 334 s. 10; 1943 c. 390; 1947 c. 330, 362, 601, 614]

Note: City may issue bonds for construction of sewage disposal plant without submitting proposition to vote of electors, unless petition for referendum is filed as provided by (7) (b). 22 Atty. Gen. 185.

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

Municipal bonds issued for purpose of re-funding loan made for school purposes through commissioners of public lands require vote of electors under (5) (b). 26 Atty. Gen. 98.

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

67.06 Form and contents of bonds. Every municipal bond shall be a negotiable instrument payable to bearer, or, in case of bonds which are registerable, to bearer or the registered owner, with interest coupons attached payable annually or semiannually; shall bear interest at a rate not to exceed six per cent per annum; shall specify the times and the place or places of payment of principal and interest; shall be numbered consecutively with the other bonds of the same issue which shall begin with number one and continue upward, or, if so directed by the governing body, shall begin with any other number and continue upward; shall bear on its face a name indicative of the purpose specified therefor in said resolution; shall contain a statement of the value of all of the taxable property in the municipality according to the last preceding assessment thereof for state and county taxes, the aggregate amount of the existing bonded indebtedness of such municipality, that a direct annual irrepealable tax has been levied by the municipality sufficient to pay the interest when it falls due, and also to pay and discharge the principal at maturity; may contain a statement that the bond is callable on conditions prescribed thereon; and may contain any other statement of fact not in conflict with said initial resolution. The entire issue may be composed of bonds of a single denomination or two or more denominations. [1931 c. 430]

67.07 Maturity and place of payment. The principal of every sum borrowed and secured by an issue of municipal bonds may be made payable at one time in a single payment or at several times in 2 or more instalments; but every instalment, whether of principal or interest, shall be made payable not later than the termination of the 20

years immediately following the date of the bonds, if issued by a county, town, city or village, board of park commissioners, or by any school district referred to in subsection (6) of section 67.04, and not later than the termination of the 15 years immediately following February 1 next ensuing such date, if issued by any other municipality, except that when the bonds are issued in the acquisition of lands by a county having a population of 150,000 or over, for public, municipal purposes, or for the permanent improvement thereof, all instalments of principal and interest shall be made payable within a period not exceeding 50 years from the time when the bonds become a municipal obligation. The terms of the bonds, when issued, shall comply with the initial resolution. But in addition to the place within the state named for that purpose by cities, a place without the state may also be designated by them for such payments. [1939 c. 513 s. 22; 1941 c. 28]

67.08 Execution and negotiation. (1) Municipal bonds shall be executed in the name of and for the municipality issuing them by their qualified officers who shall, for that purpose, sign the same in their official capacities, as follows: For a county, the chairman of the county board and the county clerk; for a city, the mayor and the city clerk; and such other officer or officers as the governing body of the municipality may determine, except that the signature of the mayor may be engraved on said bonds; for a village, the president and the village clerk; for a town, the chairman and the town clerk; for any other municipality, the district clerk and director, or the president and clerk or secretary of the governing body. The validity of every bond so executed shall remain unimpaired by the fact that one or more of the subscribing or attesting officers shall have ceased to be such officer or officers before delivery to the purchaser. Every bond issued by a municipality having an official or corporate seal shall be sealed with such seal.

(2) The bonds of every municipality shall be negotiated and sold or otherwise disposed of for not less than 95 per cent of the par value of the bonds, plus accrued interest to date of delivery by those officers who are required to execute such instruments, or by such other officers as the governing body may determine, except that refunding bonds shall not be sold for less than par and accrued interest to date of delivery. Hereafter, not less than 10 days' prior notice of sale of bonds shall be given in one publication of the official state paper or a like publication in a national, daily or weekly publication devoted in part to advertisements and news of bonds and stock finances, except that a county containing a population of 250,000 or more or any municipality may sell its bonds without notice to itself for the account of any of the sinking funds for any of its bond issues or to any of its own boards administering funds as trustee or agency or any fund specified by section 157.13 (3), 62.13 (9) (a) 3, 62.13 (10) (c) or 66.069 (1) (c) or any other trust or reserve fund of such county or municipality. Such notice shall state the time and place where bids will be received together with the amount, purpose, maturities and maximum rate of interest to be borne by the bonds to be sold and any other details which may be deemed advisable by the officials conducting the sale.

(3) All bids received may be rejected, but in such case readvertisement in the manner hereinbefore provided shall be made prior to the sale of any of said bonds, unless said bonds are sold at private sale for not less than the highest bid received at the time set forth in the published notice.

(4) If, however, no bids are received for such bonds within the period prescribed in such notice of sale, then such officials are authorized to sell without further advertisement all or any part of such bonds at private sale at not less than 95 per cent of the par value thereof and accrued interest to date of delivery, except as to refunding bonds which shall not be sold for less than par and accrued interest.

(5) Such negotiation and sale, or other disposition, may be effected by a disposition from time to time of portions only of the entire issue when the purpose for which the bonds have been authorized does not require an immediate realization upon all of them. [1931 c. 81; 1935 c. 154, 493; 1947 c. 103, 362]

67.09 Registration of bonds. (1) All municipal bonds payable to bearer issued by any city or county may be registered as to the principal thereof by the clerk of the municipality issuing them, or such other officers as the governing body of the municipality may determine. Registrations by municipal clerks or the other designated officers shall be recorded in a bond register.

(2) The holder of any bond registerable as herein provided may have the ownership thereof registered by the officials named in subsection (1), and such registration noted on the bond by or on behalf of the municipality. After such registration, no transfer thereof shall be valid unless made on the records of the municipality by the registered owner in person or by his duly authorized attorney, and similarly noted on the bond, but the same may be discharged from registration by being in like manner transferred to bearer, and thereafter transferability by delivery shall be restored; but such bond may again, from

time to time, be registered or transferred to bearer, as before. Such registration, however, shall not affect the negotiability of the appurtenant coupons, but every such coupon shall continue to be transferable by delivery merely and shall remain payable to bearer.

67.10 Fiscal and administrative regulations. (1) **MONEY OF THE UNITED STATES.** All money borrowed by municipalities, and all money received in payment of any tax levied pursuant to subsection (10) of section 67.05, shall be lawful money of the United States; and all municipal obligations shall be payable in such money.

(2) **FISCAL AGENTS FOR CITIES.** The common council of any city and the county board of any county indebted on account of outstanding municipal bonds is authorized, in its discretion, to appoint a fiscal agent located in some city within or without the state, or, if deemed convenient, two such agents, each in a different city. Every such fiscal agent shall be an incorporated bank or trust company authorized by the laws of the United States or of the state in which it is located to do a banking or trust company business. The treasurer of the city or county shall, when instructed so to do by written communication from the common council, or county board, deposit with such fiscal agent or agents such sums of money for the payment of the principal or interest of its said bonds as may be specified for that purpose in such communication.

(3) **BORROWED MONEY FUND, SOURCE AND USE.** All borrowed money shall be paid into the treasury of the municipality borrowing it, be entered in an account separate and distinct from all other funds, disbursements charged thereto shall be for the purpose for which it was borrowed and for no other purpose, except as provided by section 67.11 and such disbursements shall be only upon orders or warrants charged to said fund and expressing the purpose for which they are drawn.

(4) **TIME LIMIT FOR SALES AND HYPOTHECATIONS.** Except as provided otherwise by subsection (6) [see Stats. 1923 and session laws 1929 c. 211] for cities of the first class every authorized municipal bond shall be sold or hypothecated within the three years next following the adoption, or the approval, when approval by popular vote is required, of the initial resolution authorizing its issue, except when such sale or hypothecation has been delayed by an action to determine the validity of the prior proceedings, in which case the period of such delay may be added to said three years.

(5) **ANTICIPATORY CONTRACTS IN GENERAL.** (a) After any municipality has provided, as required by subsection (11) of section 67.05, for an issue of bonds for a lawful purpose which can be accomplished only through performance of an executory contract by some other contracting party, such contract may be entered into before the actual execution, sale or hypothecation of the bonds with like effect as if the necessary cash for payments on the contract were already in the treasury.

(b) Any city having voted bonds at a special referendum election and having sold a portion thereof may negotiate, sell or otherwise dispose of the same in the manner provided by statute within nine years of the date of the election voting the same.

(7) **ATTORNEY'S OPINION ON BOND ISSUE.** In any city the officers charged with the negotiation and sale of its bonds may employ an attorney whose opinion, in their judgment, will be accepted by bond buyers as to the legality of bonds issued by the city to pass upon the legality of any bonds issued by the city and pay a reasonable compensation therefor.

(8) **ISSUE OF RAILROAD AID BONDS.** Whenever an initial resolution embodying a proposition by a railroad company has been filed as required by subsections (1) and (8) of section 67.05, and has been approved by the electors of any county, town, city or village, the proposition shall be deemed obligatory as a mutual agreement by the company and the municipality, and the governing body of the municipality shall, pursuant thereto, cause subscription to be made in the books of the company for so much of the stock or mortgage bonds, or both, as the resolution specifies. Thereupon the municipal bonds authorized by such resolution shall be executed and placed in escrow for future delivery as required by the proposal. But no such bonds shall be delivered, or be valid or negotiable, if delivered, unless the railroad company at the time of receiving them shall have lawfully earned them by proper performance, in whole or in part, of said mutual agreement. Shares of the capital stock of the railroad company or its mortgage bonds, or both, shall be delivered to the municipality as its right to the same accrues under the mutual agreement; and thereupon, as to any stock so received, the municipality shall be entitled to exercise and enjoy all the rights and privileges conferred by law upon stockholders in such railroad corporation, and the governing body of the municipality shall appoint some person to represent and vote such stock in its behalf at meetings of such stockholders. Such governing body may also sell and dispose of such corporate stock or bonds when and as it deems best for the interests of the municipality.

(9) **ACCOUNTING FOR AND CANCELLATION OF BONDS.** Every municipality issuing bonds pursuant to this chapter shall keep in a separate book provided for the purpose, an accurate description of every bond so issued, specifying its number, date, purpose, amount,

rate of interest, when payable, and the coupons attached; and shall enter therewith a statement of the date and amount of each payment of principal or interest thereon. Every such bond and coupon paid or otherwise retired shall be forthwith marked "canceled" by the officer empowered by law to accept a surrender of the instrument upon payment thereof, and be by him delivered to the governing body of the municipality, and be by that body immediately destroyed. [1931 c. 3; 1931 c. 79 s. 11; 1931 c. 107; 1933 c. 52, 274; 1939 c. 107]

Note: See note to 83.14, citing 27 Atty. Gen. 45.

67.101 Milwaukee, debt amortization. [Not printed; 1925 c. 385 s. 7; amended 1933 c. 26 and 1939 c. 378; see 1923 Stats.]

67.11 Sinking fund, sources and uses. (1) Every county, town, city, or village indebted on account of outstanding municipal bonds shall immediately after the issue of such bonds establish in its treasury a fund separate and distinct from every other fund, designate it as the sinking fund for the particular bond issue, describing it, upon which the indebtedness arose, and shall maintain such fund until such indebtedness is fully paid or otherwise extinguished. The sources of said fund shall be:

First. All moneys accruing to the borrowed money fund prescribed by subsection (3) of section 67.10 which at any stage are not needed and which obviously thereafter cannot be needed for the purpose for which the money was borrowed.

Second. All moneys raised by taxation pursuant to subsection (10) of section 67.05 for the purpose of paying said bonds.

Third. Such moneys, derived from licenses or other sources, the expenditure of which is not otherwise provided for by law, as the governing body may elect to carry into the sinking fund.

Fourth. The premium, if any, for which the bonds have been sold over and above par value and accrued interest.

Fifth. Such further sums, raised by taxation annually, or from time to time, as may be necessary to make the contributions to the fund from all sources in each year, beginning with the first year, amount in the aggregate to a sum sufficient to pay all interest maturing in such year and not less than five per cent of the original indebtedness. The levying and collection of such taxes are authorized and commanded; but the governing body may, in its discretion, levy and collect larger sums than the sums so commanded, in order to speed the payment of the bonds.

(2) Proper orders or warrants shall be drawn upon the sinking fund each year to pay interest and principal maturing in such year upon said bonds. Taking care that enough cash is always retained in the fund to provide for such annual payments the surplus, if any there be, may be loaned or invested under the direction of the proper governing body, as follows:

First. In outstanding bonds for the payment of which the sinking fund is required, at any price not exceeding the principal, accrued interest and a premium not to exceed three years' interest on such bonds; but no such bonds shall be purchased except on bids received at a fixed time and place, notice of which shall have been given in the official newspaper of such municipality for not less than two weeks before the time fixed. If there be no such paper, notice shall be given in such manner as the governing body shall direct; and such bonds when purchased shall immediately have written on the face thereof a statement, signed by the clerk of such municipality, that the same have been taken up and cannot again be negotiated or made obligatory; and all such bonds shall be deemed paid and extinguished and shall be immediately canceled.

Second. In interest bearing bonds of the United States.

Third. In any bonds or securities issued under the authority of such municipality, whether the same create a general municipal liability or a liability of the property owners of such municipality for special improvements made therein.

(3) Investments of the second or third class continue a part of the sinking fund. The bonds representing such investments may be sold or hypothecated by the governing body at any time, but the money received shall likewise remain, until used, a part of the sinking fund. Any such sale of municipal bonds shall be for a sum not less than par value and accrued interest. All payments by the municipality in extinguishment of principal or interest of bonds representing investments of the third class shall be paid into the sinking fund, and, for the purpose of making such payments, the municipality shall levy and collect every tax that it would be legally obligated to levy and collect if such bonds were still outstanding in the hands of purchasers and had not been purchased as an investment.

(4) Money shall not be withdrawn from a sinking fund and appropriated to any purpose whatever other than the purpose for which the fund was instituted until that purpose has been accomplished.

(5) Any surplus in the sinking fund after all of the bonds for the payment of which the fund was instituted have been paid and canceled, and after all investments of the second or third class have been finally disposed of or realized upon, shall be carried into the general fund of the municipal treasury.

(6) Every municipal sinking fund maintained at the time of the enactment of this chapter under laws in force up to that time, but then repealed, may be continued pursuant to those laws, notwithstanding their repeal, until the purpose of the fund has been accomplished; or it may be continued and administered in accord with this section. [1933 c. 175]

Note: Sinking fund to pay bonds created portion of taxes actually collected. under this section is entitled to only its pro- 22 Atty. Gen. 726.

67.12 Temporary borrowing. (1) **PURPOSES.** Every municipality which is in temporary need of money with which to pay its current and ordinary expenses, including expenditures under the provisions of chapter 49 and maturing interest on its funded indebtedness, may borrow in the manner prescribed by subsections (1) to (4), inclusive, of this section.

(2) **PRELIMINARY RESOLUTION.** The governing body of any county, town, village or city about to solicit such a temporary loan, shall first adopt and record a resolution specifying the purpose and the amount of the loan, and levying a tax for the same amount to provide payment; which tax, after receipt of the borrowed money, shall become and continue irrepealable, and shall be carried into the next tax roll of the municipality and collected as other taxes are collected. The proceeds of such tax shall be kept in a distinct and separate fund and be used for the sole purpose of paying such temporary indebtedness. Such resolution shall be supported in a county, town, village or city by at least three-fourths of all the members-elect of its governing body.

(3) **ISSUE OF PROMISSORY NOTES OR ORDERS ON TREASURY.** To evidence such indebtedness the municipality shall execute to the lender its promissory note payable with interest on or before the thirtieth day of August following the next tax levy, and signed by the same officers who are required by law to sign municipal bonds, or, in lieu of such note the municipality may deliver to the lender an order drawn on its treasurer payable with or without interest on or before said thirtieth day of August. Nothing in this chapter contained shall be construed as abrogating or in anyway affecting those provisions of law which allow any city to receive taxes before the time when they are by law payable, and to issue negotiable certificates in evidence thereof.

(4) **LIMITATION ON AMOUNT.** Such temporary borrowing by any county or city is limited to such an amount as its board or common council deems necessary to its safety and interest; by a town or village, to the amount for which it has levied a special tax as required by subsection (2).

(5) **EMERGENCY BORROWING.** Whenever a public building, utility, sewer system, bridge or other property of a county, town, village or city is suddenly destroyed or injured, or threatened with destruction or injury, by flood, fire, tempest or other unusual cause, the governing body of a municipality may levy a tax to provide means for the protection, repair or restoration of such property in such amount as such body may deem necessary. Borrowing for such emergencies shall be regulated by the provisions of subsections (2) and (3) of this section.

(6) **ADVANCE BORROWING ON REGULAR TAX ROLL.** When any tax has been ordered or levied to be collected on the next tax roll, and such tax roll shall have been placed in the hands of the treasurer for collection, any town board, village board or common council may, in temporary necessity, borrow money in anticipation of the payment of such tax, and apply the same to the purposes for which such tax was ordered or levied; and they may give orders on the treasurer, payable at a future date, therefor, with or without interest, and for the payment thereof such tax shall stand irrevocably pledged and irrepealable. But no order on any town or village treasurer shall in any case whatever be, or be held to be, negotiable according to the usage of merchants.

(8) **TEMPORARY BORROWING BY SCHOOL BOARD.** The school board of any school district operating under the district system may on their own motion, made and properly recorded at a lawful board meeting, borrow money in such sums as are needed to meet the immediate expenses of maintaining the schools in such district during the current school year. No such loan or loans except loans made by town boards to school districts shall be made to extend beyond September 1 following nor to an amount exceeding one-half the estimated receipts for the operation and maintenance of the school for the current school

year in which the loan is made, as certified by the state superintendent of schools and the local school clerk. All such loans shall be evidenced by lawfully authorized and drawn school orders, each order, when paid, to be receipted and returned to the treasurer of the board.

(9) TEMPORARY FUNDING OF DELINQUENT TAXES. (a) For the purpose of meeting its current expenses, any county or other municipality authorized to sell land for nonpayment of taxes, may borrow money on, or issue to its creditors, warrants, notes or orders secured by, or certificates of interest in, its tax sale certificates, not exceeding the face amount thereof, and pledge the same for the payment thereof. Such instruments may be issued payable with interest or dividends not exceeding seven per cent per annum, or without interest, within such time, not exceeding four years, as the tax sale certificates out of which they are payable will probably be liquidated. They shall be numbered serially and a record of the issue thereof shall be made. They may be guaranteed as to principal and interest, or not so guaranteed, as the governing board of such county or municipality, in the resolution authorizing the issue thereof, may determine. Only such obligations may be paid by the issue of such instruments, or out of the proceeds thereof, as were payable out of the proceeds of the tax sale certificates pledged therefor. Such instruments shall be negotiable, if so stated upon their face, notwithstanding they may be payable only out of the tax sale certificates pledged. The county or municipality shall retain title and possession of the tax sale certificates and proceeds thereof so pledged, in trust however, as a separate fund for the benefit of the holders of such instruments secured thereby; and in the collection, protection and enforcement thereof shall have all the rights and powers of, and shall be governed by all the laws affecting, such municipality, the same as if such pledge had not been made. The payment of the principal and interest, or dividends, on such instruments, if not guaranteed by the municipality, shall be made to the holders thereof at maturity out of the proceeds of the liquidation of the tax sale certificates pledged therefor, to the extent of each holder's proportionate interest in such fund, and when full payment is not made the amount paid shall be indorsed upon each such instrument, and the officer making such payment shall enter the same in the record of each such instrument; and such county or municipality shall thereupon be authorized, but not required, to levy a tax in addition to all other taxes sufficient to pay any deficiency of principal and interest remaining unpaid, and upon collection of such tax shall pay such deficiency to the holders of such instruments upon surrender thereof for cancellation.

(b) Whenever any county shall borrow money upon such instruments secured by tax sale certificates and any municipality within such county shall, because of an excess delinquent return, have an interest in such tax sale certificates, the county shall pay over to such municipality the same proportion of the amount so borrowed as the local municipality's excess delinquent return for any year bears to the total amount of tax sale certificates for the same year.

(10) BORROWING AGAINST ASSETS IN CLOSED BANK. (a) Notwithstanding the requirements of subsection (2) of this section, the governing board of any county or other municipality which is authorized to borrow money may borrow a sum not exceeding the amount of all funds belonging to such municipality which have been lawfully deposited in a bank and which are not available because such bank is in the hands of the banking commission, or is operating under a stabilization and readjustment agreement approved by the commission or because such bank, with approval of the banking commission, has sold a part or all of its assets to another bank which has agreed to pay a part or all of the deposit liability of such selling bank on a deferred payment basis, or because such bank, being a national bank, has been placed in the hands of the comptroller of the currency as provided by federal statute, or because such national bank is operating under a stabilization and readjustment agreement approved by the state board of deposits. The sum so borrowed shall be repaid, with interest at the agreed rate, on or before one year from the date of the loan and shall be secured by lawfully authorized orders or promissory notes, each order or promissory note when paid to be receipted and returned to the treasurer or fiscal agent of the municipality; provided, that deferred certificates of deposit issued to such municipality under the deferred payment plan of any bank in this state which has been approved by the banking commission may be pledged as collateral security for such loans. When so secured such loans shall be repaid on or before the latest maturity date of the deferred certificates of deposit pledged as collateral, and shall be payable in instalments equal in amount to each of such deferred certificates of deposit and payable on the various maturity dates of the deferred certificates of deposit.

(b) Any governing board about to solicit a loan under the provisions of this subsection shall first adopt and record a resolution specifying the purpose and amount of the loan and levying an irrevocable tax for such amount. Such tax shall be carried into the next tax roll of the municipality and collected as other taxes, and the proceeds thereof

shall be kept in a distinct and separate fund and shall be used for the sole purpose of paying such temporary indebtedness. Provided, that if such loan is collaterally secured by deferred certificates of deposit as provided in paragraph (a) then the tax to be levied shall be a direct annual tax in an amount sufficient to pay the interest on such debt as it falls due and also to pay each instalment on principal as it matures. Any sums collected by taxation to be used for the payment of interest and instalments of principal not required in any year for that purpose shall be held by the municipality to be used for that purpose in any succeeding year, and the tax provided for in this section shall be collected in such succeeding year only in an amount sufficient, together with such balance to pay the interest and instalments of principal due in that year.

(11) TEMPORARY BORROWING BY CITIES OF THE FIRST CLASS. In addition to the powers heretofore given, any city of the first class, however incorporated, may borrow money for ordinary and current expenses, up to the amount of its outstanding delinquent taxes the active certificates for which are held or owned by such city, as certified to the governing body by the city treasurer of the city about to borrow, plus one-half of the amount of the fixed sale price of all real estate heretofore taken or held by the city by way of tax deeds, plus the amount of all unredeemed instalment assessments receivable held by the city to be certified by the real estate agent of the city and the commissioner of public works, respectively, and without complying with any other requirements of chapter 67. The governing body of such city shall first adopt and record a resolution specifying the amount to be borrowed, which resolution shall be adopted by a three-fourths vote of the members-elect of the governing body of such city. Any such loan shall be payable within one year and shall be evidenced by the note or notes of the city executed by the mayor and comptroller of such city, and shall bear interest not to exceed the rate of interest specified in the resolution authorizing the loan. Notes issued hereunder shall be the general obligation of the city issuing the same.

(12) BORROWING BY CITIES OF THE FIRST CLASS UPON PROMISSORY NOTES. (a) In addition to the powers heretofore given, any city of the first class may borrow money for the acquisition of lands for public purposes, for permanent improvements of lands, for public work or improvement, and the enlargement or extension thereof, or for equipment or machinery or for general and current municipal expenses.

(b) To evidence such indebtedness the city shall issue to the lender its promissory note or notes, payable in equal annual instalments, with interest not exceeding 5 per cent per annum, within a period not exceeding 10 years following the next tax levy, as may be agreed upon.

(c) The lender may grant to the city an extension of time, to be evidenced by an extension note or notes, for payment of any amount unpaid upon such terms and annual instalments as may be agreed upon with interest not exceeding said rate and for up to a like term as the stated term of the note or notes, in the event that the city has not paid the full amount due at the end of the stated term. The notes shall provide that if the city did not borrow money at a lower rate of interest during the year prior to prepayment, the city shall have the right and option to prepay any or all of the unpaid principal and interest at any instalment payment date out of any funds which it may have available for such purpose.

(d) Such notes shall be signed by the same officers as are required by law to sign municipal bonds and shall carry on the face thereof the provisions of the resolution authorizing the same or a digest thereof or a reference to the same so that it can be readily located; and such notes shall be the general obligation of the city issuing them.

(e) Before such loan or any extension note is made, the governing body of such city shall adopt and record a resolution specifying the purpose or purposes of the amount of the loan or of the constituent portions thereof or that the note is an extension note, the annual instalments, the rate of interest, and levying a direct annual tax sufficient to pay each instalment, with interest thereon, as it becomes due and payable. Such resolution shall be adopted by a three-fourths vote of the members elect of such governing body. Such tax for each of such years after receipt of the borrowed money, shall become and continue irrevocable, and shall be carried into the tax rolls of the year preceding the instalment payment year to the extent necessary to pay that instalment payment with interest, and collected as other taxes are collected.

(f) The city comptroller shall keep, maintain, and preserve an adequate and correct register account of all notes issued and all payments and other transactions relating thereto. [1931 c. 32, 261, 374; Spl. S. 1931 c. 9 s. 1; 1933 c. 45; 1933 c. 113 s. 2; 1933 c. 119, 127; 1939 c. 474; 1941 c. 177; 1943 c. 82; 1945 c. 119; 1947 c. 341]

Note: A contract, entered into following petition to the common council, to which negotiations between a shoe manufacturing contract the mayor, clerk and treasurer of company and certain citizens of a city and a the city, purporting to act on behalf of the

citizens of the city, were parties, and which was approved by the council, which provided, in consideration of promises of the company to build a factory in the city and to pay a specified amount of wages within ten years, that the city would furnish free water for five years, and that the citizens of the city would pay a specified bonus to the company, but which bonus actually was to be paid by the city in the first instance and was so paid with funds borrowed by the city ostensibly to pay its current expenses, was illegal as to the matters undertaken by the city, and a bond executed to secure performance of the contract by the company, which bond was promised in the contract and preliminary negotiations and was referred to in the citizens' petition to the common council, was not enforceable as a separate, subsequent and collateral transaction, but was invalid as part of the illegal contract, so that the city was precluded from recovering on the bond on the company's default. *Wendlandt v. Hartford A. & L. Co.*, 222 W 204, 268 NW 230.

"Tax levy for county purposes," includes "county tax," "old-age pension tax," "soldiers' relief tax," "county bridge tax," and probably "county superintendent's tax." County board must determine amount and time of making loans under (7). 20 Atty. Gen. 184.

Under (8) estimated receipts for school year as certified by state superintendent and local school clerk do not include district funds tied up in closed bank. 22 Atty. Gen. 628.

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

Temporary loan made by county and repaid out of current funds pursuant to resolution authorizing loan, where such repayment occurs prior to time for making up next tax roll, eliminates necessity for carrying tax levied under (2) into next tax roll. 28 Atty. Gen. 277.

So long as temporary borrowing by a school district for current and ordinary expenses under (8) 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.

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

67.125 Temporary borrowing by cities, villages and towns. (1) In addition to the powers given under section 67.12, any city, village or town which is in need of money to pay its current and ordinary expenses or to pay off valid obligations theretofore issued by such municipality under section 67.12, may by resolution adopted by at least a three-fourths' affirmative vote of all of the members-elect of its governing body, borrow money for such purposes in an amount not exceeding the portion of the uncollected delinquent taxes which are to be returned to such municipality under the provisions of the law, when same shall have been collected. Such loans shall be evidenced by bonds or other evidence of indebtedness of the issuing municipality, bearing interest at a rate not exceeding six per cent per annum and payable at such times as the governing body shall determine, not exceeding, however, five years from the date of such bonds or evidences of indebtedness. All money received by such municipality from such delinquent taxes shall be paid into a sinking fund for the sole purpose of paying said bonds or other evidences of indebtedness and the interest thereon until the amount of such sinking fund shall equal the amount of interest and principal due and unpaid on such bonds or other evidences of indebtedness. Such bonds or other evidences of indebtedness shall be the general obligations of the municipality issuing the same and the governing body shall before the issuance thereof levy by recorded resolution a direct annual tax sufficient in amount to pay, and for the express purpose of paying, the interest on such bonds or other evidences of indebtedness as it falls due and also to pay and discharge the principal thereof at maturity. Except as herein otherwise specifically provided for, the provisions of chapter 67 relative to the issuance of bonds shall be applicable to the issuance of bonds or other evidences of indebtedness under this subsection, provided that it shall not be necessary to submit the question of the issuance of such bonds or other evidences of indebtedness to the electors for approval.

(2) In addition to the powers given under section 67.12 and in lieu of the power granted by subsection (1) of this section, any city, village or town which is in need of money to pay its current and ordinary expenses or to pay off valid obligations theretofore issued by such municipality under section 67.12, or to provide funds for public works, may by resolution adopted by at least a three-fourths' affirmative vote of all of the members-elect of its governing body, borrow money for such purposes in an amount not exceeding the portion of the uncollected delinquent taxes which are to be returned to such municipality under the provisions of the law, when same shall have been collected. Such loans shall be evidenced by bonds or other evidences of indebtedness of the issuing municipality, bearing interest at such rate and payable at such times as the governing body shall determine, not exceeding, however, five years from the date of such bonds or evidences of indebtedness. All money received by such municipality from such delinquent taxes shall be paid into a sinking fund for the sole purpose of paying said bonds or other evidences of indebtedness and the interest thereon until the amount of such sinking fund shall equal the amount of interest and principal due and unpaid on such bonds or other evidences of indebtedness. Such bonds or other evidences of indebtedness shall not be the general obligations of the municipality issuing the same. It shall not be necessary to sub-

mit the question of the issuance of such bonds or other evidences of indebtedness to the electors for approval.

(3) Subsections (1) and (2) of this section are severable and the invalidity of either of these subsections shall not affect the other. [1933 c. 382]

67.13 County bonds for highway improvement. (1) Any county, if its board shall so determine, may raise money for the improvement of any portions of the system of county aid highways or of the state trunk highway system, including, without limitation because of designation, separate bridge projects eligible to construction under section 84.11 or 84.12, by issuing nontaxable semiannual interest payment coupon bonds bearing interest at a rate not exceeding 5 per cent per annum running not more than 20 years, and not exceeding, with all other county indebtedness, the constitutional limit, the money raised thereby, together with other construction funds available therefor, to be expended on certain specified improvements which, together with the estimated cost thereof, shall be specified in an initial resolution adopted by the county board authorizing the issue of such bonds. Such initial resolution shall also specify the total amount of bonds authorized to be issued, the maximum interest rate which such bonds may bear, the maximum period over which the maturity of such bonds may run, and the maximum amount of the principal sum of such bonds which may fall due in any year; and such resolution shall provide for a direct annual irrevocable tax sufficient to pay the interest and principal as it falls due.

(2) Bonds authorized to be issued under this section may be sold from time to time as ordered by resolutions adopted by the county board, and as the necessity for providing funds for construction arises. Any resolution authorizing any such sale shall specify the amount of the bonds to be sold, the dates and denominations of such bonds, the time of payment of principal and interest thereof, and the manner in which such bonds shall be negotiated; and such resolution, or a subsequent resolution confirming and approving the sale, shall specify the interest rate which the bonds shall bear and the place of payment of principal and interest, and shall also levy the direct annual irrevocable tax for each year sufficient to pay the interest and principal as it falls due; provided, however, the issuance of such bonds may be conditioned upon all or part of the money for the interest thereon being privately contributed and deposited in the county treasury before the bonds are negotiated, in which case, the levy of taxes therefor may be suspended until necessary therefor. Such deposit shall be deemed sufficient if in an amount actually invested to the satisfaction of the county treasurer and the securities deposited in the county treasury to seasonably produce the money to pay such interest, and this shall apply to bonds heretofore issued, or voted to be issued on substantially such plan. Nothing in this section shall require that all such bonds shall bear the same date of issuance or that the whole or any part of any bond issue authorized under the provisions of this section must be sold at any specific time. The bonds shall not be sold for less than par and accrued interest. The bonds shall be signed by the chairman of the county board and the county clerk in their official capacities and be sealed with the county seal. They shall be in the form approved by the state highway commission, and 3 certified copies of such approved form shall be furnished by the commission to a county having voted to issue bonds pursuant to this section. The cost of printing the bonds, unless borne by the purchaser as part of the purchase price, shall be paid by the county as a county highway administrative cost. The amendment (1947) of this subsection and subsection (1) shall in no way invalidate any bonds issued, or any proceedings for the issuance of bonds taken prior to the effective date of such amendment.

(3) The proceeds of county bonds issued under the provisions of this section shall be used only for road and bridge construction performed under the provisions of chapter 83 or deposited with the state highway commission to be used for road or bridge construction performed under the provisions of chapter 84. The amount to be received from the state in any year pursuant to section 84.03 (3) shall, as required by subsection (4) of that section, be used by the county board to reduce the county levy necessary to be made for paying the principal of the bonds maturing in such year in accordance with the bonding resolution, and such action by any county board shall in no way invalidate the bond issue.

(4) Construction with the proceeds of any bond issue shall be prosecuted in such order as shall be determined upon from time to time by the county board and as approved by the state highway commission. When any construction shall be determined upon by the county board, the board may provide that a portion, not to exceed forty per centum of the county's share of the cost of such construction, shall be assessed as a special benefit against any town, village or city in which such construction may lie, and the amounts of said special benefit may be levied by the county board as a special charge

against such town, village or city and the county clerk shall certify such sum to the town, village or city clerk, who shall put the same in the next tax levy and the same shall be collected and paid into the county treasury by the officials of the town, village or city just as all other county taxes are levied, collected and paid in. If the amount of such special charge shall produce a tax upon any unit of government in excess of one-half mill upon its local equalized valuation, the county board shall make such arrangements for annually levying such special charges as will reduce the local tax to one-half mill or less in any one year. Any amounts paid into the county treasury in any year by any unit of government in accordance with the provisions of this subsection shall be used in retiring a portion of the county bond issue. The county boards, after receipt of such local funds, shall reduce the county levy necessary to be made in accordance with the bonding resolution by an amount equal to the total amount so received from all units of government, and such action by the county board shall in no way invalidate the bond issue. [1937 c. 55; 1943 c. 334 s. 11; 1947 c. 443]

Note: Interest received on "nontaxable" county highway bonds held not exempt from taxation as income, since legislature, when authorizing issuing by counties of nontaxable bonds, intended that such bonds should be free from personal property taxation only (chapters 337, 516 and 658, Laws 1911). Van Dyke v. Tax Commission, 217 W 528, 259 NW 700.

67.14 Referendum. (1) The total amount of bonds outstanding at any one time, issued by sole action of the county board under section 67.13, shall not exceed one per cent of the total assessed valuation of the county, but such bonds may be issued by sole action of the county board within such limitation of amount, subject to the provisions of subsection (3).

(2) The county board may by resolution provide that there be submitted to the electors of the county at any regular or legally called special election the question as to whether bonds shall be issued under the provisions of section 67.13 in excess of the limits specified in subsection (1), in which case said board shall enact a bonding resolution in general accordance with the provisions of section 67.13, which resolution shall become fully effective upon approval of the bond issue by a majority of the electors voting thereon.

(3) In case the county board shall vote to issue bonds under section 67.13 and within the limitations of subsection (1) of this section, the bonds so voted shall not be issued within thirty days after said vote is taken. If within thirty days a petition shall be filed with the county clerk, signed by electors of the county, equal in number to ten per cent of the vote cast for governor at the last election, demanding a referendum election upon said bond issue, such election shall be had and the procedure shall be as prescribed in subsection (4) of section 67.05. If a majority of the votes cast at such election shall be against such bond issue, then none of the proposed bonds shall be issued.

(4) The county clerk shall give notice of such election in the same manner notice is given of the general county election at least twenty days before such election, and the election on such question shall be held and conducted and the returns canvassed in the same manner in which the election for county officers is conducted and the returns thereof canvassed.

(5) The ballots for such election shall be provided by the county clerk, and shall be substantially in the following form:

FOR BONDS

AGAINST BONDS

Mark an X in the square under the one you wish to vote for.

(6) The county board of any county which has heretofore voted to issue bonds for highway improvement under the provisions of section 67.13 or 67.14, or of both of said sections, may, by a two-thirds vote of the members present at any regular or special meeting, by resolution, change the type or width of surfacing anticipated to be built or designated to be built on any portion of highway with the proceeds of the sale of said bonds, to a different type or width of surfacing, if said board shall determine that such change will best serve the public interest. If said change of type or width of surfacing shall result in a decreased cost of the improvement, the board may, by resolution, determine not to issue the portion of the bonds so rendered unnecessary or the board may, by resolution, determine to issue the said bonds and to use the proceeds thereof to augment the funds made available under the bonding resolution for the improvement of other portions of highways when said funds are inadequate to build the type or width of surfacing on said portions determined by the board to be necessary to serve the public interest. If said change in type or width shall result in an increased cost of the improvement the length of the improvement may be decreased accordingly. [1937 c. 55; 1943 c. 334 s. 12]

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

67.15 [Repealed by 1943 c. 334 s. 13]

67.155 County bonds for current and ordinary expenses. (1) Any county, if its board shall so determine, may, for the purpose of paying its current and ordinary expenses, and for the purpose of paying off valid obligations theretofore issued by such county under section 67.12 for the payment of current and ordinary expenses, borrow money in a sum not to exceed the face value of all tax certificates owned by it and not otherwise pledged as collateral security for any loan by said county.

(2) Every such loan shall be evidenced by the issuance of semiannual interest payment coupon bonds bearing interest at a rate not exceeding six per cent per annum, maturing in numerical order in not more than ten years, and not exceeding, with all other county indebtedness, the constitutional limit. Such bonds shall not be sold at less than ninety-five per cent of par, and shall be divided as to denominations and due dates as determined by the county board. The resolution authorizing the issue shall specify the amount of the issue, the denomination thereof, the time and place of payment of principal and interest and the manner in which the same shall be negotiated. It shall also provide for a direct annual tax sufficient to pay the interest as it falls due and the principal within the time fixed therefor. The bonds shall be signed by the chairman of the county board and the county clerk in their official capacities, and be sealed with the county seal.

(3) Nothing in this section shall require that all such bonds shall bear the same date of issuance or that the whole or any part of any bond issue authorized hereunder shall be sold at any specific time. Bonds may be sold from time to time as ordered by the county board, and as necessity for providing funds arise.

(4) Whenever bonds are issued under this section, tax certificates having a face value equal to at least one hundred per cent of the amount of such bonds shall be set aside by the county treasurer and all moneys received for the redemption of said certificates shall be set aside and applied toward the retirement of bonds issued hereunder. [1933 c. 124]

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

67.156 County bonds for current and ordinary expenses. (1) Any county, if its county board shall so determine, may, for the purpose of paying its current and ordinary expenses, and for the purpose of paying off valid obligations theretofore issued by such county under section 67.12 for the payment of current and ordinary expenses, borrow money in a sum not to exceed the face value of all tax certificates owned by it and not otherwise pledged as collateral security for any loan by said county.

(2) Every such loan shall be evidenced by the issuance of negotiable interest payment coupon bonds bearing interest at a rate not exceeding 6 per cent per annum and maturing serially in such amounts in not more than 10 years from date as may be specified in the resolution authorizing such bonds. Such bonds shall not exceed, with all other county indebtedness, the constitutional limit and shall be further limited in amount to the amount of all such tax certificates owned by such county and not otherwise pledged as collateral security for any loan to be determined by the county board as of the day such bonds are dated, and such finding shall be conclusive. The resolution authorizing such bonds shall specify the amount of the issue, the denomination thereof, the time and place of payment of principal and interest and the manner in which the same shall be negotiated and shall not be subject to any referendum vote or to any election requirement under this chapter. It shall also provide for the levy of a direct annual tax without limit as to rate or amount sufficient to pay the interest on such bonds as it falls due and the principal thereof within the time fixed therefor. The bonds shall be signed by the chairman of the county board and the county clerk in their official capacities, and be sealed with the county seal and shall not be sold at less than 95 per cent of par.

(3) Nothing in this section shall require that all such bonds shall bear the same date of issuance or that the whole or any part of any bond issue authorized hereunder shall be sold at any specific time. The county board may by resolution instruct the county treasurer to sell such bonds from time to time as in the opinion of said treasurer the necessity for funds arises.

(4) In the event any bonds previously issued under this section shall remain outstanding at the time of issue of additional bonds hereunder, then the amount of such outstanding bonds shall be deducted from the aggregate face amount of all such tax certificates owned by such county in determining the maximum amount of additional bonds which may be issued hereunder.

(5) The provisions of this section confer additional power and authority to issue bonds as provided herein and shall be so construed notwithstanding any other provisions of this chapter. [1943 c. 431]

67.16 [Repealed by 1943 c. 334 s. 14]

67.17 **Diversions of funds, liability of officers for.** Every public officer, and the sureties on his official bond, and every other person participating directly or indirectly in any impairment of a borrowed money fund or of a sinking fund of any municipality, shall be liable in an action brought by such municipality or by one or more of its taxpayers, or by any party owning a warrant, note, order, or other obligation payable in whole or in part out of such fund, to restore to such fund all such diversions therefrom. [1937 c. 214]

67.18 [Renumbered section 372.04 by 1933 c. 436 s. 5]

67.19 **Refunding city or village debt.** The governing body of any city or village may provide for raising money necessary to pay and discharge any indebtedness owing by it, due and unpaid on December 31, 1930. If it is desired to pay such indebtedness by the issuing of bonds or other evidence of indebtedness, the procedure shall be as provided in section 67.05 for the issue of any other municipal bonds. [1931 c. 190]

Note: Village has no power to refund bonds issued subsequent to 1913. 20 Atty. Gen. 121. edness is one created for purpose for which general municipal bonds might have been issued in original instance, or in case of

City has power to issue bonds to pay prior indebtedness only where such indebtedness due and unpaid December 31, 1930. 20 Atty. Gen. 437.

67.20 **Refunding town or school debt.** Any town or school district may refund any indebtedness other than a bonded indebtedness, outstanding and unpaid on December 31, 1924, when authorized so to do by a vote of the electors at an annual meeting, or at a special meeting called for that purpose, by the adoption of a resolution in form as provided in subsection (1) of section 67.05, and also providing that the governing body may issue other evidence of indebtedness than bonds for such refunding purposes. The repayment of such refunding indebtedness shall be provided for as required by subsection (10) of section 67.05.

67.22 **Bonding stayed by protest.** No bonds shall be issued in any cases, where, within thirty days after the adoption of the initial resolution provided for in subsection (1) or (2) of section 67.05, a petition is filed with the clerk of the municipality contemplating the issuance of bonds, signed by a majority of the resident freeholders and by the owners of more than one-half of the property by assessed value therein requesting that such bond issue be not made.

67.23 **Validation of certain bonds and proceedings.** (1) The term "municipality" shall mean a county, city, village, town, common school district, consolidated district, state graded school district, free high school district, union free high school district, whether any such district is joint or otherwise, metropolitan sewerage commission, board of education or board of park commissioners of this state empowered to borrow money and issue bonds to repay the same.

(2) All bonds heretofore issued for the purpose of financing or aiding in the financing of any building, improvement, work or undertaking by any municipality to which any loan or grant has heretofore been made by the United States of America through the federal emergency administrator of public works for the purpose of financing or aiding in the financing of such building, improvement, work or undertaking, including all proceedings for the authorization and issuance of such bonds, and the sale, execution and delivery thereof, are hereby validated, ratified, approved and confirmed, notwithstanding any lack of power other than constitutional, of such municipality or the governing board or commission or officers thereof, to authorize and issue such bonds, or to sell, execute or deliver the same, and notwithstanding any defects or irregularities other than constitutional, in such proceedings or in such sale, execution or delivery; and such bonds are and shall be binding, legal, valid and enforceable obligations of such municipality. [1935 c. 528]

67.25 [1927 c. 317; repealed by 1927 c. 463 s. 1]