

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) "Clerk" includes the secretary of the metropolitan sewerage commission under s. 66.886 (4).

(2) "Governing body" includes a town or county board, the legislative body of a city or village, the commission of a metropolitan sewerage district created under ss. 66.88 to 66.918 and the board of any other municipality enumerated in sub. (5).

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

(5) "Municipality" means any of the following which is authorized to levy a tax: a county, city, village, town, school district, board of park commissioners, vocational, technical and adult education district, metropolitan sewerage district created under ss. 66.20 to 66.26 or 66.88 to 66.918, town sanitary district under subch. IX of ch. 60, public inland lake protection and rehabilitation district established under s. 33.23, 33.235 or 33.24 and any other public body empowered to borrow money and issue obligations to repay the money out of public funds or revenues. "Municipality" does not include the state.

(6) "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.

(7) "Recorded" means copied at length in the record book required by s. 67.05 (12).

(8) 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 as equalized for state purposes.

(9) This chapter, except ss. 67.08 (1), 67.09 and 67.10, 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 subch. II of ch. 24.

(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 ch. 88 (or ch. 88 or 89, 1963 stats., as it existed prior to January 1, 1965).

(g) To revenue bonds and revenue bond anticipation notes issued for the purpose of purchasing, acquiring, constructing, extending, adding to or improving public utilities under ss. 66.06 to 66.078, nor to refunding bonds authorized under s. 66.066 (2) (b), nor to commercial paper issued under s. 66.91 (1) (fa), nor to public improvement bonds authorized under s. 66.059.

(h) To contractor's certificates, general obligation-local improvement bonds or special assessment B bonds issued pursuant to s. 66.54 except as therein specified.

History: 1971 c. 188; 1977 c. 163; 1981 c. 169, 282; 1981 c. 390 s. 252; 1983 a. 24; 1983 a. 189 ss. 74, 75, 329 (7); 1983 a. 207; 1985 a. 29, 187, 225, 332; 1987 a. 197.

Wisconsin municipal debt finance: An outlook for the eighties. Schilling, Griggs and Ebert, 63 MLR 539 (1980).

67.015 Housing authorities exempted. This chapter shall not be applicable to borrowing by housing authorities or county veterans' housing authorities under ss. 66.39 to 66.404.

67.02 Validation of debt. (1) Validations before January 1, 1922, effected by legislative enactments of defective or irregular procedure in the creation, execution or issue of municipal obligations continue unaffected by the repeal of the enactments or by the consolidation and revision of them in chapter 576, laws of 1921.

(2) Defects and irregularities in any proceeding on or after January 1, 1922, which is for a lawful purpose, is unaffected by fraud, and does not exceed any statutory or constitutional limitation of amount, does not invalidate the bonds issued or the indebtedness incurred after the bonds have been sold or hypothecated and the proceeds received and appropriated by the municipality to a 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 the bonds or other obligations.

(3) A legislative, judicial or administrative determination, for any reason, that a municipality may not spend the proceeds of contracted debt, or that it has spent the proceeds for a purpose other than the stated purpose for which the debt was contracted or for a purpose for which a municipality may not spend money, shall not affect the enforceability of the debt nor the evidence of indebtedness for it.

History: 1971 c. 40; 1983 a. 207, 538.

67.025 Certification of municipal obligations. In any municipality, the officers charged with the negotiation and sale of its municipal obligations may, in their discretion, prior to the issuance thereof, submit to the attorney general or to an attorney employed under s. 67.10 (7) a certified copy of all its proceedings preliminary to such issue, and also a printer's

proof or sample of or the unsigned obligations, for examination and certification. Such attorney shall examine the proceedings and, if found regular and valid, shall execute a certificate of such examination and validity. As soon as such certificate is returned, the clerk of the municipality shall cause such certificate to be recorded. This section applies to obligations issued under ss. 59.071, 66.066, 66.46 (9) (b), 66.521 and 66.54.

History: 1971 c. 40; 1975 c. 221; 1977 c. 418; 1987 a. 197.

Cross Reference: See 893.77 for 30 day statute of limitations on municipal obligations which have been certified by an attorney.

67.03 Grant of power to borrow; general limitations of indebtedness. (1) Except as provided in s. 67.01 (9), municipalities may borrow money and issue municipal obligations therefor only for the purposes and by the procedure specified in this chapter. The aggregate amount of indebtedness, including existing indebtedness, of any municipality shall not exceed 5% of the value of the taxable property located therein as equalized for state purposes except as follows:

(b) For any school district which offers no less than grades 1 to 12 and which at the time of incurring such debt is eligible for the highest level of school aids, 10% of such equalized value shall be permitted. Any school district which at the time of incurring indebtedness is eligible to receive state aids under s. 121.08 is eligible for the highest level of school aids for purposes of school district borrowing and indebtedness limitations. Any school district about to incur indebtedness may apply to the state superintendent for, and he may issue, a certificate as to the eligibility of the school district for the highest level of school aids, which certificate shall be conclusive as to such eligibility for 30 days, but not beyond the next June 30.

(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.

(2m) The issuance of refunding municipal obligations and the payment of municipal obligations so refunded shall be treated as if they occur simultaneously. The limitation on aggregate indebtedness under sub. (1) shall not include the amount of the refunded municipal obligation to the extent that provision is made for the payment of the refunded obligation.

(3) Whenever a municipality acquires a utility or other property of any kind that at the time is encumbered 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 sub. (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.

(4) The last determination made by the department of revenue of the full value of the taxable property in any municipality under this section or s. 70.57 or 121.06 (1) shall be the equalized valuation of the taxable property.

(5) (a) When the last determination made by the department of revenue of the full value of the taxable property in a municipality is not a true valuation of the taxable property therein because of a change in the territory thereof, the department of revenue, upon application in writing by the municipal clerk, in such form as the department prescribes, shall increase or decrease the last determination in such

amount as in the best judgment of the department makes proper adjustment for the change in territory, and the resulting adjusted valuation shall be the equalized valuation of the taxable property in the municipality.

(b) When a new municipality has been formed for which no determination of the full value of the taxable property therein has been made by the department of revenue, upon application in writing by the municipal clerk, in such form as the department prescribes, the department shall determine according to its best judgment from all sources of information available to it the full value of the taxable property in the municipality, and the resulting valuation shall be the equalized valuation of the taxable property in the municipality.

(6) The department of revenue may certify to the clerk of any municipality the full value of the taxable property of the municipality when the equalized valuation is requested for use in connection with municipal borrowing.

(7) For the purposes of indebtedness school districts which in successive years operate all grades to tenth, eleventh and twelfth as provided in s. 121.78 (2) (b) and (c) shall be considered school districts offering no less than grades one to 12.

(9) For any vocational, technical and adult education district, the bonded indebtedness for the purpose of purchasing school sites and the construction and equipping of school buildings may not exceed 2% of the value of its taxable property as equalized for state purposes.

History: 1975 c. 39; 1981 c. 20; 1983 a. 36 s. 96 (4); 1983 a. 189 s. 329 (7); 1983 a. 207; 1985 a. 29 s. 3202 (43); 1985 a. 225; 1987 a. 69.

See note to Art. XI, sec. 3, citing 63 Atty. Gen. 309.

See note to Art. XI, sec. 3, citing 63 Atty. Gen. 465.

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 insofar as they apply to taxes levied or to be levied to pay principal and interest upon such bonds or notes.

History: 1975 c. 80; 1977 c. 29; 1983 a. 27.

67.04 Purposes of issuing municipal bonds. (1) In this section:

(a) "Project" means the acquisition, leasing, planning, design, construction, development, extension, enlargement, renovation, rebuilding, repair or improvement of land, waters, property, highways, buildings, equipment or facilities.

(b) "Public purpose" means the performance of any power or duty of the issuing municipality.

(2) (a) Subject to the limitations specified in s. 67.03, any municipality may borrow money and issue bonds to finance any project undertaken for a public purpose.

(b) Subject to the limitations specified in s. 67.03, any city with a population greater than 75,000 may borrow money and issue bonds to finance the cost of low-interest mortgage loans under s. 66.38.

(3) Subject to the limitations specified in s. 67.03, any municipality may refund municipal obligations including interest on them whether or not the obligations being refunded were issued for any purpose for which the municipal obligations might have been issued in the original instance, if the time for payment of bonds issued to refund bonds and notes authorized under this chapter does not extend beyond the period permitted under s. 67.07. Bonds issued to refund municipal obligations issued under ch. 66 shall be paid within the period permitted under s. 67.07, commencing on the original date of the refunding bonds.

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87-88 Wis. Stats. 1460

(4) The legislature finds that contracting of debt under this chapter for any project constitutes a public purpose.

History: 1983 a. 207, 236, 368, 538; 1987 a. 197.

67.05 Bond issues; procedure. (1) INITIAL RESOLUTION BY GOVERNING BODY. If any municipality seeks to issue a bond under s. 67.04, the governing body of the municipality shall, prior to the issuance of the bond, adopt a resolution that states the purpose for and maximum amount of the borrowing. The resolution adopted under this section shall be known as the initial resolution. If a permissive referendum on the bond issue is allowed under this section, the governing body shall, within 15 days after the initial resolution is adopted, publish a class I notice under ch. 985 stating the purpose and maximum principal amount of the bond issue and describing the opportunity and procedure for submitting a petition requesting a referendum on the bond issue.

(2) INITIAL RESOLUTION BY ELECTORS. (a) The electors of any town, common school district, union high school district, whether such district is joint or otherwise, or of any municipality other than a county, a city, a village, a vocational, technical and adult education district 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 sub. (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 sub. (1) in the manner provided by s. 9.20.

(3) REFERENDUM PROCEDURE. Whenever a referendum is held under this section, the following procedures shall be used:

(a) 1. The clerk of the jurisdiction in which the referendum is held shall publish a type A notice under s. 10.01 (2) (a) on the 4th Tuesday before the referendum is held.

2. If the referendum is not held in conjunction with a national, state, county or municipal election, the clerk of the jurisdiction in which the referendum is held shall publish a type E notice under s. 10.01 (2) (e) on the 4th Tuesday before the referendum is held. If the referendum is a county or municipal referendum and is not held in conjunction with a national, state, county or municipal election, the municipal clerk of each municipality in which the referendum is held shall publish a type E notice on the 4th Tuesday before the referendum is held.

3. The clerk of the jurisdiction in which the referendum is held shall publish type B and C notices under s. 10.01 (2) (b) and (c) on the day before the referendum is held.

4. If the referendum is not held in conjunction with a national, state, county or municipal election, the clerk of the jurisdiction in which the referendum is held shall publish a type D notice under s. 10.01 (2) (d) on the day before the referendum is held. If the referendum is a county or municipal referendum and is not held in conjunction with a national, state, county or municipal election, the municipal clerk of each municipality in which the referendum is held shall publish a type D notice on the day before the referendum is held.

5. The date for publication of any notice may be changed as provided in s. 10.04 (3) (a).

6. In villages, towns and school districts, posting may be substituted for publication as provided in s. 10.05.

7. Whenever the clerks of more than one jurisdiction are required under this section to publish the same notice on the same day, they may publish one notice only and share the cost under s. 10.07 (1).

(b) The clerk of the jurisdiction in which the referendum is held shall prepare or arrange for the preparation of the ballots. If the jurisdiction in which the referendum is held is not a city, village or town, and the clerk of the jurisdiction in which the referendum is held prepares the ballots, the clerk shall deliver the ballots to the municipal clerk of each city, village or town which is wholly or partly contained within the jurisdiction in which the referendum is held. The form of the ballot shall correspond with the form prescribed by the elections board under ss. 5.64 (2) and 7.08 (1) (a).

(c) Absentee ballots shall be distributed by the municipal clerk or board of election commissioners of each municipality which is contained within the jurisdiction in which the referendum is held.

(d) The question shall contain a statement of the purpose for which bonds are to be issued and the maximum amount of the bonds to be issued.

(e) Election officials appointed under s. 7.30 (4) shall conduct the election in each municipality which is contained within the jurisdiction in which the referendum is held.

(f) If a special purpose district calls a referendum to be held in conjunction with a state, county, municipal or judicial election, the polling places for the state, county, municipal or judicial election shall be the polling places for the special purpose district referendum and the municipal election hours shall apply. If no state, county, municipal or judicial election is held on the day of the special purpose district referendum, the governing body of the special purpose district may set the election hours and the polling places to be used, except as otherwise provided in s. 120.06 (9) (b) in the case of a school district. If a polling place located in the special purpose district that was utilized at the most recent spring or general election is not utilized by the special purpose district, the governing body of the special purpose district shall post a notice on the door of the polling place indicating all polling places open for voting. Election hours set by the governing body of the special purpose district for each polling place shall be the same as those provided by the governing body of the municipality in which the polling place is located, except that if the opening hour is later than 7 a.m., the governing body of the special purpose district may extend the opening hour to not earlier than 7 a.m. The municipal clerk of each municipality in which a polling place is located shall provide the necessary equipment to operate the polling place.

(g) The returns shall be canvassed by the board of canvassers of each municipality which is contained within the jurisdiction in which the referendum is held. When a referendum is held in a special purpose district, the board of canvassers shall canvass and certify the returns of the referendum to the clerk of the district in which the referendum is held. The board of canvassers of the jurisdiction in which the referendum is held shall then determine the result of the referendum. If the jurisdiction does not have a board of canvassers, the clerk of the jurisdiction shall appoint 2 reputable citizens who with the clerk shall constitute the board of canvassers. The board of canvassers may return defective returns to the municipal board of canvassers in the manner provided in s. 7.60 (3). The board of canvassers shall prepare a statement showing the number of votes cast for and against the question and shall prepare a determination showing the result of the referendum. Each statement and determination shall be attested by each of the canvassers. The board of canvassers shall file the statement and determination in the office of the clerk of the jurisdiction.

(h) The cost of the election shall be borne as provided in ss. 5.68 and 7.03.

(i) Any special purpose district may delegate any duty which is imposed upon the clerk of the district in connection with the conduct of a referendum under this section to the municipal clerk or board of election commissioners of each municipality which is contained within the jurisdiction in which the referendum is held. The district may compensate the municipality for performing such duties at a rate agreed upon between the district and the municipality.

(4) PERMISSIVE REFERENDUM IN COUNTIES. If a county board adopts an initial resolution 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 is not required to submit the resolution for approval to the electors of the county at a special election unless within 30 days after the adoption thereof there is filed with the clerk a petition requesting such submission, signed by electors numbering at least 10% of the votes cast in the county for governor at the last general election. If a petition is filed, 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 sub. (7).

(5) REFERENDUM IN TOWNS, VILLAGES AND CITIES. (a) Whenever an initial resolution has been so adopted by the governing body of a town, the clerk of the municipality shall immediately record the resolution and call a special election for the purpose of submitting the resolution to the electors of the municipality for approval. This paragraph does not apply to bonds issued to finance low-interest mortgage loans under s. 66.38, unless a number of electors equal to at least 15% of the votes cast for governor at the last general election in their town sign and file a petition with the town clerk requesting submission of the resolution. Whenever a number of electors cannot be determined on the basis of reported statistics, the number shall be determined in accordance with s. 60.74 (6). If a petition is filed, the question submitted shall be whether the resolution shall or shall not be approved. This paragraph is limited in its scope by sub. (7).

(b) No city or village may issue any bonds for any purposes other than for waterworks, lighting works, gas works, bridges, street lighting, street improvements, street improvement funding, hospitals, airports, harbor improvements, river improvements, breakwaters and protection piers, sewerage, garbage disposal, rubbish or refuse disposal, any combination of sewage, garbage or refuse or rubbish disposal, parks and public grounds, swimming pools and band shells thereon, veterans housing projects, paying the municipality's portion of the cost of abolishing grade crossings, for the construction of police facilities and combined fire and police safety buildings, 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, for parking lots or other parking facilities, for school purposes, for libraries, for buildings for the housing of machinery and equipment, for acquiring and developing sites for industry and commerce as will expand the municipal tax base, for financing the cost of low-interest mortgage loans under s. 66.38, for providing financial assistance to blight elimination, slum clearance, community development, redevelopment and urban renewal programs and projects under ss. 66.405 to 66.425, 66.43, 66.431, 66.4325, 66.435 and 66.46 or for

university of Wisconsin system centers until the proposition for their issue for the special purpose thereof has been submitted to the electors of the city or village and adopted by a majority vote. Except as provided under sub. (15), if the common council of any city or the village board of any village declares 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 to the city or village electors. If a number of electors of a city or village equal to at least 15% of the votes cast for governor at the last general election in their city or village sign and file a petition with the city or village clerk requesting submission of the resolution, the city or village may not issue bonds for financing the cost of low-interest mortgage loans under s. 66.38 without calling a special election to submit the question of bonding to the city or village electors for their approval.

(6) REFERENDUM IN OTHER CASES. Whenever an initial resolution has been adopted by the governing body of any municipality other than a county, a town, a city, a village, a vocational, technical and adult education district, a metropolitan sewerage district created under ss. 66.20 to 66.26 or 66.88 to 66.918, a town sanitary district, a public inland lake protection and rehabilitation district or a board of park commissioners, the clerk of such municipality shall immediately record the resolution and call a special meeting for the purpose of submitting it to the electors of the municipality for ratification or rejection. The calling and conduct of the 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 with the form prescribed by the elections board under ss. 5.64 (2) and 7.08 (1) (a); and the question submitted shall be whether the resolution shall be approved.

(6a) SCHOOL DISTRICT BONDS, REFERENDUM. Subsections (2) (a) and (6) do not apply to the issuing of bonds or the borrowing of money in excess of \$5,000 by any school district. Except as provided under sub. (15), if the board of any school district, or the electors at a regularly called school district meeting, by a majority vote adopt an initial resolution to raise an amount of money in excess of \$5,000, by a bond issue, the board shall either direct the school district clerk to call a special election for the purpose of submitting the initial resolution to the electors for approval or rejection or shall direct that the resolution be submitted at the next regularly scheduled primary or election to be held not earlier than 45 days after the action of the board or electors. The question submitted shall be whether the initial resolution shall or shall not be approved. This subsection does not apply to borrowing by a school district to meet immediate expenses under s. 67.12 (8).

(6m) HEARING AND REFERENDUM IN VOCATIONAL, TECHNICAL AND ADULT EDUCATION DISTRICTS. Prior to the adoption of an initial resolution under sub. (1), the board of a vocational, technical and adult education district shall adopt a resolution stating its intention to borrow money for the purposes specified in s. 38.16 (2) and setting a date, time and place for a public hearing on the resolution adopted under this subsection which shall be held within 30 days after its adoption. The vocational, technical and adult education district secretary immediately shall publish a copy of the resolution adopted under this subsection as a class I notice, under ch. 985.

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87-88 Wis. Stats. 1462

(a) An initial resolution adopted by a vocational, technical and adult education district board for an issue of bonds in an amount of money not exceeding \$500,000 for building remodeling or improvement need not be submitted to the electors of the district for approval unless within 30 days after the initial resolution is adopted there is filed with the vocational, technical and adult education district secretary a petition requesting a referendum thereon. Such a petition shall be signed by electors from each county lying wholly or partially within the district. The number of electors from each county shall equal at least 1.5% of the population of the county as determined under s. 16.96 (2) (c). If a county lies in more than one district, the state board of vocational, technical and adult education shall apportion the county's population as determined under s. 16.96 (2) (c) to the districts involved and the petition shall be signed by electors equal to the appropriate percentage of the apportioned population. Any initial resolution adopted under sub. (1) in an amount of money not exceeding \$500,000 at the discretion of the district board, may be submitted to the electors without waiting for the filing of a petition. All initial resolutions adopted under sub. (1) in an amount of money in excess of \$500,000 or more for building remodeling or improvement shall be submitted to the electors of the district for approval. If a referendum is duly petitioned or required under this subsection, bonds may not be issued until the electors of the district have approved the issue.

(b) If a referendum is to be held on an initial resolution, the district board shall direct the vocational, technical and adult education district secretary to call a special election for the purpose of submitting the initial resolution to the electors for a referendum on approval or rejection. In lieu of a special election, the district board may specify that the election be held at the next succeeding spring primary or election or September primary or general election.

(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 30 days after the adoption thereof there is filed with the county clerk a petition requesting such submission, signed by electors numbering at least 10% of the votes cast in the county for governor at the last general election. If such petition is filed, proceedings shall be had under sub. (4).

(b) An initial resolution adopted by the governing body of a city for an issue of bonds for purposes specifically enumerated in sub. (5) need not be submitted to the electors under sub. (5) unless, within 30 days after the adoption thereof, a petition requesting such submission, signed by electors numbering at least 10% of the votes cast for governor in the city at the last general election, is filed in the office of the city clerk. Whenever a number of electors cannot be determined on the basis of reported statistics, the number shall be determined in accordance with s. 60.74 (6). Any initial resolution may, in the discretion of the governing body, by separate recorded resolution, be submitted to popular vote without a 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.

(cc) An initial resolution adopted by the school board of a common school district or unified school district for the purpose of purchasing the school property or vocational school property of a city therein which formerly operated a city school district shall not be submitted to a referendum 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 city or 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 city or 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 under sub. (5) unless, within 30 days after the adoption thereof, a petition requesting such submission, signed by electors numbering at least 10% of the votes cast for governor in the city or village at the last general election, is filed in the office of the city or village clerk. Whenever a number of electors cannot be determined on the basis of reported statistics, the number shall be determined in accordance with s. 60.74 (6). If such petition is filed, proceedings shall be had under sub. (5). Any such resolution may, in the discretion of the governing body, by separate recorded resolution, be submitted to popular vote without the filing of a petition.

(f) An initial resolution adopted by any county, town, city or village for the purpose of acquiring, developing, remodeling, constructing and equipping land, buildings and facilities for regional projects, either alone or acting jointly under s. 66.30, shall not be subject to a referendum.

(g) An initial resolution adopted by any town sanitary district under sub. (i) may be submitted to the electors by separate resolution of the board. If the board does not adopt such a separate resolution, the initial resolution may not be submitted to the electors unless, within 30 days after its adoption, a petition requesting such submission, signed by electors numbering at least 10% of the votes cast for governor in the district at the last general election, is filed with the district clerk requesting a referendum. If a petition is filed, the board shall proceed under sub. (5).

(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 sub. (1) or (2), or, after the approval of the 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 the tax until all such payments have been made or provided for. After the issue of the bonds, the tax shall be from year to year carried into the tax roll of the municipality and collected as other taxes are collected, provided that the amount of tax carried into the tax roll may be reduced in any year by the amount of any surplus money in the debt service fund created under s. 67.11, and provided further that the municipality issuing the bonds may make an appropriation in advance of the authorization of the bonds to provide funds for any payment coming due on the bonds prior to the first collection of taxes levied for that payment. The amount of the appropriation shall be based on estimates of the amount of bonds to be sold and the rate of interest the bonds will bear. The appropriation shall not be used for any purpose other than that for which appropriated and any surplus in the appropriation shall be transferred to

the general fund of the municipality. The municipality is not required to levy a tax equal to the amount of that appropriation.

(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 subs. (1) to (10), may, but not otherwise, borrow money and issue and sell or hypothecate its municipal bonds to the amount and for the 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.

(13) COMBINATION OF ISSUES. Bonds authorized under various initial resolutions may, in the discretion of the governing body, be combined into one issue and designated as "corporate purpose bonds". The resolution providing for such combination and the bond form for the combined issue shall separately itemize the amount being issued for each of the purposes provided by the underlying initial resolutions.

(14) REFERENDUM NOT REQUIRED FOR CERTAIN TEMPORARY BORROWING. This section shall not be construed to require, or at any time before July 9, 1955, to have required, the submission to the electors for approval of any borrowing under s. 67.12, the provisions of said s. 67.12 being controlling as to such borrowing.

(15) REFERENDUM NOT REQUIRED FOR REFUNDING OBLIGATIONS. This section does not require the submission to the electors for their approval of any resolution that authorizes the issuance of municipal obligations to refund outstanding municipal obligations or the interest on outstanding municipal obligations.

History: 1971 c. 29; 1971 c. 154 ss. 41, 80; 1971 c. 211, 295; 1973 c. 23; 1975 c. 182, 311, 422; 1977 c. 26; 1977 c. 29 ss. 733, 734, 1654(8)(c); 1977 c. 427 s. 132; 1979 c. 221, 297, 311; 1981 c. 20, 282, 377, 391; 1983 a. 207 ss. 47 to 52, 93(5), (6), (7), 95; 1983 a. 236 s. 13; 1983 a. 532 s. 36; 1983 a. 538; 1985 a. 187, 225, 304; 1987 a. 197; 1987 a. 391.

Cross Reference: For petition for referendum by electors in territory attached for school purposes under (7) (b), see 120.45.

On a school bond referendum the whole process does not become illegal because the board of canvassers was improperly composed of 6 of the 7 school board members plus 3 city councilmen. *Karker v. Board of Unified School Dist. 51 W (2d) 542, 187 NW (2d) 160.*

67.06 Form and contents of bonds. Every municipal bond shall be a negotiable instrument payable to bearer, or, in case of registered bonds, to the registered owner; shall bear interest; 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 for it in the resolution of the governing body authorizing its issuance or in a resolution pursuant to s. 67.05 (13); shall contain a statement that a direct annual irrevocable 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 with or without premium on conditions prescribed on it; and may contain any other statement of fact not in conflict with the resolution. The entire issue may be composed of bonds of a single denomination or 2 or more denominations.

History: 1973 c. 172; 1983 a. 207.

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 20 years after the original date of the bonds, except that when the bonds are issued for 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, by a sewerage district or county having a population of 150,000 or over for sewerage purposes and by any city for sewerage purposes, all instalments of principal and interest shall be made payable within a period not exceeding 50 years from the original date of the bonds. The terms of the bonds shall comply with the initial resolution.

History: 1971 c. 154; 1981 c. 282; 1983 a. 207.

67.08 Execution and negotiation. (1) Municipal obligations 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 chairperson of the county board and the county clerk; for a city, the mayor or the city manager and the city clerk; for a village, the president and the village clerk; for a town, the chairman and the town clerk; for a vocational, technical and adult education district, the chairperson and secretary; for a metropolitan sewerage district established under ss. 66.88 to 66.918, the chairperson and secretary; for any other municipality, the president and clerk or secretary of the governing body. The facsimile signature of any of the officers executing a municipal obligation may be imprinted on the municipal obligation in lieu of the manual signature of the officer but, unless a municipality has contracted with a fiscal agent under s. 67.10 (2) to authenticate the municipal obligation, at least one of the signatures appearing on each municipal obligation shall be a manual signature. Municipal obligations bearing the signatures of officers in office on the date of the execution of the municipal obligations remain valid and binding even if before the delivery of the municipal obligations any or all of the persons whose signatures appear on the municipal obligations have ceased to be officers of the municipality issuing them. Each municipal obligation issued by a municipality having an official or corporate seal shall be sealed with such seal or a printed facsimile of such seal.

(2) The sale of bonds shall be public and noticed as provided by resolution, except that refunding bonds and bonds issued by a municipality and to be purchased by itself for any of the debt service accounts for any of its bond issues or any trust or reserve fund of the municipality may be sold at public or private sale. Bonds may be sold at such price or prices as shall be determined by the municipality.

(3) Any or all bids received may be rejected and the sale canceled, or the sale of all or any part of the bonds negotiated, after bids at public sale have been rejected or if no bids are received.

(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.

History: 1977 c. 182; 1979 c. 297; 1981 c. 282; 1983 a. 24, 27, 192 ss. 158, 303(2); 1983 a. 207 ss. 55, 56, 93(4); 1987 a. 197.

67.09 Registration of municipal obligations. (1) All municipal obligations may be payable to bearer or may be registered as to the principal or principal and interest by the clerk or treasurer of the municipality issuing them or such other officers or agents, including fiscal agents under s. 67.10 (2), as

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the governing body of the municipality determines. Registrations shall be recorded.

(2) The holder of any registrable bearer municipal obligation may have the ownership thereof registered under sub. (1), and such registration noted on the municipal obligation 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 municipal obligation, 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 be registered as to principal or as to principal and interest or transferred to bearer, as before. Registration only as to principal under this section shall not affect the negotiability of the appurtenant coupons, but every such coupon shall continue to be transferable upon delivery and shall remain payable to bearer.

(3) Any municipality may establish a book entry system as a means of identifying the persons entitled to receive principal and interest payments on any of its municipal obligations, maintaining such a system itself or contracting for its maintenance.

History: 1983 a. 24; 1987 a. 197.

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 under this chapter, shall be lawful money of the United States; and all municipal obligations shall be payable in such money.

(2) **FISCAL AGENTS.** The governing body of any municipality may appoint a fiscal agent or fiscal agents. Every 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 or shall be a Wisconsin governmental body or officer. This contract may create a trust relationship and may provide for the performance by the fiscal agent of any of the following functions:

- (a) Distribution of municipal obligations.
- (b) Payment of debt service.
- (c) Investment of funds.
- (d) Registration of municipal obligations.
- (e) Maintenance of a book entry system.
- (f) Transfer of municipal securities.
- (g) Maintenance of registration books.
- (h) Accounting for payment of debt service.
- (i) Accounting for and cancellation of municipal obligations.
- (j) Authentication of municipal obligations.

(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 s. 67.11, but including the reimbursement of a temporary advance from other funds of the municipality or the repayment of a temporary loan by the municipality if such advance or loan has been made in anticipation of the borrowed money and for the same purpose, and such disbursements shall be only upon orders or warrants charged to said fund and expressing the purpose for which they are drawn. Money in the borrowed money fund may be temporarily invested as provided in s. 66.04 (2).

(4) **TIME LIMIT FOR SALES AND HYPOTHECATIONS.** Except as provided otherwise by sub. (6) for cities of the 1st class every authorized municipal bond shall be sold or hypothecated

within the 5 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 5 years.

(5) **ANTICIPATORY CONTRACTS IN GENERAL.** (a) After any municipality has provided, as required by s. 67.05 (11), 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.

(6) **ANTICIPATORY CONTRACTS IN 1ST CLASS CITIES.** (a) 1. A 1st class city may enter into a contract in anticipation of the sale of bonds and make expenditures prior to the sale of the bonds for the purposes for which the bonds have been authorized if:

a. The common council has authorized the issuance of the bonds for any lawful purpose.

b. The commissioners of the public debt have certified to the comptroller of the city that the bonds can be sold if the comptroller determines that there is in the city treasury sufficient money, other than that raised for the payment of interest and principal on bonds, mortgages, mortgage certificates, or similar instruments of indebtedness, to warrant entering the anticipatory contract or making the expenditures prior to the sale of bonds.

2. Expenditures under this subsection may be made out of any money in the hands of the city treasurer, except money raised for the payment of interest or principal on bonds, mortgages, mortgage certificates, or similar instruments of indebtedness.

3. A city under this subsection is not required to sell the bonds provided for in the initial resolution of the common council authorizing the issuance of the bonds until the comptroller deems it necessary to replace all or part of the money paid out of the treasury, or to meet maturing obligations of the city on a contract entered into under this subsection which cannot be paid out of the general treasury.

4. If the comptroller deems it necessary to sell all or part of the bonds under this subsection, the comptroller shall so advise the commissioners of the public debt, in writing, specifying how many of the bonds it will be necessary to sell, and the reason therefor, and the commissioners shall sell the number of bonds specified by the comptroller.

5. If a contract is entered into, or if an obligation is incurred in anticipation of the sale of bonds for a purpose related to the contract or obligation, the commissioners shall sell as many bonds as necessary to replace the money taken from the treasury, and to meet the obligations on any contracts which have matured or may mature at any time in the future. The sale of bonds under this subdivision may not be later than 3 years after the date of the bonds.

6. If any bonds have been provided for in the budget of any fiscal year, and if the common council during the fiscal year authorizes the sale of the bonds, but all or part of the bonds are not sold during such year, the bonds may be sold during the ensuing fiscal year even if there is no provision for the unsold bonds in the budget of the ensuing fiscal year.

(b) The common council of a 1st class city may, by a majority vote, appropriate money in the budget and levy taxes for any purpose for which bonds may be lawfully issued by the city. Such taxes shall be in addition to all other taxes which the city is authorized by law to levy.

(c) If the common council of a 1st class city provides in the budget of any year for the issuance of bonds for any lawful purpose, the common council of the city may, in lieu of issuing bonds for such purpose, levy a tax in the year for any such purpose, for all or part of the amount. Such tax shall be in addition to all other taxes which the city is authorized by law to levy. A decision to levy a tax under this paragraph shall be made by resolution passed at a regular meeting of the common council by at least a three-fourths vote of all the members of the council-elect. No contract may be entered into or any obligation incurred for the purpose specified in the resolution, unless a tax is levied sufficient to pay the whole contract price.

(d) Money raised by levy of taxes in lieu of bond issues under pars. (b) and (c) shall be governed by laws relating to the proceeds of bonds insofar as such laws may be applicable. If the purpose for which the taxes were levied is accomplished or completed, any unexpended portion of the moneys raised by the taxes shall become a part of the general revenues of the city.

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

(9) ACCOUNTING FOR AND CANCELLATION OF COUPONS AND OTHER MUNICIPAL OBLIGATIONS. (a) Any municipality issuing municipal obligations may account for and cancel coupons or other municipal obligations as provided under this subsection. The municipality shall keep in a separate book, provided for the purpose, an accurate description of every municipal obligation 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 coupon or other municipal obligation paid or otherwise retired shall be forthwith marked "canceled" by the officer empowered to accept the instrument upon payment, may be delivered to the governing body of the municipality and may be immediately destroyed.

(b) Any municipality, by resolution adopted by its legislative body, may use the following procedure in accounting for and canceling coupons and other municipal obligations. All coupons and other municipal obligations paid by a fiscal agent under sub. (2), at their maturities, shall be canceled and destroyed by the fiscal agent. The fiscal agent shall periodically deliver a certificate to such effect to the municipality. A municipality following this procedure which has a treasurer or other designated officer or agent who is also a paying agent for outstanding coupons or other municipal obligations or which has more than one fiscal agent may arrange for the delivery of canceled coupons and other municipal obligations to a designated fiscal agent for the purpose of having the coupons and other municipal obligations destroyed. The designated fiscal agent shall periodically furnish and deliver to the municipality a certificate evidencing the destruction of the coupons and other municipal obligations. Any municipality, prior to authorizing the fiscal agent to cancel and destroy coupons and other municipal obligations, shall enter

into an agreement with the fiscal agent providing for such cancellation and destruction. The local governing body of any municipality operating under this paragraph may establish rules or procedures it finds appropriate to carry out this provision effectively.

History: 1975 c. 221; 1977 c. 150; 1979 c. 90; 1981 c. 282; 1983 a. 24, 207; 1987 a. 197.

Legislative Council Note, 1979: In chapter 385, laws of 1925, the legislature withdrew s. 67.10 (6) from the statutes. Section 67.10 (6) is amended to reflect current statutory drafting practices, without any intention of making substantive changes in the law. In section 26 of this act, it is declared that s. 67.10 (6) shall be printed in future editions of the statutes. [Bill 458-A]

67.101 Debt amortization in 1st class cities. (1) In this section "amortization fund" means the public debt amortization fund established under this section and "commission" means the public debt commission created under section 5 of chapter 87, laws of 1861. In every 1st class city, however incorporated and indebted on account of outstanding municipal bonds, a fund separate and distinct from every other fund and designated as the "Public Debt Amortization Fund" is established. Sources of the fund shall be:

(a) All interest on moneys in the city treasury or which may accrue to the city treasury as interest earned on cash advanced for funding street improvements or delayed special assessments.

(b) Beginning on January 1, 1973, except interest which is received by the city as a part of the aggregate amounts from the sale of capital assets, one-third of all interest money received by the city treasury on any invested city funds and one-third of all interest received by the city treasury on any other funds to the interest of which the city is entitled including one-third of all interest received on delinquent personal property taxes.

(c) All other moneys from any source as the common council may by resolution by a two-thirds vote direct to be paid into the fund.

(d) Moneys received by gift or bequest to the fund, except that as a condition precedent to the acceptance of any such gift or bequest, the city shall enter into a contract to be executed by the proper city officers and custodians of the fund with the donor of such gift, or the heirs of any testator making such bequest. In the contract the city and the custodians of the fund shall in consideration of the gift or bequest bind themselves and their successors in office to keep the fund intact forever, except that the fund may be used as provided under this section. The contract shall be for the express benefit of the donor, the donor's heirs and assigns, the heirs and assigns of the testator, and every taxpayer in the city.

(2) The proper city officers shall segregate annually from the general fund and other funds of the city the moneys under sub. (1) (a) to (d) and credit the moneys to the amortization fund.

(3) The amortization fund may not be considered an offset to the constitutional debt limit.

(4) The commission shall be custodian of the amortization fund subject to the provisions of this chapter.

(5) All necessary work incident to the administration of the amortization fund shall be done by the city comptroller's office.

(6) Expenses incident to the administration of the amortization fund shall be paid from the amortization fund.

(7) The secretary of the commission shall keep a record of all proceedings relating to the amortization fund, and an accurate account of transactions, investments, earnings and expenditures and shall make a report annually on or about January 15 of each year to the common council, and shall

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permit examination of the accounts and records by any person.

(8) The amortization fund shall be audited annually as part of the annual independent audit of the city's financial records. The commission shall provide annually an independent certified audit of the amortization fund.

(9) The commission shall, when necessary, demand and enforce by proper proceeding the appropriation, segregation and payment of any amortization moneys due under this section.

(10) Disbursements, investments, sale or transfer of securities in the amortization fund shall be by resolution of the commission by majority vote on checks signed by the chairman of the commission and the city treasurer and countersigned by the city comptroller.

(11) (a) The commission shall cause the proper officer to invest the amortization fund or part thereof as it accrues in any of the following:

1. City bonds.
2. Bonds or securities or other evidences of indebtedness of the United States.
3. Bonds or securities of any instrumentality of the United States or agency thereof if the indebtedness and interest are guaranteed by the United States either primarily or secondarily.
4. Certificates of time deposit.
5. Bonds which are the general obligations of cities or other municipal subdivisions of this state after the bonds have been approved as to the regularity of their issue by the city attorney of the city.
6. Tax certificates of the city or of the county in which the city is located.
7. Securities of the city whether a direct obligation thereof or not secured by such tax certificates.

(b) The commission shall cause the proper officer to sell, dispose of, or exchange securities in which the amortization fund is invested and to reinvest the proceeds thereof in any other security enumerated under par. (a). If the investment is in tax certificates of the city or county, the city treasurer, tax commissioner and such other city officers and employes as the commission may require for the prudent selection, protection and enforcement of the investment shall serve the commission. The time limitations for all actions, proceedings and applications for tax deeds upon such certificates shall be the same as the time limitations applicable to certificates owned or held by the city.

(12) All interest earned by the amortization fund on its investments shall, when it accrues, be added to the fund to augment the fund for the purposes for which the fund is provided.

(13) If the total of principal and accrued interest in the amortization fund is substantially equal to the outstanding general obligation bonds or notes of the city, the fund shall be applied to pay the interest on any outstanding general obligation bonds or notes of the city, and to meet the annual payments on the principal of the debt until maturity thereof. The commission may at any time apply the fund to acquire for cancellation general obligation bonds or notes prior to their maturity dates except that:

(a) The amount of the fund applied may not exceed in any one year 40% of the balance in the fund on the preceding December 31.

(b) The prices of the acquired bonds or notes may not exceed principal plus accrued interest to date of maturity.

(c) The commission may not decrease the fund below \$2,000,000 as a result of purchases and cancellations under this subsection.

(14) Nothing in this section may be construed to amend, abolish or take the place of any other sinking fund provided by statute.

History: 1925 c. 385 s. 7; 1933 c. 26; 1939 c. 378; 1945 c. 316; 1963 c. 422; 1965 c. 100; 1973 c. 111, 281; 1975 c. 304; 1977 c. 418; 1979 c. 90.

Legislative Council Note, 1979: In chapter 385, laws of 1925, the legislature withdrew s. 67.101 from the statutes. Section 67.101 is amended to reflect current statutory drafting practices, without any intention of making substantive changes in the law. In section 26 of this act, it is declared that s. 67.101 shall be printed in future editions of the statutes. [Bill 458-A]

67.11 Debt service fund. (1) Each municipality that issues municipal obligations under this chapter, except obligations issued under s. 67.12 (1), (8) and (8m), shall establish and maintain a debt service fund in accordance with generally accepted accounting principles. The fund may include a separate account for each outstanding municipal obligation issue. Revenues from the following sources shall be recorded to the fund accounts as appropriate:

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

(b) All moneys raised by taxation under s. 67.05 (10) or 67.12 (12) (ee) for the purpose of making principal and interest payments on municipal obligations.

(d) The premium, if any, for which the municipal obligations have been sold above par value and accrued interest.

(e) Such further sums raised by taxation or otherwise, as may be necessary to make all interest and principal payments due in any year. The levying and collection of the taxes or other revenues are authorized; but the governing body may, in its discretion, levy and collect larger sums than the sums so authorized, in order to speed the payment of municipal obligations.

(2) Debt service for municipal obligations issued under this chapter shall be paid from the appropriate debt service fund account created in sub. (1). All investments shall mature in time to make required debt service payments. If invested, the funds to provide for debt service payments due prior to the scheduled receipt of taxes from the next succeeding tax levy shall be invested in direct obligations of the federal government. Thereafter, any balance in an account created in sub. (1) may be loaned or invested under the direction of the municipality's governing body as follows:

(a) In any outstanding municipal obligations for the payment of which the debt service fund is required, at any price not exceeding the principal, accrued interest and a premium not to exceed 3 years' interest on the municipal obligations. These municipal obligations, when purchased, shall immediately have written on the face thereof a statement, signed by an officer of the municipality, that they have been taken up and cannot again be negotiated or made obligatory; and all of these municipal obligations shall be deemed paid and shall be immediately canceled.

(b) In obligations of the United States.

(c) 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 and earnings under sub. (2) continue a part of the debt service fund account for each issue. The obligations representing these investments may be sold or hypothecated by the governing body at any time, but the money received shall remain, until used, a part of the debt service fund account for each issue. All payments by the municipality of principal or interest of obligations representing investments under sub. (2) shall be paid into debt service fund accounts, and, for the purpose of making these payments, the

municipality shall levy every tax that it would be legally obligated to levy if the municipal obligations were still outstanding in the hands of purchasers and had not been purchased as an investment.

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

(5) Any balance in any debt service fund account after all of the municipal obligations for the payment of which the account was instituted have been paid and canceled, and after all investments under sub. (2) (b) and (c) have been finally disposed of or realized upon, shall be carried into the general fund of the municipal treasury unless transferred as directed by the municipality's governing body.

History: 1971 c. 154; 1975 c. 200; 1981 c. 282 ss. 28, 45; 1983 a. 207; 1987 a. 197.

Where city created sinking fund to retire school bonds, and city school district was reorganized into financially independent joint school district, under facts of case, surplus moneys in fund were non-apportionable assets of district. See note to 893.48, citing Joint School Dist. No. 1 v. City of Chilton, 78 W (2d) 52, 253 NW (2d) 879.

67.12 Temporary borrowing and borrowing on promissory notes. (1) **BORROWING IN ANTICIPATION OF REVENUES.** (a) Except for school districts and vocational, technical and adult education districts, any municipality that becomes entitled to receive federal or state aids, taxes levied or other deferred payments may, in the same fiscal year it is entitled to receive the payments, issue municipal obligations in anticipation of receiving the payments. The municipal obligations issued under this paragraph shall not exceed 60% of the municipality's total actual and anticipated receipts in that fiscal year and shall be repaid no later than 18 months after the first day of that fiscal year.

(b) Any municipality may issue municipal obligations in anticipation of receiving proceeds from bonds or notes the municipality has authorized or has covenanted to issue under this chapter or from grants that are committed to the municipality. Any municipal obligation issued under this paragraph may be refunded one or more times. Such obligation and any refundings thereof shall be repaid within 5 years after the date of the original obligation.

(c) Any municipality that issues a municipal obligation under this subsection shall adopt a resolution indicating the amount and purpose of the obligation and the anticipated revenue to secure the obligation and may pledge or assign all or portions of the revenue due and not yet paid as security for repayment of the obligations. Municipal obligations issued under this subsection shall be executed as provided in s. 67.08 (1), may be registered under s. 67.09, and do not constitute an indebtedness for the purpose of determining the municipality's constitutional debt limitation.

(8) **TEMPORARY BORROWING BY SCHOOL BOARD.** (a) The school board of any common, union high school or unified school district may:

1. After the tax for operation and maintenance of the schools for the current school year has been voted, borrow money as needed to meet the immediate expenses of operating and maintaining the public instruction in the school district during the current school year. No such loan may extend beyond November 1 of the following school year.

2. In June prior to voting an annual tax for the operation and maintenance of the schools for the subsequent school year, and in July and August prior to voting an annual tax for the operation and maintenance of the schools for the current school year, borrow money as needed to meet the immediate expenses of operating and maintaining the public instruction in the school district from July 1 to the last working day in

October. The school board may borrow money under this subdivision only upon a recorded resolution adopted by a two-thirds vote of its members. The resolution shall levy an irrevocable tax sufficient in amount to pay the principal of the loan and the interest thereon as they become due and payable. If the borrowing occurs in June, the loan shall be repaid on or before November 1 of the 2nd school year commencing after the date of the loan. If the borrowing occurs in July or August, the loan shall be repaid on or before November 1 of the school year commencing after the date of the loan.

(b) 1. The total amount borrowed under par. (a) may not exceed one-half the estimated receipts for the operation and maintenance of the school district for the school year in which the borrowing occurs, as certified by the school district clerk.

2. To evidence a loan under par. (a), the school board shall deliver to the lender its tax and revenue anticipation promissory note or notes or its school order. Each note and each order shall be executed as provided in s. 67.08 (1) and may be registered under s. 67.09. Each note or order, when paid, shall be receipted and returned to the school district treasurer.

(8a) **TEMPORARY SCHOOL DISTRICT LOAN AGAINST REVENUES; REGARDED AS PAID DEBT.** Whenever a school district shall have become entitled to state aids, tuition revenues, or taxes levied, the district may pledge or assign all or portions of these revenues due but not yet paid as security for the repayment of loans required for operating purposes. Short term indebtedness secured by such assignment shall be construed as a paid or satisfied debt in reporting or computing the outstanding debt of the school district.

(8m) **TEMPORARY BORROWING BY VOCATIONAL, TECHNICAL AND ADULT EDUCATION DISTRICT.** The district board of any vocational, technical and adult education district may borrow money as needed to meet the immediate expenses of operating and maintaining the schools of the district during the current fiscal year. No such loan may extend beyond November 1 of the following fiscal year. The total amount borrowed may not exceed one-half the estimated receipts for the operation and maintenance of the schools for the current fiscal year in which the borrowing occurs, as certified by the district treasurer. All such loans shall be evidenced by promissory notes which shall be executed as provided in s. 67.08 (1) and may be registered under s. 67.09. Whenever a vocational, technical and adult education district becomes entitled to state aids, tuition revenues or taxes levied, the district may pledge or assign all or portions of these revenues due but not yet paid as security for the repayment of promissory notes issued under this subsection. Any indebtedness secured by such assignment shall be construed as a paid or satisfied debt in reporting or computing the outstanding debt of the district.

(12) **BORROWING ON PROMISSORY NOTES.** (a) Any municipality may issue promissory notes as evidence of indebtedness for any public purpose, as defined in s. 67.04 (1) (b), including but not limited to paying any general and current municipal expense, and refunding any municipal obligations, including interest on them. Each note, plus interest, shall be repaid within 10 years after the original date of the note, except that notes issued under s. 144.241 shall be repaid within 20 years after the date of completion of the treatment work project which they fund.

(b) A school board of any newly created school district or a vocational, technical and adult education district board may, pursuant to this section, issue promissory notes to refund any indebtedness assumed by the district upon its creation.

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(c) At any time during the term of any promissory note, or thereafter, if the municipality has not paid the full amount due on a note:

1. The lender may grant an extension of time; or
2. The municipality may issue a promissory note to refund a promissory note or any part thereof or to refund a refunding promissory note. Any refunding note issued under this subdivision shall be paid within 10 years after the original date of the refunding note and within 20 years after the date of the original promissory note.

(cc) Any such note or notes may provide for prepayment on the terms and conditions prescribed therein.

(d) Such notes shall be executed as provided in s. 67.08 (1), may be registered under s. 67.09 and shall include a statement specifying the provisions of the resolution authorizing the issuance or a reference to the resolution so that it can be readily located. The notes issued under this section are an indebtedness of the municipality issuing them.

(e) Before any promissory note is issued under this subsection:

1. The governing body of the municipality shall adopt and record a resolution specifying the purposes and the maximum amount of the note issued.

2. Unless the purpose and amount of the borrowing have been approved by the electors under s. 67.05 (6a) or the purpose is to refund any outstanding municipal obligation, the school district clerk shall, within 10 days after a school board adopts a resolution under subd. 1 to issue a promissory note in excess of \$5,000, publish notice of such adoption as a class 1 notice, under ch. 985. Alternatively, the notice may be posted as provided under s. 10.05. The notice need not set forth the full contents of the resolution, but shall state the maximum amount proposed to be borrowed, the purpose thereof, that the resolution was adopted under this subsection, and the place where, and the hours during which, the resolution may be inspected. If, within 15 days after publication or posting, a petition is filed with the school district clerk for a referendum on the resolution signed by 500 electors of the district or 20% of the number of district electors voting for governor at the last general election as determined under s. 115.01 (13), whichever is the lesser, then the resolution shall not be effective unless adopted by a majority of the district electors voting at the referendum. The referendum shall be called in the manner provided under s. 67.05 (6a), except that the question which appears on the ballot shall be "Shall ... (name of district) borrow the sum of \$... for (state purpose) by issuing its general obligation promissory note (or notes) under section 67.12 (12) of the Wisconsin Statutes?"

3. When a school district board adopts a resolution to borrow a sum in excess of \$5,000 under this section for a stated purpose and a sufficient petition for referendum is not filed within the time permitted under subd. 2, or if such petition is filed and the question is approved at referendum, then the power of the board to borrow the sum and expend the sum for the purpose stated shall be deemed approved by the school district electors upon the expiration of the time for filing the petition or accomplishment of the referendum, whichever is applicable.

4. Notes issued before August 3, 1961, by school districts under the authority of this subsection and without approval thereof by the electors of such school districts shall not be deemed invalid because of absence of such approval, and such notes are herewith declared to be valid and binding obligations of such school district if in all other respects issued in accordance with the law pertaining thereto.

5. Within 10 days of the adoption by a vocational, technical and adult education district board of a resolution under

subd. 1 to issue a promissory note for a purpose under s. 38.16 (2), the secretary of the district board shall publish a notice of such adoption as a class 1 notice, under ch. 985. The notice need not set forth the full contents of the resolution, but shall state the amount proposed to be borrowed, the method of borrowing, the purpose thereof, that the resolution was adopted under to this subsection and the place where and the hours during which the resolution is available for public inspection. If the amount proposed to be borrowed is for building remodeling or improvement and does not exceed \$500,000 or is for movable equipment, the district board need not submit the resolution to the electors for approval unless, within 30 days after the publication or posting, a petition is filed with the secretary of the district board requesting a referendum at a special election to be called for that purpose. Such petition shall be signed by electors from each county lying wholly or partially within the district. The number of electors from each county shall equal at least 1.5% of the population of the county as determined under s. 16.96 (2) (c). If a county lies in more than one district, the board of vocational, technical and adult education shall apportion the county's population as determined under s. 16.96 (2) (c) to the districts involved and the petition shall be signed by electors equal to the appropriate percentage of the apportioned population. In lieu of a special election, the district board may specify that the referendum shall be held at the next succeeding spring primary or election or September primary or general election. Any resolution to borrow amounts of money in excess of \$500,000 for building remodeling or improvement shall be submitted to the electors of the district for approval. If a referendum is held or required under this subdivision, no promissory note may be issued until the issuance is approved by a majority of the district electors voting at such referendum. The referendum shall be noticed, called and conducted under s. 67.05 (6a) insofar as applicable, except that the notice of special election and ballot need not embody a copy of the resolution and the question which shall appear on the ballot shall be "Shall (name of district) be authorized to borrow the sum of \$... for (state purpose) by issuing its general obligation promissory note (or notes) under section 67.12 (12) of the Wisconsin Statutes?"

6. A copy of any resolution of the district board under subd. 5 which requires a referendum shall be promptly transmitted by the secretary of the district board to the county clerk or board of election commissioners of each county any part of which is contained within the district. Costs of the referendum shall be borne as provided in ss. 5.68 and 7.03.

7. Notes issued by vocational, technical and adult education districts under the authority of this subsection prior to July 1, 1977 and without approval thereof by the electors of such districts are not invalid because of the absence of such approval. Such notes are valid and binding obligations of such district if in all other respects issued in accordance with the law pertaining thereto.

(ee) The governing body of any municipality proceeding to issue a promissory note under this subsection shall, before issuing the note, levy a direct, annual tax sufficient in amount to pay and for the express purpose of paying the interest on the note as it falls due and to pay and discharge the principal thereof at maturity. The municipality may not repeal such levy or in any way obstruct the collection of the tax until all such payments have been made or provided for. Any such tax shall be carried into the tax roll each year and collected as other taxes are collected until all payments on the note have been provided for, except that the amount of tax carried into the tax roll may be reduced in any year by the amount of any

surplus in the debt service fund account under s. 67.11. The municipality may make an appropriation to provide funds for payments coming due on any note, whether or not the note has been authorized, prior to the first collection of the taxes levied for those payments. The amount of the appropriation shall be based on estimates of the amount of notes to be sold and the rate to interest the notes will bear. The municipality may not use the appropriation for any purpose other than that for which appropriated and shall transfer any surplus in the appropriation to the general fund of the municipality. Notwithstanding par. (e) 1, the municipality is not required to levy a tax equal to the amount of that appropriation.

(g) A common school district, union high school district or unified school district may, upon compliance with the requirements of this section, issue its note or notes in order to provide funds allocated under the contract to the school district as a participant in a contract under s. 66.30 (6).

History: 1971 c. 49, 144; 1971 c. 152 s. 38; 1971 c. 164, 215; 1973 c. 172, 250; 1975 c. 311; 1977 c. 29; 1977 c. 272 s. 98; 1977 c. 418; 1979 c. 34; 1979 c. 110 s. 60 (13); 1979 c. 221, 297; 1981 c. 20, 254; 1981 c. 282 ss. 29, 45; 1981 c. 314; 1983 a. 24, 27, 192, 207, 368, 538; 1985 a. 101, 225; 1987 a. 197, 391, 397, 399, 403.

NOTE: Sub. (12) (a) is shown with the changes made by 1987 Wis. Acts 197 and 399 incorporated under s. 13.93 (2) (c).

Sub. (12) (e) 5, 6 is construed to permit a vocational, technical and adult education district board to initiate a referendum on question of borrowing by issuing promissory notes, the result of which will be binding on the board. 63 Atty. Gen. 551.

That part of (12) (e) 5, 1975 stats., requiring signatures of 2.5% of the electors from each county in the VTAE is unconstitutional as applied to Moraine Park District. 66 Atty. Gen. 349.

67.15 Variable rate obligations. (1) In this section:

(a) "Credit facility" means a standby or direct payment letter of credit, an insurance policy or other commitment to pay the principal of, or interest on, a municipal obligation.

(b) "Liquidity facility" means a standby or direct payment letter of credit or other commitment to purchase, or provide funds for the purchase of, a municipal obligation presented for purchase under a put option.

(c) "Put option" means the right of the holder or owner of a municipal obligation to present that municipal obligation to the municipality which issued it, its designee or a 3rd party for purchase by that municipality, designee or 3rd party.

(d) "Tendered obligation" means a municipal obligation which is presented for purchase when a put option is exercised.

(e) "Variable interest rate" or "variable rate" means a rate of interest greater than zero which is subject to change from time to time under sub. (2).

(f) "Variable rate obligation" means a municipal obligation which bears interest at a variable rate.

(2) Any municipal obligation issued under this chapter or ch. 66 may have a variable interest rate. If a municipality issues a municipal obligation with a variable interest rate, the governing body of the municipality shall adopt and record a resolution providing the following:

(a) A procedure, method, formula or index by which the interest rate may change from time to time.

(b) A stated maximum interest rate for the municipal obligation or for each maturity of the municipal obligation.

(3) A resolution under sub. (2) may provide for changing the interval at which the interest rate may change and for converting the variable rate to a fixed rate.

(4) In a resolution under sub. (2), a municipality may grant or provide for a put option for the holders or owners of any municipal obligation issued under the resolution and may provide in the resolution for the price at which tendered obligations will be purchased. A put option may provide for

exercise at one or more designated times or upon a specified period of notice by holders and owners.

(5) A municipality may contract with a bank, trust company, investment banker or other financial institution, determined by the governing body of the municipality to be qualified, to act as the agent of the municipality in changing the interest rate of variable rate obligations under the procedure, method, formula or index established under sub. (2) (a), in changing the interval at which such interest rate may change and in purchasing and remarketing tendered obligations. A contract under this subsection may be on an exclusive basis, may be negotiated and may provide for payment of a fee to the agent based on a fixed annual amount, a percentage of the outstanding principal amount of the obligations, a percentage of the principal amount of obligations remarketed or any other criteria approved by the governing body of the municipality which is making the contract.

(6) A municipality may contract for the provision of a credit facility or a liquidity facility, or both. A contract under this subsection may be negotiated. A municipality may enter into a separate contract with any party furnishing such credit facility or liquidity facility to provide for repayment by the municipality of amounts paid by that party under the credit facility or liquidity facility, with interest on such amounts at a rate provided in the contract. A municipality's obligation to reimburse a credit facility or liquidity facility for amounts advanced under a contract under this subsection may not be deemed additional debt of the municipality.

(7) Any variable rate obligation, including a bond issued under s. 67.04, which contains any put option allowing any holder or owner of the variable rate obligation to present the variable rate obligation for purchase within one year from the date of the variable rate obligation, may be sold at a public or private sale.

(8) The purchase of a tendered obligation by or on behalf of the municipality may not be deemed to be a redemption thereof, and the remarketing of a tendered obligation may not be deemed to be an issuance of that obligation.

(9) Any tax levied under s. 67.05 (10) or 67.12 (12) (e) 1 to pay the principal and interest on a variable rate obligation may be in an amount sufficient to pay the maximum amount of principal and interest which may be payable under the terms of the obligation or the terms of any contract under sub. (6). If, after payment of interest in any year, there is any amount remaining in the debt service account for the obligation which was collected for the purpose of paying interest on the obligation in that year, the amount of tax carried on to the tax roll for the next year may be reduced by that remaining amount.

History: 1987 a. 310.

67.17 Diversion 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 debt service 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.

History: 1983 a. 207 s. 93 (8).

67.22 Issuance stayed by protest. No bonds, other than refunding bonds, may be issued in any cases where, within 30 days after the adoption of the initial resolution under s. 67.05 (1), a petition is filed with the clerk of the municipality contemplating the issuance of bonds, signed by a majority of

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the municipality's electors as defined in s. 6.02 (1) requesting in the petition that issue not be made.

History: 1983 a. 207; 1987 a. 197.

67.24 Validation of obligations of incorporated municipality. (1) Any municipality, however incorporated, exercising functions of government after such incorporation may borrow money, within constitutional limitations, for the purpose of financing any building, improvement, work or other public undertaking for the furnishing, constructing, erecting, installing, or operating any public service, including sewers, water systems for fire protection and for public and industrial use, sewage disposal systems and plants, storm water relief sewers, channels and ditches, public highways and extensions thereof, or such other public necessities which its governing body may deem necessary for the protection of public health and safety and to prevent pollution of streams and water courses, notwithstanding that such incorporated municipality may be involved in or threatened with a civil action testing or questioning the incorporation of such municipality or the validity of any part of such incorporation and all proceedings of the governing body of such municipality authorizing the issuance of bonds, notes and other evidences of debts and all resolutions or ordinances adopted for such purposes and the execution and delivery of such evidences of indebtedness are hereby validated and shall be legal and enforceable obligations of such municipality with like force and effect as the obligations of regularly incorporated municipal corporations; and the determination by any court that such municipality is irregularly incorporated shall not affect the rights of creditors against the territory and assets of such purported incorporated municipality; the legislative intention being that there shall be no lapse of government or power of government to act for the general welfare, public interest and commercial betterment of such incorporated area during the pendency of any civil or threatened civil action. All taxes levied or to be levied in accordance with the provision made

by such purported municipality for the collection of a direct annual tax sufficient to pay the interest on such bonds, notes or other evidence of debts and to pay and discharge the principal thereof, shall be valid and be levied and enforced against the territory of such purported municipality by the local governmental unit or units of which the territory may be a part.

History: 1979 c. 110 s. 60 (5).

67.25 Redevelopment bonds. Any proceedings by a city prior to October 4, 1959 for the issuance of general obligation bonds as authorized by s. 66.431 (13) in effect at the time of such proceedings, to provide financial assistance to blight elimination, slum clearance, redevelopment and urban renewal programs and projects being carried out under s. 66.43, 66.431 or 66.435 may be continued under this chapter and, notwithstanding lack of power in the city to issue bonds under this chapter at the time of the adoption of an initial resolution or referendum of the electors approving such bonds, such proceedings are hereby validated, ratified, approved and confirmed, and any bonds authorized prior to or after October 4, 1959 as a result of the proceedings are and shall be binding, valid and enforceable obligations of the city, and the city may levy taxes without limitation for the payment thereof as provided in s. 67.035.

History: 1979 c. 89.

67.26 Judgments on municipal orders. No judgment shall be rendered in any action brought upon any county, town, city, village or school order, unless the order upon which said action is based is produced in evidence and filed with the court or with the clerk thereof, and the clerk notes upon each order the date of such filing. Any order so filed shall not be removed from the files without an order of the court or presiding judge. Any judgment rendered in violation of this section shall be absolutely void.

History: Sup. Ct. Order, 67 W (2d) 761; Stats. 1975 s. 67.26.