

# MAINE STATE LEGISLATURE

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CHAPTER 241

FISCAL MATTERS

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SUBCHAPTER I

TOWN TREASURER

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  - 5002. Powers and duties.
  - 5003. Notice of choice of treasurer.

§ 5001. Bond

The treasurer shall give a surety bond to the municipality subject to the following provisions, before assuming the duties of office:

1. **Condition.** It shall be conditioned on his faithful discharge of all the duties of office.
2. **Type.** It may be a corporate surety bond or an individual surety bond.
  - A. If it is an individual surety bond, the surety shall provide the municipal officers with a detailed sworn statement of his personal financial ability.
3. **Amount.** It need not be for more than twice the amount of taxes to be collected during the municipal year.
4. **How paid.** The bond shall be paid for by the municipality.
5. **Sufficiency.** The municipal officers are the sole judges of the sufficiency of the bond and sureties.
6. **Recorded.** After its approval by the municipal officers, the bond shall be recorded by the clerk.
  - A. The record is prima facie evidence of the contents of the bond.

**B.** Failure to record the bond is no defense to an action on it.

R.S.1954, c. 91, § 30; 1957, c. 405, § 1.

### § 5002. Powers and duties

The treasurer has the following powers and duties:

**1. Disburse money on warrant.** He shall disburse money only on the authority of a warrant drawn for the purpose by the municipal officers.

**2. Accounts and records.** Upon request, he shall render an account of the finances of the municipality and exhibit his official records to the municipal officers or to any committee appointed by them to examine the accounts. The municipal officers shall examine the treasurer's accounts at least once every 3 months.

**3. Bank account.** He shall maintain a bank account in the name of the municipality for the deposit of cash receipts. When the cash balance in his possession exceeds \$100, he shall deposit it in the bank within 10 days.

**4. Deductions from employee's salary.** He may make deductions from the salary of a municipal employee and pay the money deducted to the proper payee, when the employee gives him the written authority to do so. The authority of the treasurer to make a deduction continues until it is revoked in writing by the employee, or until the reason for the deduction is known by the treasurer to no longer exist.

R.S.1954, c. 91, §§ 33, 34; 1955, c. 314; 1957, c. 405, § 1.

### § 5003. Notice of choice of treasurer

When a treasurer is chosen and qualified, the clerk shall send his name to the Treasurer of State. The Treasurer of State shall not send money to any municipality until the name of its treasurer has been received by him.

R.S.1954, c. 91, § 85; 1957, c. 405, § 1.

**SUBCHAPTER II**

**FINANCES; ACCOUNTS AND AUDITS**

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**ARTICLE 1. GENERAL PROVISIONS**

**§ 5051. Deposit or investment of funds**

Reserve funds, trust funds and all permanent funds shall be deposited or invested by the treasurer, by direction of the municipal officers, as follows:

**1. Banks.** Deposited in savings banks, trust companies and national banks in the State.

1957, c. 174; 1959, c. 9.

**2. Building and loan associations.** Invested in shares of building and loan or savings and loan associations organized under state law.

**3. Savings banks' investments.** Invested according to the law governing the investment of the funds of savings banks in Title 9, chapter 51.

**A.** For the purpose of this section, the words "deposits of a bank" or their equivalent as used in Title 9, chapter 51 mean the total assets of the reserve fund, trust fund or other permanent fund being invested, but the limitation concerning the maximum amount which may be invested in a security or type of security under said Title 9, chapter 51 applies only to an investment in that security or type of security which exceeds \$2,000.

1957, c. 224.

**4. Trust company or national bank.** The municipal officers are authorized and may, where the terms of the instrument, order or article creating the fund does not prohibit, designate in writing a trust company or national bank having its principal office within the State, for the purpose of investment, and consent to the investment of such funds in a common trust fund maintained by said trust company or bank for investment under the rule of prudence set out in Title 18, section 4054. (1963, c. 68.)

R.S.1954, c. 91, §§ 120, 168; 1955, cc. 373, 374; 1957, cc. 174, 224; c. 405, §§ 1, 22, 25; 1959, c. 9; 1963, c. 68.

## § 5052. Donation of money

The municipal officers may accept a donation of money to the municipality to supplement a specific appropriation already made, to reduce the tax assessment or to reduce the permanent debt.

**1. Reducing the tax assessment.** If the assessors receive written notice from the municipal officers that a sum has been paid to the municipality for the purpose of reducing the tax assessment, they shall reduce it in that amount before establishing the tax rate. If the tax rate has already been established, the treasurer shall deposit the money in a bank, trust company or national bank in the State, and withdraw it at the proper time to reduce the tax assessment for the following taxable year.

1955, c. 189; 1957, c. 405, § 1.



**§ 5053. Debt liability**

The personal property of the residents and the real estate within the boundaries of a municipality, village corporation or other quasi-municipal corporation may be taken to pay any debt due from the body corporate. The owner of property so taken may recover from the municipality or quasi-municipal corporation under Title 14, section 4953.

R.S.1954, c. 53, § 136; 1957, c. 405, § 1.

**ARTICLE 2. LEGAL EXPENDITURES****§ 5101. General authority**

A municipality may raise or appropriate money for the purposes specified in sections 5102 to 5108.

1957, c. 405, § 1.

**§ 5102. Operating expenses**

A municipality may raise or appropriate money:

- 1. Operation.** Providing for the operation of its municipal government.
- 2. Pensions.** Establishing a contributory pension system for its officials and employees, or participating in an existing system.
- 3. Fire and police protection.** Providing for fire and police protection.
- 4. Fire department.** Supporting an incorporated volunteer fire department.
  - A.** When a sum not in excess of \$500 has been appropriated for the use of the department, the municipal officers may issue their warrant to the municipal treasurer requiring him to pay the amount of the appropriation to the treasurer of the volunteer fire department.
- 5. Insurance.** Insuring its officials, employees and volunteer workers against public liability and property damage resulting from their negligent operation of any vehicle owned or leased by the municipality while being used for municipal business.
- 6. Revaluation.** Providing for the revaluation of taxable property.

**A.** Any revaluation is under the jurisdiction of the municipal assessors whose judgment, as opposed to that of any hired appraiser, is final.

**7. Municipal services.** Providing for a supply of water, gas and electricity for municipal use for a period of years.

**8. Advisory organizations.** Obtaining the services of municipal advisory organizations.

R.S.1954, c. 91, §§ 100, 101, 110; 1957, c. 405, § 1.

### § 5103. Public works

A municipality may raise or appropriate money:

**1. Parks and construction projects.** Providing for public buildings, ways, bridges, parks, parking places, sewers and drains.

**2. Dumps.** Providing for public dumps either within or outside its boundaries.

**3. Cemeteries.** Providing for public cemeteries; maintaining private cemeteries established before 1880; caring for graves of veterans and maintaining fences around cemeteries in which veterans are buried.

1963, c. 318, § 4.

**4. Flood control.** Providing for projects which have been approved by the Governor for improving navigation or preventing property damage by erosion or flood.

**5. Fuel yard.** Providing a fuel yard for the purpose of selling fuel to its residents without financial profit to itself.

R.S.1954, c. 91, §§ 100, 111, 138; 1957, c. 405, § 1; 1963, c. 318, § 4.

### § 5104. Schools and libraries

A municipality may raise or appropriate money:

**1. Public schools.** Providing for public schools and libraries.

**2. Bands.** Providing for school bands and other organized activities conducted under the supervision of the superintending school committee.

**3. Physical education.** Providing for physical fitness programs in the schools.

**4. Maintenance.** Providing for the construction, repairs and maintenance of buildings and equipment for educational institutions with which a municipality has a contract as provided in Title 20, section 1289.

1959, c. 20; 1961, c. 176, § 2.

**5. Transportation.** Providing for the transportation of school children to and from schools other than public schools, except such schools as are operated for profit in whole or in part, subject to the following conditions:

**A.** Such sums shall not be considered in computing the net foundation program allowance on which state subsidy is computed under Title 20, section 3722. This paragraph shall not apply to an administrative unit which transports children to a school pursuant to Title 20, sections 1289 and 1291.

**B.** The superintendent of schools in each municipality that conveys such school children shall annually on or before April 1st make a return to the Commissioner of Education, showing the number of school children conveyed to and from schools other than public schools in such manner as the commissioner may require. Any municipality which fails to make the return shall be subject to Title 20, section 854. The commissioner shall compute the school children transportation costs in the net foundation program by deducting from the total school children transportation cost that percentage that the number of school children being transported to schools other than public schools bears to the total number of school children being transported by the municipality.

**C.** This subsection shall not be effective in any city until a majority of the legal voters, present and voting, at any regular election so vote, and shall not be effective in any town until an article in a town warrant so providing shall have been adopted at an annual town meeting. The question in appropriate terms may be submitted to the voters at any regular city election by the municipal officers thereof and shall be so submitted upon petition of at least 20% of the number of voters voting for the gubernatorial candidates at the last state-wide election in that municipality. Such petition shall be filed with the municipal officers at least 30 days before such regular election. When a municipality has voted in favor of adopting this subsection, said subsection shall remain in effect until repealed in the same manner as provided for its adoption. (1961, c. 302.)

R.S.1954, c. 91, §§ 100, 106; 1957, c. 405, § 1; 1959, c. 20; 1961, c. 176, § 2; c. 302.

### § 5105. Health and welfare

A municipality may raise or appropriate money:

1. **Poor.** Supporting the poor.
2. **Hospital.** Supporting a hospital serving its residents.
3. **Public health.** Employing a public health nurse and conducting a public health program.
4. **Dental hygienist.** Employing a dental hygienist.
5. **Physician.** Subsidizing a physician to induce him to settle in the municipality.
6. **Pest control.** Providing for the extermination and control of insect pests.
7. **Ambulance.** Providing for a public ambulance and garage for it.
8. **Veteran rehabilitation.** Providing for a local program with or without state coordination for rehabilitating veterans honorably discharged from the Armed Forces of the United States of America.
9. **Dutch elm disease.** Determining presence of the Dutch elm disease and carrying out preventive or control measures therefor on public or private grounds.  
1959, c. 267, § 2.
10. **Youth commission.** Providing for a local youth commission. (1961, c. 176, § 1.)  
R.S.1954, c. 91, §§ 100, 126; 1957, c. 405, § 1; 1959, c. 267, § 2; 1961, c. 176, § 1.

### § 5106. Development

A municipality may raise or appropriate money:

1. **Board of trade.** Supporting a chamber of commerce or board of trade.
2. **Advertising.** Advertising its resources and attractions or those of the State.
  - A. For this purpose, a sum not exceeding 2 mills on a dollar based on the local municipal valuation of the preceding year may be appropriated.
3. **Real estate.** Purchasing real estate and personal property from the Federal Government for municipal purposes.

**4. Recreation.** Providing real estate and personal property for recreational purposes and supporting a recreational program.

**5. Fish.** Propagating and protecting fish in public waters located wholly or partially within its boundaries.

**A.** For this purpose, not more than \$500 may be appropriated annually.

**B.** The money appropriated shall be spent by the municipal officers or a person appointed by them.

**C.** A written report of the expenditure shall be submitted to the legislative body within one year of the date of appropriation by the person authorized to spend the money.

**6. Historical society.** Assisting a local historical society.

**7. History.** Writing and publishing its history.

**8. Conventions.** Assisting conventions.

**A.** For this purpose a sum not exceeding  $\frac{1}{2}$  mill on a dollar based on the local municipal valuation of the preceding year may be appropriated. (1959, c. 238.)

R.S.1954, c. 91, §§ 102, 108, 112, 119; 1957, c. 405, § 1; 1959, c. 238.

## § 5107. Celebrations and commemorations

A municipality may raise or appropriate money:

**1. Anniversary.** Celebrating any anniversary of its settlement or incorporation and publishing the proceedings of the celebration.

**2. Holidays.** Observing Memorial Day, Veterans Day and any other day set apart for commemoration.

**3. Christmas.** Decorating for Christmas.

**4. Music.** Supporting an organization to provide music for municipal functions and public celebrations.

**5. Memorials for veterans.** Providing for monuments and memorials, and real estate suitable for their erection, to honor the veterans of the Armed Forces who sacrificed their lives in defense of the United States of America.

1957, c. 405, § 1.

### § 5108. General duties and operations

A municipality may raise or appropriate money:

1. **Duties.** Performing any of the duties required of it by law.

2. **Authorized by law.** Providing for any operations authorized by law which, by their nature, require the expenditure of money.

R.S.1954, c. 91, §§ 100, 102, 105, 107; 1957, c. 405, § 1.

## ARTICLE 3. BORROWING

### § 5151. Tax anticipation notes; fiscal year

A municipality by vote of its municipal officers may in any municipal year borrow money temporarily and issue notes in anticipation of taxes.

1. **Amount.** The amount borrowed shall not exceed the total tax levy of the preceding municipal year.

1959, c. 19, § 1.

2. **When paid.** The notes shall be paid out of money raised by taxation, during the municipal year in which they are made.

1959, c. 19, § 1.

3. **Municipal year defined.** The municipal year shall be the calendar year or such other fiscal year as the municipal officers shall determine. (1959, c. 19, § 1.)

R.S.1954, c. 91, § 109; 1957, c. 405, § 1; 1959, c. 19, § 1.

### § 5152. General obligation securities

A municipality may issue general obligation securities for funding or refunding all or part of its debt and for any purpose for which it may raise money.

1. **Anticipatory borrowing.** The municipal officers authorized to issue securities may borrow money in anticipation of their sale by issuing temporary notes and renewal notes, the total face amount of which does not exceed at any one time outstanding the authorized amount of the securities, but the period of such anticipatory borrowing shall not exceed one year and the time within which such securities are to become due shall not be extended by such anticipatory borrowing beyond the time fixed in the vote

authorizing their issue or, if no term is there specified, beyond the term permitted by law.

**2. Invalidity in original borrowing.** A security authorized and issued for the purpose of funding or refunding a debt is not invalid because of any invalidity in the original borrowing.

**3. Annual installments.** Securities may be in serial form payable in annual installments, which need not be equal, the total amount of which shall extinguish the entire issue at maturity, the first such installment shall be payable not later than 5 years, and the last such installment shall be payable not later than 30 years, after the date of issue of such securities.

**4. Discretion in municipal officers.** In the absence of a contrary provision in the vote authorizing the issuance of securities, discretion to fix the date, maturities, denomination, interest rate, place of payment, form and other details of the securities and of providing for the sale thereof shall be deemed to have been delegated to the municipal officers.

**5. Term securities.** Term securities may be issued for a period not to exceed 10 years.

**6. Call for redemption.** Securities may be issued which are subject to call for redemption with or without premium at the election of the municipality before the date fixed for final payment of such securities provided specific authority to issue callable securities is contained in the vote authorizing their issue, and provided the securities when issued contain provisions setting forth the method by which the option to call may be exercised, the procedure for payment in the event of call, and the legal effect of making the call.

**7. Signatures.** Securities issued by a municipality shall, in the absence of a contrary provision in a special act or in the vote authorizing such securities, be signed by the treasurer and countersigned by a majority at least of the municipal officers.

**8. At least one manual signature; validity.** Securities issued by a municipality and coupons, if any, attached thereto shall be executed in the name of the municipality by the manual or facsimile signatures of such official or officials as may be authorized to execute such securities but at least one signature on each such bond or note shall be a manual signature, and such securities and coupons, if properly executed by the officers of a municipality in office on the date such securities are actually executed, shall be valid and binding according to their terms notwithstanding

ing that before the delivery of such securities and payment therefor any or all such officers shall have for any reason ceased to hold office.

R.S.1954, c. 91, § 109; 1957, c. 405, § 1; 1959, c. 19, § 2.

#### ARTICLE 4. RESERVE FUND

### § 5201. Establishment

A municipality may establish a reserve fund, consisting of one or more accounts, by appropriating money or by authorizing the transfer of unencumbered surplus funds at the end of any fiscal year, for the following purposes:

**1. Capital improvement account.**

**A.** Financing the acquisition or reconstruction of a specific, or a type of, capital improvement.

**2. Capital equipment account.**

**A.** Financing the acquisition of a specific item or type of capital equipment.

**3. Credit reserve account.**

**A.** Providing a reserve which may be applied in periods of financial emergency to assist in continuing its normal operation without increasing the tax rate.

(1) The annual appropriation for this purpose may not exceed 5% of the current tax commitment.

(2) When it has been determined by the legislative body that a time of financial emergency exists, it may order withdrawal from the account of the necessary amount.

**4. Sinking fund account.**

**A.** Paying a funded debt.

(1) Any assets remaining in a sinking fund account, other than its own bonds, shall be withdrawn from the account when the debt for the payment of which it was established has been refunded. The legislative body may pledge the assets for payment of the new debt or may order them transferred to another account.

R.S.1954, c. 91, §§ 120, 163, 166, 167; 1957, c. 405, § 1.



**§ 5202. Trustees**

The municipal officers are trustees of the reserve fund.

**1. Fund deposited or invested.** They shall deposit or invest the fund according to section 5051.

**A.** Any interest earned or capital gains realized shall accrue to and become part of the fund. Unless otherwise ordered by the legislative body, interest and capital gains shall be prorated among the various accounts.

**2. Purpose of expenditure.** An expenditure from any account of the fund may be made only for the specific purpose for which the account was established.

**3. Transfer of balance.** The balance of any account of a reserve fund may be transferred to another reserve account or to surplus, when the purpose for which it was established has been accomplished or abandoned.

**4. Use of fund for purpose not provided for.** Any municipal official who uses the assets of any account of the reserve fund in any manner or for any purpose other than that provided by the municipality shall be punished by a fine of not more than \$2,000 or by imprisonment for not more than 2 years.

R.S.1954, c. 91, §§ 120-122, 168-170; 1957, c. 405, § 1.

**ARTICLE 5. ACCOUNTS AND AUDITS****§ 5251. Uniform accounting system**

Each municipality and each quasi-municipal corporation, including but not limited to various types of districts or corporations embracing a portion of a municipality, a single municipality or several municipalities, not under the jurisdiction of the Public Utilities Commission shall keep its accounting records in conformity with generally accepted principles of municipal accounting and that a uniform classification be used for revenue, expenditures and balance sheet accounts.

R.S.1954, c. 91, § 143; 1957, c. 405, § 1; 1963, c. 163, § 1.

**§ 5252. Investigation of accounting and auditing system**

The State Auditor may inquire into the accounting and auditing system of any municipality or any quasi-municipal corporation not under the jurisdiction of the Public Utilities Commission,

and the officers shall furnish information pertaining to the system in such form as he may prescribe.

R.S.1954, c. 91, § 148; 1957, c. 311; c. 405, § 1.

### § 5253. Annual postaudit

Each municipality and quasi-municipal corporation shall have an annual postaudit made of its accounts covering the last complete fiscal year by the State Department of Audit or by a qualified public accountant elected by ballot or, if not so elected, engaged by its officers. The postaudit shall be conducted on the basis of auditing standards and procedures prescribed by the State Auditor.

**1. New postaudit.** When there is dissatisfaction with a postaudit made by a public accountant as shown by a petition signed by at least 10% of the voters of a municipality or village corporation, but in no case more than 1,000, and filed with the State Auditor, he shall order a new postaudit to be made by his department, the expense of which shall be paid by the municipality or village corporation.

**2. Records available to auditor.** Whenever a postaudit is being made, all necessary records shall be made available to the auditor.

**3. Report.** After the postaudit has been completed, the auditor shall submit a report to the officers of the municipality or quasi-municipal corporation.

**A.** The report shall contain the following items:

- (1) Letter of transmittal.
- (2) Auditor's comments and suggestions for improving the financial administration.
- (3) Comparative balance sheet.
- (4) Analysis of surplus.
- (5) Statement of departmental operations.
- (6) Statement of cash receipts and disbursements, and bank reconciliation of cash balance.
- (7) Statement of property valuation, assessment and collection of taxes.
- (8) Statement of public debt.

**B.** Within 30 days after completion of the postaudit, the auditor shall send to the State Auditor a certified copy of the

postaudit report and a certified copy of the audit procedural form prescribed by the State Auditor for governmental audits.

1957, c. 311.

**4. Expense.** Each municipality and quasi-municipal corporation shall pay the expense of its postaudit.

**A.** The State Auditor shall certify to the Treasurer of State for collection any unpaid balance due the State Department of Audit after a 90-day period from the date of billing has elapsed.

**5. Report kept.** The complete report of the postaudit shall be kept in the municipal office. (1957, c. 311.)

R.S.1954, c. 91, §§ 83, 142, 145; 1957, c. 311; c. 405, §§ 1, 29.

### **§ 5254. Witnesses and records**

The State Auditor may subpoena witnesses and records, and may examine witnesses under oath in all matters arising under sections 5251 to 5253.

R.S.1954, c. 91, § 151; 1957, c. 405, § 1.

### **§ 5255. State Auditor's report on financial matters**

The State Auditor shall publish annually statistics and other information pertaining to the financial affairs of municipalities and quasi-municipal corporations which may be printed and distributed as a document separate from his annual fiscal report.

R.S.1954, c. 91, § 149; 1957, c. 405, § 1.

### **§ 5256. Penalties**

A public official who neglects or refuses to perform any duty imposed by sections 5251 to 5253 shall be punished by a fine of not more than \$100 and shall forfeit his office.

R.S.1954, c. 91, § 152; 1957, c. 405, § 1.

## SUBCHAPTER III

## MUNICIPAL FINANCE BOARD

Sec.

- 5301. Membership.
- 5302. Purpose.
- 5303. Audit.
- 5304. Board may take over local government.
- 5305. Powers and duties of commissioners.
- 5306. Temporary officials.
- 5307. Loans and assessments.
- 5308. Duration of power of board.
- 5309. Complaint; notice.
- 5310. Voluntary compromise settlements.

**§ 5301. Membership**

The Board of Emergency Municipal Finance, as heretofore established and hereinafter designated in this subchapter as the "board," shall be composed of the 3 persons who legally hold the offices of Commissioner of Finance and Administration, Treasurer of State and State Tax Assessor. Upon the succession of any person to any of these respective offices, he or she shall immediately become a member of the board and the person who formerly held such office shall cease to be such a member. The person holding the office of State Tax Assessor shall be the chairman of the board. The members of the board shall not receive any compensation for their services as such members except their expenses.

R.S.1954, c. 102, § 1.

**§ 5302. Purpose**

The purpose and object of the establishment of the board is to enable the municipalities that have fallen into financial difficulties to receive assistance from the State and to be reestablished on a sound financial basis, and to assure to the State the collection of the taxes due from the said municipalities to the State. The provisions of this subchapter shall be liberally construed so as to carry out these intentions.

All powers and duties necessary to carry out the purposes set forth in this subchapter are conferred on the board.

R.S.1954, c. 102, § 2.

**§ 5303. Audit**

The board is authorized and empowered, in the event that a municipality becomes one year and 6 months in arrears in the payment of its taxes to the State in full or in part or defaults on any bond issue or payment of interest due thereon or refuses or neglects to pay school and other salaries due and has received from the state funds in support of its poor, to cause to be made an audit of the financial condition of said municipality at the expense of said municipality, or an investigation of the financial affairs of such municipality that will reveal whether or not its affairs are in such condition that the interest of the State and public necessity in its judgment require that its affairs be taken over and administered under this subchapter and to make such other investigation of the affairs thereof as it shall deem wise to determine the reason for such failure to pay such taxes and indebtedness and the reason for the need for state relief of its poor.

Whenever any municipality shall make application to the State for funds in support of its poor, the board is authorized and directed to cause to be made the audit and investigation provided for in this section.

R.S.1954, c. 102, § 3.

**§ 5304. Board may take over local government**

The board is authorized and empowered, in the event that after having made the audit or investigation provided for in section 5303 it decides by a majority vote of the board that such delinquency is not due to disbursements for emergency relief not reasonably to be anticipated or to other unavoidable misfortune, to take over and regulate the administration of the government of said municipality and the management of the financial affairs thereof and administer the same to the exclusion of or in cooperation with any other local government or governmental agency, as otherwise provided by law or by direction thereof; and in cases of municipalities under 5,000 inhabitants to appoint one man as commissioner and in cases of municipalities over 5,000 inhabitants to appoint 3 men as commissioners, one of whom shall be designated as chairman, which commissioner or commissioners shall act under the direction of said board with relation to the government and management of the governmental and financial affairs of the said municipality and be responsible to said board.

R.S.1954, c. 102, § 4.

**§ 5305. Powers and duties of commissioners**

The commissioner or commissioners appointed under section 5304 may employ such experts, counsel and other assistants and incur such other expenses as they may deem necessary, subject to the control of the board. A sum sufficient to cover such expenses and a reasonable compensation for the commissioner or commissioners to be set by the board shall be appropriated each year by the municipality and shall be paid by said municipality upon requisition of the commissioner or commissioners. The commissioner or commissioners shall have the same right to incur expenses in anticipation of its appropriation as if it were a regular department of said municipality and, in the event that no such appropriation shall be made, may expend such necessary amount as is provided, and the same shall be a lawful obligation of the said municipality. The commissioner or commissioners shall have supervision over the financial affairs of said municipality and no appropriation shall be made and no debt incurred except with the approval or upon the recommendation or requisition of the commissioner or commissioners which shall be made in writing. No department or officer of said municipality shall expend any money or incur any liability except with the written approval of the commissioner or commissioners. The commissioner or commissioners may at any time and from time to time authorize in writing any department or officer of said municipality to make expenditures or incur liabilities without such approval until further notice. The commissioner or commissioners may make recommendations in writing to any department or officer of said municipality.

R.S.1954, c. 102, § 5.

**§ 5306. Temporary officials**

The commissioner or commissioners appointed under section 5304 may, if in their opinion it would be advantageous to said municipality, declare the offices of auditor, treasurer, collector and assessors or any other offices in said municipality vacant temporarily and appoint successors to any or all of the said offices to serve at the pleasure of the commissioner or commissioners. The appointees shall receive such compensation as the commissioner or commissioners shall fix and the former incumbents shall receive no compensation during their absence from office. The choice of managers, officers and agents shall be and remain with the board and their compensation shall be fixed by such board, any other statute to the contrary notwithstanding.

The board may, if it deems it expedient, appoint the commissioner or commissioners to serve as any official in said municipalities and fix the compensation for serving in such capacity. In the event that the board shall consider it advisable, it may appoint one officer, commissioner or agent to administer 2 or more municipalities.

R.S.1954, c. 102, § 6.

### **§ 5307. Loans and assessments**

The board is authorized after having taken over the administration of government and control of the financial affairs of any municipality, as provided, through the commissioner or commissioners in charge thereof, to make temporary loans to the extent of the constitutional debt limit of said municipality, and he or they are empowered to issue negotiable commissioners' certificates, such certificates to be a preferred claim against all the assets of said municipality operated by the commissioner or commissioners, and to borrow from the State, if and when an amendment to the Constitution of the State is adopted authorizing the same, in a sufficient amount to pay the outstanding state taxes of said municipality and such expenses of said board as shall be allocated thereto, and for other lawful purposes; said obligations to be signed by said commissioner or commissioners and otherwise to be issued in the same manner and form as provided by law upon the terms to be determined by said board, and to thereby become the valid debt of such municipality. In issuing temporary commissioners' certificates or any other acts pursuant to their duties in connection with the government of any municipality, the board shall have the same authority as is vested in the municipal officers and shall further have the right to issue the same as if authorized by the vote of the inhabitants of any such municipality at a regular election called for the purpose. Said board shall have authority to lay assessments upon the property in said municipality and to collect the same for the purpose of paying deficiencies and accounts previously contracted by said municipality. During the period of the control by said commissioner or commissioners, the statute of limitations shall not run on any obligations of the municipality.

R.S.1954, c. 102, § 7.

### **§ 5308. Duration of power of board**

The board shall continue in charge of the government and financial affairs of said municipality until such time as its taxes

due the State, or loans made therefor, or expenses or obligations incurred by the commissioner or commissioners appointed under section 5304 or the board shall have been paid, and until in the opinion of the commissioner or commissioners or the board, the financial affairs of said municipality may be resumed under local control.

R.S.1954, c. 102, § 8.

### § 5309. Complaint; notice

If the commissioner or commissioners who are in charge of the affairs of any such municipality under this subchapter are of the opinion that said municipality has incurred, prior to the date on which the administration of the affairs of said municipality were taken over by the board, debts and obligations in excess of the debt limit fixed by the Constitution of the State for such municipality, and that but for section 5307, said municipality would be subjected to a multiplicity of actions, said commissioner or commissioners may bring in the name of the inhabitants of said municipality a complaint in the Superior Court in the county in which said municipality is located against all of the known persons, firms or corporations holding any debts or obligations against the inhabitants of said municipality, to have the validity of all the debts and obligations of said municipality determined.

The Attorney General shall appear for and on behalf of the petitioner in such proceedings and the expense thereof shall be paid from any funds in the hands of said commissioner or commissioners in charge of the affairs of said municipality. The court may fix a time within which all persons, firms or corporations holding claims or demands against the inhabitants of such municipality shall file their claim or demand for adjudication of its validity as an obligation of said municipality. The court shall order public notice to creditors of the inhabitants of the municipality to file their claims within the time specified, by publication in a newspaper published or printed in the county in which said municipality is located, and if no newspaper is published or printed in said county, then in the state paper, for at least 3 successive weeks, the last publication to be at least 30 days before the final date set by the court for filing claims against the inhabitants of said municipality, and the court may order such additional notice to be given as in its discretion may be proper and necessary.

After such notice has been given and before the date for filing claims against the inhabitants of said municipality has ex-



pired, the court shall fix the time for hearing upon the claims so filed, which hearing may be adjourned from time to time to determine the validity of the obligation and the amount thereof. Any party aggrieved by the finding of said court may appeal within 30 days to the Superior Court in the county where such municipality is located. The judgment of the single justice shall be binding upon all parties unless appealed from as provided. All obligations determined by said court not to be valid claims against the inhabitants of said municipality shall be forever barred in any action against the inhabitants of said municipality and the finding of the court may be pleaded as a bar to any action brought upon said claim or claims. All indebtedness adjudicated to be valid against the inhabitants of said municipality by the finding of the single justice or on appeal, if such appeal is taken by either party, shall be thereafter considered as a valid outstanding indebtedness against the inhabitants of said municipality.

R.S.1954, c. 102, § 9; 1961, c. 317, §§ 316, 317.

### § 5310. Voluntary compromise settlements

The board, at any time prior to the commencement of proceedings under section 5309, during the pendency of such proceedings or after the termination thereof, when in its judgment it seems advisable to do so for the purpose of reestablishing upon a sound financial basis any municipality under its control by virtue of such action taken prior to January 1, 1943, may in behalf of such municipality offer compromise settlements to any or all of its creditors upon claims, demands or obligations of whatever nature which accrued prior to the assumption of such control by the board and upon all interest thereon whenever accrued.

Such an offer may be made to the State upon obligations due the State, whether arising from taxes, bonds, notes or otherwise by presentation to the Treasurer of State. Upon recommendation, certification and approval in the manner prescribed in Title 5, section 1504, the Treasurer of State shall thereupon accept and receipt for the sum or sums so offered in full and final settlement, and the balance of any such obligation shall be charged off the books of account of the State.

With respect to such obligations due any county, whether arising from taxes, bonds, notes or otherwise, such offer may be made to its county commissioners and upon acceptance of such offer by them and tender of the sum agreed upon to the county treasurer, he shall accept and receipt for the same in full and final

settlement. The balance of any such obligation shall thereupon be charged off the books of account of said county.

Nothing herein contained shall be construed as requiring any creditor or the holder of any obligation of such municipality to accept any offer of settlement made under the provisions hereof, nor shall his refusal to accept in any manner derogate from his existing rights or remedies.

Acceptance of any such offer by any creditor and payment of the sum agreed upon shall in all cases be and constitute a full and complete discharge of any such claim, demand or obligation, whether arising from taxes, bonds, notes or otherwise, and no attachment, levy, action or other process or proceeding shall thereafter be commenced, maintained or prosecuted for the collection of any part thereof.

R.S.1954, c. 102, § 10; 1957, c. 340, § 6; 1963, c. 414, § 113.