

CHAPTER 40-43

PAYMENT AND COMPROMISE OF JUDGMENTS

40-43-01. Judgment against municipality - Additional tax levied. If a final judgment is obtained against any municipality in this state, the governing body of the municipality, by resolution, may provide for the levy and collection of an annual tax upon all the taxable property within the municipality for the payment of such judgment. The amount levied under this section for the payment of a judgment against a municipality shall not exceed the limitation in subsection 4 of section 57-15-10.

40-43-02. Compromise of judgments against municipalities - Tax levy to pay reduced judgment - Tax limitations not applicable. If a final judgment for the payment of money is entered against a municipality, and the municipality may be compelled to pay such judgment by a tax upon all the taxable property in the municipality, the governing body, by a resolution adopted by the affirmative vote of two-thirds of its members, may enter into an agreement, in the name of the municipality, with the holder of the judgment, for a compromise by a payment of a sum less than the amount of the judgment. If the amount agreed to be paid in compromise of the judgment is at least twenty-five percent less than the unpaid amount of the judgment, the governing body may provide for and levy the tax necessary to pay the reduced judgment in accordance with the terms of the compromise agreement. Limitations upon taxes which may be levied by municipalities for the payment of judgments shall not be applicable to taxes levied under this section.

40-43-03. Negotiable bearer bonds may be issued to pay compromised amount. The compromised amount of a judgment agreed upon may be made payable in stated annual installments over a period not exceeding twenty-five years and at a rate of interest not exceeding five percent per annum. The governing body, by a resolution adopted by an affirmative vote of two-thirds of its members, may issue negotiable bearer bonds payable serially and maturing annually, as the parties may agree, and in the amounts of the annual installments and interest determined by the compromise, in satisfaction and discharge of the judgment. Bonds issued under this section shall be delivered to the judgment creditor upon the release of the judgment and in consideration of the full satisfaction thereof. Such bonds shall be executed in the name of the municipality by the executive officer and the auditor thereof. Except as otherwise provided in this chapter, the bonds shall be in the form prescribed for municipal bonds which are payable from the levy of a general tax. Prior to the delivery of the bonds to the judgment creditor, the bonds shall be registered by the officer, in the office, and in the manner provided by the laws of this state for the registration of general obligation bonds of municipalities.

40-43-04. Levy of tax to pay principal and interest of bonds - Duty of county auditor. At the time of the issuance of bonds to be used to compromise a judgment, and before the delivery thereof, the governing body, by a recorded resolution, shall levy a direct, annual, and irrevocable tax sufficient in amount to pay the principal and interest of the bonds as they severally mature. A copy of the resolution shall be certified to and filed with the county auditor. The county auditor thereupon and annually thereafter shall spread the annual tax provided in the resolution upon the tax list and shall deliver the list to the county treasurer, who shall collect the tax in the manner provided for the collection of other taxes.

40-43-05. Funding compromised judgment for negligence based on special assessment warrants - Subrogation rights of municipality. When warrants payable from special assessments made to pay the cost of a local improvement have been or shall be issued by a municipality and the holder or holders of all or any portion of the issue of such warrants shall procure a final judgment against the municipality in damages based on the municipality's negligence or breach of duty in the levy or collection of the special assessments and such judgment shall be compromised and funded by the issuance of bonds as provided in this chapter, the municipality shall succeed and be subrogated to the rights of the holder or holders of the warrants in and to all remaining uncollected special assessments and to the fund created thereby, and the municipality shall receive payment and distribution from the uncollected special assessments as if it owned and held the warrants affected by the judgment. Moneys acquired in

such manner by or for the municipality shall be held apart from its general funds and shall be applied first to the payment of the bonds issued in compromise of the judgment. After payment of all bonds issued in compromise of the judgment, the levy of an annual tax for the payment of the same shall be discontinued, and the municipality shall cover into its general fund any surplus then or thereafter acquired from its interest in the fund created by the special assessments.

40-43-06. Purpose of judgment funding provisions. This chapter creates additional powers and optional and alternative methods for the single and specific purpose of enabling municipalities to pay and to compromise judgments, to issue bonds to fund and satisfy the same, to levy taxes in amounts necessary for such purposes without respect to limitations otherwise existing, and to scale down such judgments and compromise and fund the same over a period of years.

40-43-07. Political subdivisions authorized to carry liability insurance - Waiver of immunity to extent only of insurance purchased. Repealed by S.L. 1977, ch. 303, § 18.