

RESOLUTION 77-12

BE IT HEREBY RESOLVED by the Common Council of the City of Bloomington, Indiana, that the Controller of said City is hereby empowered to make the following temporary loans for the purpose of cash operating balance, such loans to be secured by a pledge of taxes to be received which are not otherwise allocated, to-wit:

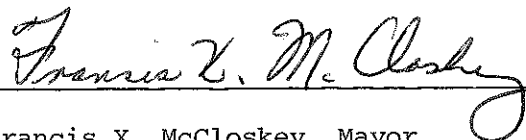
FROM: Local Road and Street Fund . . . . .	\$145,000.00
TO: Fire Pension Fund . . . . .	\$15,000.00
Parks and Recreation Fund . . . . .	100,000.00
Police Pension Fund . . . . .	30,000.00

PASSED AND ADOPTED this 8 day of MARCH, 1977, by the Common Council of the City of Bloomington, Monroe County, Indiana.



Thomas O. Middleton, President  
Bloomington Common Council

APPROVED this 14 day of MARCH, 1977, by the Mayor.



Francis X. McCloskey, Mayor  
City of Bloomington

SYNOPSIS

RESOLUTION 77- 12

A RESOLUTION AUTHORIZING A TEMPORARY LOAN FROM THE LOCAL ROAD AND STREET FUND TO THE FIRE PENSION FUND, PARKS AND RECREATION FUND, AND POLICE PENSION FUND

Several City funds which have historically had small operating balances are once again low on cash. Since taxes to be received in June and December will give them enough money to meet their 1977 budgets, the shortage is simply a temporary cash problem.

The Local Road and Street Fund, on the other hand, is not dependent upon twice a year tax draws, but receives from the State total monies needed for a project before that project begins. Most of the money is not needed, however, until completion of a project. Therefore, the Local Road and Street Fund has cash not needed for several months which can be lent to insure that the City will meet its pension and Parks and Recreation obligations each month until the June tax draw.

Korbly (1869), 32 Ind. 74; Madison v. Kalso (1839), 32 Ind. 79.  
Common councils of cities could remove for cause any city officer, whether elected by the council or by the people. Muhler v. Hedekin (1839), 119 Ind. 481, 20 N. E. 700.

18-1-4-3 [48-1410]. Finances — Management — Loan limitation. — The common council of every city shall have power to manage the finances thereof, subject, however, to the powers and duties vested by this act in the several executive departments of cities of the first, second, third, and fourth classes. Such common council, on passage of an ordinance for that purpose, shall have power to make permanent loans of money to an amount not exceeding two per cent [2%] of the taxable property of said city, to be determined by the last assessment for state and county taxes previous thereto, and power to issue bonds for the purpose of refunding such loans, as in this act provided. Such loans may be made only for the purpose of procuring money to be used in the legitimate exercise of the corporate powers of such city and for the payment of corporate debts. Such ordinance for loans shall provide for the terms and tenor of the bonds or other form of security which shall be issued in evidence thereof, and for the time and character of notice and the mode of making sale of such securities, and a total amount of any issue may be authorized in such ordinance and such issue sold in such parcels and at such times as the proceeds thereof may be required by said city. The city controller, if any, shall manage and supervise the preparation, advertisement, negotiation and sale of such securities, subject to the terms of such ordinance; and in cities having no controller, such duties shall be performed by the city clerk. Such controller, or clerk, as the case may be, after such securities shall have been properly executed, shall deliver the same to the city treasurer and take his receipt therefor; and, upon the consummation of the contract for the sale of such bonds, or any part thereof, shall certify to the treasurer the amount which the purchaser is to pay therefor, together with the name and residence of such purchaser; and thereupon the treasurer shall receive from the purchaser the amount so certified by the controller or clerk, and deliver to such purchaser the securities so sold, and take his receipt therefor; and the treasurer and controller or clerk shall thereupon report their proceedings therein to the council. Such common council may also make temporary loans in anticipation of current revenues of such city actually levied and in course of collection for the fiscal year in which such loans are made, such loans to be authorized by ordinance and the securities evidencing the same to be issued and sold in like manner as is hereinbefore provided in case of permanent loans: Provided, That such temporary loans shall be evidenced by time warrants of such city in terms designating the nature of the consideration, the time and place payable, the funds and revenues in anticipation of which the same are issued and out of which the same are payable, and shall be payable at the office of such city treasurer, or at one of the authorized depositories of such city as checks upon the same are payable, upon presentation on or after the date of maturity thereof; and the interest accruing on such warrants to date of maturity shall be added to and included in the face value thereof. The ordinance authorizing the issue of such temporary loans shall appropriate and pledge sufficient of the current revenues in anticipation of which they are issued, and out of which the same are payable to the payment thereof. All bonds and other securities issued and sold by cities pursuant to the provisions of this act shall be negotiable with or without registra-

tion by the people. Muhler v. Hedekin (1839), 119 Ind. 481, 20 N. E. 700.

Loan limitation. — To manage the financial duties vested by the first, second, third, and fourth classes. Such common council, on passage of an ordinance for that purpose, shall have power to make permanent loans of money to an amount not exceeding two per cent [2%] of the taxable property of said city, to be determined by the last assessment for state and county taxes previous thereto, and power to issue bonds for the purpose of refunding such loans, as in this act provided. Such loans may be made only for the purpose of procuring money to be used in the legitimate exercise of the corporate powers of such city and for the payment of corporate debts. Such ordinance for loans shall provide for the terms and tenor of the bonds or other form of security which shall be issued in evidence thereof, and for the time and character of notice and the mode of making sale of such securities, and a total amount of any issue may be authorized in such ordinance and such issue sold in such parcels and at such times as the proceeds thereof may be required by said city. The city controller, if any, shall manage and supervise the preparation, advertisement, negotiation and sale of such securities, subject to the terms of such ordinance; and in cities having no controller, such duties shall be performed by the city clerk. Such controller, or clerk, as the case may be, after such securities shall have been properly executed, shall deliver the same to the city treasurer and take his receipt therefor; and, upon the consummation of the contract for the sale of such bonds, or any part thereof, shall certify to the treasurer the amount which the purchaser is to pay therefor, together with the name and residence of such purchaser; and thereupon the treasurer shall receive from the purchaser the amount so certified by the controller or clerk, and deliver to such purchaser the securities so sold, and take his receipt therefor; and the treasurer and controller or clerk shall thereupon report their proceedings therein to the council. Such common council may also make temporary loans in anticipation of current revenues of such city actually levied and in course of collection for the fiscal year in which such loans are made, such loans to be authorized by ordinance and the securities evidencing the same to be issued and sold in like manner as is hereinbefore provided in case of permanent loans: Provided, That such temporary loans shall be evidenced by time warrants of such city in terms designating the nature of the consideration, the time and place payable, the funds and revenues in anticipation of which the same are issued and out of which the same are payable, and shall be payable at the office of such city treasurer, or at one of the authorized depositories of such city as checks upon the same are payable, upon presentation on or after the date of maturity thereof; and the interest accruing on such warrants to date of maturity shall be added to and included in the face value thereof. The ordinance authorizing the issue of such temporary loans shall appropriate and pledge sufficient of the current revenues in anticipation of which they are issued, and out of which the same are payable to the payment thereof. All bonds and other securities issued and sold by cities pursuant to the provisions of this act shall be negotiable with or without registra-

tion, as may be provided in the ordinance authorizing the same, may bear interest not exceeding six per cent [6%] per annum, payable annually or semiannually, may run not longer than thirty [30] years, may contain an option allowing such city to redeem the same in whole or in part at specified times prior to maturity, and may be sold for any price not less than par value. [Acts 1905, ch. 129, § 55, p. 219; 1911, ch. 229, § 1, p. 561.]

Compiler's Notes. The offices of clerk and treasurer have been combined into the office of clerk-treasurer in cities of the third, fourth, and fifth classes. See respectively, 18-2-1-4.4, 18-2-1-5, and 18-2-1-6.

The words "this act" refer to Acts 1905, ch. 129. For compilation of said act, see compiler's note under 18-1-1-1.

Section 2 of Acts 1911, ch. 229 is compiled herein as 18-1-21-1.

Amendment. As originally enacted this section reads: "The common council of every city shall have power to manage the finances thereof, subject, however, as to cities of the first, second, third and fourth classes, to the powers and duties herein prescribed in respect to the several executive departments in such cities created by this act. Such common council, on the passage of an ordinance for the purpose, shall have power to borrow money to an amount not exceeding two per cent of the taxable property of such city, as the same may appear on the tax duplicate for the year in which such loan shall be effected: Provided, That the entire money borrowed by such city shall not at any time exceed two per cent of the taxable property of such city, except for the issue of refunding bonds, as hereinafter provided. Such loans may be made only for the purpose of procuring money to be used in the legitimate exercise of the corporate powers of the city and for the payment of the corporate debts. Such ordinance for loans shall provide for the time and manner of advertising the sale of bonds or other securities, and of the receipt of bids for the same, together with the mode and terms of sale. All duties with regard to the preparation, advertisement, negotiation and sale of such bonds or other securities shall be performed by the city controller, except in cities of the fifth class, where such duties shall be performed by the city clerk. Such controller, or clerk, as the case may be, after such bonds or other securities have been properly executed, shall deliver the same to the city treasurer, taking his receipt therefor, and upon the conclusion of the contract for the sale of such bonds or other securities, shall certify to the treasurer the amount which the purchaser is to pay for the same, together with the name and place of residence of such purchaser. There-

upon it shall be the duty of the treasurer to receive from the purchaser the amount so certified by the controller, or clerk, and to deliver to the purchaser the bonds or other securities, taking his receipt therefor. The treasurer and the controller, or clerk, shall then each make report of his proceedings to the mayor. The common council shall also have power to authorize the issue and sale of refunding bonds, as provided in section 235 of this act. The issue of such refunding bonds shall be governed by the same provisions as herein provided for the issue of other bonds and securities. Temporary loans may be authorized in like manner by ordinance of the common council, in anticipation of the revenue of the city for the current and following year, and payable within that period; but the aggregate amount of such temporary loans in any fiscal year shall not exceed the amount of the city tax levy for the same year. No temporary or other loan upon the revenue of any current or succeeding year shall be made until all temporary loans upon the revenue of any preceding year shall have been fully paid. All bonds or other city securities offered for sale pursuant to the provisions of this act, may be negotiable or not, may bear annual interest not exceeding six [6] per cent per annum, payable annually or semi-annually may run not longer than thirty [30] years, may contain an option allowing such city to redeem the same at earlier specified dates, in whole or in part, if so directed in the ordinance authorizing such issue, and may be sold for any price not less than par or face value named in such bonds or other securities."

The 1911 amendment placed the section in its present form.

Emergency. Section 3 of Acts 1911, ch. 229 declared an emergency. Approved March 6, 1911.

Cross-References. Bond issue authorized, 6-1-1-25.

Bond issues legalized, 5-1-1-1.

Bonds for special district or departmental purposes, 18-6-14-1, 18-6-14-2.

Classification of cities, 18-2-1-1, 18-2-1-5.

Sale of bonds, procedure, 19-8-5-1 — 19-8-5-7 (Burr's §§ 61-413—61-415).

COMMITTEE REPORT SHEET

LEGISLATIVE #: Appropriation Ordinance/Ordinance/Resolution 77-12

TITLE: Temporary Loan from Local Road & Street Fund to P&R, Police & Fire Pension Funds

COMMITTEE: Community Development Public Facilities X

SUBMITTED BY: City Controller

DATE OF MEETING: February 21, 1977, 7:30 p.m., Engineering Conference Room

\*\*\*\*\*

RECOMMENDATION: Do Pass X Tentative Do Pass Table

Do Not Pass Remand to

\*\*\*\*\*

COMMITTEE DISCUSSION/REASON FOR RECOMMENDATION:

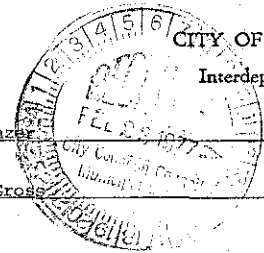
COMMITTEE UNANIMOUSLY RECOMMENDED DO PASS  
Ayes 6, Nays 0.

TEMPORARY LOAN UNTIL TAX DRAWS IN JUNE '77.

\*\*\*\*\*

SIGNATURES OF COMMITTEE MEMBERS:

Handwritten signatures of committee members on lines.



CITY OF BLOOMINGTON

Interdepartmental Memo

TO: Pat Kinzer SUBJ: Temporary Loan Procedure

FROM: Pat Gross DATE: February 22, 1977

You asked last night about whether a kind of blanket authority could be given to the Controller to make loans from one fund to another as necessary.

I enclose a copy of the law on the subject of temporary loans. My lay opinion after reading it is that because so much emphasis is placed upon financial management being the duty of the Council, any diminution of that duty and power would be at conflict with the law.

There would also be practical problems. Notice that the law says that funds from which the loans are issued must be specified in the ordinance. It's unlikely that we could be certain of having a sufficient cash balance in any fund far in advance. For instance, I can guarantee that Police and Fire Pensions will need to borrow next fall, but I can't say if Local Road and Street will have the cash to lend: if this summer's construction season is successful, we'll draw it down paying bills.

If you want an opinion which is better informed legally, let me know. In the meantime I will continue to try to anticipate all semi-annual loans in one ordinance to save Council time at least to some degree.

cc: Council Office