

*tax roll of such city, town or village as a general tax; (b) where the service rendered is for the benefit of public highways in, or real estate owned or operated by, the city, town or village receiving the same, the charges therefor shall be placed upon the tax roll of such city, town or village as a general tax; (c) where the service rendered does not come under the provisions of (a) or (b) above, the charges therefor shall be placed upon the tax roll of such city, town or village as a special tax upon each parcel of real estate benefited; and when collected it shall be paid to the treasurer of the * * * city, town or village rendering the service. Where the charges are to be extended on such tax roll under the provisions of (c) above, the clerk of the city, town or village furnishing such service shall itemize his statement showing separately the amount charged to each parcel of real estate benefited; if, due to delay in determination, such * * * charge cannot be extended on the tax roll of any particular year, it shall be extended as soon as possible.*

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No. 245, A.]

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CHAPTER 269.

AN ACT to create 66.60 of the statutes, relating to special assessments and special charges in cities and villages.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

66.60 of the statutes is created to read:

66.60 SPECIAL ASSESSMENTS AND CHARGES. (1) In addition to all other methods provided by law, any city or village may, by resolution of its governing body, levy and collect special assessments upon property in a limited and determinable area for special benefits conferred upon such property by any municipal work, or improvement; and to provide for the payment of all or any part of the cost of the work or improvement out of the proceeds of such special assessments.

(2) The amount assessed against any property for any work or improvement which does not represent an exercise of the police power shall not exceed the value of the benefits accruing to the property therefrom, and for those representing an exercise of the

police power, the assessment shall be upon a reasonable basis as determined by the governing body of the city or village.

(3) Any city or village may require as a condition for accepting the dedication of public streets, alleys or other ways, or for permitting private streets, alleys or other public ways to be placed on the official map, that designated facilities shall have been previously provided without cost to the municipality, but which are constructed according to municipal specifications and under municipal inspection, such as, without limitation because of enumeration, sewerage, water mains, and laterals, grading and improvement of streets, alleys, sidewalks and other public ways, street lighting, or other facilities designated by the governing body, or that a specified portion of such costs shall be paid in advance as provided in section 66.54 (3), statutes of 1943.

(4) Prior to the exercise of any powers conferred by this section, the governing body shall declare by preliminary resolution its intention to exercise such powers for a stated municipal purpose or purposes. Such resolution shall describe generally the contemplated purpose or purposes, the limits of the proposed assessment district, the number of instalments in which the special assessments may be paid, and direct the proper municipal officer or employe to make a report thereon. Such resolution may limit the proportion of the cost to be assessed.

(5) The report required by subsection (4) shall consist of:

(a) Preliminary or final plans and specifications.

(b) An estimate of the entire cost of the proposed work or improvement.

(c) An estimate of the proposed compensation to be made for property proposed to be taken or damaged.

(d) An estimate, as to each parcel of property affected, of:

1. The assessment of benefits to be levied.

2. The damages to be awarded for property taken or damaged.

3. The net amount of such benefits over damages or the net amount of such damages over benefits.

(e) A statement showing the amount of all delinquent taxes or assessments, the amount of assessments levied but not yet delinquent (including assessments levied by any taxing agency) outstanding against each parcel affected.

(f) A statement by the municipal clerk showing the assessed value of land according to the last preceding assessment of each parcel affected.

(g) A copy of the report when completed shall be filed with the municipal clerk for public inspection. Failure to comply with any provision of paragraph (e) shall not affect the validity of any assessment.

(6) (a) The cost of any work or improvement to be paid in whole or in part by special assessment on property may include the direct and indirect cost thereof, the damages occasioned thereby, the interest on bonds or notes issued in anticipation of the collection of the assessments, a reasonable charge for the services of the administrative staff of the city or village and the cost of any architectural, engineering and legal services, and any other item of direct or indirect cost which may reasonably be attributed to the proposed work or improvement. The amount to be assessed against all property for any such proposed work or improvement shall be apportioned among the individual parcels in the manner designated by the governing body.

(b) If any property deemed benefited shall by reason of any provision of law be exempt from assessment therefor, such assessment shall, nevertheless, be computed and shall be paid by the city or village.

(7) Upon the completion and filing of the report required by subsection (4) the city or village clerk shall cause notice to be given stating the nature of the proposed work or improvement, the general boundary lines of the proposed assessment district including, in the discretion of the governing body, a small map thereof, the place and time at which the report may be inspected, and the place and time at which all persons interested, or their agents or attorneys, may appear before the governing body and be heard concerning the matters contained in the preliminary resolution and the report. Such notice shall be given either by publication of a copy of the notice at least once in a newspaper published or having a general circulation in such city or village, or such notice shall be posted in not less than 5 public places within the city or village of which at least 3 shall be within the assessment district. The hearing shall commence not less than 10 and not more than 40 days after the publication or posting as provided in this subsection.

(8) (a) After the hearing upon any proposed work or improvement, the governing body may approve, disapprove or modify, or it may re-refer the report prepared pursuant to subsections (4) and (5) to the designated officer or employe with

such directions as it may deem necessary to change the plans and specifications and to accomplish a fair and equitable assessment of benefits or award of damages.

(b) When the governing body finally determines to proceed with the work or improvement, it shall approve the plans and specifications therefor and adopt a resolution directing that such work or improvement be carried out in accordance with the report as finally approved and that payment therefor be made as therein provided.

(c) The city or village clerk shall publish the final resolution in a newspaper published or having a general circulation in said city or village, or such resolution shall be posted in not less than 5 public places within the city or village, of which at least 3 shall be within the assessment district.

(d) Upon the publication or posting of this final resolution, any work or improvement provided for therein shall, subject to the provisions of this section, be deemed legally authorized and all awards of damages or compensation and assessments of benefits so provided for shall be deemed duly and legally made, subject to the right of appeal provided for in subsection (13).

(9) Where more than a single type of project is undertaken as part of a general improvement affecting any property, the governing body may finally combine the assessments for all purposes as a single assessment on each property affected, provided that each property owner shall be enabled to object to any such assessment for any single purpose or for more than one purpose.

(10) Each property owner shall prior to or on the due date have the privilege of paying any portion of a special assessment levied pursuant to this section, in which event the balance due shall be payable in instalments or shall become delinquent, whichever shall be applicable.

(11) If an assessment of benefits be made against any property and an award of compensation or damages be made in favor of the same property, the governing body shall assess against or award in favor thereof, as the case may be, only the difference between such assessment of benefits and the award of damages or compensation.

(12) Whenever the actual cost of any project shall, upon completion or after the receipt of bids, be found to vary materially from the estimates, or whenever the governing body shall determine to reconsider and reopen any such assessment of benefits or

damages, it is hereby empowered, after giving notice as provided in subsection (7) and after public hearing, to amend, cancel or confirm any such prior assessment, and thereupon notice of the resolution amending or canceling such prior assessment shall be given by the clerk as provided in subsection (8) (c).

(13) (a) If the owner or any person having an interest in any parcel of land affected by any determination of the governing body, pursuant to subsections (8) (b), (12) or (14) (b), feels himself aggrieved thereby he may, within 40 days after the date of the notice or of the publication of the final resolution pursuant to (8) (c), appeal therefrom to the circuit court of the county in which such property is situated by causing a written notice of appeal to be served upon the clerk of such city or village and by executing a bond to the city or village in the sum of \$150 with 2 sureties or a bonding company to be approved by the city or village clerk, conditioned for the faithful prosecution of such appeal and the payment of all costs that may be adjudged against him. The clerk, in case such appeal is taken, shall make a brief statement of the proceedings had in the matter before the governing body, with its decision thereon, and shall transmit the same with the original or certified copies of all the papers in the matter to the clerk of the circuit court.

(b) Such appeal shall be tried and determined in the same manner as cases originally commenced in such court, and costs awarded as provided in section 62.25 (1) (d).

(c) In case any contract shall have been made for making the improvement such appeal shall not affect such contract, and certificates or bonds may be issued in anticipation of the collection of the entire assessment for such improvement, including the assessment on any property represented in such appeal as if such appeal had not been taken.

(d) Upon appeal pursuant to this subsection, the court may, based upon the improvement as actually constructed, render a judgment affirming, annulling or modifying and affirming, as modified, the action or decision of the governing body. If the court finds that any assessment of benefits is excessive or any award of damages is insufficient, such assessment or award need not be annulled, but the court may reduce or increase the assessment of benefits or the award of damages and affirm same as so modified.

(e) An appeal under this subsection shall be the sole remedy

of the owner or any person having an interest in any parcel of land affected by such improvement for the redress of any grievance he may have by reason of the making of such improvement or the making of any assessment of benefits or award of damages therefor whether or not the improvement was made according to the plans and specifications therefor, and shall raise any question of law or fact, stated in the notice of appeal, involving the making of such improvement, the assessment of benefits or the award of damages therefor. The 20-day limitation provided for in paragraph (a) shall not apply to appeals based upon fraud or upon latent defects in the construction of the improvement discovered after such 20-day period.

(f) It shall be a condition to the maintenance of such appeal that any assessment of benefits appealed from shall be paid as and when the same or any instalments thereof become due and payable, and upon default in making such payment, any such appeal shall be dismissed.

(14) (a) No special assessment of benefits shall be held invalid because the amount thereof is either more or less than the amount required for the work or improvement for which made. If the amount be more than necessary, the excess shall first be credited on the next succeeding unpaid instalment of the assessments already levied against the individual parcels of property and any balance then remaining shall be refunded to the property owners in proportion to those assessments. If the amount assessed be less than necessary, or if the court upon appeal shall award a greater sum or find a lesser sum than that appealed from, the additional amount required may, in the discretion of the governing body, either be paid by the city or village from any funds available therefor or be assessed against the property benefited by the work or improvement and added to the original assessment.

(b) Whenever any such additional assessment is to be made, the governing body upon not less than 10 days' notice of the time and place of meeting either by publication in a newspaper published or having a general circulation in such city or village or by posting in not less than 5 public places within the city or village of which at least 3 shall be within the assessment district, shall meet and hear all parties in interest whose property would be affected by such additional assessment. Thereafter, all the proceedings of any case shall be the same as provided by this sec-

tion in case of an original assessment, including the right of appeal to the circuit court.

(15) (a) Every such special assessment shall be a lien on the property against which it is levied on behalf of the municipality levying same or the owner of any certificate, bond, or other document issued by public authority, evidencing ownership of or an interest in such special assessment, from the date of the determination of such assessment by the governing body. The governing body shall provide for the collection of such assessments and may establish penalties for payment after the due date. The governing body shall provide that all assessments or instalments thereof which are not paid by the date specified shall be extended upon the tax roll as a delinquent tax against the property and all proceedings in relation to the collection, return and sale of property for delinquent real estate taxes shall apply to such special assessment, except as otherwise provided by statute.

(b) Upon the determination of any such special assessment, the clerk shall sign and file in the office of the register of deeds of the county wherein the land against which any benefits are assessed is located a certificate stating the purpose, date, amount and maturity of each unpaid assessment of benefits, and a description of the land upon which it is levied. The register of deeds shall be entitled to a fee of 50 cents for filing each certificate issued pursuant to this paragraph. In the event of a subsequent amendment or cancellation of any such assessment the municipal clerk shall similarly sign and file a like certificate of all such amendments or cancellations.

(16) (a) In addition to all other methods provided by law special charges for current services rendered may be imposed by the governing body by allocating all or part of the cost to the property served. Such may include, without limitation because of enumeration; snow and ice removal, weed elimination, street sprinkling, oiling and tarring, repair of sidewalks or curb and gutter, garbage and refuse disposal, sewer service and tree care. The provision for notice of such charge shall be optional with the governing body except that in the case of street oiling or tarring and the repair of sidewalks, curb or gutters, 20 days' notice shall be given in a newspaper published or having a general circulation in the city or village, or by posting notice in 5 public places in the city or village. Such notice shall specify

that on a certain date a hearing will be held by the governing body as to whether the service in question shall be performed at the cost of the property owner, at which hearing anyone interested will be heard.

(b) Such special charges shall not be payable in installments. If not paid within the period fixed by the governing body, such a delinquent special charge shall become a lien as provided in subsection (15), as of the date of such delinquency, and shall be extended upon the current or next tax roll in the same manner as provided in subsection (15).

(17) If any part or parts of this section shall be held to be unconstitutional, such unconstitutionality shall not affect the validity of the remaining parts of this section, and in such case this section shall be read as if such unconstitutional parts thereof had not been inserted therein.

(18) If any special assessment or special charge levied pursuant to this section shall be held invalid because such statute shall be found to be unconstitutional, the governing body of such municipality may thereafter reassess such special assessment or special charge pursuant to the provisions of any applicable law.

Approved June 6, 1945.

No. 306, A.]

[Published June 10, 1945.]

CHAPTER 270.

AN ACT to amend 27.06 of the statutes, relating to mill tax for county parks and powers of the county board.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

27.06 of the statutes is amended to read:

27.06 The county board may annually, at the same time that other county taxes are levied, levy a tax upon the taxable property of such county of * * * *two-tenths* of a mill upon each dollar of the assessed valuation of the taxable property upon which other county taxes are levied and collected; provided, that a larger levy may be made for this purpose in counties having a population of 250,000 or more. The entire amount of such special tax shall be collected as other taxes are