

No. 1038, A.]

[Published July 18, 1907.

**CHAPTER 672.**

AN ACT to repeal chapter 240 of the private and local laws of 1871, and to restore chapter 133 of the private and local laws of 1859, so far as same were repealed by said chapter 240.

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

**Repeal.** SECTION 1. Chapter 240 of the private and local laws of 1871, is repealed.

**Restoration.** SECTION 2. Chapter 133 of the private and local laws of 1859, shall stand as though said chapter 240 of the private and local laws of 1871, had not been enacted.

SECTION 3. This act shall take effect and be in force from and after its passage and publication.

Approved July 16, 1907.

(In effect from and after date of publication.)

No. 705, A.]

[Published July 18, 1907.

**CHAPTER 673.**

AN ACT to create sections 925—270 to 925—294, inclusive of the statutes, authorizing cities of the second, third and fourth classes to lay out and construct surface or storm water sewers or drains and to issue bonds for the payment thereof.

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

SECTION 1. There are added to the statutes twenty-five new sections to read:

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Approved July 16, 1907.

(In effect from and after date of publication.)

against the property of such sewer district only, if the common council shall so determine.

**Vote on bonds by district only.** (a) Such bonds may be issued by the common council the same in all respects as if said bonds were made a general city liability, except that no election of the voters of the entire city shall in any case be held to authorize the issue of said bonds, but if within thirty days after the passage, by the common council of the city of the ordinance authorizing the issue of bonds for such purpose and levying a tax against the property of such sewer district only, there shall be filed in the office of the city clerk a petition in writing signed by not less than ten per cent. in number of the voters in said district who voted therein at the last general state election, asking for the submission of the question of issuing such bonds to a vote of the people, then such question shall be submitted as provided in section 943, excepting that such election shall be held in the one sewer district only.

**District valuation added.** (b) The ordinance providing for the issue of such bonds shall recite the assessed valuation of the sewer district in addition to reciting the valuation of the entire city.

(Ch. 251, 1907.)

**Cities, 2nd, 3rd, 4th class: sewer or drainage districts.** SECTION 925—270. The common council of any city of the second, third or fourth class, whether existing under the general charter law or special charter, may, by ordinance divide such city into surface or storm water sewer or drainage districts.

(Ch. 673, 1907.)

**Drainage improvements at expense of owners; benefits and damages.** SECTION 925—271. Whenever the common council of any such city shall deem it expedient or necessary for the public health or for other reasons to cause to be constructed surface or storm water sewers or drains in any portion of such city and at the expense of the property benefited they shall make an order that the board of public works or if there be no such board, the officer or officers designated to discharge its duties, to prepare and report plans and specifications for the improvement proposed to be made and the entire costs of the contemplated improvement; to view the premises affected

by the proposed improvement and determine the damages and benefits which will accrue to each parcel of real estate thereby and the amount that should be assessed to each parcel of real estate as benefits or damages accruing thereto by such contemplated work or improvement.

(Ch. 673, 1907.)

**Report on benefits and damages.** SECTION 925—272. Report.—Said board shall make and file in their office or if there be no such board, the officer or officers designated to discharge its duties, shall file in the office of the city clerk a report showing their or his determination on the question required to be considered by them or him under the provisions of the preceding section.

(Ch. 673, 1907.)

**Hearing of owners by public works board.** SECTION 925—273. Notice of assessment of damages; final report. Notice shall be given by the board of public works or the officer or officers designated to discharge the duties of such board by publication in the official newspaper of the city at least once in each week for two successive weeks. That such report is open for review at his or their office and will be so continued for the space of twenty days after the date of such notice; and that on a day named therein, which shall not be more than three days after the expiration of said twenty days, said board, officer or officers designated as aforesaid will be in session to hear all objections that may be made to such report. No irregularities in the form of such report nor of said notice shall affect its validity if it fairly contains the information required to be conveyed thereby. At the time specified for hearing objections to said report said board, officer or officers designated as aforesaid shall hear all parties interested who may appear for that purpose, reduce to writing all objections that may be made and all evidence that may be offered to sustain the same, and may review, modify and correct said report as they deem just; and thereupon a complete and final report shall be made and filed by said board, officer or officers designated as aforesaid with the city clerk together with all objections and evidence taken before them to sustain the same and proof of publication of said notice; but no irregularity in the form of said report or manner of conducting the proceedings by said board, officer or officers designated as aforesaid shall affect the legality of said report. At

such hearing any member of the board, officer or officers designated as aforesaid may administer such oaths as may be necessary in conducting it.

(Ch. 673, 1907.)

**Hearing of owners by common council.** SECTION 925—274. Action on report. The city clerk shall publish a notice in the official paper at least twice, that said report is on file in his office and that the common council will, at a meeting to be held at the time stated in the notice, consider the said report and hear all objections which may be made thereto and determine what portion of the costs of the improvement, if any, shall be paid by the city at large. At least two weeks shall intervene between the first publication of such notice and the said hearing. The council, at such meeting or at an adjourned meeting or at the next subsequent regular meeting or any adjournment thereof, may confirm, correct or modify such report or refer it back to the said board, officer or officers designated as aforesaid for further consideration.

(Ch. 673, 1907.)

**Council's determination.** SECTION 925—275. Assessment benefits. Subject to the limitations hereinbefore mentioned the council may determine the amount to be paid by the real estate as benefits on account of the proposed improvement and the amount that shall be paid by the city at large if any.

(Ch. 673, 1907.)

**Opportunity for owner to inspect.** SECTION 925—276. Notice of final determination. When a final determination shall have been reached by the council the city clerk shall publish notice in the official paper of the city once in each week for two successive weeks that a final determination has been made of the benefits and damages, if any, to be assessed to the several pieces of real estate affected by the proposed improvement and that the same is on file in his office and open to inspection.

(Ch. 673, 1907.)

**Owner may appeal to council; contracts not affected meanwhile.** SECTION 925—277. Remedy of land owner. If the owner of any parcel of land affected by said improvement feels himself aggrieved by reason of the determination made by

the council, he may, within twenty days after the date of such determination, appeal therefrom to the circuit court and such appeal shall be taken, tried and determined and bonds for costs shall be given and costs awarded in like manner as in case of appeals from the disallowance of claims under chapter 40a of the statutes; provided that in case any contract shall have been made for making the improvements said appeal shall not affect said contract but a certificate against the lot in question for the amount of benefits assessed to such lot shall be issued notwithstanding such appeal and in case the appellant shall succeed the difference between the amount charged in the certificate so issued and the amount adjudged to be paid as benefits accruing to the parcel of real estate described in such certificate shall be paid by the city at large or out of the proper ward or storm water sewer district fund as the council may determine.

(Ch. 673, 1907.)

**No further appeal.** SECTION 925—278. Remedy exclusive. The appeal given by the last section from the report of the board of public works, officer or officers designated as aforesaid as confirmed by the council shall be the only remedy of the owner of any parcel of land or of any person interested therein affected by said improvement for the redress of any grievances he may have by reason of the making of such improvements or the change of any established grade covered by said report.

(Ch. 673, 1907.)

**Advertisement for bids.** SECTION 925—279. When any of the works before mentioned shall be ordered to be done and the plans for the same containing description of the work, the materials to be used and such other matter as will give an intelligent idea of the work required, shall have been filed with the city clerk where the same can be inspected by persons desiring to bid on such work the board of public works, officer or officers designated as aforesaid shall advertise in the official paper of the city for bids for doing such work for such length of time as it may think the interests of the city demands, not less than once a week for four successive weeks.

(Ch. 673, 1907.)

**Contracts to accompany bids.** SECTION 925—280. Form of contract. The board, officer or officers designated as aforesaid shall prepare or cause to be prepared a printed form for the

contract with sureties required and furnish the same to all persons desiring to bid and shall not consider any bid unless accompanied by a contract with sureties as prescribed by the form so furnished completed with the exception of the signatures on the part of the city. The notice published shall inform bidders fully of this requirement.

(Ch. 673, 1907.)

**Contractor's guarantees not to affect assessments or tax sales.** SECTION 925—281. Curative provision in general; special cities. In every city whether operating under a general or special charter no special assessment or certificate thereof or tax sale certificate based thereon shall be held to be invalid for the reason that any contract which has been heretofore or may hereafter be let contains, on the part of the contractor, a guaranty of any provisions to keep the work done under such contract in good order or repair for a limited number of years when such guaranty or provision was inserted therein for the purpose of insuring the proper performance of such work in the first instance. All such provisions in contracts for doing public work inserted for the purpose aforesaid are hereby legalized and all such provisions shall be deemed prima facie to have been inserted for that purpose unless the time during which the contractor is required to keep the work in good order or repair shall exceed five years.

(Ch. 673, 1907.)

**Collusive and excessive bids; rejection.** SECTION 925—282. Rejection of bids. The board of public works, officer or officers designated as aforesaid shall have power to reject any and all bids if, in their opinion, any combination has been entered into to prevent free competition or if, in their judgment, the bid is excessive, subject to the approval of the common council.

(Ch. 673, 1907.)

**Contractor's pay: certificates, etc.** SECTION 925—283. Whenever any work has been done under contract as herein provided and the same shall have been approved by the board of public works, officer or officers designated as aforesaid the contractor shall be entitled to a certificate therefor as to each parcel of land against which benefits shall have been assessed for the amount chargeable thereto. Said certificate shall be in such form as the board, officer or officers designated as aforesaid

may prescribe. The amount chargeable to the city shall be paid as the contract for the work may provide.

(Ch. 673, 1907.)

**Certificates: negotiability; assessment to cover.** SECTION 925—284. After the expiration of nine months from the date of said certificate the same shall be conclusive evidence of the legality of all proceedings up to and inclusive of the issue thereof and it may be transferred by indorsement provided, however, that this shall not affect any appeal from the report of the board of public works, officer or officers designated as aforesaid as confirmed by the common council. If said certificates are not paid before the making out of the next tax roll the same may be filed with the city clerk and when so filed the clerk's statement of special assessments to be placed in the next tax roll shall include an amount sufficient to pay said certificates with interest thereon at the legal rate from the date of such certificate to the time when the city treasurer is required to make return of delinquent taxes and thereafter the same proceedings shall be had as in case of other taxes except that all moneys collected by the city treasurer and all moneys collected by the county treasurer on account of such taxes and all the tax certificates issued to the county on the sale of the property for such tax, if the same is returned delinquent, shall be delivered to the owner of the same on demand.

(Ch. 673, 1907.)

**Payment by certificates, cash or bonds.** SECTION 925—285. Payment for work. When a contract is let for doing any work specified herein and such work is chargeable to the real estate to be benefited it may provide that the amount so chargeable may be paid with certificates against the parcels of real estate so benefited or in special improvement bonds or the proceeds of the sale of such bonds or that payment may be in part made in certificates, part in cash and part in special improvement bonds or the proceeds thereof.

(Ch. 673, 1907.)

**Newspaper notice of contract and bonds.** SECTION 925—286. Notice concerning bond. As soon as the amount chargeable to the said real estate is finally determined the council may cause a notice to be published in the official paper substantially as follows:

## CITY IMPROVEMENT NOTICE.

Notice is hereby given that a contract has been (or is about to be) let for the laying of surface or storm water sewers or drains in the ..... storm water district or ..... storm water sewer districts and that the expense of said improvement chargeable to the real estate in said district (s) to be benefited has been determined as to each parcel of said real estate and a statement of the same is on file with the city clerk where a map of said district is also on file. It is proposed to issue bonds chargeable only to the real estate in said district (s) benefited by said improvement to pay the special assessments except in cases where the owner of the property shall file with the city clerk within thirty days after the date hereof a written notice that he or they elect to pay the special assessments or a part thereof on their property describing the same on presentation of the certificates.

(Ch. 673, 1907.)

**Bonds: issue, form, contents.** SECTION 925—287. Issue and execution of bonds. After the expiration of said thirty days the council may issue special improvement bonds covering all of the assessments except such as the owners have filed notice of election to pay as provided in the preceding section. Said bonds shall be signed by the mayor and clerk, be sealed with the corporate seal of the city and contain such recitals as may be necessary to show that they are chargeable only to particular property specifying the name and the number and amount of said bonds and such other provisions as the council shall think proper to insert. Such bonds shall in no event be a general city liability.

(Ch. 673, 1907.)

**Bonds: interest, redemption, proceeds.** SECTION 925—288. Said bonds may be annual or semi-annual interest coupons or registered bonds without interest coupons as the common council may direct. The total issue in each case shall be payable in annual installments for a period not exceeding ten years from the date of issue and shall draw interest at a rate not exceeding six per cent. per annum, interest payable annually or semi-annually as the common council shall determine and shall be sold at not less than par. The proceeds of the sale of such bonds shall be credited by the city treasurer to a special fund



for said improvement and may be paid to the contractor for such work when payment is due him and the council shall so direct or the contractor may take such bonds as payment for work done with the permission of the council.

(Ch. 673, 1907.)

**Different methods of meeting expense.** SECTION 925—289. The city may levy for a term of not exceeding five years, a special tax not exceeding one-fourth of one per cent. of the last equalized assessment of said city, per annum, upon all the property taxable in such city for the payment of the city's portion of said improvement as determined by the common council and may issue general city improvement bonds for the payment of the city's share of said improvement as herein provided and payable out of the proceeds of said special tax; or may order the same paid out of the general fund of the city or out of the ward fund of such ward or wards as the council may determine.

(Ch. 673, 1907.)

**Clerk to record assessments and bonds.** SECTION 925—290. The city clerk shall carefully prepare a statement of the special assessments on which the bonds are issued and record the same together with a copy of said bonds in his office.

(Ch. 673, 1907.)

**Treasurer to redeem from special fund.** SECTION 925—291. Payment of bonds. The city treasurer shall, out of the special fund hereby created for that purpose, pay the interest on and the principal of said bonds as the same become due and charge the same to said fund.

(Ch. 673, 1907.)

**Gradual redemption by special tax.** SECTION 925—292. Collection of assessment; redemption. In each year after the issuing of said bonds until all of them are paid and the tax roll for the year is prepared sufficient of the special assessment on each parcel of land covered by said bonds to pay the annual installment of the principal and interest on the amount of said special assessment then unpaid shall be evidenced on the tax roll as a special tax on said property and thereafter this tax shall be treated in all respects as any other city tax and when collected the same shall be a special fund for the payment of

such bonds or interest and shall be used for no other purpose. Any bond holder or bond holders may redeem from any tax sale as fully as if owners of the land under section 1165, of the statutes.

(Ch. 673, 1907.)

**Special tax: action to avoid or restrain; statute of limitations.** SECTION 925—293. Every action or proceeding to avoid any of the special assessment or taxes levied pursuant to the same or to restrain the levy of such taxes or the sale of lands for the non-payment of such taxes shall be brought within nine months from the end of the period of thirty days limited by the city improvement notice provided for by section 925—286 and not thereafter. The limitation shall cure all defects in the proceedings and defects of power on the part of the officer making the assessment except in cases where the lands are not liable to the assessment or the city has no power to make any such assessment or the amount of the assessment has been paid or a redemption made.

(Ch. 673, 1907.)

**Bonds to be preferred liens. Actions to collect: costs, interest, joining of parties.** SECTION 925—294. Foreclosure of bonds; procedure; lis pendens. The special improvement bond herein mentioned shall be a lien against all lots, parts of lots or parcels of land against which special assessments have been made, which lien shall take precedence of all other claims or liens thereon, and when issued shall transfer to the holder thereof all the right, title and interest of such city in and to the assessment made on account of the improvement mentioned therein and the liens thereby created, with full power to enforce the collection thereof by foreclosure in the manner mortgages on real estate are foreclosed; but the time of redemption therefrom shall be fixed by the court, and a copy of the bond foreclosed may be filed as a part of the judgment roll in said action in lieu of the original thereof. If within ninety days after the commencement of the annual sale of lands for taxes the amount to pay any installment of principal or interest shall not have been collected by the city, the owner or owners of at least one-third in par value of the bonds issued on any single improvement may proceed in his or their own names to collect the same by foreclosure thereof, and shall recover, in addition to the amount of said bonds and interest, all costs against the property

of the party or parties in default; provided, however, that the owner of any property covered by such bonds, or the holder of a lien thereon or other person interested in the property may redeem the same at any time before judgment by paying to the county clerk the amount due against such property, together with ten per cent. additional thereon, which shall be in full for all costs chargeable to such property in such action. Any number of the holders of such bonds for any single improvement may join as plaintiffs in any such action and any number of the owners of or other persons interested in the property covered by the assessment upon which such bonds are issued and on which they are a lien may be joined as defendants in any such action; and in case more than one action of foreclosure shall be commenced upon the bonds issued on account of a single improvement such actions may be consolidated. Any holders of bonds for the same improvement who do not join as plaintiffs may be made defendants and their rights adjudicated in the action. Such bonds shall be equal liens upon the property for the assessments represented by them without priority one over another, to the extent of the several assessments against the lots and parcels of land against which the special assessments shall have been made. Upon the commencement of any such action the plaintiff shall cause a notice thereof to be filed in the office of the county clerk and county treasurer, designating the particular property affected by such foreclosure; and thereafter no redemption of any such property from such assessments shall be had without payment of all costs theretofore accrued in such action except as hereinbefore provided.

(Ch. 673, 1907.)

**Village sprinkling tax; abutters' petition for.** SECTION 925d. Whenever a petition shall be presented to the clerk of any village incorporated under the provisions of this act, or under the general law, praying that any street in said village, or any part of any street not less than twenty rods in length be sprinkled, signed by at least \* \* \* a majority of all owners of land abutting upon that portion of said street proposed to be sprinkled *representing a majority of the foot frontage on such street or part of such street*, which petition shall be verified by affidavit as to such ownership, the board of trustees of such village may provide for the sprinkling of such street or part of street for such time as they may determine. Whenever the board shall determine to sprinkle any such street, they shall levy and collect