

*the payment of board and transportation of said non-resident pupils, as it shall find necessary.*

SECTION 2. This act shall take effect and be in force from and after its passage and publication.

Approved June 17, 1909.

No. 648, A.]

[Published June 22, 1909.

## CHAPTER 538.

AN ACT to amend subsection 7 of section 335e of the statutes, relating to printing the proceedings of the Wisconsin teachers' association.

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

SECTION 1. Subsection 7 of section 335e of the statutes is amended to read: (Section 335e) 7. \* \* \* *Five thousand* copies annually of the proceedings of the Wisconsin teachers' association, provided that the whole number of printed pages shall not exceed two hundred; and the same shall be distributed by the secretary of the said Wisconsin teachers' association.

SECTION 2. This act shall take effect and be in force from and after its passage and publication.

Approved June 17, 1909.

No. 201, S.]

[Published June 22, 1909.

## CHAPTER 539.

AN ACT to create sections 959—30a to 959—30j of the statutes, authorizing cities other than those of the first class to cause streets and alleys to be paved and repaved, and to charge the cost thereof in whole or in part to property benefited thereby.

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

SECTION 1. There are added to the statutes ten new sections to read: Section 959—30a. The word "city" where used in this act shall be construed to mean any city, whether operating under the general charter or a special act; and the words "board of public works" to mean such board, or if there be no such board, the officer or officers designated to discharge its duties.

Section 959—30b. Any city may cause streets and alleys to be paved and repaved in the manner by this act provided.

The expense of doing such work may be paid in whole or in part by such city or by the property to be benefited thereby, as the council shall direct.

Section 959—30c. Whenever the council of any city shall pass a resolution directing that any street or alley be paved or repaved with a permanent pavement having a concrete foundation, it shall be the duty of the board of public works to prepare and report to the council general specifications for such work and, if necessary, detailed specifications for curbing the roadway and for the foundation of the pavement proposed to be laid, which specifications shall describe a curb and foundation suitable for use in connection with the wearing surface of any of the accepted kinds of modern city pavements, whether patented or not. The board shall at the same time prepare and report to the council detailed specifications describing the wearing surface of not less than three of the accepted kinds of modern city pavements, whether patented or not. The council may change or amend such specifications in any particular, and may adopt the same as reported or as so changed and amended.

Section 959—30d. After specifications for the work have been adopted by the council as provided in the preceding section, the council may direct the board of public works to advertise for bids for doing the work according to the specifications so adopted, whereof the original or copies shall be filed with the board. The council may fix a period during which the contractor shall be required to keep the work done under the contract in good order and repair, not exceeding five years, and may direct that a provision to that effect be inserted in the contract. The board shall thereupon advertise in the official paper of the city for bids for doing the work, for such length of time as it may think the interests of the city demand, not less than once a week for two successive weeks. Before such notice is given the board shall prepare a printed form for the contract with sureties required as determined by the board. No bid shall be considered which is not accompanied by a contract with sureties as prescribed by the form so furnished, completed with the exception of signatures on the part of the city. The notice published shall inform bidders of this requirement. The board shall furnish copies of such form of contract to all persons desiring to bid. At the expiration of the time fixed by the board for receiving bids it shall open all bids received and report the same to the city clerk.

Section 959—30e. 1. When the city clerk shall have received the bids and report of the board of public works thereon, he shall fix a time when the council will hold a meeting to consider the kind of pavement to be laid on such street or alley, and five days prior to such meeting he shall publish in the official paper a notice that such matter will be considered at such meeting, and post a similar notice in each block of the part of the street or alley to be paved or repaved, such posted notices to be printed in type not smaller than pica.

2. At such meeting or at an adjourned meeting thereof, if the owners of a majority of the frontage of the lots upon the part of the street or alley proposed to be paved or repaved, shall present a petition in writing signed by them as hereinafter provided, requesting that said part of said street or alley be paved or repaved with a certain kind of the kinds of pavement for which a bid or bids have been received, the council shall let the contract for the paving or repaving of said street or alley with the kind of pavement requested in said petition; except that the council by an affirmative vote of three quarters of the members elect may determine to pave or repave such street or alley with one of the other kinds of pavement for which bids have been received; or may determine to reject all of said bids and readvertise anew.

3. The contract when awarded shall be let to the lowest responsible bidder on the kind of pavement selected, if more than one such bid be received, or if there be but one bid therefor, such contract may be let to such bidder. Each person signing such petition as the owner of property shall be required to write after his signature thereto a brief description of the property so owned by him and his place of residence, and to annex thereto an affidavit that he is such owner and resident, and he shall thereupon be taken to be such owner and resident, and such petition shall thereupon have the same effect as if such person were the owner of such property, although in fact it should thereafter appear that he was not such owner.

4. No person shall be permitted to cancel his signature to such petition or to sign a petition for more than one kind of pavement to be considered at such meeting or adjourned meeting. If no petition signed by the owners of a majority of the frontage of the lots upon the part of the street or alley proposed to be paved or repaved shall be presented to the council at such meeting, or if such meeting be so adjourned at such adjourned meeting, then the common council may, by the

affirmative vote of a majority of all the aldermen elect, select a certain kind of the kinds of pavement for which a bid or bids have been received, and award the contract therefor to the lowest responsible bidder on such kind of pavement, if more than one such bid be received, or to the bidder if but one such bid be received.

Section 959—30f. 1. When the council shall have awarded the contract as provided in the last section, it shall be the duty of the board of public works to view the premises and determine the benefits and damages which will accrue from such improvement and from the change or alteration of grade, if any, to the several parcels of real estate which are in the opinion of the board affected thereby and the amount that should be assessed to each parcel of such real estate as benefits accruing thereto by such contemplated work or improvement, and file in their office a report showing their determination.

2. Notice shall be given by the board of public works that such report is open for review at their office and will be so continued for the space of seven days after the date of such notice; and that on the day named therein, which shall not be more than three days after the expiration of said seven days, said board will be in session to hear all objections that may be made to such report.

3. Such notice shall be published in the official newspaper of the city at least once, and one copy of such notice shall be posted in each block of the part of the street proposed to be improved. Such posted notices shall be printed in type not smaller than pica. Such publication and posting shall be made five days prior to the date fixed for hearing of objections as aforesaid.

4. No irregularity in the form of such report or of such notice shall affect its validity if it fairly contains the information required to be conveyed thereby.

5. At the time specified for hearing objections to said report said board 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. Thereupon a complete and final report shall be made and filed with the city clerk by said board, together with all objections and evidence taken before them to sustain the same, and proof of publication of said notice and an affidavit of the posting thereof as above specified, which proof and affidavit shall be re-

ceived in all cases as presumptive evidence of the facts therein stated.

6. No irregularity in the form of said report or manner of conducting the proceedings by said board, or in the proof of publication or in the affidavit of posting, shall affect the legality of said report, unless it shall affirmatively appear that the owners of the property affected by the proceedings were clearly misled by said irregularity and have not had an opportunity to be heard. At such hearing any member of the board may administer such oaths as may be necessary in conducting it.

7. The city clerk shall publish a notice in the official paper at least once 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 cost of the improvement, if any, shall be paid by the city. Five days shall intervene between the first publication of such notice and the said meeting. The council shall at such meeting or at an adjourned meeting consider said report and may confirm or correct the same, or refer it back to the board for further consideration.

8. Subject to the limitations hereinbefore mentioned, the council may determine the amount to be paid by the real estate as benefits on account of such improvement of such street or alley, and the amount that shall be paid by the city at large or the ward funds or the wards in which such improvement is made.

9. When a final determination shall have been reached by the council, the city clerk shall publish notice in the official paper once in each week for two successive weeks that final determination has been made as to the damages that will accrue to the real estate in case of the change of an established grade and the benefits and damages to be assessed to the real estate in case of the proposed improvement.

Section 959—30g. If the owner of any parcel of land affected by such determination of the council feels himself aggrieved thereby, he may within twenty days after the date of the first publication of such notice of final 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, R. S., 1898, provided that said appeal shall not affect said contract, but certificates or improvement bonds, as the case may be, against the land in question, for the amount of benefits assessed to such land, shall be

issued notwithstanding such appeal; and in case the appellant shall succeed, the difference between the amount charged, in the certificates or bonds so issued and the amount adjudged to be paid as benefits accruing to the parcel of real estate described in such certificates or bonds shall be paid by the city at large or out of the ward funds, as the council may direct. The appeal aforesaid 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 grievance he may have by reason of the making of such improvement, or of the change of any established grade covered by said report.

Section 959—30h. 1. When the assessment of benefits and damages has been confirmed by the council, the mayor and city clerk shall execute for and on behalf of the city the contract for the work. The common council may provide that the contract price for the work shall be paid wholly in cash. It shall be sufficient to authorize the city to make such contract, that it has on hand funds sufficient to pay the difference between the contract price and the amount assessed against property as hereinbefore provided; and for all purposes affecting the right of the city to make such contract, the amount so assessed against property shall be treated as money belonging to the city in process of immediate collection.

2. Such contract may provide that such payment shall be made to the contractor on the completion of the work, or if the council so determine, on or before the time fixed by law for the annual sale of lands for delinquent city taxes for the year in which such assessments are carried into the tax roll. Or the council may provide that the contract price shall be paid in certificates against the lands or in special improvement bonds issued as provided by sub-chapter 18 of chapter 40a of the revised statutes and the acts amendatory thereof and supplemental thereto; or part in such certificates and improvement bonds, and part in cash; the contractor to receive such certificates and improvement bonds at their par value in payment of and in full satisfaction for said work so far as the amount or amounts thereof will go in liquidation of the contract price, without any other claim upon or liability of the city under said contract for the amount or amounts of said certificates or bonds; and the balance of the contract price to be paid in cash by the city.

Section 959—30i. Where any contract has been entered into by the city as hereinbefore provided certificates and improvement bonds may be issued in the manner provided by sub-chapter 18 of chapter 40a of the revised statutes, and acts

amendatory thereof and supplemental thereto; and such certificates or improvement bonds shall be the property of the city in the event that the contract provides that the entire contract price shall be paid in cash, or the property of the contractor in case the contract provides that the contract price shall be paid part in cash and part in certificates and improvement bonds as aforesaid; and all the provisions and limitations of said sub-chapter 18 and acts amendatory thereof and supplemental thereto, as to the validity of such certificates and bonds, and the limitation of actions with reference thereto, shall apply to certificates and improvement bonds issued under this act. The council shall have the right to sell such bonds and certificates or any portion thereof, owned by the city at not less than par.

Section 959—30j. Nothing in this act contained shall in any way affect any proceedings heretofore commenced by any city for the paving or repaving of any street or alley therein, or any assessments, tentative or confirmed, or any bid or contract proposed or made with reference to such paving or repaving, it being the meaning and intent hereof that this act shall apply only to paving or repaving, the proceedings for which shall be commenced after the date of the passage of this act.

SECTION 2. This act shall not be construed as repealing any provisions of the statutes, but shall constitute and prescribe a mode of making city improvements which any city may follow in any instance, if the common council of such city shall so elect.

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

Approved June 17, 1909.

No. 543, S.]

[Published June 22, 1909.

## CHAPTER 540.

AN ACT to create sections 1797—12e to 1797—12k, inclusive, of the statutes, relating to railroad crossings and fouling points.

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

SECTION 1. There are added to the statutes seven new sections to read: Section 1797—12e. Whenever a petition is lodged with the commission by the common council of any city, the village board of any village, the town board of any town, within or bordering upon which a highway or street crosses, or is