

No. 753, A.]

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CHAPTER 501.

AN ACT to amend section 1210d of the statutes of 1898 as amended by chapter 9 of the laws of 1901, as amended by chapter 19 of the laws of 1901 as amended by chapter 276 of the laws of 1903, relating to re-assessment of void special assessments.

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

Re-assessment of special void assessments. SECTION 1. Section 1210d of the statutes of 1898, as amended by chapter 9 of the laws of 1901, and as amended by chapter 19 of the laws of 1901 as amended by chapter 276 of the laws of 1903, is hereby amended so as to read as follows: Section 1210d. Where the work of constructing any sewer or grading, graveling, planking, macadamizing, paving or re-paving any street or alley, or part thereof, or the curbing of or sodding along any sidewalk or the paving of any gutter *or the building or repair of any dock* in any city has been done, or may hereafter be done, and any special assessment has been or may be made against any property for such work, and such special assessment or any special assessment certificates, tax sale, tax sale certificate or special improvement bond based thereon is invalid because of such work having been done without authority of law, or for failure to make a proper assessment of benefits and damages, or to observe any provision of law, either in adopting any part of chapter 40a of the statutes of 1898, or otherwise, or because of any act or defect in the proceedings upon which such assessment, certificate, sale or bond is based, or because of any provision contained in the contract for doing such work not authorized by law, or because such contract was made by a foreign corporation without having first complied with the provisions of section 1770b of the statutes of 1898, as amended, the city authorities shall proceed to make a new assessment of benefits and damages in the manner required by law. At the time of making such new assessment, in case where the contract under which such work was done contained any provision not authorized by law, and which tended to increase the contract price for doing the work, said authorities shall deter-

mine the proportion of such contract price justly chargeable against the property in question for such work and assess the same against such property. In any case where a new assessment is made under this act, the owner of property affected thereby may appeal from such assessment and determination. The cost of such work done pursuant to and at the price fixed in such contract or the proportion thereof determined as aforesaid to be justly chargeable on account of such work, not exceeding the amount of the excess of benefits over damages as ascertained by such new assessment, is hereby made a lien upon such property, and a certificate to that effect shall be issued by the proper city authorities to the holder of the invalid special assessment certificate or tax sale certificate aforesaid upon surrender thereof or proof that it has been canceled, or where such special assessment certificate has not been issued or delivered then to the person, who would have been entitled to such special assessment certificate, if such *valid* assessment, contract or proceeding had been regular and valid, and the excess in the amount of such *invalid* certificate over such new certificate, if any, shall be paid to such holder, or person, out of the proper fund. And when under such original assessment special improvement bonds have been, or might be issued, and as soon as the amount chargeable to the property benefited is finally determined by such new assessment, notice shall be given as provided for in section 925—191 of the statutes of 1898, and when so given and thirty days have elapsed after the giving of such notice, the common council may issue new special improvement bonds in lieu of such original bonds, to the holder thereof upon surrender of the same, or where such original bonds have not been issued or delivered then to the person, who would have been entitled to such original bonds, if such invalid assessment, contract and proceeding had been regular and valid, for the amount of such new assessment remaining unpaid, such new bonds to bear interest at the same rate as the original bonds and to be redeemed, enforced and collected in the same manner as provided for in chapter 40a of the statutes of 1898, and the excess in the amount of such invalid special improvement bonds, if any, over such new bonds shall be paid to such holder or person out of the proper fund, and when new certificates are issued, the same shall be carried into the annual tax roll of city taxes levied against such property, collected as a tax and paid to the holder of such new certificate in the manner provided by law for the payment of special assessment certificates. In case of appeal from such new assessment or such

determination, or both, the proceedings herein mentioned shall take place as if no appeal had been taken; but if the appellant succeed and the amount of such new assessment exceeds the amount finally adjudged on such appeal the city shall pay such excess with interest thereon from * * * the time such new bond is issued. In all cases where the invalidity of any such special assessment, special assessment certificate, tax sale, tax sale certificate or special improvement bond is caused by reason of such work having been done without authority of law or by the failure of the common council to pass a valid ordinance adopting any part of chapter 40a of the statutes of 1898, or by reason of having omitted from such ordinance any part or parts of said chapter 40a, no new assessment of benefits and damages as hereinbefore provided for shall be had or made unless an ordinance shall have been first duly passed, adopting as a part of the city charter all the essential provisions of said chapter 40a, relating to city improvements, so as to be in force at the time of making such new assessment. After the passage of such ordinance, all proceedings taken for a new assessment of benefits and damages shall be as valid and effectual for all purposes as if taken before the doing of the work. No proceeding shall be had under the provisions of this section for the re-assessment of any tax or assessment after the expiration of three years from the time the original tax or assessment was set aside or declared void.

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

Approved June 20, 1905.