

No. 67, S.]

[Published May 27, 1909.

CHAPTER 193.

AN ACT to amend section 1529d of the statutes, relating to the relief of soldiers, sailors, and marines.

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

SECTION 1. Section 1529d of the statutes is amended to read: Section 1529d. Every county judge shall, on or before the second Monday in December after such report is made, appoint three residents of the county, at least two of whom shall be honorably discharged union soldiers, or veterans of the war with Spain, one to serve three years, one to serve two years, and one to serve one year from the date of appointment, as "the soldiers' relief commission" of such county.

Such commission shall be organized by the election of one of their number as chairman, and one as secretary; said judge shall fill all vacancies for the unexpired term, and after the expiration of the terms of those first appointed shall annually appoint one person as a member of such commission for the term of three years. He shall require the members of the commission to execute to the county a joint and several bond, or each an individual bond, with sufficient sureties to be approved by him, in a sum equal to the tax levied in the current year for expenditure by the commission; said bond or bonds shall be filed with the county clerk.

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

Approved May 26, 1909.

No. 265. S.]

[Published May 27, 1909.

CHAPTER 194.

AN ACT to amend section 925--118a of the statutes, relating to authorizing the board of education in cities of the third class to have charge of erecting school buildings in such cities, and giving the same privilege to the board of education in cities of the fourth class.

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

SECTION 1. Section 925--118a. In all cities of the third and fourth class the expenditure of all sums of money appro-

propriated for the purchase of a school site, or sites, or for the erection, enlargement, alteration, or repair of school buildings and for the maintenance of schools, shall be under the direction and authority of the board of education. Whenever the estimated cost of the buildings to be erected, enlarged, altered, or repaired exceeds one thousand dollars, the board of education shall make, or cause to be made, plans and specifications setting forth clearly and in detail the work to be done and the material to be used and an estimate of the cost of the same. After these plans and estimates have been adopted by the board and approved by the common council said board shall give at least ten days' notice by advertisement in the official city paper, or in one designated by the common council, of the reception of bids for the execution of the proposed work.

All bids must be sealed and accompanied by a satisfactory bond in such sum as may be designated in the advertisement for bids, signed by the bidder and two or more sureties, who shall be residents of this state, and who shall justify as to their responsibility and by their several affidavits show that they are worth in the aggregate at least double the amount of the bond in property not by law exempt from execution in this state, or by a bond of a surety company duly licensed to transact business in this state, such bond and sureties to be approved by the board previous to the opening of the accompanying bids or proposals, and shall be conditioned that the bidder will enter into a contract with the required sureties, for the price mentioned in his proposal and according to the plans and specifications on file, in case the contract shall be awarded to him; and in case of failure on his part to execute a contract with satisfactory sureties, said bond shall be prosecuted in the name of said city and judgment recovered thereon for the full amount of the penalty thereof as liquidated damages, in any court having jurisdiction of the action, unless the common council shall by resolution direct that no action be commenced; provided that a certified check for not less than five per cent. of the estimated cost of said proposed work may be received by said board in lieu of the bond hereinbefore provided for. The power to reject any and all bids shall be deemed to exist unless expressly waived.

All contracts entered into under this provision shall be let to the lowest bidder, except as hereinafter provided. Whenever the lowest bid for any work to be let by the board shall exceed the estimates, or seem to said board to be unreasonably,

high, the board is authorized to reject all bids and to re-advertise the work anew; or whenever no proper bids shall be received, or whenever the lowest bid exceeds the estimate, or the lowest bidder shall be in the judgment of said board incompetent, or otherwise unreliable for the performance of the work for which he bids, the said board shall report to the common council a schedule of all the bids received together with such recommendations as the board shall choose to make with their reasons therefor, and the common council may authorize the board to let the work to the lowest competent and reliable bidder; or the council by vote of two-thirds of all its members may authorize the board to have the work done under the supervision of such person or persons as the board may designate.

A written or printed contract shall be entered into for the completion of the work with a bond in such sum as the board may designate for its full performance. Said bond shall be executed by two or more sureties for the contractor, guaranteeing to the satisfaction of said board the performance of such contract by the contractor under the supervision and to the satisfaction of said board, each of which sureties shall make affidavit that he is a resident of the state of Wisconsin, and that he is the owner of real estate in the state of Wisconsin, free from incumbrances, subject to execution, of a cash value equal to the penal sum of such bond, and that he is worth the estimated amount of money to be paid on such contract, over and above all his debts and liabilities, in property in this state subject to execution, or by a bond of a surety company duly licensed to do business in this state.

The said board shall reserve in every contract the right to determine finally the performance of such contract, or doing of the work specified therein; and the right, in case of improper or imperfect performance thereof, to suspend such work at any time; or to order the entire reconstruction of the same, if improperly done, or to relet the same to some other competent party; and also the right, in case such work shall not be prosecuted with such diligence and with such number of men, as to insure its completion within the time limited by the contract, to suspend such work and to relet the same to some other competent party, or to employ men and secure material for the completion of the same, and charge the cost to the contractor.

And power is hereby given to the said board to adjust and determine all questions as to the amount earned under any contract by the contractor or contractors, according to the true

intent and meaning of the contract; such adjustment and determination by said board shall be reported by the board to the common council, and when approved by said council shall be final between the parties and binding upon them. If the amount of damages to be paid to the city shall exceed the amount due from the city to the contractor, or contractors, according to such determination and adjustment, then the difference, or balance in favor of the city, according to such determination and adjustment, shall be recoverable by law in an action in the name of the city against such contractor, or contractors, and their sureties in any court having jurisdiction.

Every contract with the city shall also contain a covenant or agreement on the part of the contractor or his sureties, that in case such contractor shall fail to fully complete and perform such contract within the time therein limited for the performance thereof, such contractor shall pay to the city as liquidated damages for such default, a certain and definite sum for each day's delay in completing the contract, after the time therein limited for its completion, which daily sum shall be determined and fixed by said board before the contract for the work shall be let and shall be stated in the advertisement for proposals for the work, and shall be inserted in the contract, and shall in no case be less than one-half of one per cent. of the aggregate cost of the work embraced in said contract.

Payments may be made at intervals as the work progresses, but no more than eighty per cent. of the value of the work actually done and material furnished shall be paid at any time before the entire completion of the work.

The board of education shall have authority to employ a competent person, or persons, for the supervision of the work.

In any city of the third *and fourth* class the common council may adopt this subsection as provided in section 926, chapter 40b, statutes of 1898.

SECTION 2. Any acts or parts of acts affecting any city adopting this subsection, inconsistent with the provisions of this act, are hereby repealed.

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

Approved May 26, 1909.