

manner as other highway taxes assessed by the supervisors are required to be collected and expended.

2. It shall also be lawful for the supervisors of any town to levy a tax on all the taxable property therein, which shall be levied and collected as other highway taxes are, for the purpose of opening or repairing highways therein, whenever they shall deem it necessary for the public convenience; but the tax last mentioned shall not be levied unless all the supervisors agree thereto, nor shall it exceed six hundred dollars in any year, nor shall more than one such tax be levied and collected in any year; \* \* \* provided, however, that no levy or levies mentioned in this section shall be made if the total levy of taxes for highway purposes has reached the limit fixed by section 1240, and in no event shall the levy of taxes for highway purposes exceed the limitations of section 1240.

SECTION 4. This act shall take effect upon passage and publication.

Approved July 15, 1915.

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No. 718, A.]

[Published July 17, 1915.

## CHAPTER 410.

AN ACT to amend section 1164 of the statutes, relating to recovery of taxes unlawfully levied and collected.

*The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:*

SECTION 1. Section 1164 of the statutes is amended to read: Section 1164. 1. Any person aggrieved by the levy and collection of any unlawful tax assessed against him may file a claim therefor against the town, city, or village, whether incorporated under general law or special charter, which \* \* \* collected such tax in the manner prescribed by law for filing claims in other cases, and if it shall appear that the tax for which such claim was filed or any part thereof is unlawful and that all conditions prescribed by law for the recovery of illegal taxes have been complied with, the proper town board, village board, or common council of any city, whether incorporated under general law or special charter, may allow and the proper town, city, or village treasurer shall pay such person the amount of such claim found to be illegal and excessive. If any town, city, or village shall fail or refuse to allow such claim, the claimant may have and maintain an action against the same for the recovery of all money so unlawfully levied and collected of him. Every

such claim shall be filed; and every action to recover any money so paid shall be brought within one year after such payment and not thereafter.

2. In case any such town, city, or village shall have paid such claim or any judgment recovered thereon after having paid over to the county treasurer the state and county tax levied and collected as part of such unlawful tax, such town, city, or village shall be credited by the county treasurer, on the settlement with the proper treasurer for the taxes of the ensuing year, the whole amount of such state and county tax so paid into the county treasury *with the county's and state's proportionate share of the taxable costs and expenses of suit*; and the county treasurer shall also be allowed by the state treasurer the amount of state tax so illegally collected *with the state's proportionate share of the taxable costs and expenses of suit* and paid in his settlement with the state treasurer next after the payment of such claim or the collection of such judgment. If any part of such unlawful tax shall have been paid over to any school district before the payment of such claim or judgment, such town shall charge the same to such district *with the proportionate share of the taxable costs and expenses of suit*, and the town clerk shall add the same to the taxes of such school district in the next annual tax; provided, however, that no claim shall be allowed and no action shall be maintained under the provisions of this section unless it shall appear that the plaintiff has paid more than his equitable share of such taxes.

SECTION 2. All laws or parts of laws conflicting with the provisions of this section are repealed in so far as they are inconsistent therewith.

SECTION 3. This act shall take effect upon passage and publication.

Approved July 15, 1915.