

No. 355, A.]

[Published June 11, 1949.

**CHAPTER 231.**

AN ACT to repeal 61.455 (2) to (5) and 141.01 (10); to repeal and recreate 61.43 (5), and to amend 6.32 (1a), 61.33, 61.45 (2) and (4), 61.455 (1) and (6), 61.54 (1), 62.09 (2) (b), (4) (b) and (5) (b), 62.18 (17) (d) and (18) (d), 62.23 (7) (f) 1., 62.24 (2) (b), 64.01 (1), 66.076 (2), (3), (6) and (9), 66.11 (2), 66.60 (1), 74.12 (2) and 85.08 (25) (introductory paragraph), (27) and (27m) of the statutes, relating to city and village government so as to eliminate inconsistencies and obsolete material, and clarify existing statutes.

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

SECTION 1. 6.32 (1a) of the statutes is amended to read:

6.32 (1a) The governing body of any city, village or town may *by ordinance*, not less than 60 days prior to any election, reduce the number of election officials \* \* \*, and may provide for a redistribution of the duties among the remaining officials, *and may in like manner modify or rescind such action.*

SECTION 2. 61.33 of the statutes is amended to read:

61.33 No \* \* \* *trustee* shall be in any manner, directly or indirectly interested in any contract with or work or labor done for or material furnished to the village or to any one on its behalf. In case of a violation of this section such \* \* \* *trustee* or officer shall forfeit not less than \$50 nor more than \$500. But the provisions of this section shall not apply to the designation of public depositories for public funds, nor to the publication of legal notices required to be published by any village, or by any village officer, at a rate not higher than that prescribed by law, nor to \* \* \* *any* contract \* \* \* not exceeding \$300 in any one year.

SECTION 3. 61.43 (5) of the statutes is repealed and recreated to read:

61.43 (5) Whenever the village board shall by ordinance so determine, sidewalks shall be kept in repair by and at the expense of the village, or the board may direct that a certain proportion of the cost of construction, reconstruction or repair be paid by the village and the balance by abutting property owners.

SECTION 4. 61.45 (2) and (4) of the statutes are amended to read:

61.45 (2) It shall be lawful for the president and trustees of any village whenever they shall deem it necessary for the public health, to cause sewers and drains to be made in any part of such village, and to order and direct the construction of either of the same, and to alter, repair or mend any sewer or drain heretofore, or hereafter, constructed

within said village and to cause a main sewer for the purpose of an outlet for the branch sewers and drains to be constructed without the limits of said village when necessary; and to cause a sewage disposal plant to be constructed within, or without, the limits of the village pursuant to the provisions of section 62.18 \* \* \* which shall govern the construction, alteration and repair of sewers and drains in villages to the same extent as if villages were cities so far as said provisions are applicable and powers and duties conferred therein upon the common council and board of public works shall be exercised by the president and trustees and those conferred upon the mayor by the president and those conferred upon the city clerk or comptroller by the village clerk. In villages in which no newspaper is published notices required by said \* \* \* section to be published in the official paper of the city shall be published in like manner in some newspaper published in the county in which the village or some part thereof is located.

(4) The provisions of this section shall \* \* \* *be alternative or supplemental* to any law authorizing the construction of sanitary sewers, drains or sewage plants or the levying of special assessments therefor.

SECTION 5. 61.455 (2) to (5) of the statutes are repealed.

SECTION 6. 61.455 (1) and (6) of the statutes are amended to read:

61.455 (1) Storm sewers and storm sewer drains may be constructed by villages pursuant to \* \* \* section 62.18 \* \* \* which shall govern such construction to the same extent as if villages were cities, so far as said \* \* \* section \* \* \* is applicable. The powers and duties conferred by said \* \* \* section on the common council and board of public works shall be exercised by the president and trustees of the village, those conferred on the mayor shall be exercised by the president, and those conferred on the city clerk or comptroller shall be exercised by the village clerk. \* \* \*

(6) The provisions of this section shall \* \* \* *be alternative or supplemental* to any law authorizing the construction of storm sewers or storm sewer drains or the levying of special assessments therefor.

SECTION 7. 61.54 (1) of the statutes is amended to read:

61.54 (1) Whenever \* \* \* *any* village board \* \* \* shall, after notice duly given, *have* \* \* \* *received* bids for the grading of streets, construction of sewers, laying of pavements, sprinkling and cleaning of streets or for any other public work or improvement, or for the furnishing of materials therefor, *and* be of the opinion that such bids are fraudulent, collusive or greater in amount than the fair reasonable value of the work to be done or materials to be furnished, *or if no bids are received*, said village board may, by resolution and by the vote of two-thirds of its members, direct, and determine that the bids so received shall be rejected and that the work to be done, and materials to be furnished shall be performed and furnished by said village directly, and under the direction and supervision of the village board.

SECTION 8. 62.09 (2) (b), (4) (b) and (5) (b) of the statutes are amended to read:

62.09 (2) (b) Except as otherwise expressly provided \* \* \* *by* \* \* \* *statute*, no alderman shall during the term for which he is elected be eligible to any other city office except mayor \* \* \* *but* the council may be represented on city boards and commissions when no additional remuneration is paid alderman representatives on such a body, *and the governing body may fix the tenure of such representatives notwithstanding any other statutory provision.*

(4) (b) The treasurer, comptroller, chief of police and such others as the statutes or the council may direct, shall execute and file an official bond in such sum as the council may determine, with two or more sureties \* \* \* *or such* bond \* \* \* may be furnished by a surety company as provided by section 204.07. The council may at any time require new and additional bonds of any officer. All official bonds must be approved by the mayor, and when so approved shall be filed within 10 days after the officer executing the same shall have been notified of his election or appointment \* \* \*. Official bonds filed with the city clerk shall be recorded by him in a book kept for that purpose.

(5) (b) Except as otherwise specially provided the regular term of elective officers \* \* \* shall be 2 years. \* \* \* A different term for such officers or any of them may be provided by charter ordinance.

SECTION 9. 62.18 (17) (d) and (18) (d) of the statutes are amended to read:

62.18 (17) (d) No city shall contract to pay more in any one year pursuant to this section than the amount of the special fund available in such year; but the proceeds of any such tax may be anticipated by the issuance of special sewerage bonds in the manner and under the limitations prescribed by section \* \* \* 66.54, and such tax when collected may be devoted to a special sewerage bond sinking fund.

(18) (d) The city may levy for a term of not exceeding 5 years, a special tax not exceeding one-half 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 council, and may issue general city improvement bonds for the payment of the city's share of said improvement in the manner provided by section \* \* \* 66.54 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.

SECTION 10. 62.23 (7) (f) 1. of the statutes is amended to read:

62.23 (7) (f) 1. The council may provide by ordinance for the enforcement of this section and of any ordinance or regulation made thereunder. *In case of a violation of this section or of such ordinance or regulation \* \* \* such council may provide for the punishment by fine \* \* \* and by imprisonment \* \* \* for failure to pay such fine.* It is also empowered to provide civil penalties for such violation.

SECTION 11. 62.24 (2) (b) of the statutes is amended to read:

62.24 (2) (b) The police justice of the peace may punish a violation of a city ordinance by fine \* \* \* *and by imprisonment \* \* \* in case the fine is not paid,* and may sentence any person convicted of a violation of a city ordinance, or of a misdemeanor, to pay a fine and the costs of prosecution or be imprisoned in the county jail, and may order the prisoner, if able, to be kept at hard labor. Prisoners confined in the county jail or in some other penal or correctional institution for violation of a city ordinance shall be kept at the expense of the city and such city shall be liable therefor.

SECTION 12. 64.01 (1) of the statutes is amended to read:

64.01 (1) Any city of the second, third or fourth class may reorganize under the provisions of this chapter, either by enactment of a charter ordinance or by a petition and referendum election as provided by section 66.01 \* \* \*. Such petition and election shall be governed by \* \* \* section 10.43 (2) to (5).

SECTION 13. 66.076 (2), (3), (6) and (9) of the statutes are amended to read:

66.076 (2) Where payment in whole or in part is to be made by the issue and sale of mortgage bonds or mortgage certificates, such payments shall be made as is provided in section 66.066, the provisions of which section as the same has been and from time to time may be amended or recreated are made a part of this section except as otherwise inconsistent herewith. The term "public utility" as used in said section as the same has been and from time to time may be amended or recreated shall for this purpose include the \* \* \* *sewerage system*, accessories, equipment and other property, including land. Such mortgage bonds or mortgage certificates shall not constitute a general indebtedness of the municipality but shall be secured only by the \* \* \* *sewerage system* and revenue \* \* \* *thereof*, and the franchise herein provided for.

(3) In the event of a sale of the mortgaged premises on a judgment of foreclosure and sale, the price paid for the same shall not exceed the amount of the judgment and the costs of sale to and including the recording of the sheriff's deed. The purchaser on the foreclosure sale may operate and maintain said \* \* \* *sewerage system* and collect sewerage service charges, and for that purpose shall be deemed to have a franchise from the municipality. The term "purchaser" shall include his successors or assigns. The rates to be charged, in addition to the contributions, if any, which the municipality has obligated itself to make \* \* \* *toward* the capital or operating costs of the plant, shall be sufficient to meet the requirements of operation, maintenance, repairs, depreciation, interest and an amount sufficient to amortize the judgment debts and all additional capital costs which the purchaser contributes to the plan over a period not exceeding 20 years, and in addition to the foregoing the purchaser of the premises shall be entitled to earn a reasonable amount, as determined by the public service commission, on the actual amount of his investment in the premises represented by the purchase price of the premises, plus any additions made to the same by the purchaser or minus any payments made by the municipality on account of such investments. The municipality may at any time by payment reduce such investment of the purchaser and after full payment of the purchase price plus the cost of subsequent improvements the premises shall revert to the municipality. \* \* \* So long as the premises are owned by the private purchaser, the same shall be considered a public utility and be subject to the provisions of chapter 196 \* \* \* so far as applicable.

(6) Any town, village or city may pledge, assign or otherwise hypothecate the net earnings or profits derived or to be derived from a sewerage system to secure the payment of the costs of purchasing, constructing or otherwise acquiring a \* \* \* *sewerage system* or any part thereof, or for extending or improving such \* \* \* *sewerage system*, in the manner provided in section 66.066 (4) as the same has been and from time to time may be amended or recreated.

(9) Upon complaint to the public service commission by any user of the service that rates, rules and practices are unreasonable or unjustly discriminatory, or upon complaint

of a holder of a mortgage bond or mortgage certificate or other evidence of debt, secured by a mortgage on the \* \* \* *sewerage system or any part thereof* or pledge of the income of sewerage service charges, that rates are inadequate, the public service commission shall investigate said complaint, and if sufficient cause therefor appears shall set the matter for a public hearing upon 10 days' notice to the complainant and the town, village, or city. After such hearing, if the public service commission shall determine that the rates, rules or practices complained of are unreasonable or unjustly discriminatory, it shall determine and by order fix reasonable rates, rules and practices and shall make such other order respecting such complaint as may be just and reasonable. The proceedings herein shall be governed, as far as applicable, by the provisions of sections 196.26 to 196.405.

SECTION 14. 66.11 (2) of the statutes is amended to read:

66.11 (2) Except as expressly authorized by statute, no member of a town, village or county board, or city council shall, during the term for which he is elected, be eligible for any office or position which during such term has been created by, or the selection to which is vested in, such board or council, provided that the governing body may be represented on city or village boards and commissions where no additional remuneration is paid such representatives. *The governing body may fix the tenure of such representatives notwithstanding any other statutory provision.*

SECTION 15. 66.60 (1) of the statutes is amended to read:

66.60 (1) \* \* \* *As a complete alternative* to all other methods provided by law, any city or village may, by resolution of its governing body, levy and collect special assessments upon property in a limited and determinable area for special benefits conferred upon such property by any municipal work, or improvement; and to provide for the payment of all or any part of the cost of the work or improvement out of the proceeds of such special assessments.

SECTION 16. 74.12 (2) of the statutes is amended to read:

74.12 (2) Whenever the treasurer of any town, village or city files with a proper justice of the peace an affidavit, setting forth that a certain person, naming him, owns certain personal property duly assessed in such municipality, and that such person is about to abscond from the state, or is about to dispose of such property, or is about to remove such property from the municipality, such justice shall issue a warrant of attachment as provided in subsection (1) \* \* \*. *Prior to filing such affidavit the treasurer may but shall not be required to make a demand upon such person for payment of the tax and may collect the same.*

SECTION 17. 85.08 (25) (introductory paragraph), (27) and (27m) of the statutes are amended to read:

85.08 (25) (introductory paragraph) Whenever an operator is convicted under a state law or under a county, city or village ordinance which is in conformity to the state law (*except that such ordinance need not impose imprisonment to so conform*), the commissioner shall forthwith revoke the operator's license and the motor vehicle registration plates, registration certificate, registration plate inserts and windshield regulation stickers of such operator upon receiving the record of such operator's conviction of any of the following offenses when such conviction has become final:

(27) Whenever an operator is convicted under a state law or under a county, city or village ordinance which is in conformity to the state law (*except that such ordinance need not impose imprisonment to so conform*), the commissioner shall suspend the license of such operator without preliminary hearing, upon receiving the record of such operator's conviction of a traffic violation which is the cause of an accident resulting in death or personal injury of another or of permitting an unlawful or fraudulent use of such license.

(27m) Whenever any operator appears by the records of the department to be an habitually reckless or negligent operator of a motor vehicle or an habitual violator of any of the state traffic laws or of any of the county, city or village ordinances which are in conformity to the state traffic laws (*except that such ordinances need not impose imprisonment to so conform*), the commissioner may suspend such operator's license, but the commissioner shall suspend any operator's license upon being directed to do so by any court after conviction of such operator therein of any of the state traffic laws or of any of the county, city or village ordinances \* \* \* in conformity \* \* \* therewith.

SECTION 18. 141.01 (10) of the statutes is repealed.

Approved June 8, 1949.