

No. 2, A.]

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### CHAPTER 130

AN ACT to renumber 66.60 (3); and to repeal and recreate 66.60 of the statutes, relating to special assessments for public improvements.

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

SECTION 1. 66.60 (3) of the statutes is renumbered 263.13 (2) (b).

SECTION 2. 66.60 of the statutes is repealed and recreated to read:

**66.60 SPECIAL ASSESSMENTS AND CHARGES.** (1) (a) 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 may 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.

(b) The amount assessed against any property for any work or improvement which does not represent an exercise of the police power shall not exceed the value of the benefits accruing to the property therefrom, and for those representing an exercise of the police power, the assessment shall be upon a reasonable basis as determined by the governing body of the city or village.

(2) Prior to the exercise of any powers conferred by this section, the governing body shall declare by preliminary resolution its intention to exercise such powers for a stated municipal purpose. Such resolution shall describe generally the contemplated purpose, the limits of the proposed assessment district, the number of instalments in which the special assessments may be paid, and direct the proper municipal officer or employe to make a report thereon. Such resolution may limit the proportion of the cost to be assessed.

(3) The report required by sub. (2) shall consist of:

(a) Preliminary or final plans and specifications.

(b) An estimate of the entire cost of the proposed work or improvement.

(c) An estimate, as to each parcel of property affected, of:

1. The assessment of benefits to be levied.

2. The damages to be awarded for property taken or damaged.

3. The net amount of such benefits over damages or the net amount of such damages over benefits.

(d) A statement that the property against which the assessments are proposed is benefited, where the work or improvement constitutes an exercise of the police power. In such case the estimates required under par. (c) shall be replaced by a schedule of the proposed assessments.

(4) A copy of the report when completed shall be filed with the municipal clerk for public inspection.

(5) The cost of any work or improvement to be paid in whole or in part by special assessment on property may include the direct and indirect cost thereof, the damages occasioned thereby, the interest on bonds or notes issued in anticipation of the collection of the assessments, a reasonable charge for the services of the administrative staff of the city or village and the cost of any architectural, engineering and legal services, and any other item of direct or indirect cost which may reasonably be attributed to the proposed work or improvement. The amount to be assessed against all property for any such proposed work or improvement shall be apportioned among the individual parcels in the manner designated by the governing body.

(6) If any property deemed benefited shall by reason of any provision of law be exempt from assessment therefor, such assessment shall be computed and shall be paid by the city or village.

(6a) A parcel of land against which has been levied a special assessment for the sanitary sewer or water main laid in one of the streets upon which it abuts, shall be entitled to such deduction or exemption as the governing body determines to be reasonable and just under the circumstances of each case, when a special assessment is levied for the sanitary sewer or water main laid in the other street upon which such corner lot abuts. The governing body may allow a similar deduction or exemption from special assessments levied for any other public improvement.

(7) Upon the completion and filing of the report required by sub. (3) the city or village clerk shall cause notice to be given stating the nature of the proposed work or improvement, the general boundary lines of the proposed assessment district including, in the discretion of the governing body, a small map thereof, the place and time at which the report may be inspected, and the place and time at which all persons interested, or their agents or attorneys, may appear before the governing body and be heard concerning the matters contained in the preliminary resolution and the report. Such notice shall be given either by publication of a copy of the notice at least once in a newspaper published or having a general circulation in such city or village, or such notice shall be posted in not less than 5 public places within the city or village of which at least 3 shall be within the assessment district and a copy of such notice shall be mailed to every interested person whose post-office address is known, or can with reasonable diligence be ascertained, at least 10 days before the hearing or proceeding. The hearing shall commence not less than 10 and not more than 40 days after the publication or posting as provided in this subsection.

(8) (a) After the hearing upon any proposed work or improvement, the governing body may approve, disapprove or modify, or it may refer the report prepared pursuant to subs. (2) and (3) to the designated officer or employe with such directions as it deems necessary to change the plans and specifications and to accomplish a fair and equitable assessment.

(b) If an assessment of benefits be made against any property and an award of compensation or damages be made in favor of the same property, the governing body shall assess against or award in favor thereof only the difference between such assessment of benefits and the award of damages or compensation.

(c) When the governing body finally determines to proceed with the work or improvement, it shall approve the plans and specifications therefor and adopt a resolution directing that such work or improvement be carried out in accordance with the report as finally approved and that payment therefor be made as therein provided.

(d) The city or village clerk shall publish the final resolution in a newspaper published or having a general circulation in said city or village,

or such resolution shall be posted in not less than 5 public places within the city or village, of which at least 3 shall be within the assessment district and a copy of such notice shall be mailed to every interested person whose post-office address is known, or can with reasonable diligence be ascertained, at least 10 days before the hearing or proceeding.

(e) Upon the publication or posting of this final resolution, any work or improvement provided for therein shall, subject to the provisions of this section, be deemed legally authorized and all awards of damages or compensation and assessments so provided for shall be deemed duly and legally made, subject to the right of appeal provided for in sub. (12).

(9) Where more than a single type of project is undertaken as part of a general improvement affecting any property, the governing body may finally combine the assessments for all purposes as a single assessment on each property affected, provided that each property owner shall be enabled to object to any such assessment for any single purpose or for more than one purpose.

(10) Whenever the actual cost of any project shall, upon completion or after the receipt of bids, be found to vary materially from the estimates, or whenever any assessment is void or invalid for any reason, or whenever the governing body shall determine to reconsider and reopen any assessment, it is empowered, after giving notice as provided in sub. (7) and after a public hearing, to amend, cancel or confirm any such prior assessment, and thereupon notice of the resolution amending, canceling or confirming such prior assessment shall be given by the clerk as provided in sub. (8) (d).

(11) If the cost of the project shall be less than the special assessments levied, the governing body, without notice or hearing, shall reduce each special assessment proportionately and where any assessments or instalments thereof have been paid the excess over cost shall be applied to reduce succeeding unpaid instalments, where the property owner has elected to pay in instalments, or refunded to the property owner.

(12) (a) If any person having an interest in any parcel of land affected by any determination of the governing body, pursuant to subs. (8) (c), (10) or (11), feels himself aggrieved thereby he may, within 40 days after the date of the notice or of the publication of the final resolution pursuant to sub. (8) (d), appeal therefrom to the circuit court of the county in which such property is situated by causing a written notice of appeal to be served upon the clerk of such city or village and by executing a bond to the city or village in the sum of \$150 with 2 sureties or a bonding company to be approved by the city or village clerk, conditioned for the faithful prosecution of such appeal and the payment of all costs that may be adjudged against him. The clerk, in case such appeal is taken, shall make a brief statement of the proceedings had in the matter before the governing body, with its decision thereon, and shall transmit the same with the original or certified copies of all the papers in the matter to the clerk of the circuit court.

(b) Such appeal shall be tried and determined in the same manner as cases originally commenced in such court, and costs awarded as provided in s. 62.25 (1) (d).

(c) In case any contract has been made for making the improvement such appeal shall not affect such contract, and certificates or bonds may be issued in anticipation of the collection of the entire assessment for such improvement, including the assessment on any property represented in such appeal as if such appeal had not been taken.

(d) Upon appeal pursuant to this subsection, the court may, based upon the improvement as actually constructed, render a judgment affirming, annulling or modifying and affirming, as modified, the action or decision of the governing body. If the court finds that any assessment

or any award of damages is excessive or insufficient, such assessment or award need not be annulled, but the court may reduce or increase the assessment or award of damages and affirm the same as so modified.

(e) An appeal under this subsection shall be the sole remedy of any person aggrieved by a determination of the governing body, whether or not the improvement was made according to the plans and specifications therefor, and shall raise any question of law or fact, stated in the notice of appeal, involving the making of such improvement, the assessment of benefits or the award of damages or the levy of any special assessment therefor. The limitation provided for in par. (a) shall not apply to appeals based upon fraud or upon latent defects in the construction of the improvement discovered after such period.

(f) It shall be a condition to the maintenance of such appeal that any assessment appealed from shall be paid as and when the same or any instalments thereof become due and payable, and upon default in making such payment, any such appeal shall be dismissed.

(15) Every special assessment levied under this section shall be a lien on the property against which it is levied on behalf of the municipality levying same or the owner of any certificate, bond or other document issued by public authority, evidencing ownership of or any interest in such special assessment, from the date of the determination of such assessment by the governing body. The governing body shall provide for the collection of such assessments and may establish penalties for payment after the due date. The governing body shall provide that all assessments or instalments thereof which are not paid by the date specified shall be extended upon the tax roll as a delinquent tax against the property and all proceedings in relation to the collection, return and sale of property for delinquent real estate taxes shall apply to such special assessment, except that they shall be returned to the county in trust for collection.

(16) (a) In addition to all other methods provided by law, special charges for current services rendered may be imposed by the governing body by allocating all or part of the cost to the property served. Such may include, without limitation because of enumeration, snow and ice removal, weed elimination, street sprinkling, oiling and tarring, repair of sidewalks or curb and gutter, garbage and refuse disposal, sewer service and tree care. The provision for notice of such charge shall be optional with the governing body except that in the case of street oiling or tarring and the repair of sidewalks, curb or gutters, 20 days' notice shall be given in a newspaper published or having a general circulation in the city or village, or by posting notice in 5 public places in the city or village and a copy of such notice shall be mailed to every interested person whose post-office address is known, or can with reasonable diligence be ascertained, at least 10 days before the hearing or proceeding. Such notice shall specify that on a certain date a hearing will be held by the governing body as to whether the service in question shall be performed at the cost of the property owner, at which hearing anyone interested will be heard.

(b) Such special charges shall not be payable in instalments. If not paid within the period fixed by the governing body, such a delinquent special charge shall become a lien as provided in sub. (15) as of the date of such delinquency, and shall automatically be extended upon the current or next tax roll as a delinquent tax against the property and all proceedings in relation to the collection, return and sale of property for delinquent real estate taxes shall apply to such special charge.

(c) Subsection (2) shall not be applicable to proceedings under this subsection.

(17) If any special assessment or special charge levied pursuant to this section shall be held invalid because such statutes shall be found to be unconstitutional, the governing body of such municipality may thereafter reassess such special assessment or special charge pursuant to the provisions of any applicable law.

(18) The governing body of any city or village may, without any notice or hearing, levy and assess the whole or any part of the cost of any municipal work or improvement as a special assessment upon the property specially benefited thereby whenever notice and hearing thereon is in writing waived by all the owners of property affected by such special assessment.

Approved May 22, 1957.

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