

No. 4, A.]

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CHAPTER 132

AN ACT to repeal 66.072 (5); to amend 27.065 (12) (a), 27.10 (4) (g), 30.02 (8) (1), 60.29 (26) and (28), 60.309 (1) (b), 60.71, 66.072 (4), 66.08 (1) and (2), 66.206 (2), (6), (9) and (10), 70.01, 70.27 (1), 83.05 (3), 86.18 (4) and 86.25 (3); and to create 86.25 (4) of the statutes, relating to eliminating erroneous cross references to special assessment procedures.

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

SECTION 1. 27.065 (12) (a) of the statutes is amended to read:

27.065 (12) (a) If in any action at law for the recovery of damages

arising from a failure to make a proper assessment of benefits and damages, or failure to observe any provisions of law, or because of any act or defect in any proceeding in which benefits and damages are assessed, and in any action to set aside any special assessment against property for any * * * *purpose*, or to set aside any special assessment certificate, special improvement bond, tax sale or tax-sale certificate based upon such special assessment, the court determines that such assessment is invalid by reason of a defective assessment of benefits and damages, or for any cause, it shall stay all proceedings in such action until a new assessment thereof * * * *is made as provided hereinafter* * * * ; thereupon the proper county authorities shall proceed forthwith to make a new assessment of benefits and damages against the property of the plaintiff as required by law in the case of * * * *the original assessment*, and * * * *the plaintiff* shall have the same right to appeal from * * * *the new assessment* as he or his grantors would have had from * * * *the original assessment*. If the validity of * * * *the new assessment* is contested by the plaintiff, the court shall summarily try the matter and file an order sustaining or overruling the objection of the plaintiff. If * * * *the new assessments* * * * *are* held invalid, subsequent assessments may be made in like manner and similar proceedings resorted to to determine the validity of such assessments. When the amount to be assessed against the plaintiff's property * * * *is* finally determined by an assessment of benefits and damages, which the court * * * *holds* to be valid, or when an appeal is taken, the court shall make an order, requiring the plaintiff to pay into the court for the benefit of the parties entitled thereto, the amount which should be justly assessed against the property in question; upon compliance with said order, judgment shall be entered for the plaintiff with costs. If the plaintiff fails to comply with such order the action shall be dismissed with costs.

SECTION 2. 27.10 (4) (g) of the statutes is amended to read:

27.10 (4) (g) If in any such action the court * * * *determines that* any such special assessment is invalid for any cause, the board shall * * * forthwith * * * make a new assessment against the property of the plaintiff as such original assessment should have been made, in accordance with * * * *s. 66.635*.

SECTION 3. 30.02 (8) (1) of the statutes is amended to read:

30.02 (8) (1) Section * * * *66.635* shall also apply so far as applicable, to all of the aforesaid special assessments made for benefits for said dock improvements, except that in case a new assessment of benefits is made it shall be made in the same manner in which the original was made.

SECTION 4. 60.29 (26) and (28) of the statutes are amended to read:

60.29 (26) (a) The town board of any town may cause any highway, street or alley, or any part thereof, to be graded, paved or otherwise improved, including the construction of curbs and gutters, upon a petition therefor in writing signed by at least a majority of all owners of real estate bounding both sides. If such highway, street or alley abuts on platted property the board shall assess benefits and damages against such platted property * * * *as provided in* * * * *s. 66.60*. There is imposed upon the towns all of the powers vested in villages * * * *by said* * * * *section*. All of the duties * * * imposed upon village boards or villages, their several committees, village clerk, village treasurer and street commissioner *by said section*, shall be performed in such towns by the town boards, the town clerks, town treasurers and the superintendent * * * of highways * * * . Where notice is required to be published * * * , and there * * * *is* no newspaper published in said town, such notices shall be given by posting 5 copies thereof in 5 public places in said town.

(b) Whenever a contract is let or is about to be let for the grading, paving or other improvement of any highway, street or alley, the total assessments levied to defray the costs thereof, and also each individual assessment may be divided into equal instalments of not more than 10 in number, and for the purpose of anticipating the collection of any assessments it * * * is lawful and the town board is * * * authorized to issue bonds payable out of such instalments * * * as provided in s. * * * 66.54.

(c) There is imposed upon all towns in which, under this subsection, highways, streets or alleys are to be graded, paved or otherwise improved, all of the powers vested in cities under s. * * * 66.54, and all of the duties by such section imposed upon the common council and board of public works, mayor, city clerk and city treasurer, shall be performed by the town board, town chairman, town clerk and town treasurer, and such bonds shall be signed by the town chairman and attested by the town clerk; and where notice is required to be published * * * such notices may be given * * * as provided in par. (a).

(28) The town board of every town in counties having a population of 250,000 or more may cause the whole or any part of any street, highway or alley located therein to be graded, paved, macadamized or otherwise improved, including the construction of curbs and gutters, water and sewer mains and service pipes * * * and levy special assessments therefor * * * as provided in * * * s. 66.60 for villages located in similar counties but without any petition therefor as mentioned in sub. (26).

SECTION 5. 60.309 (1) (b) of the statutes is amended to read:

60.309 (1) (b) The commissioners shall then examine the entire area to be improved and severally and separately consider each parcel of real estate therein and determine the benefits to each of said parcels and make assessments thereagainst in an aggregate amount equal to the determined cost of the work to be done. Such assessments shall be made in accordance with s. * * * 66.60.

SECTION 6. 60.71 of the statutes is amended to read:

60.71 The provisions of * * * s. 66.635, relating to reassessments of special assessments, shall apply also to towns * * * .

SECTION 7. 66.072 (4) of the statutes is amended to read:

66.072 (4) Before the vote * * * is effective to establish, vacate, alter or consolidate, * * * a hearing shall be held as provided in s. 66.60 (7). In towns * * * the notice may be given by posting in 3 * * * public places in said town, one of which shall be in the proposed district, at least 2 weeks prior to such * * * hearing.

SECTION 8. 66.072 (5) of the statutes is repealed.

SECTION 9. 66.08 (1) and (2) of the statutes are amended to read:

66.08 (1) Whenever any village or city shall construct or acquire by gift, purchase or otherwise a distribution system or a production or generating plant * * * for the furnishing of light, heat or power to any municipality or its inhabitants or shall make any extensions thereto, such city or village may assess the whole or any part of the cost thereof to the property benefited thereby, whether abutting or not, in the same manner as is provided for the assessment of benefits * * * under * * * s. 66.60.

(2) Such special assessments may be made payable and certificates or bonds issued * * * under s. 66.54. In villages or cities where no official paper is published, notice * * * may be given by posting said notice in 3 public places in said village or city * * * .

SECTION 10. 66.206 (2), (6), (9) and (10) of the statutes are amended to read:

66.206 (2) The commissioners shall view the premises and determine the amount properly assessable against each parcel of land * * * and shall make and file, in their office, a report and schedule of the assessment so made, and * * * file a duplicate copy of such report and schedule in the office of the clerk of the town, village or city wherein such land is situated.

(6) At the time specified for hearing objections to said report, the commissioners shall hear all parties interested who may appear for that purpose * * * .

(9) If the owner of any parcel of real estate affected by such determination and assessments feels himself aggrieved thereby, he may, within 20 days after the date of such determination, appeal to the circuit court of the county in which his land is situate, and * * * s. 66.60 (12) shall apply to and govern such appeal; provided * * * that the notice therein required to be served upon the city clerk shall be served upon the secretary of the commission, and the bond therein provided for shall be approved by the secretary of said commission, and the duties therein devolving upon the clerk shall be performed by the secretary of the commission.

(10) The commissioners of any such district may provide that such special assessment may be paid in annual instalments not more than 10 in number, and may, for the purpose of anticipating collection of the special assessments, and after said instalments * * * have been determined, issue special improvement bonds payable only out of such special assessment, and * * * s. 66.54 * * * shall apply to and govern the instalment payments and the issuance of said bonds, * * * except that the assessment notice shall be substantially in the following form:

INSTALMENT ASSESSMENT NOTICE

Notice is hereby given that a contract has been (or is about to be) let for (describe the improvement) and that the amount of the special assessment therefor has been determined as to each parcel of real estate benefited thereby, and a statement of the same is on file with the secretary of the district; that it is proposed to collect the same in instalments, as provided by s. * * * 66.54 * * * , with interest thereon at per cent per annum; that all assessments will be collected in instalments, as above provided, except such assessments as the owners of the property shall, within 30 days from the date of this notice, file with the secretary of the commission a statement in writing that they elect to pay in one instalment, in which case the amount of the instalment shall be placed upon the next ensuing tax roll.

SECTION 11. 70.01 of the statutes is amended to read:

70.01 Taxes shall be levied, under * * * this chapter, upon all general property in this state except such as is exempted therefrom. Real estate taxes * * * are deemed to be levied when the tax roll on which they are extended has been delivered to the local treasurer with his warrant for collection. When so levied such taxes shall be a lien upon the property against which they are assessed, superior to all other liens, effective as of May 1 in the year when levied, except in the case of special assessments of benefits for local improvements where the lien of such assessments shall be in force from the time as provided in * * * s. 66.60 (15), and except that such special assessments in cities of the first class shall be in force as provided by the charter or general laws applicable to such cities.

SECTION 12. 70.27 (1) of the statutes is amended to read:

70.27 (1) Whenever any area of land is owned by 2 or more persons in severalty, and when in the judgment of the governing body having jurisdiction, the description of one or more of the different parcels thereof cannot be made sufficiently certain and accurate for the purposes of assessment and taxation without noting the metes and bounds of the same, such governing body may cause a plat to be made for such purposes. Such plat shall be called "assessor's plat," and shall plainly define the boundary of each parcel, and each street, alley, lane or roadway, or dedication to public or special use, as such shall be evidenced by the records of the register of deeds. Such plats in cities may be ordered by the city council, in villages by the village board, in towns by the town board or the county board. The actual and necessary costs and expenses of making assessors' plats shall be paid out of the treasury of the city, village, town or county whose governing body ordered the plat, and all or any part of such cost may be charged to the land so platted in the proportion that the last assessed valuation of each parcel bears to the last assessed total valuation of all lands included in the assessor's plat, and collected as a special assessment on such land, in the manner provided by s. * * * 66.60.

SECTION 13. 83.05 (3) of the statutes is amended to read:

83.05 (3) When a part of the system of county aid highways in a village is to be improved, the village board may determine to pave the same to a greater width than 18 feet, and may pay the additional cost out of the general funds of the village, or assess a part or all of such costs to the abutting property as provided by * * * s. 66.60. A joint contract covering the whole work may be entered into between the county and village officials and the contractor, and the general procedure in regard to the improvement shall be the same as if the improvement had been made in the usual way and the village was not a party to the contract, except that the amount due to the contractor for the additional width of pavement shall be paid by the village. The village board shall determine whether special assessments shall be paid in 1, 3 or 5 years, and the rate of interest on deferred payments.

SECTION 14. 86.18 (4) of the statutes is amended to read:

86.18 (4) The county highway commissioner shall have all the powers now given to the city board of public works in making assessments of benefits and damages in highway improvements, and the same proceedings shall be had and taken after his report is filed with the county clerk as by * * * s. 66.60 is had and taken in the report of such board of public works in city assessments. Notices of both the preliminary and final reports shall be published for 2 successive weeks in the official county paper, and the date of hearing in each case shall not be earlier than 5 days after the last publication. Appeals from the final determination of said highway commissioner may be had, and shall thereafter be heard as provided in s. * * * 66.60 (15) and such remedy shall be exclusive.

SECTION 15. 86.25 (3) of the statutes is amended to read:

86.25 (3) Any city or village may levy special assessments *pursuant to s. 66.60* not exceeding the cost to such city or village against the property benefited thereby to provide funds to match or supplement state or federal aid or both for the construction, reconstruction or improvement under * * * ch. 84, or under any other * * * *statute* of any highway or street which it is authorized to construct, reconstruct or improve, and any city or village is authorized to pay the proceeds of such assessments, certificates or special assessment bonds issued to finance said improvement

to the state highway commission or state treasury as provided in s. 84.03
(1) (b). * * *

SECTION 16. 86.25 (4) of the statutes is created to read:

86.25 (4) Sections 61.55, 62.15 and 66.29 shall not apply to funds
provided or agreements made pursuant to this section.

SECTION 17. This act shall take effect January 1, 1958.

Approved May 22, 1957.
