

thereof shall have been submitted to the electors of such city and adopted by a majority voting thereon. Whenever the common council of any city shall declare its purpose to raise money by issuing bonds for any purpose other than those above specified, it shall direct, by resolution, which shall be recorded at length in the record of its proceedings, the city clerk to call a special election for the purpose of submitting the question of bonding the city to the electors thereof. Such elections shall be noticed, conducted, canvassed and the result declared as provided in this subsection, except that the notice of such special election and the ballot used thereat need not embody a copy of the resolution, but shall contain a statement of the purpose and the amount of the bonds proposed to be issued.

SECTION 2. This act shall take effect upon passage and publication.

Approved August 7, 1929.

No. 210, A.]

[Published August 9, 1929.

### CHAPTER 365.

AN ACT to create subsection (8) of section 20.06, and section 72.26 of the statutes, providing for a refund by the state and counties of such inheritance taxes as were received by them under that portion of subsection (3) of section 72.01, which has been held unconstitutional by the supreme court of the United States, and making an appropriation.

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

SECTION 1. A new subsection is added to section 20.06, and a new section is added to the statutes, to read: (20.06) (8) Inheritance taxes paid into the state treasury in excess of lawful taxation when claims therefor have been established in the manner provided in section 72.26 of the statutes.

72.26 (1) The amount received by the state and the several counties from executors, administrators, trustees and other persons, as inheritance taxes under that part of subsection (3) of section 72.01 of the statutes which has been declared by the supreme court of the United States unconstitutional and void, to wit: "Every transfer by deed, grant, bargain, sale or gift, made within six years prior to the death of the grantor, vendor or

donor, of a material part of his estate, or in the nature of a final disposition or distribution thereof, and without an adequate valuable consideration, shall be construed to have been made in contemplation of death within the meaning of this section," shall be repaid in the manner herein provided to the executors, administrators, trustees or other persons legally entitled thereto.

(2) Any executor, administrator, trustee or person who has paid an inheritance tax under such provisions of said subsection (3) of section 72.01, or in whose behalf the same has been paid, may file in the county court in the county in which the tax was ascertained and adjudicated, a verified petition showing the name of the decedent, the person paying such tax and the amount thereof, including the portions paid to and retained by the county and state and the names and post-office addresses of all persons believed entitled to a repayment of the tax, or known to have a claim or interest therein. Such petition shall set forth the facts necessary to a full determination of the rights of all of the parties in the money to be repaid.

(3) On filing such petition the county court, or a judge thereof, shall fix a time for hearing thereon. Notice of the time fixed for such hearing shall be given to all persons interested in the money to be repaid, by publication of such notice once in each week for three successive weeks prior to such hearing in a newspaper published in said county, to be designated by the county court, or a judge thereof, in the order for hearing, and by service of such notice on the tax commission and the public administrator of the county not less than twenty days before such hearing.

(4) The county court at the time fixed for such hearing or at any adjournment thereof, shall hear the parties interested, or claiming an interest, in the money to be refunded, and any evidence which may be offered. The county treasurer may appear and be heard as to the amount of money originally received by said county and as to the amount thereof transmitted to the state treasurer. The county court shall have jurisdiction to hear and determine the rights of executors, administrators, trustees or other persons to the repayment of the tax and may issue citations, and take the necessary proceedings according to the usual practice of the court for the hearing and determination of such issues. Refund of the amounts paid under such part of said section shall be ordered by the county court unless said county

court shall at such hearing determine that the transfer by deed, grant, bargain, sale or gift involved was made in actual contemplation of the death of the particular grantor, vendor or donor, or was intended to take effect in possession or enjoyment at or after such death; but in case said county court shall determine that such transfer by deed, grant, bargain, sale or gift was made in actual contemplation of the death of the grantor, vendor or donor or was intended to take effect in possession or enjoyment at or after such death, then in such case no repayment of such inheritance taxes determined under such unconstitutional and void part of such section shall be ordered by the county court. The petitioner shall have the burden of proof that the transfer was not made in actual contemplation of death. If a controversy shall arise in respect to the distribution of the money to be refunded the court may direct an issue to be made up by appropriate pleadings, which issue shall be tried by the court without a jury. The court shall thereupon make its determination and enter an order determining the rights of the respective parties to a repayment of such tax, stating separately the portion thereof chargeable as a refund from the state and the portion thereof chargeable as a refund from the county and shall fix the amount of the money to be paid to each person.

(5) Any party aggrieved by such order of the county court in respect to the right of refund may appeal therefrom as from other orders of said court.

(6) Unless an appeal shall have been taken or a stay of proceedings entered, the county court, or a judge thereof, shall after ten days from entry of said order transmit to the state treasurer and to the county treasurer a certified copy of such order for refund. Thereupon the state treasurer shall repay to the persons shown by said order to be entitled thereto the amounts of such refund required by said order. The state treasurer shall charge the proper county treasurer an amount equal to that portion of said refund which said county had theretofore retained of said tax, and shall duly notify the county treasurer of such charge, which charge shall be allowed upon the next quarterly account between said treasurers provided for in section 72.19; provided, however, that the state treasurer may order, direct and allow the proper county treasurer to make the refunds required in said order out of the funds in his hands or custody to the credit of inheritance taxes, and shall credit said

county treasurer with that portion of the tax refunded, which was theretofore paid by the county treasurer to the state treasurer.

(7) Petitions for repayment of inheritance taxes under this section shall be filed in the county court within two years after this section takes effect, and not thereafter. No proceeding under this section shall be had on any inheritance tax paid prior to May 27, 1919, and every person filling a petition hereunder shall be deemed to have waived any other remedy provided by law for the recovery of such taxes or accrued interest thereon.

SECTION 2. This act shall take effect upon passage and publication.

Approved August 7, 1929.

No. 590, A.]

[Published August 9, 1929.

## CHAPTER 366.

AN ACT to amend subsection (1) and the introductory paragraph of subsection (2) of section 59.98 of the statutes, relating to reforestation by counties.

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

SECTION 1. Subsection (1) and the introductory paragraph of subsection (2) of section 59.98 of the statutes are amended to read: (59.98) (1) The \* \* \* county board of any county may \* \* \* by resolution acquire land by tax deed or otherwise for the purpose of establishing a county forest reserve, which resolution may be submitted for approval to a vote of the people if the county board so determine. If the board shall determine not to submit such resolution to a vote of the people or if a petition for submission be not filed as hereinafter provided such resolution shall be referred to the next meeting of the board and shall be published for at least three weeks prior to such meeting. If the board shall fail to submit such resolution then upon a petition signed by ten per cent of the electors of the county voting for governor at the last general election demanding a referendum thereon be presented to the county clerk within ninety days after the adoption of such resolution by the board, the county clerk shall cause the question to be submitted to the electors of the county at the next ensuing general election and the resolution