

court, said court shall thereupon, by order upon motion of the plaintiff or other party to the action, change the venue and transmit all papers to the circuit court of Fond du Lac county, and the action shall thereupon proceed in the circuit court as an action originally begun there, unless the party so served confer jurisdiction on said municipal court by appearing without objection in the municipal court; provided, that in case of such removal, the order for same shall not be entered until proof is filed that notice of application therefor has been given the party so served.

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

Approved May 28, 1915.

No. 413, S.]

[Published June 1, 1915.

## CHAPTER 180.

AN ACT to create section 959—17m of the statutes, relating to park districts within and about cities of the second and third classes.

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

SECTION 1. There is added to the statutes a new section to read: Section 959—17m. 1. Any city of the second or third class, however organized, may by a majority vote of the council create a park district which will comprise such territory as is already included within the boundaries of said city, and any other contiguous territory within the same county, which may become annexed to such park district in any one of the ways provided in subsection 2 of this section. The board of park commissioners of such park district provided for in subsection 3 of this section, and their successors in office, shall be a separate and distinct public corporation, shall assume such official name as the council may designate, and shall possess all the powers necessary or convenient to accomplish the objects and perform the duties prescribed by law.

2. Any territory contiguous to such park district may become annexed to it for park, boulevard and pleasure drive purposes in any one of the following ways:

(a) If a majority of the electors, and the owners of at least one-third in area of the taxable real property in the territory proposed to be annexed, together petition the board of park commissioners of such park district that such territory be annexed, such board may annex such territory by a majority vote of all its members.

(b) If there are no resident electors within the territory pro-

posed to be annexed, the board of park commissioners of such park district may annex such territory upon the presentation of a petition from the owners of at least one-half in area of the taxable real property within such territory asking to be annexed.

(c) Upon the presentation of a petition from not less than fifteen per cent of the electors in any contiguous territory definitely described, the board of park commissioners of such park district may, at its own discretion and upon such terms as it shall determine, order an election to be held in such territory proposed to be annexed at which the question of annexation shall be submitted. The board shall give notice of such election by publication of the petition and of the board's approval in some newspaper published within the park district, once a week for four successive weeks immediately preceding such election. The board of park commissioners shall have authority to provide for the necessary officers, ballots, polling places, and all other things necessary in conducting an election for the submission of such question and for the canvass of returns thereof. If annexation is approved by a majority of the electors voting at such election the board of park commissioners shall declare such territory to be a part of such park district. Whenever a proposition to annex territory has been submitted to an election and rejected, a similar proposition for the same territory may not be again submitted within one year thereafter.

3. Whenever any such park district shall have been established it shall be under the supervision of a board of park commissioners. Such board shall consist of five members, who shall be residents and electors in such park district and who shall be appointed by the mayor and confirmed by the council of the city which was created as such park district. Whenever such park district shall include territory outside the corporate limits of such city, with resident electors therein, the mayor shall thereafter appoint not less than one nor more than two members of said board who are residents and electors in such territory outside the corporate limits of the city. When a park district is created as provided in subsection 1 of this section, the first members of the board of park commissioners shall be appointed for terms of one, two, three, four and five years, respectively. Thereafter when the term of any park commissioner shall expire, his successor shall be appointed for a full term of five years. Any vacancy in such board caused otherwise than by expiration of term shall be filled by an appointment for the remainder of such unexpired term.

4. The board of park commissioners shall annually elect one of its members president, one treasurer, and a secretary who may

be elected from among the members of the board. The treasurer shall execute and deliver a bond to the corporation by its official name with sureties to be approved by said board, in a sum equal to at least the amount of taxes apportioned to the park district, conditioned for the faithful performance of the duties of his office. Such commissioners shall serve without compensation, but shall be reimbursed for actual and necessary expenses incurred in the performance of their duties. Three commissioners shall constitute a quorum for the transaction of business. The board may employ a secretary, a superintendent, and such other employes as it may deem necessary, and fix their compensation. No member of the board of park commissioners shall be appointed to any such position except that of secretary; provided, that if any member of the board be elected secretary he shall serve without compensation.

5. It shall be the duty of the board of park commissioners, and it shall have power, jurisdiction and authority:

(a) To adopt rules and by-laws for its organization and the regulation of its business.

(b) To receive from any person, or private or public corporation by gift, transfer, devise or in trust any money, property, land, trust or right of way.

(c) To adopt rules, regulations and ordinances for the government, management, control and protection of all parks, boulevards and pleasure drives over which its powers and jurisdiction extend under the provisions of this section, and to secure the quiet, orderly and suitable use and enjoyment thereof by the people, and to fix and ordain penalties for the violation thereof. Such ordinances shall take effect from and after the publication thereof in the official newspaper of said city, and the same shall be enforced by prosecution in the municipal or police courts of said city as in the case of other ordinances of said city. The city attorney of said city shall have charge of all prosecutions and shall prosecute all violations of such park ordinances before the municipal or police courts of such city. The clerk of such court shall receive all fines imposed by said court for the violation of park ordinances, and shall keep full, accurate and detailed account of the same, and shall, on the first Monday of every month, deliver over to the treasurer of said board of park commissioners all moneys so received, which moneys when so paid shall be used for the purposes of said board. Any member of such board of park commissioners or its superintendent, and such other employes as it may designate in writing, shall have the powers of police officers for the enforcement of all rules, regulations and ordinances adopted by said board.

(d) To buy or lease lands for park, boulevard or pleasure drive purposes within the county in which such park district is situated, and, with the approval of the council of the city constituting the original park district, to sell or exchange property no longer required for its purposes.

(e) To acquire by condemnation any real estate within that part of the park district within the city limits which it shall be authorized to take for the purposes of its organization, in the same manner, so far as applicable, as is provided in sections 895 to 903, inclusive, of the statutes.

(f) To change or improve all parks, boulevards or pleasure drives within the city limits, controlled by the board, at the expense of the real estate to be benefited thereby, as hereinafter provided.

(g) To have exclusive and absolute control and power to plant, transplant, maintain, protect, and care for shade trees in any of the public highways of said park district.

(h) Generally to govern, manage, control, maintain, and improve all parks, boulevards, pleasure drives, or other property over which its powers and jurisdiction extend under the provisions of this section, and to acquire and maintain such equipment as may be necessary to properly carry out these purposes.

(i) To publish an annual report of its accounts and transactions. The books of the board of park commissioners shall be public records open to inspection.

6. Any city, town or village lying in whole or in part within such park district may transfer to the board of park commissioners the control of any park, boulevard, pleasure drive, or highway or any other open space controlled by such city, town or village, upon such terms as may be mutually agreed upon. Any such city, town or village may enter into an agreement with the board of park commissioners for the joint control of any parks, boulevards or pleasure drives within the county. The board of park commissioners may transfer to any such city, town or village, by mutual agreement, the management and control of any park, boulevard, pleasure drive, or highway or any other open space controlled by the board. Any public park corporation organized under the provisions of sections 1787a to 1787o, inclusive, of the statutes, may, by the unanimous vote of its board of directors, transfer to such board of park commissioners as trustee any parks, boulevards, or pleasure drives, or any gifts or grants therefor, over which its powers and jurisdiction extend under the provisions of said sections; any property so transferred shall be held by such board of park commissioners subject to all the condi-

tions and trusts under which it was held by such public park corporation.

7. (1) Whenever any change or improvement of parks, boulevards or pleasure drives within the city limits is proposed by the board of park commissioners at the expense of the real estate to be benefited thereby, it shall view the premises and determine the damages and benefits which will accrue to each parcel of real estate by such proposed change or improvement; the entire cost of the proposed change or improvement, the benefits and damages that will accrue to the several parcels of real estate thereby, and the amount that should be assessed under the provisions of this section to each parcel of such real estate as benefits accruing thereto by such proposed change or improvement. Said board shall make and file in its office a report showing its determination on the questions so required to be considered by it.

(2) Notice shall be given by the board of park commissioners that such report is open for review at its office and will be so continued for the space of ten days after the date of such notice and that on a day and hour named therein, which shall be not more than three days after the expiration of said ten days, said board will hear all objections that may be made to such report. Such notice shall be published in the official newspaper of the city at least once and copies of such notice shall be posted at convenient places at intervals of not more than five hundred feet along any highway through or adjacent to the real estate so determined to be affected by such proposed change or improvement. Such posted notices shall be printed in type not smaller than pica. Such publication and posting shall be made five days prior to the date of hearing objections as aforesaid. No irregularity in the form of such report, nor of said notice, shall affect its validity if it fairly contains the information required to be conveyed thereby. At the time specified for hearing objections to said report, said board shall hear all parties interested, who may appear for that purpose, reduce to writing all objections that may be made and all evidence that may be offered to sustain the same, and may review, modify and correct said report as it deems just; and thereupon a complete and final report and determination shall be made and filed by said board in its office, together with all objections and evidence taken before it to sustain the same and proof of publication of said notice and an affidavit of the posting thereof as herein specified, which affidavit shall be received in all cases as presumptive evidence of the facts therein stated. No irregularity in the form of said report or manner of conducting the proceedings by said board, or in the proof of publication or in the affidavit of posting, shall affect the legality of said report,

unless it shall appear that the owners of the property affected by the proceedings were clearly misled by such irregularity and have not had an opportunity to be heard. At such hearing any member of the board may administer oaths. Thereupon, when such final determination shall have been reached by the said board it shall publish notice in the official paper of the city once in each week for two successive weeks that a final determination has been made as to the benefits and damages that will accrue to the real estate in the case of the proposed change or improvement, and of the benefits and damages to be assessed to the real estate in the case of such proposed change or improvement.

(3) If the owner of any parcel of land mentioned in said notice feels himself aggrieved by reason of the determination made by the board of park commissioners, he may, within twenty days after the date of such determination, appeal therefrom to the circuit court, and such appeal shall be taken, tried and determined and bonds for costs shall be given and costs awarded in like manner as in cases of appeals from the disallowance of claims under chapter 40a of the statutes; provided, that in case any contract shall have been made for making the proposed change or improvement, said appeal shall not affect said contract, but a certificate against the parcel of real estate in question for the amount of benefits assessed to such parcel shall be issued notwithstanding such appeal; and in case the appellant shall succeed, the difference between the amount charged in the certificate so issued and the amount adjudged to be paid as benefits accruing to the parcel of real estate described in such certificate shall be paid from the funds of the park district. The appeal herein provided for from the report of the board of park commissioners, as finally confirmed by such board shall be the only remedy of the owner of any parcel of land or of any person interested therein affected by such change or improvement for the redress of any grievance he may have by reason of the making of such change or improvement covered by said report.

(4) If in any action at law the court shall determine that any special assessment as provided for in this section is invalid for any cause, the board of park commissioners shall proceed forthwith to make a new assessment of benefits and damages against the property of the plaintiff as required herein in the case of such original assessment, in accordance with the provisions of section 1210e of the statutes, so far as applicable.

8. It shall be the duty of the board of park commissioners to receive and consider requests from property holders within the park district asking for the planting or alteration of shade trees or for any other improvement in the highway abutting the prop-

erty of said property holders. If such improvement meets with the approval of the board, it may make such improvement in such manner and on such terms as it may agree upon with said property holders.

9. The board of park commissioners may incur indebtedness for the purpose of acquiring, laying out, and improving parks, boulevards and pleasure drives, or lands for parks, boulevards, or pleasure drive purposes. Such indebtedness shall at no time exceed one-quarter of one per cent of the assessed valuation of the taxable property within the park district. All bonds issued by the board shall be made payable in not more than twenty years, and the board shall establish a sinking fund which shall secure the payment of such bonds at maturity. The board shall include in its annual tax estimate a sum sufficient to pay the interest on such bonded debt and to maintain said sinking fund. All bonds issued by said board shall be certified by the treasurer of the city included within said park district before they are delivered to the purchaser, and may be registered if the board of park commissioners shall so direct.

10. The board of park commissioners shall, prior to the first day of October in each year, make an estimate of the expenses of said board for the ensuing year, including all necessary incidental expenses, and the amount thereof which it will be necessary to raise by taxation; such amount to be raised by taxation shall not exceed one mill on the assessed valuation of the taxable property within said park district. The said board shall apportion such amount among the cities, towns and villages, or parts of cities, towns, and villages, which constitute such park district, according to the assessed valuation of the taxable property within such park district in said cities, towns and villages, or parts thereof. Said board shall certify such apportioned amounts to the respective city, town and village clerks, including in such certificate any special assessment, as provided for in this section, assessed against any property within any such city, and said clerks shall thereupon carry out on the tax rolls of such cities, towns, or villages, respectively, for such year, a tax for the purposes of said park district on all taxable property within that portion of their respective cities, towns or villages within such park district and such tax so carried out on such tax rolls is hereby declared duly levied and a lien on such taxable property until paid the same as other taxes, as provided by law. It shall be the duty of the treasurers of such cities, towns and villages to collect said tax in the same manner as other taxes, and the said treasurers, respectively, shall pay over to the treasurer of said board of park commissioners in each year within ten days after the date fixed by

law for the return of taxes as delinquent, the amount in full of taxes so carried out on said rolls and assessed on said property in their respective cities, towns and villages for the purposes of such board of park commissioners. If the taxes hereby provided for shall not be collected by said treasurers, they shall be returned as delinquent taxes, and their collection shall be enforced in the manner provided by law for collecting delinquent taxes; when collected such delinquent taxes shall be paid over to the treasurer of said board of park commissioners.

11. No city, town or village, in connection with which any such park, boulevard, or pleasure drive shall be maintained under the provisions of this section, shall be liable for any damage resulting from any want of repair or insufficiency in construction or maintenance of any parks, boulevards or pleasure drives, nor shall any such board of park commissioners or its officers, agents or servants, be liable for any damage resulting from any want of repair or insufficiency therein. There shall be placed at conspicuous points within and upon such parks, boulevards and pleasure drives, outside of the city limits, at intervals of not exceeding one mile, a notice in large plain letters as follows: "Any person using this park (or boulevard, or drive, as the case may be) does so at his own risk as to defects therein."

12. It shall be the duty of the treasurer of the board of park commissioners to keep all moneys received or raised in any way for the purposes of such board of park commissioners, and to pay out the same upon certified bill, voucher or schedule signed by the president and secretary of said board setting forth the names of the claimants, the amounts of each claim and the purpose for which expended. He shall preserve and invest such funds in such manner as may be prescribed by the board.

13. All lands or personal property owned or held in trust by any such board of park commissioners shall be exempt from taxation.

SECTION 2. This act shall not be construed to repeal sections 959—9 to 959—17, inclusive, or sections 1787a to 1787o, inclusive, of the statutes.

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

Approved May 28, 1915.