

No. 150, S.]

[Published June 25, 1945.]

CHAPTER 352.

AN ACT to renumber 9 (3) to be 9 (3) (a); to create 9 (3) (b), 21 (3), and 23 (6); and to amend 1, 2 (1), 6, 9 (2) and (5), 10 (1) and (2) as amended by chapter 179, laws of 1937, 25, 26, and 27, all of chapter 275, laws of 1931, relating to the grant of powers, board of assessment, purchase of property optional, notice of assessment hearings, dedication of land, and review of assessments, notice of appeal, procedure on appeal, extensions of payments, penalty for nonpayment, payment in full and assessment on part of property as to tax roll and sale in cities of the first class.

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

SECTION 1. Section 9 (3) of chapter 275, laws of 1931, is renumbered 9 (3) (a).

SECTION 2. Sections 9 (3) (b), 21 (3), and 23 (6) of chapter 275, laws of 1931, are created to read:

(Chapter 275, Laws of 1931) Section 9 (3) (b) *Dedicated land.* In assessing benefits to any land remaining of a larger parcel of any owner who has given or dedicated a portion of such parcel for the proposed improvement, said board shall take into account an amount not to exceed the reasonable value of the land so given or dedicated.

Section 21 (3) MAILING OF BILLS TO OWNERS. Within 10 days after the publication and posting by the city comptroller of the city improvement notice, the city treasurer shall mail to the owner or one of the owners of each lot, parts of lots or parcels of land within the benefited district, a bill for the full amount of the benefit assessment upon the real estate of said owner or owners. Said bill shall state the time when the benefit assessments may be paid without interest to the city treasurer. Such mailing shall be sufficient if directed to the person or persons named upon the tax roll at the address appearing thereon. Any failure to so mail any bill shall not affect the assessment nor create any liability.

Section 23 (6) ASSESSMENT ON PART OF PROPERTY; TAX ROLL; SALE. When only a part of any property is within the benefit district and benefits are assessed against

the part of the property within the benefit district, the assessment or instalments thereof may be extended on the tax roll as provided by subsection (4) of this section or the entire property may be described on the tax roll and the assessment payable in one payment or the instalments of any assessment against the property within the benefit district may be placed opposite the description of the whole property on the tax roll, so that if said assessment is unpaid, the entire property shall be sold for nonpayment of said assessment. If said assessment is placed on the tax roll for collection purposes only, as in the case of the issue of bonds herein which may be foreclosed and in case of foreclosure for the nonpayment of the assessment, the foreclosure shall be against the entire property of which only part is assessed for said benefits.

SECTION 3. Sections 1, 2, (1), 6, 9 (2) and (5), 10 (1) and (2) as amended by chapter 179, laws of 1937, 25, 26, and 27 of chapter 275, laws of 1931 are amended to read:

(Chapter 275, Laws of 1931) Section 1. Any city of the first class in this state may exercise the power of acquiring any property by gift, purchase or the power of eminent domain for any of the purposes stated in Section 3a of Article XI of the constitution of this state and also for public alleys, grounds, harbors, libraries, museums, school sites, *vehicle parking areas*, airports, markets, hospitals, ward yards, bridges, viaducts, water works, water mains and distribution, projecting, constructing, and maintaining sewers, *slum elimination*, *low income housing*, *blighted area redevelopment*, and any other municipal purposes; and the power of determining the damages caused by the exercise of the aforesaid power and by any public improvement herein authorized, and the power of making, levying and collecting special benefit assessments upon property benefited, and the power of financing improvements, and all powers conferred by this act, in the matter hereinafter provided.

Section 2 (1) A board of assessment is hereby created, composed of 3 members to be appointed by the mayor and confirmed by the common council of said city. Within 30 days after the rejection of any appointment by the common council the mayor shall send to the common council a new appointment. The term of each member shall be 3 years next following the January 1 of the year in which his appointment is made and until the appointment and qualification of his successor, except that the

first 3 members shall be appointed respectively for such terms that on January 1 in each of the 3 years next following the year in which they are appointed the term of one member shall expire. After such original appointments one member shall be appointed annually in the month of December to succeed the member whose term will expire on the January 1 then next following. One member shall have a general understanding of matters pertaining to real estate values in said city and shall be a licensed real estate broker under the laws of this state of at least 5 years' experience; one member shall be a civil engineer of at least 5 years' experience and have a general understanding of building and construction costs; and one member shall be an owner of property in said city. All * * * members shall be residents and electors of the city. Said board shall elect its own chairman who shall preside over all meetings of said board. * * * *The members shall give so much of their time as may be required to the performance of the duties herein provided. The compensation of each member of said board shall be fixed by the common council * * *, which may provide for greater compensation to such as give full time to such city.* Said board shall perform the duties hereinafter stated.

Section 6. After the adoption of the plan by the city, the city may purchase any property needed to carry out said plan and include the cost of such purchased property together with property acquired by condemnation in the assessment of benefits, but it shall not be necessary for the city to purchase or attempt to purchase any property so needed before starting condemnation proceedings. If the city acquires or has acquired all the properties necessary to carry out its adopted plan prior to or during the pendency of condemnation proceedings and prior to the verdict of a jury on the necessity of taking of such property, no further condemnation proceedings shall be necessary, and the common council may authorize the board of assessment, as herein provided, to determine the damages and benefits in the same manner as after a verdict of necessity. Any property acquired during condemnation proceedings may be omitted from the verdict of the jury, but the verdict of the jury shall be obtained as to all remaining pieces of property not then acquired. *After the verdict of necessity has been rendered, the city may not acquire any property subject to the verdict by purchase, but damages therefor shall be determined as hereinafter provided.*

Section 9 (2) The said board shall then publish in the official newspaper of said city, or any other newspaper published or of general circulation in said city, for not less than 6 days, a notice that at a certain time, which shall not be less than 12 days after the first publication of said notice, and at a certain place, during certain hours, *to be designated in the published notice*, of each * * * successive day, Sundays, and legal holidays excluded, for not less than * * * 3 days or for such longer time as said board may deem necessary, it will meet to hear such testimony as any party interested may desire to offer as to the damages or benefits, or both, resulting from the proposed improvement. Said notice shall also be posted in at least 6 public places in said benefit district, the number and location of said places to be determined by said board, and said board shall in its report to the common council certify the number of notices and dates and places of posting the same and such certification shall be sufficient evidence of such posting and no removal, defacement, or destruction of such notices without the actual consent or authority of said board shall invalidate the proceedings. Said notices shall be served personally upon all persons who have appeared personally in the action described in section 7 or upon their attorneys, if any, at least 12 days prior to said hearing unless they are non-residents or cannot be found in the city, in which case the aforesaid publication of said notice shall be sufficient. It shall be sufficient to state in such notice in brief for what improvement said assessment of benefits and damages is to be made and the general boundary lines of the benefit district as heretofore adopted by the common council, and a small map of said district may in the discretion of said board be published or posted.

Section 5. After said assessment of benefits and damages shall have been made by said board the said board shall publish notice for not less than 6 days in the official paper of said city, or in any other newspaper published or having a general circulation in said city, that such assessment has been made and that the same will be open for review and correction at a certain time and place, which time shall not be less than 12 days after the last publication of such notice, for not less than * * * 3 successive days, Sundays and legal holidays excluded, and such extension of such period as said board may find necessary, during certain hours *to be designated in the published notice*,

* * * and that all who desire may view and inspect said assessment or be heard as to any objections they desire to make to such assessment or as to any request for a review and correction of the same and that after the close of said hearing said assessment, as made by said board, or as reviewed and corrected by them, will be submitted to the common council of said city for its consideration and confirmation, either as submitted to it or as afterward revised and corrected, in the manner provided herein. Said notice shall also be posted, and the posting be certified to, in like manner as the previous notice given by said board and with the same effect. It shall be sufficient to state in said notice in a brief and general way for what improvement said assessment has been made and describe the general boundary lines of the benefit district, and the assessment board may in its discretion post or publish a small map showing said benefit district.

Section 10 (1) Any person or persons owning or having any interest in any property affected by said assessment, either by way of assessment of damages or assessment of benefits, may within 20 days after the confirmation of such assessment by the common council, appeal therefrom to the circuit court of the county in which the assessment is made by filing with the clerk of said circuit court a notice of appeal setting forth therein *the address of his usual place of abode*, his interest and the interest of any other person or party in the property and all liens of any kind whatsoever thereon, and the grounds of the appeal, together with a bond to the city making the assessment in the penal sum of \$100, conditioned for the payment of all costs that shall be adjudged against him on such appeal, which bond shall be signed by at least 2 sufficient sureties, each of whom shall make affidavit endorsed upon such bond that he is worth \$100 over and above all his debts and property not exempt from execution; and said bond and sureties, if objected to by the city attorney, shall also be approved by the judge of said court. Any surety company authorized to act as surety in this state may sign bond as surety. The said appeal shall be ineffectual unless the appellant shall also, within said 20 days, serve a copy of the notice of appeal and bond upon the city attorney. In case of appeal under the provisions of this section, the city clerk shall send to the clerk of the said circuit court a certified copy of the assessment of damages and benefits made by said board and as con-

firmed by the common council, but if there shall be more than one appeal, said city clerk shall then send only one certified copy of said assessment for all appeals. Any person may pay any benefits assessed against his property without prejudice to his right of appeal under this section or section 20.

Section 10 (2) The appeals shall be tried as ordinary issues of fact are tried in said circuit court, the form of the issue being subject to the direction of the court. The court may permit any person or persons interested in the damages or benefits to the same piece of property to become parties to the appeal from the assessment of damages or benefits to said piece of property, upon their petition setting forth the nature and extent of such interest. If upon such appeal the verdict of the jury awards an amount less than the award of damages made by said city, the amount of damages awarded by the verdict of the jury shall be the amount of damages to be received, less * * * the taxable costs of the city, as full compensation for the property involved in the appeal; *should the verdict of the jury award an amount greater than the award made by the city, the verdict award shall be the amount of damages to be received with interest only on the amount by which the award is increased by the jury.* Pending the determination of such appeal, the award of damages paid into court as provided in this act shall be withdrawn only upon filing a bond to be approved by the court or judge to repay the amount by which such award may be decreased upon such appeal with costs and with interest from the date of such withdrawal. If upon such appeal the benefits assessed by the said city shall be diminished, or the damages assessed shall be increased, then and in either case the appellant shall recover his taxable costs on such appeal, otherwise the city shall recover taxable costs. Such appeal shall have preference over all other civil cases not on trial and may be brought on for trial by either party.

Section 25. * * * Extension of the time of payment of any such benefit assessment *or instalment payments* due and payable shall be granted * * * to any owner or owners of any property desiring an extension of the payment of other taxes, general or special, as may be permitted by law * * *; *except that no extension shall be granted if bonds have been or will be issued as hereinafter provided, in which event any owner or owners of any property desiring an extension of the payment of*

other taxes, general or special, as may be permitted by law, shall first pay any such assessment of benefits against the same property assessed under this act and then due and payable.

Section 26. Single payment assessments with the interest thereon, and instalment payments together with interest payable with them on the unpaid instalments, if not paid when due and payable as herein provided, shall bear interest * * * from *January 1 after the tax year at the rate then provided by law for delinquent real estate taxes.*

Section 27. The owner of the property or person having any interest in the same, charged with the payment of any such assessment or any instalment thereof, *if no bonds have been nor will be issued as hereinafter provided,* shall have the privilege of paying such entire assessment in full at any time by paying all the interest thereon to * * * *the last day of the month in which the payment is made,* except only as to any instalment due within * * * 2 months from the date of such payment, upon which instalment interest shall be paid only to the date of maturity thereof. *If bonds have been or will be so issued then such entire assessment may be so paid in full at any time by paying all the interest thereon to a day 6 months after the date of said payment, except only as to any instalment due within 6 months from the date of such payment, upon which instalment interest shall be paid only to the date of maturity thereof.*

Approved June 20, 1945.

No. 239, S.]

[Published June 25, 1945.

CHAPTER 353.

AN ACT to amend 75.67 (Introductory paragraph) and 75.68 of the statutes, relating to tax sales and certificates in Milwaukee city and county, and to consideration in sale of land for nonpayment of taxes.

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

SECTION 1. 75.67 (Introductory paragraph) of the statutes is amended to read:

75.67 (Introductory paragraph) (1) In counties containing a city authorized to sell land for non payment of its taxes, whenever either such county or city acquired, subsequent to January