

No. 711, A.]

[Published August 12, 1955.

CHAPTER 560

AN ACT to renumber 66.60 (5) (g); to amend 66.60 (8) (a) and (d), (12), (13) (e) and (f), (14) (a) and (15) (a); and to create 66.60 (5) (g) of the statutes, relating to special assessments for public improvements in cities and villages.

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

SECTION 1. 66.60 (5) (g) of the statutes is renumbered 66.60 (5a).

SECTION 2. 66.60 (5) (g) of the statutes is created to read:

66.60 (5) (g) 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. (d) shall be replaced by a schedule of the proposed assessments.

SECTION 3. 66.60 (8) (a) and (d), (12), (13) (e) and (f), (14) (a) and (15) (a) of the statutes are amended to read:

66.60 (8) (a) After the hearing upon any proposed work or improvement, the governing body may approve, disapprove or modify, or it may re-refer the report prepared pursuant to subs. (4) and (5) to the designated officer or employe with such directions as it may deem necessary to

change the plans and specifications and to accomplish a fair and equitable assessment * * * .

(d) Upon the publication or posting of this final resolution, any work or improvement provided for therein shall, subject to * * * 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. (13).

(12) 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 the governing body shall determine to reconsider and reopen any * * * assessment * * * , it is hereby empowered, after giving notice as provided in sub. (7) and after public hearing, to amend, cancel or confirm any such prior assessment, and thereupon notice of the resolution amending or canceling such prior assessment shall be given by the clerk as provided in sub. (8) (c).

(13) (e) An appeal under this subsection shall be the sole remedy of the owner or any person having an interest in any parcel of land affected by such improvement for the redress of any grievance he may have by reason of the making of such improvement or the making of any assessment of benefits or award of damages *or the levy of any special assessment* therefor 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.

(14) (a) *When the levy is limited to benefits conferred*, no special assessment * * * shall be held invalid because the amount thereof is either more or less than the amount required for the work or improvement for which made. If the amount be more than necessary, the excess shall first be credited on the next succeeding unpaid instalment of the assessments already levied against the individual parcels of property and any balance then remaining shall be refunded to the property owners in proportion to those assessments. If the amount assessed be less than necessary, or if the court upon appeal shall award a greater sum or find a lesser sum than that appealed from, the additional amount required may, in the discretion of the governing body, either be paid by the city or village from any funds available therefor or be assessed against the property benefited by the work or improvement and added to the original assessment.

(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 an 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 as otherwise provided by statute.

Approved August 4, 1955.