

No. 142, S.]

[Published June 12, 1943.]

CHAPTER 278.

AN ACT to amend 67.01 (8) (g) and 67.04 (2) (1); to create 62.211, 66.54, 67.01 (8) (h) and 67.04 (5) (q) of the statutes, relating to payment for public improvements, and terminating the use of contractor's certificates and special improvement bonds issued pursuant to sections 62.20 and 62.21 (statutes of 1941) after June 30, 1943.

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

SECTION 1. 62.211 of the statutes is created to read:

62.211 LIMITATION ON USE OF SECTIONS 62.20 AND 62.21. The procedure specified in sections 62.20 and 62.21 and all the rights provided therein, shall continue to be applicable to all contractor's certificates or special improvement bonds and instalments thereof and the special assessments underlying the same, authorized to be issued prior to July 1, 1943, until all such special assessments have been collected or have been outlawed by operation of the statutes of limitation. No contractor's certificates or special improvement bonds shall be authorized under said sections after June 30, 1943.

SECTION 2. 66.54 of the statutes is created to read:

66.54 SPECIAL IMPROVEMENT BONDS; CERTIFICATES. (1) DEFINITIONS. Wherever used or referred to in this section, unless a different meaning clearly appears from the context:

(a) "Municipality" means county, city, village, town, farm drainage board, sanitary districts, utility districts, and all other public boards, commissions or districts, except cities of the first class, authorized by law to levy special assessments for public improvements against the property benefited thereby.

(b) "Governing body" means the body or board vested by statute with the power to levy special assessments for public improvements.

(c) "Contractor" means the person, firm or corporation performing the work or furnishing the materials, or both, for a public improvement.

(d) "Public improvement" means the result of the performance of work or the furnishing of materials or both, for which special assessments are authorized to be levied against the property benefited thereby.

(e) "Sinking fund" means the fund, however derived, set aside for the payment of principal and interest on contractor's certificates or bonds issued under this section.

(2) **METHODS OF PAYMENT FOR PUBLIC IMPROVEMENTS.** In addition to the other methods prescribed by law, payment of the cost of any public improvement authorized by the governing body of any municipality on or after July 1, 1943, may be made by any one of the following methods or a combination thereof:

(a) Payment by the municipality out of its general funds.

(b) Payment out of the proceeds of the sale of bonds issued by it, pursuant to section 67.04.

(c) Contractor's certificates, constituting a lien against a specific parcel of real estate.

(d) General obligation—local improvement bonds, or the proceeds thereof.

(e) Special assessment B bonds, or the proceeds thereof.

(3) **PRELIMINARY PAYMENT ON COST OF PUBLIC IMPROVEMENTS.** Whenever it is determined that the cost of any public improvement about to be made is to be paid, wholly or in part, by special assessments against the property to be benefited by the improvement, the resolution authorizing such public improvement shall provide and require that the whole, or any stated proportion, or no part of the estimated aggregate cost of such public improvement, which is to be levied as special assessments, shall be paid into the municipal treasury in cash. No such public improvement shall be commenced nor any contract let therefor unless and until such payment, if any, required by said resolution, is paid into the treasury of the municipality by the owner or persons having an interest in the property to be benefited, which payment shall be credited on the amount of the special assessments levied or to be levied against benefited property designated by the payer. In the event that a preliminary payment is required by said resolution, the refusal of one or more owners or persons having an interest in the property to be benefited to pay such preliminary payments shall not prevent the making of such improvement, if the entire specified sum is obtained from the remaining owners or interested parties.

(4) **DISCOUNT ON CONTRACT PRICE.** Every bid hereafter received for any public improvement which is not to be paid wholly in cash shall contain a provision that all payments

made in cash by the municipality as provided by contract or made on special assessments as hereinafter provided shall be subject to a specified rate of discount. The municipal treasurer shall issue a receipt for every such payment made on any special assessment, stating the date and amount of the cash payment, the discount and the total credit including such discount, on a specified special assessment or assessments. The treasurer shall on the same day deliver a duplicate of such receipt to the clerk, who shall credit the specified assessments accordingly. All moneys so received shall be paid to the contractor as provided by the contract.

(5) PAYMENT BY MUNICIPALITY. Whenever any such public improvement has been paid for by the municipality, contractor's certificates as provided for in subsection (6), or general obligation-local improvement bonds as provided for in subsection (9), or special assessment B bonds as provided for in subsection (10) may be issued to the municipality as the owner thereof. All of the provisions of said subsections (6), (9), and (10) applicable to the contractor or to the owner of such contractor's certificates or to such general obligation-local improvement bonds or to such special assessment B bonds shall be deemed to include the municipality which has paid for such improvement and to which such contractor's certificates, general obligation-local improvement bonds or special assessment B bonds have been issued, except as in this section otherwise provided.

(6) PAYMENT BY CONTRACTOR'S CERTIFICATE. (a) Whenever any public improvement has been made and has been accepted by the governing body of the municipality, it may cause to be issued to the contractor for such public improvement, a contractor's certificate as to each parcel of land against which special assessments have been levied for the unpaid balance of the amount chargeable thereto, describing each parcel. Such certificate shall be substantially in the following form:

\$..... (name of municipality) No.....

CONTRACTOR'S CERTIFICATE FOR CONSTRUCTION
OF.....

(name of municipality)

Issued pursuant to Section 66.54 (6) Wis. Stats.

We, the undersigned officers of the (name of municipality), hereby certify that (name and address of contractor) has performed the work of constructing.....in

..... benefiting the following premises,
 to wit: (insert legal description) in the (name of municipality),
County, Wisconsin, pursuant to a contract entered
 into by said (name of municipality) with the said (name
 of contractor), dated, and that.....
 entitled to the sum ofDollars, being the unpaid
 balance due for said work chargeable to the property herein-
 above described.

NOW, THEREFORE, if the said sum shall not be paid to the
 Clerk of (name of municipality) for the benefit of (name of contractor)
 heirs, executors, administrators, successors or assigns, as the case may
 be, before the first day of December, next, the same shall be assessed
 upon the property above described as listed in the tax roll of the
 (name of municipality), and collected for the use and benefit of the
 holder of this certificate, as provided by law.

This certificate is transferable by endorsement but such assignment
 or transfer shall be invalid unless the same shall be recorded in the
 office of the Clerk of the (name of municipality) and the fact of such
 recording is endorsed on this certificate. **THE HOLDER OF THIS
 CERTIFICATE SHALL HAVE NO CLAIM UPON THE (name of municipality) IN
 ANY EVENT, EXCEPT FROM THE PROCEEDS OF THE SPECIAL ASSESSMENTS
 TO BE MADE FOR SAID WORK.**

This certificate shall bear interest at 6% per annum from its date
 to January first next succeeding. This certificate may be exchanged
 for the tax sale certificate resulting from the sale of the above
 described lands for failure to pay the special assessment levied for
 the cost of the work hereinabove described.

Given under our hands at (name of municipality),
 this.....day of....., 19.....

Countersigned: (Mayor, President, Chairman)

.....
 Clerk, (name of municipality)

Assignment Record.

Assigned by

to

..... of.....
 (Original Contractor) Name of Assignee)

Address of Date and
 assignee) signature
 of clerk)

(b) Such certificate shall in no event be a municipal liability and shall so state in bold face type printed on the face thereof. Upon issuance of said certificate, the clerk of the municipality shall notify, by mail, the owner of said parcel as the same appears on the last assessment roll, that payment is due on said certificate at the office of said clerk, and if such owner shall pay such amount or part thereof so due, said clerk shall cause the same to be paid to said contractor or his assignee and shall note the fact of such payment on the face of said certificate and on the municipal record. The clerk shall keep a record of the names of the persons, firms or corporations to whom such contractor's certificates shall be issued and of the assignees thereof when the fact of assignment is made known to such clerk. Assignments of such contractor's certificates shall be invalid unless recorded in the office of the clerk of the municipality and the fact of such recording be endorsed on said certificate. The clerk shall be entitled to make payments to the holder of the certificate as shown on the municipal record and shall endorse such payment on the contractor's certificate. Upon final payment of the certificate, the same shall be delivered to the clerk of the municipality.

(c) After the expiration of 90 days from the date of such certificate or any general obligation-local improvement bond or special assessment B bond hereinafter provided for, the same shall be conclusive evidence of the legality of all proceedings up to and including the issue thereof and prima facie evidence of the proper construction of the improvement.

(d) If said certificates are not paid before December 1 in the year in which they are issued, the comptroller or clerk of the municipality shall thereupon include in the statement of special assessments to be placed in the next tax roll an amount sufficient to pay such certificates, with interest thereon at the rate of 6 per cent per annum from the date of such certificates to January 1 next succeeding, and thereafter the same proceedings shall be had as in the case of general property taxes, except as in this section otherwise provided. Such delinquent taxes shall be returned to the county treasurer in trust for collection and not for credit. All moneys collected by the municipal treasurer or by the county treasurer and remitted to the municipal treasurer on account of such special assessments and all the tax certificates issued to the county on the sale of the property for such special

assessment, if the same is returned delinquent, shall be delivered to the owner of the contractor's certificate on demand.

(7) ANNUAL INSTALMENTS OF SPECIAL ASSESSMENTS. (a) The governing body of any municipality may provide that special assessments levied to defray the cost of any public improvement, except sprinkling or oiling streets, may be paid in annual instalments of not more than 10 in number.

(b) The first instalment shall include a proportionate part of the principal of the special assessment, determined by the number of instalments, together with interest on the whole assessment at a rate not exceeding 6 per cent per annum and from such date, not prior to the date of the notice hereinafter provided for, and to such date, not later than December 31, in the year in which same is to be collected as shall be determined by the governing body, and each subsequent instalment shall include a like proportion of the principal and one year's interest upon the unpaid portion of such assessment.

(c) The first instalment shall be entered in the first tax roll prepared after said instalments shall have been determined as a special tax on the property upon which the special assessment was levied, and thereafter this tax shall be treated in all respects as any other municipal tax, except as in this section otherwise provided. One of the subsequent instalments shall be entered in a like manner and with like effect in each of the annual tax rolls thereafter until all are levied.

(d) If any instalment so entered in the tax roll shall not be paid to the municipal treasurer with the other taxes it shall be returned to the county as delinquent and accepted and collected by the county in the same manner as delinquent general taxes on real estate, except as in this section otherwise provided.

(e) Whenever the governing body shall determine to permit any special assessments for any local improvements to be paid in instalments it shall cause a notice to be published in the official paper, if the municipality has one, otherwise it shall cause such notice to be posted in 3 public places in such municipality. Such 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 affected thereby and a statement of the same is on file with the clerk; it is proposed to collect the same in instalments, as provided for by section 66.54 of the Wisconsin statutes, with interest thereon at per cent per annum; that all assessments will be collected in instalments as above provided except such assessments on property where the owner of the same shall file with the clerk within 30 days from date of this notice a written notice that he elects to pay the special assessment on his property, describing the same, to the treasurer on or before the next succeeding December 1. If, after making such election, said property owner shall fail to make the payment to the treasurer, the clerk shall place the entire assessment on the next succeeding tax roll.

Dated.....

Clerk of (name of municipality)

(f) After the time for making such election shall have expired, any assessment may be paid in full before due, only upon the payment of such portion of the interest to become due thereon as the governing body shall determine.

(g) A schedule of the assessments and instalments thereof shall be recorded in the office of the clerk of the municipality forthwith.

(h) All special assessments and instalments of special assessments which are returned to the county as delinquent by any municipal treasurer pursuant to this section shall be accepted by the county in accordance with the provisions of this section, shall be set forth in a separate column of the delinquent return and shall be plainly distinguished in such return from special assessments or instalments of special assessments issued under laws in effect on and prior to June 30, 1943, which shall continue to be returned as provided in section 62.21.

(8) SPECIAL ASSESSMENT BONDS—INSTALMENTS.

In order to provide immediately the cash for the payment of the cost of any public improvement, the municipality may issue bonds payable in instalments of like number as the instalments of the underlying special assessment levied to pay for such public improvement. Such bonds may be:

- (a) General obligation—local improvement bonds.
- (b) Special assessment B bonds.

(9) GENERAL OBLIGATION—LOCAL IMPROVEMENT BONDS. (a) For the purpose of anticipating the collection of special assessments payable in instalments as provided in this section and after such instalments have been determined, the governing body may issue general obligation-local improvement bonds as more particularly described in this subsection.

(b) The issue of such bonds shall be in an amount not to exceed the aggregate unpaid special assessments levied for the public improvement which such issue is to finance. A single issue of such bonds may be used to finance one or more different local improvements for which special assessments are authorized to be made in the same year. The provisions of sections 67.035, 67.06, 67.07, 67.08, and 67.11, where not contrary to the provisions of this section, shall be applicable to such bonds. Such bonds shall mature in the same number of instalments as said special assessments, but the date of maturity of each instalment of said bonds shall be fixed in October, November, or December. The first maturity of such bonds may be in the second year following the date of levy of the first instalment of the underlying special assessment. At the time of the authorization of such bonds, the governing body of the municipality shall levy a tax upon all the taxable property of said municipality sufficient to provide for the payment of the principal and interest of said bonds at maturity, which tax levy shall be irrevocable. All collections of instalments of the special assessments levied to pay for such public improvement, either before or after delinquency thereof, shall be placed by the municipal treasurer in a special sinking fund, designated and identified for such issue of such bonds, and shall be used only for the payment of said bonds and interest of such issue. The annual instalment of the irrevocable tax levied for the purpose of payment of such bonds and interest thereon, shall be diminished by the amount on hand in such sinking fund on November 1 of each tax levy year after deducting any unpaid interest and principal due in that year, and said amount so on hand in said fund shall be applied to the payment of the next succeeding instalment of principal and interest named on said bonds. Any deficiency in the sinking fund for the payment of such bonds and interest thereon at maturity shall be paid out of the general fund of the municipality and such general fund shall

be reimbursed from the collection of such part of the aforesaid irrepealable tax as is actually levied. Any surplus in said sinking fund after all bonds and interest thereon are fully paid, shall be paid into the general fund.

(c) If any instalment of the aforesaid special assessment so entered in the tax roll shall not be paid to the municipal treasurer with the other taxes, it shall be returned to the county treasurer as delinquent in trust for collection. If the tax sale certificate resulting from the sale of said delinquent special assessment is bid in at the annual county tax sale by any person, firm or corporation other than the county, the county treasurer shall pay to the municipality the full amount received therefor, including interest, and the municipal treasurer shall thereupon pay the amount of such remittance into such special sinking fund for the redemption of such bonds.

(d) If at any sale of taxes by the county treasurer no bid by any person, firm or corporation shall be made for any lot or parcel of land subject to special assessment which was returned to the county treasurer as delinquent, pursuant to paragraph (c) hereof, and said land is bid in by the county, the tax sale certificate evidencing the sale of said land may thereafter upon request therefor by the municipal treasurer duly authorized by the governing body of the municipality, which returned said special assessment as delinquent, be assigned to said municipality in its corporate name, and thereupon said municipality shall be vested with the same rights as are other tax sale certificate purchasers or owners, including the right to take a tax deed in its name, except as in this section otherwise provided.

(e) Whenever such a certificate shall have been so acquired by any municipality, the governing body thereof, to protect its interest, may authorize and direct its treasurer to bid in and become the exclusive purchaser in the corporate name of such municipality of such land at any sale of the same by the county treasurer for any tax or tax lien, and the said municipality shall be vested with the same rights as are other purchasers, except as in this section otherwise provided, and provided further that said municipality shall, before becoming the exclusive purchaser of said land for delinquent taxes or special assessment taxes, purchase, redeem, or acquire by assignment, any outstanding tax sale

certificates of date equal or subsequent to the certificate of tax sale held by the municipality, upon which it bases its right to become such exclusive purchaser. When a tax deed shall be issued to such municipality, the deed may be issued in the same manner in which tax deeds are issued to individuals. The land covered by said deed shall be exempt from further general property taxes until May 1 following the date on which the same is sold by the municipality taking the tax deed and until such sale the municipal clerk shall annually, before May 1, furnish the assessor of said municipality a list of the lands of such municipality exempt from taxation under this paragraph, and such assessor shall make said lands exempt.

(10) SPECIAL ASSESSMENT B BONDS. (a) For the purpose of anticipating the collection of special assessments payable in instalments, as provided in this section and after said instalments have been determined, the governing body may issue special assessment B bonds payable out of the proceeds of such special assessments as provided in this section. Such bonds shall in no event be a general municipal liability.

(b) The issue of such bonds shall be in an amount not to exceed the aggregate unpaid special assessments levied for the public improvement which such issue is to finance. A separate bond shall be issued for each separate assessment and said bond shall be secured by and be payable out of only the assessment against which it is issued. Such bonds shall mature in the same number of instalments as said special assessments. Such bonds shall carry coupons equal in number to the number of special assessments, which coupons shall be detachable and entitle the owner thereof to the payment of principal and interest collected on the underlying special assessments. Such bond shall be signed by the chief executive and the clerk of the municipality and the corporate seal of the municipality shall be affixed thereto and the bond shall contain such recitals as may be necessary to show that it is payable only out of the special assessment on the particular property against which it is issued and the purpose for which same was levied and such other provisions as the governing body shall deem proper to insert.

(ba) Payments of principal and interest shall conform as nearly as may be to the payments to be made on the instalments

of the assessment, and the principal and interest to be paid on the bonds shall not exceed the principal and interest to be received, on the assessment. All collections of instalments of the special assessments levied to pay for such public improvement, either before or after delinquency thereof shall be placed by the municipal treasurer in a special sinking fund designated and identified for such issue of bonds and shall be used only for the payment of said bonds and interest of such issue. Any surplus in said sinking fund after all bonds and interest thereon are fully paid, shall be paid into the general fund.

(c) Such bonds must be registered in the name of the owner thereof on the records of the clerk of the municipality by which said bonds were issued. Upon transfer of the ownership of such bonds the fact of such transfer must be noted upon the bond and on the record of the clerk of such municipality. Any transfer not so recorded shall be null and void and the clerk of the municipality shall be entitled to make payments of principal and interest to the owner of the bond as registered on the books of the municipality.

(d) Principal and interest collected on the underlying special assessments as well as interest collected on the delinquent special assessments and on delinquent tax certificates issued therefor shall be paid by the treasurer of the municipality out of the sinking fund created for the issue of such bonds to the registered holder thereof upon the presentation and surrender of the coupons due attached to said bonds. Whenever such underlying special assessment is not paid and the same is struck off to the county at the tax sale, the registered owner of the bond may surrender his coupon to the county treasurer who thereupon shall assign to him the tax sale certificate underlying such special assessment. If any instalment of the aforesaid special assessment entered in the tax roll shall not be paid to the municipal treasurer with the other taxes, it shall be returned to the county treasurer as delinquent in trust for collection.

(e) If the tax sale certificate resulting from the sale of said delinquent special assessment is bid in at the county tax sale, or redeemed subsequent to the tax sale by any person, firm or corporation other than the county, the county treasurer shall pay to the municipality, the full amount received therefor, including

interest, and the municipal treasurer shall thereupon pay the amount of such remittance into a special sinking fund created for the payment of such special assessment B bonds.

(11) AREA GROUPING OF SPECIAL ASSESSMENTS. Whenever the governing body determines to issue general obligation-local improvement bonds pursuant to subsection (9) of this section, it may group the special assessments levied against benefited lands and issue such bonds against such special assessments so grouped as a whole. All such bonds shall be equally secured by such assessments without priority one over the other.

(12) DISPOSITION OF SPECIAL ASSESSMENT PROCEEDS WHERE IMPROVEMENT PAID FOR OUT OF GENERAL FUND OR BONDS ISSUED UNDER SECTION 67.04. Whenever special assessments are levied for any public improvements, all amounts collected on such special assessments or received from the county shall be placed in the general fund of the municipality in case the payment for the improvement was made out of its general fund, or in the sinking fund required for the payment of bonds issued under section 67.04 if such improvement was paid out of the proceeds thereof. Such special assessments, when delinquent, shall be returned in trust for collection and the municipality shall have the same rights as provided in subsection (9) (c), (d) and (e).

(13) LIEN OF TAX SALE CERTIFICATES. The lien of any tax sale certificate issued pursuant to this section shall be superior to the lien of all tax sale certificates of prior date but shall be subordinate to the lien of all general property tax sale certificates of the same or a subsequent date not outlawed by limitation. The limitation prescribed by section 75.20 as to tax sale certificates issued to and owned by counties and municipalities shall apply as to all tax sale certificates issued pursuant to the terms of this section to any municipality as defined in subsection (1) (a).

(14) PAYMENT REQUIRED TO OBTAIN TAX DEED. At the time of obtaining a tax deed on a tax certificate based on a special assessment levied under the provisions of section 66.54, the applicant therefor shall be required to pay to the county treasurer a sum equal to the principal amount of city, village or town general and school taxes included in all tax certificates not outlawed by limitation held by the county treasurer, and dated

prior to the special tax certificates on which the tax deed is applied for. The county treasurer shall apply such payments as a partial redemption of such respective tax certificates.

SECTION 3. 67.01 (8) (g) of the statutes is amended to read:
67.01 (8) (g) * * * To mortgage bonds or mortgage certificates issued for the purpose of acquiring public utilities, including street railways, pursuant to section 66.06.

SECTION 4. 67.01 (8) (h) of the statutes is created to read:
67.01 (8) (h) To contractor's certificates, general obligation-local improvement bonds or special assessment B bonds issued pursuant to section 66.54 except as therein specified.

SECTION 5. 67.04 (2) (1) of the statutes is amended to read:
67.04 (2) (1) To pay the cost of laying out, opening or widening streets; to provide street improvements; to create either a revolving or a temporary fund out of which to advance the cost of any work for which special assessments may be levied, in anticipation of the collection by the city treasurer of the special assessments, special improvement certificates, * * * *special improvement bonds, contractor's certificates, general obligation-local improvement bonds, or special assessment B bonds* made or issued for the cost thereof; or to pay the city's portion of the cost of abolishing grade crossings.

SECTION 6. Section 67.04 (5) (q) of the statutes is created to read:

67.04 (5) (q) For the purposes specified in subsection (2) (1) of this section.

Approved June 10, 1943.