

No. 3, A.]

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CHAPTER 131

AN ACT to repeal 61.40 to 61.44 (1), 61.45, 61.455, 61.70, 62.16 (1) and (3) to (7) and (9), 62.18 (2) to (12), (14), (15), (17), (18), 62.19, 62.22 (5) (a) and (c) and (6), 66.08 (3) and (4), 75.53 and 75.56 to 75.59; to renumber 62.16 (2) and (8), 62.17 (1) to (7), 62.195, 66.21 and 66.22 to 66.26, 66.61, 75.65 and 75.66; to renumber and amend 61.37 and 66.22 (5) (b); to amend 62.16 (2) (a) and 62.23 (14); and to create 61.39, 66.615 (10), 66.62 (2), 66.625, 66.63 (5) and 66.635 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. 61.37 of the statutes is renumbered 66.63 and amended to read:

66.63 ASSESSMENT OF CONDEMNATION BENEFITS. (1) As a complete alternative to any other method provided by law, for the purpose of payment of the expenses, including such excess of damages and all other expenses and costs incurred for the taking of private property * * * for the purpose set forth in ss. 32.02 (1) * * * , 61.34 (3) and 62.22, the * * * governing body of the town, city or village may, by resolution, levy and assess the whole or any part of such expenses, as a * * * special assessment upon such property as they * * * determine is specially benefited thereby, and they shall include in said levy the whole or any part of the excess of benefits over total damages, if any, making therein a list * * * of every lot or parcel of land so assessed * * * , the name of the owner thereof, if known, and the amount levied thereon * * * .

(2) Such resolution * * * shall be published once in each week for 2 weeks in a newspaper published * * * or in general circulation in such town, city or village, or if there * * * is no such newspaper 3 copies thereof shall be posted by the clerk in 3 * * * public places * * * therein, and a notice therewith that at a * * * time * * * stated therein, the * * * governing body will meet at their usual place of meeting and hear all objections which may be made to such assessment or to any part thereof. If such resolution levies an assessment against property outside the corporate limits, notice as provided herein shall be given by mailing a copy of the resolution and the notice by registered mail to the last known address of the owner of such property. A copy of such resolution shall be filed with the clerk of the town in which the property is located.

(3) At the time so fixed the * * * *governing body* shall meet and hear all such objections, and for that purpose may adjourn * * * *to a date set by the governing body, until the hearing is completed,* and * * * *shall* by resolution *confirm or modify* such assessment in whole or in part. At any time before the first day of November thereafter any party liable may pay any such * * * *assessment* to the *town, city or village* treasurer. On such first day of November, if any such * * * *assessment* remains unpaid, the * * * treasurer shall make a certified statement showing what * * * *assessments* so levied remain unpaid, and file the same with the * * * clerk, who shall extend the same * * * upon the tax roll of such * * * *municipality*, in addition to and as part of all other * * * taxes therein levied on such land, to be collected therewith.

SECTION 2. 61.39 of the statutes is created to read:

61.39 SERVICE PIPES AND SEWERS. The provisions of s. 62.16 (8), relating to service pipes, and s. 62.18, relating to sewers, shall be applicable to villages.

SECTION 3. 61.40 to 61.44 (1) of the statutes are repealed.

SECTION 4. 61.45 and 61.455 of the statutes are repealed.

SECTION 5. 61.70 of the statutes is repealed.

SECTION 6. 62.16 (1) of the statutes is repealed.

SECTION 7. 62.16 (2) of the statutes is renumbered 62.16 (1) and 62.16 (1) (a) is amended to read:

62.16 (1) (a) The council shall have authority to establish the grade of all streets and alleys in the city, and to change and re-establish the same as it * * * *deems* expedient. Whenever it * * * *changes or* * * * *alters* the permanently established grade of any street any person thereby sustaining damages to his property on such street * * * *may have such damages* * * * *set off against any special assessment levied against his property for any public improvement made in conjunction with such grade change or may maintain an action to recover such damages.*

SECTION 8. 62.16 (8) of the statutes is renumbered 62.16 (2).

SECTION 9. 62.16 (3) to (7) and (9) of the statutes are repealed.

SECTION 10. 62.17 (1) to (7) of the statutes are renumbered 66.615 (1) to (7).

SECTION 11. 62.18 (2) to (12), (14), (15), (17) and (18) of the statutes are repealed.

SECTION 12. 62.19 of the statutes is repealed.

SECTION 13. 62.195 of the statutes is renumbered 66.62 (1).

SECTION 14. 62.22 (5) (a) and (c) of the statutes are repealed.

SECTION 15. 62.22 (5) (b) of the statutes is renumbered 66.63 (4) and amended to read:

66.63 (4) At the time of making out the tax roll, next after the filing of any assessment *to pay the expenses incurred* in proceedings for the condemnation of lands outside the * * * *corporate* limits, the town clerk shall enter in said roll * * * *the* benefits not offset by damages or an excess of benefits over damages * * * which * * * shall be levied on the land described as a special * * * *assessment* and shall be collected the same as other taxes. Such amounts when collected shall be paid over to the city or village treasurer to be applied in payment of any damages or excess

of damages over benefits awarded by such assessment; and in case the amount of such special * * * assessments are insufficient to pay all damages or excess of damages over benefits so awarded, then the difference shall be paid * * * by the city or village. Any such damages or excess of damages over benefits may be paid out of such fund prior to the collection of such special * * * assessments, to be reimbursed therefrom when collected.

SECTION 16. 62.22 (6) of the statutes is repealed.

SECTION 17. 62.23 (14) of the statutes is amended to read:

62.23 (14) The expense of acquiring, establishing, laying out, widening, enlarging, extending, paving, repaving and improving streets, arterial highways, parkways, boulevards, memorial grounds, squares, parks and playgrounds, and erecting bridges under any plan adopted by the common council pursuant to this section or s. 27.11, including the cost of all lands and improvements thereon which it is necessary to acquire to carry out such plan, whether acquired by direct purchase or lease, or through condemnation, and also including the cost of constructing any bridge, viaduct or other improvement which is a part of the plan adopted by the common council, may be assessed, in whole or in part, to the real estate benefited thereby, in the same manner in which under existing law in such city benefits and damages are assessable for improvements of streets. * * * Whenever plans are adopted which are supplementary to each other the common council may by ordinance combine such plans into a single plan within the meaning of this section. *Section 66.54 shall apply to all assessments made under this subsection.*

SECTION 18. 66.08 (3) and (4) of the statutes are repealed.

SECTION 19. 66.21 and 66.22 to 66.26 of the statutes are renumbered 66.694 to 66.699, respectively.

SECTION 20. 66.61 of the statutes is renumbered 66.325.

SECTION 21. 66.615 (10) of the statutes is created to read:

66.615 (10) The provisions of this section shall not apply to cities of the first class but shall be applicable to villages and when applied to villages:

- (a) "City" means village.
- (b) "Council" means village board.
- (c) "Board of public works" means the committee or officer designated to handle street or sidewalk matters.
- (d) "Comptroller" means clerk.

SECTION 22. 66.62 (2) of the statutes is created to read:

66.62 (2) Every such ordinance shall contain provisions for reasonable notice and hearing. Any person against whose land a special assessment is levied under any such ordinance shall have the right to appeal therefrom in the manner prescribed in s. 66.60 (12) within 40 days of the date of the final determination of the governing body.

SECTION 23. 66.625 of the statutes is created to read:

66.625 LATERALS AND SERVICE PIPES. Whenever the governing body shall by resolution require water, heat, sewer and gas laterals or service pipes to be constructed from the lot line or near the lot line to the main or from the lot line to the building to be serviced, or both, it may provide that when the work is done by the city or village or under a city or village contract, a record of the cost of constructing such laterals or service pipes shall be kept and such cost, or the average current cost of laying such laterals or service pipes, shall be charged and be a lien against the lot or parcel served.

SECTION 24. 66.63 (5) of the statutes is created to read:

66.63 (5) Any person against whose land an assessment of benefits is made pursuant to this section may appeal therefrom in the manner prescribed in s. 32.11 within 30 days of the adoption of the resolution required under sub. (3).

SECTION 25. 66.635 of the statutes is created to read:

66.635 REASSESSMENT OF INVALID CONDEMNATION AND PUBLIC IMPROVEMENT ASSESSMENTS . (1) If in any action other than an action pursuant to s. 66.60 (12), for the recovery of damages arising from a failure to make a proper assessment of benefits and damages, as provided by law, or failure to observe any provision of law, or because of any act or defect in any proceeding in which benefits and damages are assessed, and in any action to set aside any special assessment, special assessment certificate, bond or note, tax sale or tax-sale certificate based upon such special assessment, the court determines that such assessment is invalid by reason of a defective assessment of benefits and damages, or for any cause, it shall stay all proceedings, frame an issue therein and summarily try the same and determine the amount which the plaintiff justly ought to pay or which should be justly assessed against the property in question. Such amount shall be ordered to be paid into court for the benefit of the parties entitled thereto within a time to be fixed. Upon compliance with said order judgment shall be entered for the plaintiff with costs. If the plaintiff fails to comply with such order the action shall be dismissed with costs.

(2) If the common council or village board determines that any special assessment is invalid for any reason, it may reopen and reconsider such assessment as provided in s. 66.60 (10).

SECTION 26. 75.53 of the statutes is repealed.

SECTION 27. 75.56 to 75.59 of the statutes are repealed.

SECTION 28. 75.65 and 75.66 of the statutes are renumbered 66.64 and 66.645.

SECTION 29. The amendment, renumbering, repeal or repeal and recreation of any statute by this act shall not affect any local ordinance enacted by a city of the first class adopting any such statute unless such local ordinance is enacted subsequent to the effective date of this act.

SECTION 30. This act shall take effect January 1, 1958.

Approved May 22, 1957.
