

board of public works of any city. *Provided*, that nothing in this act shall be construed to apply to city or county officer, who, by virtue of his office as such, holds, occupies or exercises the functions of any other public office.

SEC. 2. This act shall take effect and be in force from and after its passage.

Approved April 13, 1901.

## CHAPTER 379.

S. F. No. 328.

*An act to authorize and empower cities in this state, which now have or hereafter may have no more than fifty thousand and not less than ten thousand inhabitants to make local improvements and to assess the cost thereof on property benefited thereby.*

Cities of not over 50,000, not less than 10,000 inhabitants.

Be it enacted by the Legislature of the State of Minnesota:

SECTION 1. That all cities in the State of Minnesota which now have or hereafter may have no more than fifty thousand and not less than ten thousand inhabitants, are hereby authorized and empowered to fill, grade, curb, plank, pave, gravel and macadamize its streets, lanes, alleys and highways; to construct, lay, relay, enlarge and repair sidewalks, retaining walls, area walls, gutters, sewers and private drains; to build and place protection fences and railings along streets, alleys and highways for the safety of pedestrians; to plant, maintain and protect shade or ornamental trees along its streets, lanes, alleys and highways; to abate nuisances and to drain swamps, marshes and ponds and to fill the same, in such city; and to sprinkle its streets, lanes, alleys, highways and public grounds, and to levy assessments for the cost of all the improvements mentioned above, upon property to be benefited by such improvements, in the manner and as hereinafter designated.

Empowered to make certain improvements.

Levy assessments.

SEC. 2. The expense of any improvement mentioned in the foregoing section, except as otherwise specially provided in this act, shall be defrayed by an assessment upon the real estate benefited thereby, to be levied, enforced and collected in the manner hereinafter prescribed, except that all or any part of the expense of paving, repaving, graveling, macadamizing, filling and grading of the space occupied by street intersections may, if the city council of such city deems it expedient, be paid out of the general fund of such city.

Expense assessed upon real estate benefited. Exception.

Two or more improvements may be done under one resolution.

SEC. 3. Two or more improvements upon one or more streets, either of paving, curbing, graveling, macadamizing, planking, grading or filling, or constructing retaining walls, protection fences, area walls, sewers, gutters or drains, or either or any of them, may be done at the same time under one resolution and may be included in one contract if deemed advisable by the city council of such city so to do.

City engineer to make plans and specifications. With estimate of cost.

SEC. 4. Prior to the passage of any resolution for the doing of any work or the making of any improvement hereinbefore specified, the expense of which is to be assessed upon property benefited, except as otherwise specially provided in this act for certain designated kinds of improvements, the city council of such city shall cause plans and specifications of such proposed work, together with an estimate of the probable expense thereof, to be made by the city engineer of such city, or by such other person as may be employed by the said city council for that purpose, and presented to said city council for its consideration and approval, and the same shall immediately upon the approval thereof by said council be filed with the city clerk or recorder of such city for the inspection of all parties interested.

Time and manner of receiving proposals, notice by clerk.

The city council shall then designate a time, not less than twenty (20) days distant, and a place at which it will meet and act in relation to the doing of the proposed work and the making of the proposed improvement, and direct that notice be given by the clerk or recorder of such meeting, and the time, place and purpose thereof, and that in the meantime sealed proposals for the doing of such work and the furnishing of all material therefor, if required, will be received by said clerk or recorder, and opened in the presence of such council at such meeting.

Notice to state location and nature of improvements.

In such notice shall be concisely stated the location of the proposed work, the general nature of the proposed improvement; that the said plans, specifications and estimate therefor have been so filed with the clerk or recorder, and that all persons interested will be heard at such time and place; the said notice shall be given by publication thereof in the official paper of such city, at least once in each week for two successive weeks prior to the time designated as aforesaid by the said city council.

Official publication.

Shone-Hydro-Pneumatic system.

SEC. 5. Whenever the system of sanitary sewerage known as the Shone-Hydro-Pneumatic system, or any system other than a natural gravitation system, shall be adopted and established in and for any such city or for any portion of the same, the city council thereof in each

instance, when it proposes to cause such sanitary sewers or system of sewers to be constructed or laid, for the drainage of any given portion of such city, shall first determine and accurately describe, by ordinance, the area of territory to be made tributary to an ejector or pumping station to be constructed for such district, and in each instance such territory, so defined, shall be known as a sewer district in such city and shall be properly designated by number.

Sewer districts to be numbered.

After sewers or sewer pipes shall have been constructed or laid in any such district, or any portion thereof, in accordance with plans adopted for such district, the city council of such city shall have no power or authority to change the boundary lines of such district, nor to increase or diminish the extent of territory made tributary to the ejector or pumping station therein; *provided*, that whenever it shall be found advisable after any such district has been established to make a portion of such district tributary to the pumping station of an adjoining district, for the purpose of obtaining a better and more efficient drainage for such portion, then and in such event, the said council may, by an affirmative vote of two thirds (2-3) of all its members, cause such change to be made, after the city engineer of such city shall have filed his opinion in writing, deeming such change proper and advisable.

When council not to change boundary lines.

Exception.

Whenever any such sewerage system, other than a natural gravitation system, shall be adopted and established in any such city, the cost and expense of all machinery, ejectors, pumps, air compressors, compressed air storage tanks, and all compressed air pipes and connections, and of erecting and installing all such machinery and appliances and the cost of constructing and laying the final discharge and outlet pipes from the ejector or pumping chamber, in such district to its terminus, shall be paid by the city at large out of the general fund of such city; and no greater amount than the cost of material and labor for and of constructing and laying all sewers and sewer pipes, and the cost and expense of material and labor for, and of constructing and equipping all flush tanks, the ejector or pumping chamber or chambers and attendant manholes and all other manholes in each such district, shall be chargeable to and assessed upon the lots and parcels of land found benefited in any such district.

What part of cost to be paid out of general fund.

What assessed to real estate benefited.

Whenever only a portion of a sewerage district, established as in this section provided, shall be constructed and only a part of the territory in such district shall be pro-

When only portion of sewage district shall be constructed. Cost divided.

vided with sewers, then and in such event there shall be assessed upon the property benefited thereby, such portion only of the cost of the ejector or pumping chamber and adjoining manhole, if constructed for the ultimate use of the entire district, as said council may deem equitable and just, and the balance of such cost, not so assessed, shall in the first instance be paid out of the general fund of such city, and upon each and every subsequent extension of sewers in such district, such portion of the cost of such ejector or pumping chamber and adjoining manhole, as may be deemed just and equitable by said city council, shall be included in the assessment for the cost of such extension, until such district has been fully completed, and each assessment for such portion of such chamber and manhole shall be returned into said general fund as the same shall be collected from time to time.

Contract may be for entire improvement or for work alone.

SEC. 6. Any contract for the making of any improvement designated in this act may be for the entire improvement complete and include all labor, material, machinery and whatever may be necessary for the full completion thereof, or may be for the doing of the work alone, such city furnishing the necessary material therefor, as the city council of such city may deem to be the best interest of such city; and such council may also, at its discretion, cause the making of any such improvement by separate contracts for different portions thereof or by separate contracts for the labor, material and machinery required for the making of such improvement; in each such instance the notice, prescribed by section 4 of this act, shall contain a distinct statement of the nature and extent of such separate contracts, and shall definitely describe such separate portions of such improvement.

Contract for a portion.

See Sec. 4.

City may contract for machinery etc.

Whenever any machinery or mechanical appliances shall form a part of any improvement authorized by this act, the city council of such city may award a contract for the same after taking into consideration the efficiency, duty, cost of operation and maintenance and the construction, workmanship and operation generally of the several machines or appliances designated in the several bids, without regard to the amount of such bids.

Sprinkling district established by resolution.

SEC. 7. Before any proceedings are had by any such city council for the sprinkling of any of the streets, lanes, alleys or public grounds in any such city, such council shall each year, by resolution in writing, determine what territory in such city shall be sprinkled during such year, and may divide such territory into two or more sprinkling

districts, describing the boundary lines of each such district; each district so determined shall be designated by number, and thereafter all reference to such district by number in any notice required by this act, or in any other proceeding having reference thereto, shall be deemed a sufficient designation; said resolutions shall designate what officer or officers of said city shall supervise and inspect said work in accordance with the plans and specifications therefor; such resolution shall be published once in the official paper of such city.

Publication of resolution

The contract price to be paid by said city for the doing of such work shall be upon the basis of sprinkling one hundred (100) square feet per week, during the life of such contract; if in the opinion of said council it is deemed impracticable, at the time of letting any such contract, to designate the exact length of time during which sprinkling is necessary in any or all of the districts designated during any particular season, said council may let such contract without so designating the beginning and the end of such sprinkling season; and upon the city so letting such contract the city council of such city shall have power to order the beginning of said work upon three (3) days' notice to the contractors therefor, and shall likewise have power to order said work to cease for the season in any or all districts or in any portion of any one district, if in their opinion no necessity therefor exists, and such order and direction shall be final, conclusive and binding upon all parties concerned.

Basis of sprinkling  
100 square  
feet per week

Sprinkling  
season.

Council au-  
thority to fix  
beginning  
and termin-  
ation of  
sprinkling  
season.

Any number of districts may be included in one contract and any or all action by the city council with reference to sprinkling may be with reference to the entire territory to be sprinkled.

Contract  
may include  
any number  
of districts.

SEC. 8. At the time and place designated in the notice prescribed by section four (4) of this act, an opportunity shall be given by the city council of such city to any and all interested parties to be heard for or against the proposed work designated in such notice, and the clerk or recorder of such city shall, in the presence of the said council, open and read all sealed proposals which may have been received for the doing of such work or the furnishing of material, if any, therefor, or both, as the case may be, and the city council of such city may then, by an affirmative vote of a majority of all its members, by resolution in writing, accept the most favorable proposal (such proposal to be that of the lowest responsible bidder) and by such resolution authorize the doing of the proposed work or any part thereof, by the person or per-

Council to  
give inter-  
ested parties  
hearing as  
to proposed  
work.

Council to  
accept lowest  
responsible  
bid.

May re-  
ject bids.

May author-  
ize work to  
be done under  
direction of  
city engi-  
neer.

sons whose proposal shall have been accepted, and direct that written contract be made with him or them therefor; or may reject any or all proposals offered and refuse to authorize to do such work or of any particular part thereof; or if it is deemed by said council to be to the best interest of the city, and the estimate of the city's engineer is less than the lowest bid for said work and material, may reject all proposals offered, and authorize the doing of such work under the direction of the city engineer without contract, or may in its discretion, from lack of quorum or any other reasons, postpone the consideration and decision of the whole matter, or any branch thereof to a future definite time, of which postponement all parties interested shall be required and deemed to take notice.

Mayor to  
approve res-  
olution with-  
in five days  
from sub-  
mission.

Mayor's  
veto.

Such resolution, after the same has been duly adopted by the said council, shall be signed by the president of such council and attested by the said recorder or clerk, and on the next day after the adoption thereof the same shall be transmitted by such clerk or recorder to the mayor of such city for his approval. If the mayor approves the same he shall append his signature, with the date of his approval thereto, and return the same to the clerk or recorder within five (5) days, Sundays excepted, from the date of its transmission to him; and if he declines to approve the same he shall, within said period of five (5) days (Sundays excepted), return the same to the clerk or recorder with a statement of his objections thereto, to be presented to the said council at its next meeting thereafter.

Two-thirds  
vote to  
pass over  
mayor's veto.

Upon the return of said resolution to the city council, without the mayor's approval, the question shall again be put upon the passage of the same, notwithstanding the objections of the mayor, and if upon such vote, which shall be taken by a call of the ayes and noes, two-thirds (2-3) of all the members of the said council shall vote in favor of the adoption of such resolution, the same shall be declared adopted and shall have the same force and effect as if approved by the mayor.

Resolution  
not returned  
within five  
days  
deemed to be  
approved.

If such resolution, transmitted to the mayor, shall not be returned by him to the said recorder or clerk within said five days (Sundays excepted), after presentation thereof to him, the same shall be deemed to be approved by him, and he shall deliver the same to the clerk or recorder on demand.

SEC. 9. All contracts authorized by this act for any of the improvements therein designated, shall be executed

on behalf of such city by the mayor and attested by the clerk or recorder thereof.

SEC. 10. That each such city is hereby authorized, whenever a contract is let for the paving or macadamizing of any of its streets, to include in such contract, when deemed expedient or necessary, the construction and laying, as far as the property lines, of all lateral sewers and drain connections that may be deemed expedient or necessary, and that the cost of such work shall be assessed by said council upon the real estate benefited thereby, and enforced and collected in the manner and under the regulations provided by this act for other local improvements in such city.

SEC. 11. In making any improvements herein authorized, the said council may select patented appliances and material to enter into such construction, if the cost, maintenance and duty thereof is deemed relatively the lowest or most satisfactory, all things considered, and the decision of said council therein shall be final.

SEC. 12. Each such city is hereby authorized to provide, establish, equip and maintain and cause to be operated under the supervision of the street commissioner of such city, municipal quarries for the purpose of providing stone, rock and macadam for municipal improvements and uses; and suitable works, apparatus and other facilities for the manufacture, construction and laying of macadam, asphalt, or other kinds of street pavements and sidewalks, as the city council of such city may determine.

Whenever any material is furnished by or obtained from any such municipal quarries, works, apparatus or other facilities, and employed in the construction of making any public improvements provided for in this act, the cost of which is to be assessed upon property benefited thereby, the street commissioner of such city shall immediately upon the completion of said improvement certify the cost of such material so furnished and employed in the making of said improvement, and all work in connection therewith to the city council of such city, and such certificate shall be placed on file with the city recorder for the inspection of all parties interested; the amount so certified shall be deemed a part of the cost of the improvement so to be assessed, and an assessment shall be made therefor, levied and collected in the same manner as though said work had been performed and said material delivered by contract, as hereinbefore provided.

SEC. 13. Whenever the board of health shall report to the city council of any such city that stagnant or impure

Contracts to be executed by mayor on behalf of city, attested by clerk.

Contract for paving may include sewer and drain connections, cost of same to be assessed upon real estate benefited.

Council may select patented appliances and material.

Municipal quarries and works for manufacturing paving material.

Street commissioner to certify cost of material and work.

Board of  
health to  
report  
nuisance.

City engi-  
neer to re-  
port plan  
for abate-  
ment of  
nuisance.

water stands upon any lot, lots or parcels of land within such city, thereby creating a nuisance injurious to public health, said council shall immediately proceed to investigate the same, and if they shall determine that a nuisance does exist by reason of any stagnant or impure water standing upon any lot, lots or parcel of land, and the same is injurious to public health, they shall instruct the city engineer to prepare and recommend a plan and specifications for the abatement of said nuisance, together with an estimate of the expense, which shall be submitted to said council and filed with the recorder, the same as for other public improvements designated in this act, and if said council deems that sufficient real estate can be found benefited to the extent of the damages, costs and expenses necessary to be incurred thereby, such council shall order the doing of said work in the manner hereinbefore provided, and the same proceedings shall be had in relation thereto by said council and other city officers as in case of other local improvements provided for in this act, and the cost thereof shall be assessed upon the property benefited as hereinafter provided.

Unforeseen  
obstacles.

SEC. 14. If the city council of any such city, in carrying out any of the provisions of this act, should find unforeseen obstacles in grading, excavating, filling, paving or abating nuisances, or in constructing sewers or drains, not provided for, such city council may by resolution order such change or modification in such improvement to meet such unforeseen obstacles, as the said council may deem equitable and just, upon the recommendation of the city's engineer in charge of such work, at any time before or after the letting or making of any contract to do the same, or at any time while the work is in progress, by an affirmative vote of two-thirds (2-3) of all the members of such council; and any additional expense occasioned by such change, addition or modification of the improvement may be included in the assessment therefor upon property benefited by such improvement, but no additional expense shall be incurred other than may be necessary to overcome such unforeseen obstacle: *provided*, that if the expense required to overcome such unforeseen obstacle will materially increase the cost which would be incurred in the work, if such unforeseen obstacle had not occurred, then the city council of such city shall have power, by resolution in writing, adopted by an affirmative vote of two-thirds (2-3) of all the members of such council, to rescind the contract therefor so far as the uncompleted part of the work is concerned, and may, in

Contract re-  
scinded,  
when and  
how.



their discretion, after such rescission, order the work to be relet as other work is let under this act, and the original contractor in such case shall be entitled to be paid for the portion of the work done by him, ratably, according to contract price, as nearly as the same can be ascertained, and no more. No resolution adopted by virtue of the provisions contained in this section shall require the consent or action of the mayor of such city, but shall be in full force and effect when adopted by the city council, as herein designated.

Work re-let.

Mayor's consent not required.

SEC. 15. If, in the opinion of the city council and its engineer in charge, any work under any contract in such city, authorized by this act, does not proceed each month so as to insure its completion within the time named in the contract, the city's engineer in charge of such work shall have power, when authorized by resolution of such city council, to furnish and use men and materials to complete the work, and charge the expense thereof to the contractor, and the same shall be deducted from any moneys due him or to become due such contractor, or may be collected from him in a suit by said city.

City engineer may complete work, when.

SEC. 16. In all cases where the work for any improvement contemplated by the provisions of this act, shall be suspended before final completion, or the contractor shall abandon his work under his said contract or shall fail to perform the same for any cause, or if at any time the work or any part thereof is unnecessarily delayed, or the contractor is violating any of the conditions of his contract or executing any of the same in bad faith, then at the option of such city, and by an affirmative vote of a majority of all the members of such council, the contractor may be excluded from further control and superintendence of the work required by his said contract, and such city may then assume such control and superintendence and proceed to complete the work or improvement, either by authorizing the city engineer in charge to procure and furnish all necessary labor and material and complete the same by day work, or, as the city council may determine, relet the unfinished portion of such work or improvement in the same manner, as nearly as may be, as provided in this act for the letting of contracts in the first instant for such improvements, and in every case of such new contract the work shall be carried to completion and shall be paid for in the same manner as contracts for other like improvements, and any and all damages and increased costs of the work to the city, including both

Abandoning, failing, delaying or violating contract.

Damages  
and in-  
creased cost  
charged  
against  
contractor.

labor and material, will be a charge against the original contractor and shall be deducted from any moneys remaining unpaid him or to become due such contractor, and the balance, if any, may be collected by said city from him and his sureties as provided by law.

Contractor  
personally  
responsible.

SEC. 17. Any contractor or person who accepts a contract authorized by this act, under any such city, shall take the same with the condition that he shall be personally and directly responsible for any and all loss, damage or injury which may arise or in any way, directly or indirectly, be suffered by said city by reason of any occurrence while the work is going on, and before acceptance thereof by such city, caused by any negligence or misconduct on his part or on the part of his servants or employes in doing the same, and every such contractor shall guard all such work by suitable guards by day and with lights at night, so as to prevent any loss, damage or accident.

Contractor  
to execute  
bond.

SEC. 18. Before any contract whatever for the doing of any work or furnishing any skill or material, contemplated in this act, to any such city for the making of any improvement herein authorized shall be valid for any purpose, the contractor therefor shall execute a bond to such city, with two or more sufficient sureties to be approved by the mayor of such city, in such amount as the council of such city may direct, not less than the contract price agreed to be paid for the performance of such contract, and in no event less than one thousand (1,000) dollars, conditioned as provided by the General Laws of this state requiring the giving of bonds by contractors for public works and improvements, and conditioned further, that such contractor will indemnify and hold harmless such city against any damage, loss or injury which may arise in any way, directly or indirectly, be suffered by said city by reason of any occurrence while the work is going on and before acceptance thereof by such city, caused by any negligence or misconduct on the part of such contractor, his servants or employes in doing the same.

Such bond shall in all respects be executed as required by such General Laws, and all provisions in such laws contained, shall be applicable, as near as may be, to contracts herein authorized.

Every such bond shall be filed with the contract in the office of the clerk or recorder of such city, the custodian thereof.

SEC. 19. The council of every such city shall have power to require all bids for the doing of all work or the

furnishing of all skill or material, authorized by this act, to be accompanied by a bond, on the part of the bidder in such sum and with such sureties as said council may prescribe, or in lieu of such bond a certified check payable to such city upon a bank located in such city, or cash of the same amount, conditioned that he will enter into a contract with such city for the doing of the work or the furnishing of the skill or material for the price mentioned in his bid, and according to the plans and specifications therefor in case the contract shall be awarded to him; and in case of default on his part to sign and enter into such contract or fail to furnish the required bond therefor, within the time prescribed by such council in and by the specifications therefor, the same shall be deemed forfeited, and if a check or cash be so deposited the same shall be the property of the city absolutely, and in case of a bond the same may be sued and judgment recovered thereon by such city, for the full amount in any court having jurisdiction of the amount.

Bids to be accompanied by bond, or certified check.

SEC. 20. It is hereby made the duty of the city council of such city to make without unnecessary delay, at the proper time or times, all assessments for local improvements authorized by this act.

Assessments to be made without delay.

SEC. 21. Upon the completion of any improvement authorized under the provisions of this act, the city council of such city shall proceed without delay to apportion and assess the cost of such improvement, when not herein otherwise provided, upon the real estate by them deemed benefited, to the extent of benefits received, and in proportion, as near as may be, to the benefits resulting thereto from the improvement; and it shall constitute no objection to such assessment that the amount thereof either exceeds or falls short of the original estimate of the cost of the improvement submitted to the city council, or that the said city has not fully adjusted all matters with the contractors for said work, or approved his final estimate therefor, or that the said council has refused at that time to relieve the said contractor from further duties in connection therewith.

In all proceedings and advertisements for the making and collection of any assessment under this act, letters, figures and the usual and customary abbreviations may be used to donate lots, parts of lots, lands and blocks, sections, townships, ranges and parts thereof, the year and the amounts; such assessment shall be in writing, in which shall be given a description of each lot or parcel so assessed, the name of the owner thereof, if known, and the exact amount assessed thereto.

Assessment statement.

SEC. 22. Upon the completion of any assessment authorized by this act, the said council shall direct that the same be placed on file with the clerk or recorder, and shall appoint a time, not less than ten (10) days distant, and a place when and where it will meet to consider and act upon such assessment, and the clerk or recorder shall thereupon cause notice of such meeting, and the time, place and purpose thereof, to be given by one publication of such notice in the official newspaper of such city, at least five (5) days prior to the time so appointed for said meeting; in such notice shall be given a brief description of the improvement for which the assessment has been made, and the territory embraced in such assessment, and shall be to the effect that such assessment is on file with the city recorder or clerk and open to the inspection of all interested parties, and that all objections to the same must be in writing with the clerk or recorder of such city at least one (1) day (Sunday and legal holidays excepted), prior to said meeting, and that unless sufficient cause is shown to the contrary the same will be confirmed; *provided*, that if such assessment be for sprinkling, such notice need not contain a description of the territory embraced in such assessment and a reference therein to the number of the district, for the sprinkling of which the assessment is made, shall be deemed sufficiently definite.

Publication  
of notice  
of meeting  
to consider  
assessments.

Objections  
in writing.

Council to  
consider as-  
sessment  
and hear  
objections.

SEC. 23. At the time and place so appointed, as provided in the last preceding section, the said council shall proceed to consider said assessment and hear all objections which parties interested may desire to make thereto, and may adjourn as often as deemed expedient to a future definite time and place, and if none of the members are present the recorder may adjourn to some other convenient time and place, of which postponement all parties interested shall be required and deemed to take notice. All objections to said assessment shall be in writing and filed with said recorder at least one (1) day (Sunday and legal holidays excepted), prior to the said meeting of said council; *provided, however*, that said council may, in its discretion, allow any party interested, who has accidentally or inadvertently omitted to file his objection aforesaid, to do so at the time of meeting of said council. Said council may give a new notice of such hearing if the previous notice shall be found imperfect, or for any other reason.

Omission  
to file  
objections.

Said council shall, after due consideration, make such correction or changes in said assessment, and may revise

the same as they may deem necessary to perfect and equalize the same on the basis prescribed in this act, and shall confirm and establish the assessment when so corrected and equalized. Said assessment, when so confirmed and established, shall be final, conclusive and binding upon all parties interested therein, and the several amounts charged in such assessment, as so confirmed and established against the several lots and parcels of land therein mentioned, shall be enforced and collected as hereinafter provided. If any assessment be annulled or set aside, the said city council shall proceed de novo to make another new assessment in like manner, and like notice shall be given as herein required in relation to the first, and all parties interested shall have the like rights.

Corrected  
assessment  
confirmed.

SEC. 24. When in any case, any portion of the cost and expense of making any improvement mentioned in this act in any such city shall by virtue of any valid law or ordinance, or by virtue of any contract be chargeable upon any railway company in any such city, the amount or amounts so chargeable may be assessed upon such railway company, and the balance only upon the real estate benefited thereby, and such city may collect the amount so assessed upon said railway company, by distress and sale of personal property in the manner provided for in the General Laws of this state in the case of taxes levied upon personal property, or by suit brought for that purpose; *provided, however*, that any real estate belonging to such railway company subject to assessment under the General Laws of this state or any valid ordinance or contract, and deemed benefited by said improvement, shall be assessed as in other cases.

Portion of  
cost charge-  
able to  
railway  
company.

Collection  
by distress.

SEC. 25. All assessments levied under the provisions of this act shall be a paramount lien on the real estate upon which the same may be imposed, from the date of the confirmation of such assessment.

Assessment  
a lien.

SEC. 26. The clerk or recorder of each such city shall keep in his office, in books to be provided for that purpose, a correct record of all assessment confirmed by the city council and authorized by this act; the said books to be properly ruled and headed so as to show at all times a substantial description and history of each assessment on each lot and parcel of ground, whether payable in installments as hereinafter provided, and whether paid to the city or county treasurer or whether remaining unpaid.

Clerk to  
keep correct  
record  
of assess-  
ment.

SEC. 27. When any special assessment, authorized by this act shall be confirmed and established by the city

Special as-  
sessment.

council of any such city, as herein provided for, it shall be the duty of the clerk or recorder of such city to issue a warrant for the collection thereof, which shall be under the seal of said city and signed by the mayor and clerk or recorder thereof, and shall contain a printed or written copy of the assessment roll as confirmed as aforesaid, or so much thereof as describe the real estate and the amount of the assessment in each case.

**Warrants.**

SEC. 28. All warrants issued for the collection of any special assessment in any such city, and herein authorized, shall be delivered by the clerk or recorder to the city treasurer of such city as soon as practicable after the said assessment has been confirmed and established, excepting for assessment for the cost of repairing sidewalk, which shall be delivered to the county auditor of such county as hereinafter designated; the recorder shall in each instance take a receipt for such warrants and place the same on file.

Upon receipt of warrant, city treasurer shall give notice by publication.

SEC. 29. Upon the receipt of any warrant for the collection of any special assessment authorized by this act, the city treasurer of such city shall forthwith give notice by one publication in the official newspaper of such city, that such warrant is in his hands for collection, briefly describing its nature and the improvements for which such assessment has been made, and the territory embraced in such assessments; *provided*, when such assessment is for sprinkling, a reference in such notice to the number of the sprinkling district for the sprinkling of which such assessment has been made, shall be deemed a sufficient reference to the territory embraced in such assessment. Such notice shall require all persons interested to make payments within thirty (30) days from the date of such notice, at his office, or at the option of said treasurer, at some bank in said city acting for such treasurer.

Assessments not paid, certified lists returned to clerk.

SEC. 30. If the assessments charged in any special assessment warrant, made for any improvement whatsoever under the provisions of this act, shall not be paid within thirty (30) days after the publication of the notice by the said city treasurer that he has received such warrant for collection, said treasurer shall return to the recorder or clerk of such city a list, duly certified by him, said treasurer, of the assessments so made which still remains unpaid, giving in such lists the description of the several lots and parcels on which the assessments have not been paid, with the names of the respective owners thereof, if known, and the several amounts assessed thereto.

Such city recorder or clerk shall thereupon add to each delinquent and unpaid assessment a penalty of ten (10) per cent, and before the first day of November following, transmit a duly certified list of such unpaid assessments, with a description of the several lots and parcels of land on which the same are made, and the names of the respective owners thereof, if known, to the auditor of the county in which such city is located, who shall enter the several amounts of said unpaid assessments on the tax list for such city for the next ensuing year, and levy the same upon the several lots and parcels of land to which the same are respectively chargeable, and the same shall thereupon be enforced and collected as other taxes on real estate are enforced and collected under the general laws of this state.

Penalty.

Certified list of unpaid assessments transmitted to county auditor.

Collected as other taxes.

SEC. 31. No assessment in this act provided for shall be set aside or held invalid by reason of any informality in the proceedings prior to the entry thereof on the tax list by the auditor of said county, as hereinbefore required, unless it shall appear that by reason of such informality or irregularity substantial injury has been done to the party or parties claiming to be aggrieved.

Assessment not set aside or held invalid.

SEC. 32. If for any cause the proceedings of the city council of any such city, or any of its officers, may be found irregular or defective, whether jurisdictional or otherwise, the said council may make a new assessment from time to time, and as often as needs be, upon all real estate benefited and on which no payment has been made for said improvement, until the full amount of all benefits assessed have been realized from the real estate benefited by such improvement.

New assessment.

SEC. 33. The city council of any city shall have power and authority and may by resolution in writing, adopted by an affirmative vote of a majority of all its members, extend the time for the payment of any assessment made and confirmed by it for the purposes and as in this act designated, against any lot or parcel of land, and may provide that such assessment may be paid in annual installments of any number, not exceeding ten. When such assessment is fully completed and has been confirmed and established, the said city council shall, by resolution, determine the number of annual installments, if any, in which such assessment may be paid, which resolution shall be attached to and form a part of such assessment roll.

Extension of payment on assessment.

Annual installments.

SEC. 34. If such council shall adopt the resolution, specified in the foregoing section, the city treasurer shall

City treasurer to give notice.

in his notice that the warrants are in his hands for collection, required by section 29 of this act, include a notice that the owner, or any person interested in any lot, or parcel so assessed and described in such assessment, may at his election and written request pay the sum assessed in installments, as designated in said resolution.

Notice of election to pay in installments.

SEC. 35. Any person desiring to so pay such assessment in installments, as a condition precedent to the exercising of such right, shall file, in duplicate, a written notice of such his election and request for permission to so pay in annual installments, within thirty (30) days after such publication, and before such assessment becomes delinquent, with the city treasurer of such city, and at the same time pay the first installment then due and payable. Upon failure to so file such notice and request and pay said first installment, the whole amount of such assessment shall be due and payable the same as though no extension of time for payment had been provided for.

Failure to give notice.

Treasurer to divide assessments.

Upon the filing of such notice and request by any person interested, the said treasurer shall divide the said assessment into the proper installments, and make proper record of the same, and transmit one of such duplicate notices to the city recorder, who shall note such fact in his record book of assessments.

Council may waive neglect to elect.

SEC. 36. The city council of such city may at any time after an assessment becomes delinquent, upon a written application to it waive the neglect to so elect within the proper time, and permit any assessment which has become delinquent to be paid in installments as herein provided.

Installments to bear interest.

SEC. 37. Each of said installments so extended shall bear interest, payable annually at a rate to be determined in and by such resolution, not exceeding five (5) per cent per annum from the expiration of such thirty (30) days after the publication of the notice provided in section 29 of this act.

Installments may be of different amounts.

SEC. 38. No assessment of less than ten (10) dollars against any one lot or parcel of land shall be divided into installments, and no assessment shall be divided so that the amount of any of the installments into which it is divided shall be less than five (5) dollars, and the several installments may be of different amounts as the said council may determine.

Payments when due.

The time for the payment of the installments, and for the enforcement of the same against the property affected by the assessment, shall be extended so that the



several amounts shall become due and payable as follows: The first installment at the time the assessment would have been payable if the time of payment had not been extended, as provided in section 29 of this act; the second installment on October 1st of the succeeding year, the third installment on October 1st of the second succeeding year, and so on; each installment, excepting the first, shall be made due and payable on the first day of October in the year when payable.

SEC. 39. After the time of payment of any assessment has been so extended and divided into installments as aforesaid, if any installment so extended shall not be paid when it becomes due and payable, together with the interest to that time on all future installments, the city treasurer of such city shall on the fifth day of October, in each year, certify to the city recorder or clerk of such city, such extended installment which has become due and payable on the first day of October in that year, and which has not been paid, together with all interest then due and unpaid on the whole assessment, as a special tax on said property, in the same manner as other delinquent assessments in his hands for collection; the said city recorder shall thereupon certify the same to the county auditor in the same manner, at the same time and with the same penalty added thereto as in cases of other delinquent assessments, and in all respects as provided in and by section 30 of this act; the said county auditor, on receipt thereof, shall enter and carry out the same upon the proper tax list for that year, in the same manner as in other cases of unpaid assessments certified to him under the provisions of this act, and the same shall thereupon be collected and payment thereof enforced the same as other taxes on real estate are collected and enforced, and when collected paid over to the treasurer of said city.

Extended installments not paid when due, to be certified as a special tax.

City recorder to certify to county auditor.

Collected as other taxes.

SEC. 40. Upon application in writing of any owner or party interested in any lot or parcel of land against which any assessment has been heretofore made, and has heretofore been confirmed by the city council of such city, such council shall have power and authority and may by resolution in writing, adopted by an affirmative vote of a majority of all its members, extend the time for the payment of such assessment as to said lot or parcel, and may provide that such assessment may be paid thereafter in annual installments of any number not exceeding ten (10), providing such

Council may extend time for payment.

assessment, so made prior to the date hereof, exceeds the sum of twenty (20) dollars, against such lot or parcel of land.

Provisions of this act to apply to collection of extended installments.

Whenever any assessment, heretofore made, be so divided into installments, and the time of payment thereof extended, all provisions of this act applicable to extending the time of payment of assessments, shall apply thereto, and control in the collection and enforcement of the same.

Party interested may pay all installments before maturity.

SEC. 41. Any owner or party interested in any piece or parcel of land against which an assessment is levied, may, after such assessment has been divided into installments, pay all of the installments at any time before maturity, but in such event shall pay interest thereon to the first day of October immediately following such payment.

A paramount lien.

SEC. 42. Every installment, the time of payment of which has been extended under this act, shall continue to be and shall be and constitute a paramount lien in favor of such city and against each of the lots or parcels of land as to which said extension is granted, for the amount so extended for each lot or parcel, and until the same is fully paid.

Application for extension a recognition of validity of assessment.

SEC. 43. When such application, election or request for an extension of the time of payment in installments if an assessment shall have been made and filed as herein provided, the owner or person interested and so filing the same, and his or their heirs, personal representatives or assigns, or any lot or parcel of land as to which an extension has been granted, shall be held to have recognized and assented to the validity and regularity of said assessment and of all proceedings had thereon prior to the granting of said application, and shall be thereby forever estopped from denying the validity of said assessment or the amount thereof.

When city council may issue certificates of indebtedness.

SEC. 44. Whenever the time of payment of an assessment is extended, and such assessment is divided into annual installments, in any such city as herein provided the city council of such city shall have power and is hereby authorized, in anticipation of the collection and payment of such assessment, and the several installments provided for, to issue and sell from time to time the certificates of indebtedness of such city, in accordance with the provisions of an act of the Legislature of the State of Minnesota entitled "An act to create in cities in the State of Minnesota, having no more than

fifty thousand, and not less than fifteen thousand inhabitants, a local improvement fund, and to empower such cities to issue their bonds and certificates of indebtedness for certain purposes therein mentioned," approved March 8, 1897.

Such certificates shall be issued from time to time in such amounts as the city council of such city may determine as necessary for that purpose, not exceeding in the aggregate at any time the aggregate amount of unpaid installments and shall be issued for such length of time as the said council may determine and as the extended time of times for paying such installments may require.

Certificates of indebtedness not to exceed aggregate of unpaid installments

SEC. 45. The city council of each such city shall annually cause proposals to be published, in the same manner and for the same length of time as in the case of other public improvements provided for in this act for the construction and laying of such sidewalks as may be ordered built and laid by said city council prior to the first day of November in each year. General plans and specifications applicable to all sidewalks that may be ordered built and laid during such year by said council shall be made, approved and filed before such publication of proposals, as in the case of other public improvements; such plans and specifications shall classify the different kinds of walks required by the conditions existing in the different portions of such city, accurately specifying the material, dimensions and method of construction for each such class, and require separate proposals for each such class, the proposals shall be received and the work shall be let and placed under contract in the same manner and under the same regulations as in the case of other improvements provided for in this act, so far as the provisions referring thereto may be made applicable hereto.

Proposals for sidewalks to be published.

Plans and specifications to classify different kinds of walks.

Proposals for each class.

SEC. 46. Whenever the city council shall order the construction and laying of any sidewalk or sidewalks such order shall be by resolution in writing, accurately describing the location of each such walk included in such order, and such resolution shall require the same formality, vote and approval for its adoption as resolutions of like nature designated in section 8 of this act; any number of walks, in different portions of the city, and belonging to different classes under the general specifications therefor, may be included in one order.

Order to build sidewalks to be by resolution

After the publication of such resolution the city recorder or clerk shall without delay transmit a copy of

Clerk to transmit copy of order to contractor.

such order to the person or persons having the contract for the construction and laying for the time being, who shall within the time designated in the specifications therefor, if no time be designated in such order, cause the sidewalk or sidewalks so ordered constructed and laid by the said council, to be constructed and laid.

Construction of sidewalks other than by contract.

When for any reason no contract is awarded by the city council for the construction of sidewalks, as authorized by section forty-five (45) of this act, then such council may from time to time authorize the construction of sidewalks in such city in the same manner as the making of other improvements are authorized by such council under the provisions of this act, and any number of walks on one or more streets may be included in one contract.

City engineer to issue permit to owner to build sidewalks.

SEC. 47. Any person desiring to construct, lay or relay his or her own sidewalk shall first obtain a permit therefor from the city engineer of such city, such permit shall state the location of such walk, the material out of which the same is to be constructed, laid or relaid, and the time when the same shall be completed, and there shall also be attached to such permit a general plan and specification for the doing of the work.

Bond to indemnify city.

No work shall be begun thereon until the contractor therefor, or the owner thereof, if he shall do the work himself, shall first execute a bond to such city, with two or more sufficient sureties, to be approved by the mayor in the penal sum of not less than one thousand (1,000) dollars, conditioned that he will do said work, subject to the supervision and approval of the city engineer of said city, and as required by the ordinances of such city, and will indemnify and hold harmless said city against any damage or loss which may arise, or in any way, directly or indirectly, be suffered by said city by reason of any occurrence while the work is going on and before acceptance thereof by the city engineer, caused by any negligence or misconduct on the part of such contractor or owner, as the case may be, his or their servants or employes, in doing the same; such bond shall be filed with the city recorder or clerk, and may be enforced by said city the same as other bonds of a like nature, as required by law.

Bond filed with clerk.

Ordinance to regulate construction of sidewalks.

The city council of each such city may by ordinance regulate the manner of constructing, laying, relaying and repairing sidewalks by the owners of property in such city, not inconsistent with the provisions of this act, and

may authorize the filing of a like bond as hereinbefore in this section provided, in such penal sum as the council may direct, by persons engaged in and carrying on the business of constructing laying or relaying sidewalks, to include and cover the construction and laying of all walks for property owners in such city, for a period of one year, and such bond shall have the same force and effect as though given for each walk separately, as above provided.

When an owner constructs, lays or relays his or her own walk, the same shall be constructed, laid or relaid under the supervisions and direction of the city engineer, and such engineer shall upon the full and satisfactory completion of such walk, deliver to the contractor certificate of his acceptance, if demanded.

Under supervision of city engineer.

No property owner shall have any authority whatsoever to construct or lay his or her own walk after the city council shall have ordered its construction by resolution, as hereinbefore provided, and the said city council shall not so order the building of any walk after a permit has been issued therefor by the city engineer, and before the expiration of the time designated therein within which the same is to be built.

When owners may not construct sidewalks.

SEC. 48. The city council of such city shall, as soon as practicable after the construction, laying or relaying of any sidewalk, assess the cost of such improvement or improvements upon the real estate benefited thereby, in the same manner and under the same regulations hereinbefore provided for the making of other assessments and the same shall be collected and enforced and all steps taken in connection therewith as otherwise provided in this act for collecting and enforcing other assessments authorized by this act; the assessments for the cost of any number of walks adjacent to any number of lots or parcels of land may be combined in one assessment roll.

Cost of sidewalks assessed upon real estate benefited.

SEC. 49. Whenever the said contractor shall fail to build or relay any sidewalk, as provided in his contract the same shall be built or relaid as provided in sections 15 and 16 of this act.

Failure to build sidewalks.

SEC. 50. Whenever the street commissioners of any such city shall report to the city council the necessity of repairing certain walks in such city, not deemed dangerous to pedestrians by him, and shall estimate the cost of such repairs to be less than ten (10) dollars adjacent to any one lot or parcel of land, the said council may

Council may authorize street commissioner to build if owner fails to do so.

authorize such street commissioner to make such repairs, if the owner or agent thereof fails to make such repairs within forty-eight (48) hours after notice to that effect from said street commissioner, if such owner or agent be known and can be found in such city by him.

Out of repair and dangerous.

In case any sidewalk shall become so out of repair or broken as to become dangerous, it shall be the duty of the street commissioner to immediately repair the same in a good and substantial manner.

Street commissioner to keep record of repairs and report.

The said street commissioner shall keep a written record of all such repairs, and shall at least once in each month report and certify to the city council the cost in each case of all repairs made to sidewalks in such city, as specified in this section, with a description of each lot or parcel of land abutting each case of repairs.

Cost of repairs to be assessed upon lots benefited.

Each such report shall be filed and preserved by the city recorder for the inspection of all parties interested; the city council shall once in each year, as near as conveniently may be to the time of the annual tax levy for said city, assess and levy the cost of making such repairs upon the lots or parcels of land found benefited by such repairs in the same manner provided for in this act for assessing the cost of other improvements herein designated. In each case such assessment, for all such repairs within the year, and since the making of the last assessment for such repairs, may be combined in one assessment roll; such assessment shall be collected and enforced in the same manner as other assessments provided for in this act, except that the same shall not first be transmitted to the city treasurer for collection, but shall be directly certified to the county auditor of such county by said recorder to be placed upon the tax list for that year by said auditor.

Collected as other assessments, but certified direct to county auditor.

Owner or interested party may pay assessment before 1st Monday in January to city treasurer.

SEC. 51. Any owner of, or party interested in, any piece or parcel of land against which an assessment is levied, as herein provided, may pay such assessment to the treasurer of such city at any time before the first Monday in January following the date on which the same has been certified to the city recorder or county auditor, as hereinbefore provided, and said treasurer shall thereupon give his receipt in duplicate for the same, which shall be sufficient authority for the cancellation of such assessment by the county auditor or county treasurer on his books, or by the city recorder, as the case may be. After the first Monday in January fol-

Following the date on which any delinquent assessment shall have been certified to the county auditor, the same must be paid to the county treasurer the same as other state or county taxes.

After first Monday in January to county treasurer.

Upon the presentation of one of said duplicate receipts by such owner or person interested, to the county auditor or county treasurer of such county, as the case may be, he shall cancel such assessment on his books, or if the same has not yet been transmitted to the county auditor by the city recorder of such city, said recorder shall thereupon cancel such assessment on the delinquent list containing the same, and after that time the lien on such land shall cease to the amount of such payment, and the said county auditor, if such receipt be filed with him, shall report the same in the next settlement thereafter with the said city treasurer, for taxes collected and payable to such city treasurer.

County auditor, county treasurer or city recorder, on presentation of duplicate receipt, to cancel.

On the first Monday of each year the city treasurer shall certify to the city recorder of such city all payments made to him, such treasurer, of assessments certified to the county auditor for collection, and such recorder shall enter all such payments in the proper records therefor.

City treasurer to certify to city recorder.

SEC. 52. When any notice is required to be published in any newspaper, under the provisions contained in this act, an affidavit of the publisher or printer of such newspaper, or of the foreman or clerk of such publisher or printer, annexed to a printed copy of such notice taken from the paper in which it was published and specifying the time when, and the paper in which such notice was published, shall be evidence in all cases and in every court of judicial proceeding of the facts contained in such affidavit.

Affidavit proof of publication evidence.

SEC. 53. The county auditor shall not issue his certificate that taxes are paid on any piece or parcel of land upon which any delinquent assessment authorized by this act, or any portion thereof, has been certified to him until such assessment, or portion, or extended installment thereof, with penalties and interest thereon, has been paid and cancelled, as provided in this act, and the general laws of the state governing the collection of taxes.

Auditor not to certify taxes paid if any delinquent assessments remain unpaid.

SEC. 54. Every such city may assess in accordance with the provisions of this act, the cost of any improvement either fully or partially completed at the date hereof, and before such city was brought within the

Applicable prior to passage and approval.

operation of this act, and for which no assessment has been made at such time.

This act shall not be deemed to repeal any provision of any special charter in force at the date hereof.

SEC. 55. This act shall take effect and be in force from and after its passage.

Approved April 13, 1901.

H. F. No. 737.

## CHAPTER 380.

Levy of  
taxes  
for state  
purposes.

*An act to provide for a levy of taxes for state purposes for the year ending July thirty-first (31st), one thousand nine hundred and two (1902), and July thirty-first (31st), one thousand nine hundred and three (1903).*

Be it enacted by the Legislature of the State of Minnesota:

1902.

SECTION 1. For the purpose of defraying the expenses of the state for the fiscal year ending July thirty-first (31st), one thousand nine hundred and two (1902), a tax of seven hundred and sixty thousand dollars (\$760,000), or as near that amount as practicable shall be levied on all the taxable property of the state; *provided* that the tax hereby levied shall not exceed the rate of one and three-tenths (1 3-10) mills on each dollar of taxable property.

1903.

SEC. 2. For the purpose of defraying the expenses of the state for the fiscal year ending July thirty-first (31st), one thousand nine hundred and three (1903), a tax of eight hundred thousand dollars (\$800,000), or as near that amount as practicable, shall be levied on all the taxable property of the state; *provided* that the tax hereby levied shall not exceed the rate of one and three-tenths (1 3-10) mills on each dollar of taxable property.

SEC. 3. All taxes levied under the provisions of this act, when collected and paid into the state treasury, shall be placed to the credit of the general revenue fund only.

SEC. 4. This act shall take effect and be in force from and after its passage.

Approved April 13, 1901.