

shipment or the share of any other joint rate. The board, upon such reasonable notice as it may prescribe, may, upon its own motion or upon the application of any person, firm or corporation interested therein, revise, change or add to any joint through rates fixed or promulgated hereunder; and any such revised, changed or added joint rates shall have the same force and effect as the rate or rates originally established. The said board is empowered to authorize upon proper hearing, any railway company whose line connects the point of shipment with the point of destination but requires a longer haul than the joint haul over which a joint rate has been established, to charge the joint rate without affecting the charge upon any other part of its line, except that the charge for a like kind of property must not be greater for a shorter than for a longer distance over its railroad, all of the shorter haul being included within the longer. This section shall apply to interurban railways and their connection with ordinary steam railways.

Sec. 3. **Chap. 313, G. L. 1911, repealed.**—Chapter 313 of the General Laws of 1911 is hereby repealed.

Sec. 4. This act shall take effect and be in force from and after January 1, 1914.

Approved April 18, 1913.

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#### CHAPTER 345—S. F. No. 73.

*An Act to amend Chapter 185, General Laws of Minnesota 1911, entitled, "An Act relating to the acquisition of lands for streets, parks and parkways in cities of the first class and the improvement and government thereof and the improvement and government of existing streets and parkways."*

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

Section 1. **Appointment of and award by commissioners—Latter may adjourn from time to time and may employ assistance—Certain amount may be paid out of general fund.**—That Section 2 of Chapter 185, General Laws 1911, is hereby amended so that it shall read as follows:

"Section 2. After the adoption of the resolution it shall be the duty of the city engineer to make and present to the council a plat and survey of such proposed improvement, showing the character, course and extent of the same and the property necessary to be taken or interfered with thereby, with the name of the owner of each parcel of such property so far as the engineer can readily ascertain the same, and such statement as may in the opinion of the engineer be proper to explain such plat and survey and the character and extent of the proposed improvement,

When such plat and survey shall be finally adopted by the city council, it shall be filed with the city clerk, and it shall be held to show correctly the character and extent of the improvement actually agreed upon and ordered by the city council.

Said plat shall also show the amount of land taken from each owner, so far as the owners may be known, and the lands contiguous to such improvements.

The city council shall then or afterwards appoint five freeholders of said city, no two of whom shall reside in the same ward, as commissioners, to view the premises and to ascertain and award the amount of damages and compensation to be paid to the owners of property which is to be taken or injured by such improvement, and to assess the amount of such damages and compensation and the expense of the improvement upon the lands and property to be benefited by such improvement, and in proportion to the benefits to be received by each parcel and without regard to a cash valuation.

Three or more commissioners shall constitute a quorum and be competent to perform any duty required of such commissioners; and they shall be notified of their appointment, and vacancies in their number shall be filled by the city council, and they shall be sworn to the faithful discharge of their duties. They shall give notice by two publications in the official paper of said city that such survey and plat is on file in the office of the city clerk, for the examination of all persons interested, and that they will on a day designated in such notice, which shall be at least ten days after the first publication of such notice, meet at a place designated in said notice on or near the proposed improvement, and view the property proposed to be taken or interfered with for the purposes of such improvements, and ascertain and award therefor compensation and damages, and view the premises to be benefited by such improvement, and assess thereon in proportion to benefits, amount necessary to pay such compensation and damage and the cost of making the improvement, and that they will then and there hear such allegations and proofs as interested persons may offer. Any such commissioners shall meet and view the premises pursuant to such notice, and may adjourn from time to time, and, after having viewed the premises, may, for the hearing of evidence and preparation of their award and assessment, adjourn or go to any other convenient place in said city, and may have the aid and advice of the city engineer and of any other officer of the city, *and adjourn from time to time*. After viewing the premises and hearing the evidence offered, such commissioners shall prepare and make a true and impartial appraisement and award of the compensation and damages to be paid to each person whose property is to be taken or injured by the making of such im-

provement; but if the remainder of the same property, a part of which only is to be taken or damaged by such improvement, shall be benefited by such improvement, then the commissioners, in considering and awarding compensation and damages, shall also consider, estimate and offset the benefits which will accrue to the same owner, in respect to the remainder of the same property, and award him only the excess of the compensation or damages over and above such benefits.

The said commissioners shall then assess the amount of such compensation and damages so awarded upon the land and property benefited by such proposed improvements, together with the expense and cost of making the improvements as fixed by the city council, and in proportion to such benefits, but in no case shall the amount of such assessment exceed the actual benefit to the lot or parcel of land so assessed, deducting therefrom any damages or injuries to the same parcels which are less than such benefits, and assessing only the excess, and prepare and report to the city council their appraisement and award, and if in the judgment of said commissioners the whole amount of such compensation and damages, together with the cost of making such improvement, shall exceed the actual benefit to the specific property subject to assessment, they shall so indicate in their report and shall state the amount of such excess. Said commissioners shall also report to the city council an assessment list containing their assessment of such compensation, damages, and costs, or so much thereof as shall not exceed the actual benefits to the property so assessed, which list shall contain a brief description of each tract or parcel of property assessed, the name or names of the owners thereof, if known, and the amount assessed against each parcel of property and the amount of the excess of such compensation, damages and costs as aforesaid, which they shall return unassessed.

*The commissioners may employ clerical assistance, and the cost thereof, as well as the commissioners' compensation, and the expenses of printing the notices required, including, among others, the notice of consideration by the city council, herein after referred to, estimated at the same rate per line as the cost of printing the prior notices, shall be added to the other amounts to be assessed and shall be assessed therewith. The city attorney shall represent the city before the commissioners and produce such evidence as the case may require.*

*The city council, may, however, provide by the resolution appointing such commissioners that a certain specified percentage, not exceeding thirty-three and one-third (33 $\frac{1}{3}$ ) per cent. of the total damages and cost of improvements, shall in any case be payable out of the city's general funds, and in that case the city's share shall be added to the amount of the certificates to be issued.*

*and sold under Section 10, and the city council shall from year to year levy a sufficient tax upon the taxable property of the city to pay the same, with interest. In such case the amount provided to be paid out of the general funds shall not be assessed.*

Said commissioners shall, upon the completion of their said report, file the same with the city clerk for presentation by him to the city council and thereupon it shall be the duty of said city clerk to give notice to all interested parties by one (1) publication in the official paper of said city that he will at the next meeting of the city council, or as soon thereafter as practicable, present such report to said council for their consideration and action, the first one (1) of which said notices shall be published at least ten (10) days before the presentation of such report to said city council; such published notices shall contain descriptions of the several lots and parcels of land taken for such proposed improvements, and the amount awarded for the taking of each such lot or parcel, together with the names of the owner or owners of the same, as nearly as they can be readily ascertained. It shall also contain descriptions of the several lots or parcels of land upon which benefits have been assessed and the amount assessed against each such lot or parcel, together with the names of the owner or owners of the same, as nearly as the same can be readily ascertained.

Such report after its presentation to the city council shall lie over until the next regular meeting of the council which shall occur at least one week after the reception thereof, at which time, or at any meeting to which the report may be referred, the city council may act upon such report and hear any complaint touching such award or assessment, or it may refer the matter to a committee of the council to hear such complaints and report thereon. The council may confirm such award and assessment or either, or annul the same, or send the same back to the commission for further consideration; and the commissioners may in such case again, upon giving notice published once in the official paper of said city, meet at a time and place to be designated in said notice, which time shall be at least two weeks after the publication of such notice, and hear any further evidence that may be adduced by interested persons, and may adjourn from time to time, and may correct any mistakes in such award and assessment and alter and revise the same as they shall deem just, and again report the same to the city council, who may thereupon confirm or annul the same. Whenever the city council shall confirm any such award and assessment such confirmation shall make such award and assessment final and conclusive upon all parties interested, except as hereinafter provided, and the city council shall proceed, at the same or any subsequent meeting, to levy such assessment upon the several

parcels of land described in the assessment list reported by the commissioners, in accordance with the assessment so confirmed, and cause to be made and adopted an assessment roll of the same, which may be in the following form, or in any other form the council may adopt:

"The city council doth hereby assess and levy upon and against the several lots and parcels of land below described the respective sums of money set against each lot or parcel. This assessment is made to defray the compensation and damages awarded for the taking of and injury to private property, and estimated cost of improvement, and in and about the \_\_\_\_\_ as shown on the plat and survey of the same on file in the office of the city clerk of said city. This levy is made conformably to the report and assessment of commissioners duly appointed to make such assessment, and in proportion to benefits from such improvements to accrue to the parcels and not exceeding the benefits to the parcels so assessed.

Name of owner, if known	Description of land	Lot	Block	Amount Dollars Cents	
Done at a meeting of the city council this _____ day of _____, A. D. 19—.					

Attest: \_\_\_\_\_

City Clerk.

Pres't of the Council.'"

**Sec. 2. Where proceedings and appeals must be filed.**—Section 3 of said Chapter 185 shall be and is hereby amended so as to read as follows:

"Section 3. Any person whose property is proposed to be taken, interfered with or assessed for benefits under any of the provisions of this chapter, and who deems that there is any irregularity in the proceedings of the council or action of the commissioners, by reason of which the award of the commissioners ought not to be confirmed, or who is dissatisfied with the amount of damages awarded to him for the taking of or interference with his property or with the amount of the assessment for benefits to any property affected by such proceedings, may at any time before such award or assessment shall be confirmed by the city council, file with the city clerk, in writing, his objection to such confirmation, setting forth therein specifically the particular irregularities complained of and containing a description of the property affected by such proceedings, and if, notwithstanding such objections, the city council shall confirm the award or assessment, such person objecting shall have the right to appeal from such order of confirmation of the city council, to the district court of the county at any time within ten days after such order. Such appeal shall be made by serving a written notice

of such appeal upon the city clerk of said city, which shall specify the property of the appellant affected by such award, and refer to the objection filed as aforesaid, and by also delivering to said city clerk a bond to the city, executed by the appellant, or by some one on his behalf with two sureties, who shall justify in the penal sum of fifty dollars, conditioned to pay all costs that may be awarded against the appellant. Thereupon the city clerk shall make out and transmit to the clerk of said district court a copy of the award of said commissioners, as confirmed by the council, and of the order of the council confirming the same, and of the objection filed by the appellant as aforesaid, all certified by said clerk to be true copies, within ten days after the taking of such appeal. But if more than one appeal be taken from any award, it shall not be necessary that the clerk in appeals subsequent to the first, shall send up anything except a certified copy of the appellant's objections. There shall be no pleading on such appeal but the court shall determine in the first instance whether there was in the proceedings any such irregularity or omission of duty prejudicial to the appellant and specified in his said written objections, that as to him the award or assessment of the commissioners ought not to stand and whether said commissioners had jurisdiction to take action in the premises.

The case may be brought on for hearing on eight days' notice, at any general or special term of the court, and shall have precedence of other civil cases, and the judgment of the court shall be either to confirm or annul the proceedings only as the same affects the property of the appellant proposed to be taken, damaged or assessed for benefits and described in said written objection, from such determination no appeal or writ of error shall lie.

In case the amount of damages awarded or assessment made for benefits is complained of by such appellant, the court shall, if the proceedings be confirmed in other respects, upon such confirmation, appoint three disinterested freeholders, residents of said city, commissioners to re-appraise such damages or benefits. The parties to such appeal shall be heard by said court upon the appointment of such, and the court shall fix the time and place of the meeting of such commissioners. They shall be sworn to the faithful discharge of their duties as such commissioners, and shall proceed to view the premises and to hear the parties interested, with their allegations and proofs pertinent to the question of the amount of such damages or assessments. Such commissioners shall be governed by the same provisions in respect to the method of arriving at the amount of damages and the offset thereto of benefits to other property of the same owners, and in all other material respects, as are in this chapter made for the government of commissioners appointed by said

city council. They shall, after such hearing and view of the premises make report to said court of their appraisal of damages or assessments of benefits in respect to such appellant. The award or assessment of such commissioners shall be final unless set aside by the court for good cause shown. In case such report is set aside, the court may, in its discretion, recommit the same to the same commissioners or appoint a new board as it shall deem best. Said court shall allow a reasonable compensation to such commissioners for their services, and make such award of costs on such appeal, including the compensation of such commissioners as it shall deem just in the premises.

In case the court shall be of opinion that such appeal was frivolous or vexatious, it may adjudge double costs against such appellant.

An appeal may be taken from the court's final order to the supreme court by the city or any party thereto.

*In case of proceedings conducted by the city council all reports and other papers shall be filed in the office of the city clerk, and notices of appeal and other notices to the city shall be served upon the city clerk. In case of proceedings conducted by the board of park commissioners, all papers shall be filed in the office of the secretary or other recording officer of the board, and all notices of appeal and other notices to the city shall be served upon the secretary or other recording officer of the board."*

**Sec. 3. How streets and parkways may be improved.**—Section 6 of said Chapter 185 shall be and is hereby amended so as to read as follows:

"Section 6. The city council and park commissioners may by such concurrent resolution specify the method of improving any such street or parkway, including grading, paving, curb, gutter and sidewalk, as well as sewer and water mains where necessary. The city engineer shall estimate the cost of each item of such improvements separately and submit the estimate with the plat. Such estimates shall be for six inch water mains and eighteen inch sewers. The city council shall examine such estimates and after modifying, if necessary, find and adopt an estimate of such cost. The city council, in appointing commissioners, shall recite said estimate, and the commissioners shall assess the amount thereof upon such lots and parcels of land in the city as they shall deem specially benefited in proportion to such benefits, and not exceeding the actual benefit to any parcel, and add the same to the benefits assessed under Section 2 of this act and report the net result of damages or benefits as required by said Section 2, and with like proceedings thereafter.

*Any existing street or parkway may be improved and the expense thereof assessed and raised in the manner provided by this chapter, including any or all of the following improvements,*

*to-wit, widening, grading, pavement, sidewalks, curb and gutter, sewers and water mains. In case of streets or parkways exceeding eighty (80) feet in width, the resolution may, for the purpose of facilitating connections with private property and obviating the necessity of cutting or breaking into the improvements, order a double water main or a double sewer, one on either side of the street or parkway, or adopt such other arrangement or device as may seem most feasible."*

**Sec. 4. Transmitting assessment rolls to auditor.—How parcels may be discharged from assessment.**—Section 5 of said Chapter 185 shall be and is hereby amended so as to read as follows:

"Section 5. The city clerk shall transmit a certified copy of such assessment roll to the county auditor of the county in which the land lies, and the county auditor shall include five (5) per cent of the principal amount of such assessment with and as part of the taxes upon each parcel for each year for twenty years, together with annual interest at the rate ascertained, as hereinafter provided. With the first installment the auditor shall include interest upon the entire assessment from the date of the assessment to the time when the tax books including the first installment are delivered by the county auditor to the county treasurer, and thereafter the auditor shall include in the taxes for each year one of such installments, together with one year's interest upon such installment, and all subsequent installments at the same rate, each of which, together with such interest, shall be collected with the annual taxes upon such land, together with like penalties and interest in case of default, all of which shall be collected with and enforced as the annual taxes and credited to the proper city fund. *Any parcel assessed may be discharged from the assessment at any time after the receipt of the assessment by the county auditor by paying all installments that have gone into the hands of the county treasurer as aforesaid, with accrued interest, penalties and costs, as above provided, and by paying all subsequent installments; or any parcel assessed may be discharged from the assessment by presenting certificates or bonds sold against such assessments as herein provided sufficient in amount to cover all installments due on such parcel and accrued interest, penalties and costs, and all installments yet to accrue, by surrendering such certificates or bonds to the county treasurer for cancellation or having endorsed thereon such installments, interest, penalties and costs.* Said assessment shall be a lien on the land from the time of the making thereof as against the owner and every person in any way interested in the land. The owner of the land and any person interested therein may defend against such assessment at the time of application for judgment in the regular proceedings for the enforcement of de-

linquent taxes, but such assessment shall not be deemed invalid because of any irregularity, provided the notices have been published substantially as required, and no defense shall be allowed except upon the ground that the cost of the improvement is substantially less than the amount of the assessment, and then only to the extent of the difference between the assessment and the actual cost. Assessments made under this act shall be called special street and parkway assessments to the city of \_\_\_\_\_ and numbered consecutively. Whenever an assessment is certified as aforesaid by the city clerk to the county auditor, a duplicate thereof shall be sent to the city comptroller, and all such assessments shall be sufficiently identified by the name and number as aforesaid."

**Sec. 5. Council may issue certificates, or special street or parkway improvement bonds.**—Section 10 of said Chapter 185 shall be and is hereby amended so as to read as follows:

"Section 10. The city council, for the purpose of realizing the funds for making such improvement and paying such damages, may issue and sell special certificates of indebtedness, *or special street or parkway improvement bonds, as they may decide*, which shall entitle the holder thereof to all sums realized upon any such assessment, or if deemed advisable, a series of two or more certificates *or bonds* against any one assessment, *the principal and interest being payable at fixed dates out of the fund collected from such assessments, including interest and penalties, and the whole of such fund is hereby pledged for the pro rata payment of such certificates or bonds and the interest thereon, as they severally become due. Such certificates or bonds may be made payable to the bearer, with interest coupons attached*, and the city council may bind the city to make good deficiencies in the collection up to, but not exceeding, the principal and interest at the rate fixed as hereinafter provided and for the time specified in Section 5. If the city, because of any such guaranty, shall redeem any certificate *or bond*, it shall thereupon be subrogated to the holder's rights. For the purpose of such guaranty, penalties collected shall be credited upon deficiencies of principal and interest before the city shall be liable. Such certificates *or bonds* shall be sold at public sale *or by sealed proposals at a meeting of which at least two weeks' published notice shall be given*, to the purchaser who will pay the par value thereof at the lowest interest rate, and the certificates *or bonds* shall be drawn accordingly, but the rate of interest shall in no case exceed five per cent, per annum, *payable annually or semi-annually*. The city clerk shall certify to the county auditor the rate of interest so determined, and interest shall be computed upon the assessments at such *annual* rate, in accordance with the terms of Section 5."

**Sec. 6. Application—Term “city council” construed—Part of bonded debt of city.**—Section 11 of said Chapter 185 shall be and is hereby amended so as to read as follows:

“Section 11. *Nothing in this act contained shall apply to any city operating under a charter by it adopted in pursuance of Section 36, Article 4, of the Constitution of Minnesota.*

*The term city council in this act as amended shall be held to refer to the governing body of such cities, whether so called or called common council or otherwise. The proportion of the cost of any improvement which may be made payable out of the city's general fund by resolution under Section 2, and for which certificates or bonds are issued, shall be accounted a part of the bonded debt of the city, but the city's liability upon any guaranty to make good deficiencies under Section 10, shall not be taken into account as part of its indebtedness, until the amount of such deficiency of collection, defined as aforesaid, is determined, and then only for the amount of such deficiency.”*

**Sec. 7. Amending title.**—The title to said Chapter 185, General Laws, 1911, is hereby amended so as to read as follows:

“An act relating to the acquisition of lands for streets, parks and parkways in cities of the first class and the improvement and government thereof *and the improvement and government of existing streets and parkways.”*

**Sec. 8. City may pay expenses from other funds available.**—Said Chapter 185 is further amended by adding thereto the following:

“Section 14. *The city may also, if it have funds available from other sources, pay any such portion of the total cost of any improvement as it deems best and raise the remainder by the methods hereinabove provided. It may also accept gifts to be used for any such purpose.”*

**Sec. 9.** This act shall take effect and be in force from and after its passage.

Approved April 18, 1913.

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#### CHAPTER 346—S. F. No. 182.

*An Act to legalize deeds to real property given by receivers where there was an error in the description of the realty in the petition and order of the court ordering the sale of real property.*

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

**Section 1. Certain deeds validated.**—That all deeds to real property given prior to January 1, 1893, by receivers duly appointed by a court of competent jurisdiction in the state of Min-