

CHAPTER 65—S. F. No. 242.

An act entitled An act relating to street improvements in cities of the fourth class, and in villages, and to the payment of the cost thereof.

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

Section 1. Power of council in cities of fourth class.—In any city of the fourth class or village of this state, howsoever organized, the council shall have power to improve any street or streets, or any alley or alleys by laying and maintaining pavements, gutters and curbs thereon of any material which it may deem suitable or by grading or graveling the same. By the word "council" as used in this act is meant the governing body; by the word "mayor," the chief executive officer, and by the word "clerk," the officer who performs the functions thereof, of such municipality, by whatever title they may be respectively denominated.

Sec. 2. Improvements may be assessed on abutting property or on basis of benefits.—The cost of any such improvement may be assessed upon the abutting property based upon the number of feet fronting upon said street or alley proposed to be so improved, or upon the basis of benefits, but the council may pay the cost of a pavement across intersecting streets and alleys and one-half the cost of a pavement opposite any public park or municipal property, and the entire cost of gutters out of the general road fund, if any there be, or out of the general fund of such municipality. The improvement of two or more connecting streets may be included in one proceeding and conducted as one improvement.

Sec. 3. Majority vote of council to govern.—No action shall be taken for the making of any such improvement except upon the adoption of a resolution to that effect by a majority vote of the council after a meeting at which all property owners whose property is liable to be assessed therefor, have been notified to be present, by a notice of such meeting published for two weeks in the official newspaper.

Sec. 4. Owners may be forced to lay branch sewers and water pipes.—Before making any such improvement the council may by resolution require the owners of the abutting property to lay branch sewers and water pipes from the mains to the curb or lot line of each lot, and in case any property owner neglects to lay such sewer or water pipe, within sixty (60) days after being served with a copy of said resolution, the council may cause the same to be put in and may assess the cost of the same against the property and collect the same as taxes are collected. All such water pipe connections shall be of such material as the council may prescribe.

Sec. 5. Plans, specifications, and advertisements—awarding of contract.—Whenever the council of any such municipality shall determine to make any such improvement, it may cause plans

and specifications thereof to be made and filed with the clerk of such municipality and may advertise for bids for such improvement in the official paper and such other paper or papers and for such length of time as it may deem advisable. Such advertisement shall specify the work to be done, shall call for such bids on the basis of cash payment for such work and shall state the time when the bids will be opened and considered by the council, and that no bids will be considered unless sealed and filed with the clerk and accompanied by a cash deposit or certified check payable to the clerk, for such percentage of the amount of such bid as the council may specify.

In letting contracts for any such work, it shall be the duty of the council to require the execution of a written contract and a bond in such sum as it may require, conditioned for the faithful performance of the contract, and for saving the municipality harmless from any and all liability in the prosecution and completing of the work, and conditioned further for the payment for all material used and labor performed thereon. The council, if a contract is awarded, may award the same to the lowest responsible bidder. If any bidder to whom such contract is awarded shall fail to enter promptly into such written contract and to furnish such bond, then such defaulting bidder shall forfeit to the municipality the amount of his cash deposit or certified check, and the council may thereupon award the contract to the next lowest responsible bidder; provided, the council shall have the right to reject all bids; and provided further, that whenever it shall appear to the council that the cost of the entire work projected shall be less than five hundred dollars, then the council may directly purchase the materials therefor and cause the work to be done by day labor. The council may have the work supervised by the municipality's engineer or other person, and in case of improper construction or unreasonable delay in the prosecution of the work by the contractor, it may order and cause the suspension of the work at any time and relet the contract therefor, or order a reconstruction of any portion of the work improperly done, and where the work to be done shall call for an expenditure of less than five hundred dollars to complete the work or the reconstruction necessary, the council may do it by the employment of day labor.

Sec. 6. Seventy-five per cent of earned money may be paid.—In case the contractor shall properly perform the work, the council may, from time to time, before the completion of the work, in its discretion, pay to such contractor seventy-five (75) per cent of the amount already earned thereunder, upon the estimate of the engineer or other competent person selected by the council.

Sec. 7. Procedure for assessment.—After a contract is let, or after the work is ordered done by day labor as hereinbefore provided, the clerk, with the assistance of the engineer or other person selected by the council to perform the duties of engineer, shall forth-

with calculate the proper amount to be specially assessed for such improvement against every assessable lot, piece or parcel of land within the district affected, without regard to cash valuation, in accordance with the provisions of section 2 of this act, and the proposed assessment so made up shall be filed with the clerk and be open to public inspection. The clerk shall thereupon under the council's direction cause notice of the time and place when and where the council will meet to pass upon such proposed assessment, to be published in the official paper at least one week prior to such meeting of the council.

At such meeting the council shall hear and pass upon all objections thereto, if any, and may, if it deems it just, amend such proposed assessment as to any lot or lots, and upon the adoption by resolution of such assessment, the same shall constitute the special assessments against the lands named therein. Such assessment, with the accruing interest thereon, shall be a lien upon the property included therein, concurrent with general taxes, and shall be payable in equal annual installments extending over such period not exceeding twenty (20) years as the council may by resolution determine the first of said installments to be payable on or before the first day of June following the adoption of the assessment, and any deferred payments to bear interest at the rate of six per cent per annum from the first day of June following the adoption of the assessment.

It shall then be the duty of the clerk immediately thereafter to transmit a certified duplicate of such assessment to the county auditor of the county, to be extended on the proper tax lists of the county, and such assessments shall be collected and paid over in the same manner as other municipal taxes; provided, that the owner of any property, so assessed, may, at any time, pay the whole of such assessment, or any annual installment thereof with interest, as to any lot, piece or parcel of land affected thereby.

Sec. 7a. County boards and school districts to pay assessments.—It shall be the duty of county boards and proper school district officials to pay assessments levied under the provisions of this act against property owned respectively by counties or school districts, and in the event of failure so to do, the amount of such unpaid assessments so levied may be recovered in a civil action brought by such cities or villages against the municipal corporation owning the property so assessed.

Sec. 8. Supplemental assessments for corrections.—In case of omission, errors or mistakes, in making such assessment, in respect to the total cost of such improvement, or otherwise, it shall be competent for the council to provide for and make supplemental assessments to correct such omissions, errors or mistake.

Sec. 9. Certificates of indebtedness authorized.—After a contract or contracts for the making of any such improvement shall have been entered into by any city of the fourth class or any vil-

lage, it may, acting through its council, issue its certificates of indebtedness in such amount as may be necessary to defray in whole or in part the expense incurred or to be incurred in making any such improvement. The word "expense" shall be construed to mean and cover every item of cost of such improvement from its inception to its completion, and all fees and expenses incurred or to be incurred in pursuance thereof. Such certificates shall be payable in annual installments as near equal in amount as conveniently may be, over a period not exceeding twenty (20) years from their date, shall bear interest at a rate not to exceed six (6) per cent, payable annually, or semi-annually, which interest may be evidenced by appropriate coupons and shall be in such form and denominations, all as the council shall by resolution determine, and shall be signed by the mayor and countersigned by the clerk. A separate special assessment fund shall be provided for each improvement and the proceeds from the sale of any certificates issued on its account shall be placed in such fund. The council shall provide moneys for the payment of the principal and interest of said certificates, as they severally mature, which moneys shall be placed in such fund and into such fund shall also be paid all moneys received from the payment of any liens created under the provisions of this act. And the council shall pay the principal and interest of any such certificates out of any funds in the treasury when the moneys on hand in the appropriate special assessment fund are insufficient to meet the payment of the principal or interest when the same matures, but the fund from which such moneys have been taken or used for the payment of such principal or interest shall be replenished with interest at the rate of six per cent per annum from the collection of unpaid assessments on account of such improvements.

The amount of any such certificates at any time outstanding shall not be included in determining any such municipality's net indebtedness under the provisions of any applicable law.

Sec. 10. Reassessment.—In all cases where any assessment or any part thereof as to any lot, lots or parcels of land assessed under any of the provisions of this act, for any reason whatever, is set aside, the council may cause a reassessment or a new assessment to defray the expenses of such improvement to be made.

Sec. 11. Objection to assessment.—The party desiring to object to the assessment, or his duly authorized agent or attorney, shall on or before the date of hearing upon such assessment, file with the clerk a written statement of the objections and all objections not specified therein shall be deemed waived.

Sec. 12. Appeal to district court.—Within ten days after the adoption of the assessment, any person aggrieved who appeared and filed objections thereto, may appeal to the district court by serving a notice upon the chief executive officer of the municipality, which notice shall be filed with the clerk of the district court within ten

days after service thereof. The clerk shall furnish appellant a certified copy of his objections filed therein, and the assessment roll or part complained of, and all papers necessary to present the appeal. The appeal shall be placed upon the calendar of the next general term commencing more than five days after the date of serving the notice and shall be tried as other appeals in such cases. If appellant does not prevail upon the appeal, the costs incurred, if not paid, shall be included in the special assessment.

Sec. 12a. **Application.**—The provisions of this act shall not modify or repeal the provisions of the city charter of any city of the fourth class having a home rule charter, but any such city may, however, avail itself of the benefits of this act by ordinance duly passed by the governing body thereof.

Sec. 13. This act shall take effect and be in force from and after its passage.

Approved March 13, 1919.

CHAPTER 66—S. F. No. 203.

An act entitled "An act providing the method of payment of salaries and compensation of county road engineers and their assistants and employes, in any county in this state, now or hereafter having an assessed valuation of over \$250,000,000, exclusive of money and credits and an area of over 5,000 square miles."

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

Section 1. **Payment of salaries of engineers, etc., in St. Louis county.**—That in any county in this state now or hereafter having an assessed valuation of over \$250,000,000, exclusive of money and credits, and having an area of not less than 5,000 square miles, in which the county board of said county maintains a county highway engineering organization, composed of a chief highway engineer, assistant engineers, office clerks, draughtsmen, chainmen, and other employes, all under the direction of the county board of said county, the said county board shall by resolution duly adopted at its first meeting after the taking effect of this act and at its annual meeting in January of each year, and as additions and changes shall occur in the personnel of said engineers and employes in said county road engineering department, certify to the county auditor of said county the name, position, compensation and the date from which said compensation shall be paid, of each of such engineers, clerks, chainmen and other employes engaged in said engineering department. On the receipt of any such resolution of said county board certifying the name, position, compensation and date of appointment of said engineers and employes, it shall be the duty of the county auditor of such county to enter the name of every such road engineer and employe in said engineering department on the records of said county auditor, kept for the recording of the names of county