

Sec. 10. The act shall take effect and be in force from and after its passage.

Approved April 24, 1925.

CHAPTER 382—H. F. No. 597.

An act relating to public improvements in villages, boroughs and cities of the fourth class, however organized.

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

Section 1. **Definitions.**—By the word "municipality," as used herein, is meant a village, borough or city of the fourth class, however organized. By the word "council" as used herein, is meant a municipality's governing body; by the word "Mayor," its chief executive officer, and by the word "Clerk," its officer charged with the duty of performing clerical functions, irrespective of their actual titles. In the word "street" as used herein, are included alleys, boulevards, parkways and public roads of any sort within the limits of a municipality. In the term "public improvement" or "improvement" as used herein, are included (a) street paving, (b) the construction or extension of sanitary or storm sewers, and (c) the laying and re-laying of watermains and the extension of watermains, (d) the laying, re-laying and extension of steam heating mains and (e) the installation and extension of street lights. By the word "street paving" as used herein, is meant the laying of a pavement in any municipality on any street or graveling any street, and in the word is included all work incidental to any such improvement, such as grading and the construction of proper gutters, curbs, catch basins and storm sewers. The words "construction or extension of sanitary or storm sewers" means the construction of a sewer system of either class, including outlets, tanks or disposal plants, and trunk district and lateral sewers of any of the foregoing. By the words "extension of water mains" as used herein, is meant the laying of water mains and appurtenances required in connection therewith, such as valves, hydrants and service connections in municipalities already having a water system. Any of the foregoing definitions may be modified in the act by appropriate words in the context in connection with which they may be used and the singular shall include the plural where the context so requires.

Sec. 2. **Municipalities to make improvements.**—A municipality may make any of said improvements and assess the cost thereof on the property abutting thereon, or on the property benefited thereby to the extent and in the manner hereinafter provided. Any two or more of the improvements aforesaid, may be made at the same time and as part of the same proceedings, and the assessment therefor likewise levied and collected.

Sec. 3. Petition to be filed.—Before the council shall take any proceedings in reference to the making of any such improvement, a petition that an improvement be made shall be signed by the owners of at least 51% in frontage of the real property abutting on the parts of the street or streets named in the petition as the location of an improvement petitioned for. The petition may be in informal language and may pray that one or more than one improvement be made. It shall be filed with the clerk and he shall compare the signatures thereon with the records in the office of the Register of Deeds, and shall present the petition to the council and report to it his findings as to the percentage of necessary owners who have signed the same. The owner of a life estate in any property shall be deemed an owner as the word is used herein. The council shall thereupon determine by resolution whether or not the petition has been signed by the required percentage of owners, and its determination so made to the effect that the necessary percentage has signed said petition, shall be final and conclusive, unless reversed on appeal as hereinafter provided.

Sec. 4. Proceedings of council.—On the presentation of such petition the council, if it shall determine that the required percentage of property owners has signed the same, shall refer the petition to a competent engineer of its selection, who shall report thereon to the council with all convenient speed. The report shall advise the council in a preliminary way as to whether in the opinion of the person selected the proposed improvement should best be made as expressly petitioned for, or in connection with some other improvement not petitioned for, and as to the probable cost of the improvement or improvements, if made as petitioned for, or otherwise, and such other information as may be pertinent to the matter under consideration. On the filing of such report with the clerk the council shall by resolution fix a time, hour and place when the petition will be considered, and action taken in reference to the matter, and shall direct the clerk to give notice thereof. The time of such hearing shall be not less than fifteen days from the date of the first publication of the notice of hearing hereinafter provided for. The notice shall be published in a newspaper published in the municipality once in each week for at least two successive weeks, and the last publication shall be at least seven days prior to the date set for the hearing. The council may direct other and further notices to be given, but its failure so to do, or the failure to give any other and further notice which it may direct to be given, shall not affect the validity of the subsequent proceedings. The notice shall describe, in general language the improvement or improvements petitioned for and the estimated cost thereof, but it need not include a description of the properties liable to be assessed therefor or the names of their several owners.

Sec. 5. Hearings.—At the time fixed in the notice or at some

subsequent time or times to which the hearing may be adjourned, the council shall hear such persons as care to be heard in reference thereto. In case the hearing is not had or completed at the time named in the notice, no notice of subsequent hearings need be given except by entry in the minutes of the council proceedings of the subsequent dates to which the hearing may be from time to time adjourned. At the conclusion of the hearing the council shall determine by resolution whether the improvement or improvements shall be made. Such resolution shall describe the improvement or improvements, to be made and the limits thereof in general language.

Sec. 6. Council to order improvements—Contracts.—If after such hearing the council shall determine that any improvement or improvements shall be made, it shall cause plans and specifications therefor to be made by a competent person of its selection, and filed with the clerk, and may advertise for bids for such improvement or improvements in the official newspaper, and in such other newspaper or newspapers, and for such length of time as it may deem advisable. Such advertisement shall specify the work to be done and shall call for bids on the basis of cash 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 cheque payable to the clerk for such percentage of the amount of such bid as the council may specify; such deposit or cheque to be forfeited to the municipality in the event that the successful bidder shall fail to enter into a contract awarded to him in accordance with the terms of his bid. The council also may call for alternative bids on the basis of the use of different materials for any improvement. After the receipt of bids the council may reject all of them and call for new bids on like notice, or it may award the contract for one improvement, and reject all bids for another, or it may determine to proceed with one improvement and not with another, or not to proceed with any improvement.

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 as provided by law for public contractors' bonds, also for saving the municipality harmless from any and all liability in the prosecution and completing of the work and conditioned further for the payment of all materials 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 any or all bids. 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. Improvements on two or more streets, whether connecting or segregated, may be made in one proceeding but if the streets are not connecting the contracts shall specify separately the cost or the proportion of the cost applicable to the work to be done on each street, or if a contract is let on a piece price basis the estimates issued from time to time to the contractor shall be issued separately for work done on each street, and shall specify the amount applicable thereto.

Sec. 7. Property owners to be required to make improvements.—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 sewer or water pipe connections shall be of such material as the council may prescribe.

Sec. 8. Public property to pay share of expense.—The municipality shall contribute to the cost of any such improvement its proportionate share thereof on account of real property owned by it abutting on the improvement or benefited thereby in the same amount as would be the assessment against such property, if owned by an individual. A county or school district owning real property abutting on or found benefited by any improvement, shall contribute to such cost the amount which would be assessable against such property were it owned by an individual. A right of way of a railroad or of any other privately owned public utility abutting on or crossed by or found benefited by any improvement shall contribute to such cost the amount which would be assessable against it were it privately owned and privately used property.

Sec. 9. Municipality to improve intersections.—The municipality also may if the council shall so determine, pay the cost of any such improvement applicable to intersecting streets and the cost of fire hydrants and their connections to the mains, and may also pay such portion of the cost of such improvements between street intersections and between street and alley intersections as the council may determine. In case of street paving, it may, if the council shall so determine, pay the cost of curbs and gutters or any part of such cost. In the case of storm sewers, it may include the cost of the construction of the same or a part of such cost in the cost of the

paving, to which the storm sewer is in any measure pertinent, or it may treat their construction as a separate improvement.

The cost of outlets and disposal plants for a sewer and the excess cost of a storm sewer, over the part assessed against property assessed for said paving under this act, may be paid by the municipality or may be assessed against other property found benefited thereby. In the case of a sanitary sewer, the assessment against abutting property shall not exceed in any case, the estimated cost of a sewer of an eighteen-inch diameter plus its proper proportion on the basis of benefits of the excess cost of trunk sewers over this sum and its proper proportion on such basis of the cost of outlets, tanks and treatment of disposal plants.

The cost of outlets, tanks and treatment or disposal plants and the excess cost of trunk sewers over the estimated cost of a sewer of an eighteen-inch diameter, or any part thereof, may be paid by the municipality or may be assessed against the property found benefited thereby including the property abutting on such sewer.

Sec. 10. Assessment to be levied.—After a contract for an improvement shall have been entered into, the expense incurred or to be incurred in its making shall be calculated under the direction of the council. The word "expense" shall mean and include every item of the cost of such improvement from its inception to its completion, and all charges, fees and outlays incurred or to be incurred in pursuance thereof. In the calculation of such expense there shall be taken into consideration the cost of such improvement as fixed by any contract or contracts or determinable therefrom, all other items of cost then determinable, and the estimated amount of items of cost not then exactly determinable. From the aggregate of these items shall be deducted the part of the cost which the municipality itself will pay under the terms hereof, other than the amount, if any, which the municipality will pay as a property owner, and the council shall thereupon by resolution declare the sum so calculated, as the assessable cost of such improvement. Thereupon the clerk with the assistance of a competent person selected by the council to perform the duty shall forthwith calculate the proper amount to be specially assessed for such improvement against every lot, piece or parcel of land without regard to cash valuation, and the amount which will be payable by the municipality on account of real property owned by it or by any county, school district or on account of any right of way. Such calculation is hereinafter called "proposed assessment." The proposed assessment so made 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 newspaper of the municipality at least one week prior to such meeting of the council. It shall not be necessary to include in any such published notice the

description of the properties assessable under proposed assessment, or the names of their several owners, or the amount of the proposed assessment against the several tracts or the amount to be paid by the several owners, but it will be sufficient if the published notice refers to the proposed assessments as being on file with the clerk, and open for public inspection. No error in the description of any tract in any proceeding shall invalidate the proceedings as to such tract, unless the Court shall find that the objector has been misled or otherwise prejudiced by such error. At such meeting or some adjournment thereof the Council shall hear and pass upon all objections, if any, and may, if it deems it just, amend such proposed assessment as to any property therein specified. Upon the confirmation of such assessment by the Council by resolution at said meeting or some adjournment thereof the same shall constitute the special assessments on account of such improvement against the lands and properties named therein and the amounts to be paid on account of such improvement by the municipality, or by any county or school district as property owner, and on account of any right of way. The assessments so confirmed and the resolution confirming them are hereinafter called the "assessment roll." The assessments shall be payable in annual installments as near equal as conveniently may be over such period not exceeding twenty (20) years as the Council may, by resolution, determine, with interest as hereinafter provided. But any installment may be paid at any time with such interest.

Sec. 11. Certified copy to be delivered to Treasurer of municipality.—On the confirmation of such assessment the clerk shall deliver a certified copy of the assessment roll to the municipality's Treasurer. The Treasurer shall thereupon cause a brief notice to be published for two weeks in the municipality's official newspaper, to the effect that he has received as of a day named in such notice, a copy of the assessment roll for the improvement named. The whole or any installment of such assessment may be paid to the municipality's Treasurer, without interest, if paid within thirty days from a date named by him, which shall be the date of the first publication of said notice. This date is hereinafter called the "due date." The first installment of any such assessment shall be a lien concurrent with general taxes against the property upon which it is assessed from the due date and the lien of each subsequent installment shall attach on the first Monday of January of the year for which such installment is certified for collection to the County Auditor of the county in which such municipality is located, as hereinafter provided. Each installment of each such assessment shall bear interest at the rate of six (6) per cent per annum payable annually from the due date. Up to the first Monday of January in the year following the certification for collection to the County Auditor, any installment may be paid to the municipality's Treasurer with in-

terest as aforesaid from the due date until date of payment. When any installment is paid to the municipality's Treasurer he shall make duplicate receipts therefor, one of which shall be delivered to the Clerk, who shall thereupon mark upon the assessment roll, opposite the appropriate parcel of land, word indicating the payment of the installment and the date of such payment.

Not later than the 15th day of October following the due date of any assessment the Clerk shall certify to the County Auditor a list of each and every lot, part or parcel of land against which there is a first installment unpaid and also the amount of such installment, together with interest on such installment, at the rate of six (6) per cent per annum, computed from the due date to the first day of June following such delinquency.

It is hereby made the duty of the County Auditor to spread and place on the tax lists of real property which are to be delivered to the county treasurer on the January following, the amount of such installment and the interest so certified. If a payment is made to the municipality's Treasurer after the delivery of such list to the County Auditor the clerk, on receiving notice thereof from the municipality's Treasurer, shall forthwith certify to the County Auditor the fact of such payment and the County Auditor shall forthwith strike the assessments and the interest against such lots, parts or parcels of land from the tax list aforesaid.

Not later than the 15th day of October in each and every subsequent year the Clerk shall certify to the County Auditor a list of each and every lot, part or parcels of land against which there is assessed a second or subsequent installment, as the case may be, which is unpaid, and which has not been theretofore certified to said County Auditor, and the total amount of such installment, such total amount being the original amount of such installment, plus the interest thereon from the due date to the first day of June following and the interest on all other unpaid and uncertified installments from the due date to the first day of June following. The County Auditor shall place and spread such total amounts aforesaid as shown by said lists against each tract of land respectively, on the tax lists which are to be delivered to the County Treasurer for collection the following January. But in the event that after the delivery of such list and prior to the first Monday of January thereafter payment of any such installments shall have been to the municipality's Treasurer, the Auditor shall, on notice thereof, strike such assessment from the tax list as hereinbefore provided in reference to the first installment. Any and all installments so certified to the County Auditor shall be collected by the County Treasurer, in the same manner and as part of the collection of State and County taxes and any installments on account of any such assessments not paid or collected prior to June 1st shall be subject to like penalties, costs and interest charges as are County or State taxes and shall in all

respects be treated and enforced as if the same were county or state taxes. Any penalties and interest which may be collected by the County Treasurer upon any such installment shall belong to the municipality and be turned over by the County Treasurer to the municipality's Treasurer, along with the assessment.

It is hereby made the duty of the County Auditor and the County Treasurer to carry out the foregoing provisions.

Sec. 12. Confirmed notice to be mailed to County Auditor.—On the confirmation of any assessment the Clerk shall mail to the County Auditor a notice specifying the amount payable by any County and shall mail to the Clerk of any School District a notice specifying the amount payable by the school district, and shall mail to the owner of any right of way, at its principal office in the State of Minnesota, a notice specifying the amount payable on account of any right of way. The amounts payable by any county, school district or any account of any right of way shall be payable to the municipality's Treasurer and shall be paid in like installments and with like interest and penalties as herein provided for in reference to the installments payable on account of assessable real property.

It shall be the duty of the County Board and the school board, respectively, to provide for the payment of such amounts and to take appropriate action to that end. The municipality may collect the amount due on account of the right of way of any railroad or privately owned public utility by distress and sale of personal property in the manner provided by law in case of taxes levied upon personal property or by suit brought to enforce the collection of any such indebtedness. But if a different method of collecting such amounts is provided for by any contract between the owner of any such right of way and the municipality it shall obtain.

Sec. 13. Errors and omissions.—In the 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 mistakes. In all cases where any assessment or any part thereof assessed or fixed under any of the provisions of this act for any reason whatsoever, is set aside, the council may cause a reassessment or a new assessment to be made as to any property assessed or charged under the provisions of this act for the expenses of such improvement.

Sec. 14. Publication.—Where provision is made in this act to publication in a newspaper, if there is no newspaper published in the municipality the notice may be given by posting the same in at least three public places in the municipality for at least the length of time herein provided for the publication thereof.

Sec. 15. Disposition of funds.—All moneys collected on any such special assessments shall constitute a fund for the payment of

the cost of any such improvement for which such assessment was made and the same shall be credited to the proper improvement fund under the designation: "Fund of Improvement No." and in anticipation of the collection of such special assessments and the levy and collection of taxes to pay the portion of the expense and cost of such improvement payable by the municipality, the municipality may issue warrants on such fund, to be known as "Improvement Warrants," payable at such times and in such amounts as, in the judgment of the council, the collections of such special assessments and taxes will provide for, the earliest maturing warrants shall be payable not more than two years from their date and the latest maturing warrants not more than twenty years from their date. Each warrant shall upon its face state for what purpose it is issued and specify the particular fund against which it is drawn, and shall be signed by the mayor or executive officer and countersigned by the clerk or recorder of such municipality, shall bear interest at a rate not to exceed six (6) per cent per annum, payable annually, which interest may be evidenced by appropriate interest coupons, and shall be in denominations of not less than fifty dollars nor more than one thousand dollars. Such warrants may be used in making payments on contracts for the improvements or may be sold by the council for not less than the par value thereof together with the interest accrued thereon. The council of each municipality shall at or before the time of the issuance of any warrants levy a tax for the payment of that *portion of the cost of such improvement chargeable to the municipality*, which tax shall be spread in annual installments in the same proportion as assessments are spread against privately owned property. Such tax shall be a direct annual tax and when collected shall be credited to the proper improvement fund. It shall be the duty of the treasurer of the municipality on presentation to pay such warrants and interest coupons, as they mature, out of the proper improvement fund, and to cancel the same when paid. If any such warrant, or interest thereon, shall become due and there are not funds to pay the same, the council of such municipality is hereby authorized to effect a temporary loan for the payment thereof.

Sec. 16. Appeal.—Within thirty days after the publication of the treasurer's notice provided for in Section 11, hereof, any person, deeming himself aggrieved by an assessment, may appeal to the district court of the county in which is located the assessed property in which he is interested, by serving upon the clerk of the municipality a notice of appeal which shall briefly state the grounds upon which the appeal is taken, and a bond of \$250 in which the municipality shall be obligee, to be approved by the clerk, conditioned, that the appellant will duly prosecute the appeal, and pay all costs and disbursements which may be adjudged

against him, and abide the order of the court. The clerk shall furnish the appellant with a certified copy of the assessment roll, or part complained of, and all papers necessary to present the appeal, on payment by the appellant of the clerk's proper charges therefor. The appeal shall be placed upon the calendar of the next general term commencing more than thirty days after the date of serving the notice and bond and shall be tried as are other appeals in such cases. Provided, however, that the taking of any such appeal shall not in any way hinder or delay any such improvement, and the Council may notwithstanding any such appeal or appeals proceed with the making of any such improvement in the manner set forth in this act. All such certificates shall be sold and negotiated as provided in Section 1943 of the General Statutes of Minnesota for 1923, and not otherwise.

Sec. 17. Provisions to be supplementary.—The provisions of this act shall be supplementary and additional to the powers in reference to the making of any such improvement now conferred by law on any such municipality.

Sec. 18. Application.—Nothing herein contained shall operate to affect the rights of a municipality under Article 16, of the Constitution, or any legislation in pursuance thereof.

Sec. 19. This act shall take effect and be in force from and after its passage.

Approved April 24, 1925.

CHAPTER 383—S. F. No. 332

(Not in G. S. 1923.)

An act supplementing, extending and amending Chapter 167, General Laws 1901, and relating to the construction and rebuilding of sidewalks and sewers in villages and in cities of ten thousand inhabitants or less, and to the assessing of the benefits thereof upon property benefited thereby.

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

Section 1. Law supplemented.—Chapter 167, General Laws 1901, is hereby supplemented, extended and amended so as to authorize the use of its provisions in the cases and in the manner hereinafter provided.

Sec. 2. Assessment of benefits.—Whenever the council of any village or city affected by and acting under said chapter shall have determined, or the petition in Section 1 of said act provided for shall set forth, that the proposed improvement would benefit other property in addition to that fronting on the street or streets where it is proposed to construct or rebuild a walk or sewer, and such petition is signed also by a majority of the owners of such other property, the resolution of the council therein provided for