

CHAPTER 435

SPECIAL ASSESSMENTS; OTHER PROCEEDINGS RELATING TO PUBLIC IMPROVEMENTS

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435.01 VILLAGES; DAMS AND DITCHES. The council of any village in this state may appropriate from the liquor license fund of the village a sum not exceeding \$500.00 annually for the purpose of constructing and maintaining dams and ditches in or adjacent to the village, according to oral or written contracts between the village and the owners of the lands affected by the dams and ditches, for the protection of the village against inundation by high water.

[1901 c. 76]

435.02 CHANGING OF ELECTRIC STREET LIGHTING SYSTEM. When a petition shall be presented to the council of any city of the fourth class in this state, whether operating under a home rule charter or the general laws of this state, which petition asks that the council change the plan or system of electric street lighting or any part thereof in use in the city, or change the equipment for electric street lighting in use in the city at the time of presenting the petition and the petition is signed by the owners of a majority in area of the real estate of the city, which may be deemed by the council to be specially benefited, in such case the council may make investigation as to the advisability, expediency, and feasibility of the doing of the things asked in the petition as it deems necessary; and, if it deems it advisable, expedient, and feasible to do them or any of them, it may and is hereby authorized and empowered to grant the petition or any or all of its requests at its discretion.

[1917 c. 180 s. 1] (1766)

435.03 SPECIAL ASSESSMENT. In case the petition shall be granted and to the extent rendered necessary by the granting of the same, in whole or in part, the council may levy and collect by special assessment the entire or a portion of the cost and expense of such change, alteration, replacement, reconstruction, or instalment against such real estate as may, in the judgment of the council, derive special benefits therefrom.

[1917 c. 180 s. 2] (1767)

435.04 ASSESSMENT ABANDONED OR EXCESSIVE; LIMITATION. When any special assessment shall have been levied upon real estate to defray the cost of a proposed local improvement, and the improvement shall be abandoned, or the total amount of the assessment shall exceed the cost of the improvement, the municipality shall be liable to the owner in the first case for the amount of the assessment paid by him, and in the second case for that proportion of the excess as the amount of the assessment paid by him bears to the total assessment, and it is hereby made the duty of the proper authorities to make refundment; provided application therefor is made by or on behalf of the party entitled thereto, or any action to recover the same is brought within six years after funds to pay the same have been appropriated and made available by the proper officers to fully pay the same.

[R. L. s. 772; 1913 c. 306 s. 1] (1838)

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435.05 RATE OF INTEREST ON ASSESSMENT CERTIFICATES. All certificates of sale issued by the proper authorities of any city of the first class in this state upon a sale of real property for any assessment for local improvement shall bear the same rate of interest as was provided by law in such case previous to the enactment of Laws 1905, Chapter 205.

[1907 c. 132 s. 2] (1578)

435.06 UNREDEEMED ASSESSMENT CERTIFICATES; SALE. Any city of the first class in this state now or hereafter holding or owning any sale certificates issued under and by virtue of any local improvement assessment made by the proper authorities of the city, upon which the time for redemption has expired, may sell and dispose of the same, or any part thereof, and all interest acquired by the city thereunder in the lands therein described.

[1905 c. 269 s. 1] (1579)

435.07 SALE, HOW MADE. This sale shall be made by the treasurer of the city publishing a notice in the official newspaper of the city once in each week for three successive weeks that sealed proposals will be received therefor, the last publication to be at least ten days before the date set for receiving these proposals. The notice shall specify the date and the amount of each certificate, together with a description of the lands described therein, and any bidder may include in his proposal any one or more of these certificates. Any proposals received thereunder by the treasurer shall be reported by him to the council of the city at its next regular meeting, and if these bids or proposals, or any of them, are accepted and approved by the council, the proper city officers shall thereupon execute and deliver to the bidder all necessary assignments and deeds as may be necessary to transfer to the bidder all the right, title, and interest in and to the certificates awarded to him, and all lien, right, title, and interest of the city in and to the lands described therein, held or acquired by the city, under and by virtue of the certificate, upon payment to the city treasurer of the purchase price designated in the bid or proposal.

[1905 c. 269 s. 2] (1580)

435.08 DIVISION OF ASSESSMENTS. In all cities of the third class in this state, whether operating under a home rule charter or under any general or special law of this state, wherein any assessment, or reassessment of real estate for local improvements has heretofore been made and confirmed, and which real estate, as thus originally assessed or reassessed in one body, was pursuant to law duly subdivided and platted into lots and blocks or tracts or parcels of a lesser area than that originally assessed, the council of the city is hereby specifically authorized and empowered to subdivide the assessment or assessments and apportion the same to each or any of the lots, blocks, or other smaller tracts and parcels of the assessed real estate. The power hereby delegated shall be in addition to the existing statutory or charter powers, or both, of the city and its council. The assessment, as thus subdivided and apportioned, may include the original assessment for the improvement or improvements, together with all subsequent additional or supplemental assessments of the real estate for the local improvement or improvements.

[1923 c. 40 s. 1] (1713-1)

435.09 PROCEDURE. Upon presentation and filing with the clerk of a petition, addressed to the council of the city, signed by the owners of the lot, or lots, block, or other smaller tracts or parcels of real estate included within the boundaries of any tract or governmental subdivision so originally assessed, or reassessed, asking for the subdivision and apportionment of the original assessment, or assessments, and the determination of the amount thereof chargeable against the lot, or lots, or other smaller tracts of land, the council of the city may subdivide and apportion the assessment, or assessments, to the tract, or tracts so owned by the petitioning owners, and on payment of the proportionate part of the assessment, as thus ascertained and determined, release the lots, or other smaller portions of the real estate from the lien of the original assessment, or assessments, or from any installment of the original assessment, if the property owner or his predecessor in interest has elected to avail himself of any charter privilege or law permitting the subdivision of the original assessment into annual or other instalments. The apportionment of the smaller tracts of real estate and the payment in settlement, in whole or in part, of the amount of the assessment, as thus subdivided and apportioned, shall be without prejudice to the lien of the city upon the balance of the tract or parcel of

real estate as thus originally assessed. The city, by and through its council, shall have further power, upon like petition signed and presented by property owners owning at least one-half of the lots, blocks, or other parcels of land thus originally assessed, or reassessed, as one tract, to subdivide and apportion the original assessment, or assessments against the entire tract or governmental subdivision among each and all of the several lots or parcels of land into which the original tract was later subdivided and platted, and to determine the proportionate part of the original assessment, or assessments, applicable to and chargeable against each of the several lots or parcels of land, and upon payment thereof, to release, or cause to be released from the lien of the original assessment, or assessments, the tract, or tracts, upon and against which the assessment, as thus subdivided, is paid.

[1923 c. 42 s. 2] (1713-2)

435.10 COUNTY AUDITOR AUTHORIZED TO SUBDIVIDE ASSESSMENTS.

In the event that an assessment, or assessments, or any unpaid instalments thereof, has heretofore been certified up to the auditor of each county within which the city is situated, and which assessment shall cover and include the original tract or governmental subdivision of lands as originally assessed, and which assessments are in process of collection and settlement, the auditor of the county within which the affected tracts are situate, upon the filing in his office of the certificate signed by the clerk of the city, setting forth the amount of the assessment or instalment apportioned and subdivided by the council to the smaller tract of real estate, is authorized to subdivide the assessment, or assessments as previously certified up. Thereupon the auditor shall file his certificate with the treasurer of the county within which the affected lands are situated, showing the amount of the subdivided assessment, or assessments, applicable to the lots or parcels of land so held and owned by the individual petitioning property owners to whom the relief has been afforded by the action of the council of the city. Upon the filing of the auditor's certificate with the treasurer of the county, the treasurer of the county is hereby specifically authorized and empowered to accept the amount of the subdivided and apportioned assessment, and issue his receipt covering the full payment and discharge of such assessment or instalment thereof against the lot, block, or other smaller tract of real estate, which receipt shall be in the form of the ordinary treasurer's tax receipt for the payment of general taxes and assessments against city real estate. There shall be included in the collection to be made by the county treasurer such lawful penalties as may have accrued, upon the basis of the assessment as thus subdivided and apportioned to the smaller tract or area of the real estate. The auditor of the county, in the event that judgment for delinquent real estate taxes, which include the assessments for local improvements, has been entered, may permit redemption of the smaller tracts or parcels of real estate from the tax judgment at any time prior to the sale of the premises at tax sale, upon payment of the amount as thus determined and certified up to him by the council of the city, together with penalties, interest, and other lawful costs and charges there against, required for the redemption thereof, and issue his redemption receipt therefor.

[1923 c. 40 s. 3] (1713-3)

435.11 LOCAL ASSESSMENTS FOR STREETS, PARKS, PARKWAYS; INSTALMENTS. When any city of the first class in this state shall have completed, in accordance with the provisions of its charter, any assessment upon benefited real estate for paying the cost of the acquisition of any land, or interest in land, taken for a public use, or for paying the cost of any improvement which shall have been duly authorized, or both, the council of that city, by a five-sixths vote, may by resolution provide that the assessment may be paid in any number of equal annual instalments, not exceeding 20. The council shall not exercise this power after the proceeds of the assessment has been pledged by the issue of bonds or certificates of indebtedness to be paid from the proceeds or otherwise.

[1913 c. 295 s. 1] (1581)

435.12 DUTIES OF CLERK AND AUDITOR; ASSESSMENT, HOW DISCHARGED. The city clerk shall thereupon transmit a certified copy of the assessment roll to the auditor of the county in which the city is situated each of which certified copies shall bear an appropriate name and be numbered consecutively from one upwards. In cases where the whole undertaking requires the condemnation of land and improvements the assessments for the condemnation of land and

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the assessments for improvements may be consolidated as to each parcel of land and certified to the county auditor as one assessment. Thereupon the county auditor shall include one of the equal annual payments of the principal amount of the assessment with and as a part of the taxes upon each parcel for each year until the whole assessment shall be thus included, together with annual interest at the rate prescribed by the council, not exceeding five per cent per annum. With the first instalment 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 instalment are delivered by the auditor to the county treasurer and thereafter the auditor shall include in the taxes of each year one of the instalments, together with one year's interest upon that instalment and all subsequent instalments at the same rate, each of which, together with interest shall be collected with the annual taxes upon the land together with like penalties and interest in case of default, all of which shall be collected and enforced as the annual taxes are credited to the proper city fund. Any parcel assessed may be discharged from the assessment by presenting a local improvement bond sold against the assessment sufficient in amount to cover all instalments unpaid on that parcel and accrued interest, penalties, and costs, and surrendering the local improvement bond or bonds to the county treasurer for cancellation or having endorsed thereon the instalments, interest, penalties, and costs. When an assessment is so certified by the city clerk to the county auditor a duplicate thereof shall be sent to the city comptroller and the assessment shall be sufficiently identified by name and number. All instalments due and payable and all interest or penalties on the same having been paid, nothing herein shall prevent the transfer of the property, or any interest therein, on the books of the county wherein it is situated, or the recording of instruments or transfers subject to the lien of future instalments, interest, and penalties.

[1913 c. 295 s. 2] (1582)

435.13 BONDS. The city council, for the purpose of realizing the funds for making the improvement and paying the damages may issue and sell special local improvement bonds which shall entitle the holder thereof to all sums realized upon any such assessment, or if deemed advisable, a series of two or more of the local improvement bonds against any one assessment, the principal and interest being payable at fixed dates out of fund collected from the assessment including interest and penalties, and the whole of the fund is hereby pledged for the payment of the local improvement bonds and the interest thereon as they severally become due. These local improvement bonds shall be payable to bearer with interest coupons attached, and the council may, by a five-sixths vote, bind the city to make good deficiencies in the collection up to but not exceeding the principal and interest at the rate fixed by the council upon these local improvement bonds which shall not exceed five per cent per annum. If the city, because of this guarantee, shall redeem any local improvement bonds, it shall thereupon be subrogated to the holder's rights. For the purpose of such guarantee, penalties collected shall be credited upon deficiencies of principal and interest before the city shall be liable. These local improvement bonds shall be sold at public sale at not less than par value.

[1913 c. 295 s. 3] (1583)

435.14 APPLICATION; TO SUPPLEMENT CHARTER. The provisions of sections 435.11 to 435.13 are not intended to and shall not be construed to repeal or abrogate any of the provisions of the charter of any city of the first class, but are intended to be supplementary thereto and as conferring additional power upon these cities which may be exercised at their option. The cities' liabilities upon this guarantee shall not be taken into account as part of its indebtedness until the amount of the deficiency or collection, defined in section 435.13, is determined and only for the amount of the deficiency.

[1913 c. 295 s. 4] (1584)

435.15 PUBLIC IMPROVEMENTS PROCEEDINGS TO BE CONSOLIDATED. When two or more petitions for public improvements signed by the percentage of owners of real property abutting on the streets or alleys, or parts thereof, so to be improved, as now required by sections 432.11 to 432.24, 434.14, and 434.27, or proceedings for any public improvement are instituted under any other law authorizing the same, and all thereof are presented or instituted to the governing body of the municipality at substantially the same dates and the governing body may by resolution determine that these various improvements, although separately

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petitioned for or instituted, can be more economically completed if consolidated and joined as one project, and the governing body shall have the power by resolution to consolidate these various petitions and proceedings for these separate improvements, and after the consolidation all subsequent proceedings shall be conducted in all respects as if the various separate proceedings had originally been instituted under one petition or as one proceeding.

[1939 c. 156 s. 1] (1918-14½c)

435.16. CEMETERY GROUNDS. The council of any village in this state shall have power to regulate and control the laying out and establishment of cemetery grounds by any person, association, or corporation within the corporate limits of the village.

[1937 c. 348 s. 1] (1186-8)