

CHAPTER 524—S. F. No. 1461

An act to require payment of a fee for certificates issued to actual purchasers of tax-forfeited lands and for a notice of expiration of redemption; amending Minnesota Statutes 1957, Section 280.28.

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

Section 1. Minnesota Statutes 1957, Section 280.28, is amended to read:

280.28 **Fees.** *Subdivision 1.* The county auditor shall be entitled to collect a fee of 50 cents from such applicant for each certified copy of a notice of expiration of redemption and the preparation of the other necessary papers and information in connection therewith, which fee shall be retained by such auditor in addition to his salary provided by law.

Subd. 2. *There shall be paid at the time of delivery by the person to whom delivered for each certificate issued to an actual purchaser under Sections 280.03 and 280.13 a fee of \$1 and for each notice of expiration of redemption prepared by the auditor for the holder of a certificate a fee of \$2. These fees shall be paid to the county treasurer upon the auditor's statement of the amount due. The amount of such fees shall be added to the amount payable under Section 281.02 upon redemption.*

Approved April 20, 1961.

CHAPTER 525—S. F. No. 1462

Relating to local improvements and special assessments; amending Minnesota Statutes 1957, Sections 429.031, Subdivision 1 and adding a new subdivision thereto; 429.041, Subdivision 4 and adding a new subdivision thereto; 429.061, Subdivisions 1, 2, and 3; 429.071, Subdivision 3; and 429.081.

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

Section 1. Minnesota Statutes 1957, Section 429.031, Subdivision 1 is amended to read:

429.031 **Preliminary plans, hearing.** *Subdivision 1.* **Preparation of plans, notice of hearing.** Before the munic-

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ipality awards a contract for an improvement or orders it made by day labor, or before the municipality shall have the power to assess any portion of the cost of an improvement to be made under a cooperative agreement with the state or another political subdivision for sharing the cost of making such improvement, the council shall hold a public hearing on the proposed improvement following two publications in the newspaper of a notice stating the time and place of the hearing, the general nature of the improvement, the estimated cost, and the area proposed to be assessed. The two publications shall be a week apart and the hearing shall be at least three days after the last publication. *Not less than 10 days before the hearing, notice thereof shall also be mailed to the owner of each parcel within the area proposed to be assessed; but failure to give mailed notice or any defects in the notice shall not invalidate the proceedings. For the purpose of giving mailed notice, owners shall be those shown to be such as of the date 30 days prior to adoption of the resolution providing for the hearing on the records of the county auditor or, in any county where tax statements are mailed by the county treasurer, on the records of the county treasurer. However, as to properties which are tax exempt or subject to taxation on a gross earnings basis and are not listed on the records of the county auditor or the county treasurer, the owners thereof shall be ascertained by any practicable means and mailed notice shall be given them as herein provided.* Prior to the adoption of ~~the such resolution providing for the hearing,~~ the council shall secure from the city or village engineer or some competent person of its selection a report advising it in a preliminary way as to whether the proposed improvement is feasible and as to whether it should best be made as proposed or in connection with some other improvement and the estimated cost of the improvement as recommended; *but no error or omission in such report shall invalidate the proceeding unless it materially prejudices the interests of an owner.* The council may also take such other steps prior to the hearing, including, among other things, the preparation of plans and specifications and the advertisement for bids thereon, as will in its judgment provide helpful information in determining the desirability and feasibility of the improvement. The hearing may be adjourned from time to time and a resolution ordering the improvement may be adopted at any time within six months after the date of the hearing by vote of a majority of all members of the council when the improvement has been petitioned for by the owners of not less than 35 percent in frontage of the

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real property abutting on the streets named in the petition as the location of the improvement. When there has been no such petition, the resolution may be adopted only by vote of four-fifths of all members of the council. The resolution ordering the improvement may reduce, but not increase the extent of the improvement as stated in the notice of hearing.

Sec. 2. Minnesota Statutes 1957, Section 429.031 is amended by adding a new subdivision to read:

Subd. 3. Petition by all owners. Whenever all owners of real property abutting upon any street named as the location of any improvement shall petition the council to construct the improvement and to assess the entire cost against their property, the council may, without a public hearing, adopt a resolution determining such fact and ordering the improvement. The validity of the resolution shall not be questioned by any taxpayer or property owner or the municipality unless an action for that purpose is commenced within 30 days after adoption of the resolution as provided in section 429.036. Nothing herein prevents any property owner from questioning the amount or validity of the special assessment against his property pursuant to section 429.081.

Sec. 3. Minnesota Statutes 1957, Section 429.041, Subdivision 4 is amended to read:

Subd. 4. Alternate procedure on street improvements. As to any improvement or improvements consisting of grading, graveling, or bituminous surfacing of streets and alleys, the council may proceed in the manner provided in this chapter, except that it may

(1) order the work done by day labor, regardless of the estimated cost of such improvement or improvements, and

(2) *use municipal equipment or hire equipment and purchase materials for all such improvements to be done by day labor in any 12-month period by advertising once therefor, such advertisement to call for bids for the furnishing of equipment, if the municipality does not use its own equipment, and for materials at unit prices based on the quantities which the council estimates will be required.*

(3) *contract at one time on a unit price basis for part or all of the street improvements to be constructed by the municipality during the current year, including improvements which may thereafter be ordered constructed.*

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Sec. 4. Minnesota Statutes 1957, Section 429.041 is amended by adding a new subdivision to read:

Subd. 7. Modification of contracts. After work has been commenced on an improvement undertaken pursuant to a contract awarded on a unit price basis the council may, without advertising for bids, authorize changes in the contract so as to include additional units of work at the same unit price if the cost of the additional work does not exceed 25 percent of the original contract price. Original contract price means that figure determined by multiplying the estimated number of units required by the unit price.

Sec. 5. Minnesota Statutes 1957, Section 429.061, Subdivision 1 is amended to read:

429.061 Assessment procedure. Subdivision 1. **Calculation, notice.** At any time after a contract is let or the work ordered by day labor, the expense incurred or to be incurred in its making shall be calculated under the direction of the council. The council shall then determine by resolution the amount of the total expense the municipality will pay, other than the amount, if any, which it will pay as a property owner, and the amount to be assessed. Thereupon the clerk, with the assistance of the engineer or other qualified person selected by the council, shall calculate the proper amount to be specially assessed for the improvement against every assessable lot, piece or parcel of land, without regard to cash valuation, in accordance with the provisions of section 429.051. *The proposed assessment roll shall be filed with the clerk and be open to public inspection. The clerk shall thereupon, under the council's direction, publish notice that the council will meet to consider the proposed assessment. Such notice shall be published in the newspaper at least once and shall be mailed to the owner of each parcel described in the assessment roll. For the purpose of giving mailed notice under this subdivision, owners shall be those shown to be such as of a date 30 days prior to adoption of a resolution providing for a hearing on the proposed assessment, on the records of the county auditor or, in any county where tax statements are mailed by the county treasurer, on the records of the county treasurer. Such publication and mailing shall be no less than two weeks prior to such meeting of the council and. Except as to the owners of tax exempt property or property taxed on a gross earnings basis, every property owner whose name does not appear on the records of the county auditor or the county treasurer shall be deemed to have waived such*

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mailed notice unless he has requested in writing that the county auditor or county treasurer, as the case may be, include his name on the records for such purpose. Such notice shall state the date, time, and place of such meeting and, the general nature of the improvement, the area proposed to be assessed, that the proposed assessment roll is on the file with the clerk, and that written or oral objections thereto by any property owner will be considered.

Sec. 6. Minnesota Statutes 1957, Section 429.061, Subdivision 2 is amended to read:

Subd. 2. **Adoption.** At such meeting or at any adjournment thereof the council shall hear and pass upon all objections to the proposed assessment, *if any, whether presented orally or in writing and.* The council may amend the proposed assessment as to any parcel and by resolution adopt the same as the special assessment against the lands named in the assessment roll. Notice of any adjournment of the hearing shall be adequate if the minutes of the meeting so adjourned show the time and place when and where the hearing is to be continued, or if three days notice thereof be published in the newspaper. The assessment, with accruing interest, shall be a lien upon the property included therein, *from the date of the resolution adopting the assessment,* concurrent with general taxes, and shall be payable in equal annual installments extending over such period, not exceeding 30 years, *as the council the resolution determines.* The first installment shall be payable on the first Monday in January next following the adoption of the assessment unless the assessment is adopted too late to permit its collection during the following year. All assessments shall bear interest at such rate as *the council the resolution determines,* not exceeding six percent per annum. To the first installment shall be added interest on the entire assessment from the date of the resolution levying the assessment until December 31 of the year in which the first installment is payable. To each subsequent installment shall be added interest for one year on all unpaid installments.

Sec. 7. Minnesota Statutes 1957, Section 429.061, Subdivision 3 is amended to read:

Subd. 3. **Transmitted to auditor, prepayment.** After the adoption of the assessment, the clerk shall transmit a certified duplicate of the assessment roll with each installment, including interest, set forth separately to the county auditor of the county to be extended on the proper tax lists

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of the county; but in lieu of such certification, the council may in its discretion direct the clerk to file all assessment rolls in his office and to certify annually to the county auditor, on or before October 10 in each year, the total amount of installments of and interest on assessments on each parcel of land in the municipality which are to become due in the following year. If any installment and interest has not been so certified prior to the year when it is due, the clerk shall forthwith certify the same to the county auditor for collection in the then succeeding year; and if the municipality has issued improvement warrants to finance the improvement, it shall pay out of its general funds into the fund of the improvement interest on the then unpaid balance of the assessment for the year or years during which the collection of such installment is postponed. All assessments and interest thereon shall be collected and paid over in the same manner as other municipal taxes. The owner of any property so assessed may, at any time prior to certification of the assessment or the first installment thereof to the county auditor, pay the whole of the assessment on such property, with interest accrued to the date of payment, to the municipal treasurer, except that no interest shall be charged if the entire assessment is paid within 30 days from the adoption thereof; and, except as hereinafter provided, he may at any time thereafter pay to the county treasurer the entire amount of the assessment remaining unpaid, with interest accrued to December 31 of the year in which such payment is made. If the assessment roll is retained by the municipal clerk, the installment and interest in process of collection on the current tax list shall be paid to the county treasurer and the remaining principal balance of the assessment, if paid, shall be paid to the municipal treasurer. *The council may by ordinance authorize the partial pre-payment of assessments, in such manner as the ordinance may provide, prior to certification of the assessment or the first installment thereof to the county auditor.*

Sec. 8. Minnesota Statutes 1957, Section 429.071, Subdivision 3 is amended to read:

Subd. 3. **Reapportionment upon land division.** When a tract of land against which a special assessment has been levied is thereafter divided or subdivided by plat or otherwise, the council may, on application of the owner of any part of the tract or on its own motion ~~and upon notice and hearing as provided for the original assessment,~~ equitably apportion among the various lots or parcels in the tract all the installments of the assessment against the tract remaining unpaid

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and not then due if it determines that such apportionment will not materially impair collection of the unpaid balance of the original assessment against the tract. The council may, and if the special assessment has been pledged to the payment of improvement warrants shall, require the owner or owners, as a condition of such apportionment, to furnish a satisfactory surety bond fully protecting the municipality against any loss resulting from failure to pay any part of the reapportionment assessment when due. *Notice of such apportionment and of the right to appeal shall be mailed to or personally served upon all owners of any part of the tract. Within 30 days after the mailing or service of the notice of such apportionment any such owner may appeal as provided in section 429.081.*

Sec. 9. Minnesota Statutes 1957, Section 429.081 is amended to read:

429.081 **Appeal to district court.** Within 20 days after the adoption of the assessment, any person aggrieved may appeal to the district court by serving a notice upon the mayor or clerk of the municipality. The notice shall be filed with the clerk of the district court within ten days after its service. The municipal clerk shall furnish appellant a certified copy of objections filed in the assessment proceedings, 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. *The court shall either affirm the assessment or set it aside and order a re-assessment as provided in section 429.071, subdivision 2.* If appellant does not prevail upon the appeal, the costs incurred shall be taxed by the court and judgment entered therefor. All objections to the assessment shall be deemed waived unless presented on such appeal.

Sec. 10. *This act shall take effect January 1, 1962 and the provisions shall not affect any improvement or assessment proceedings commenced prior to such date.*

Approved April 20, 1961.

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