

CHAPTER 7.

S. F. 317. AN ACT to repeal chapter 14 of the laws of the 28rd General Assembly as amended by chapter 9 and twelve of the laws of the 24th General Assembly, relating to paving, curbing and sewerage, in cities under special charters and all cities having a population of 5,000 or over and to enact a substitute therefor:

Be it enacted by the General Assembly of the State of Iowa:

Ch. 14, 23 G. A.,
ch. 9, 24 G. A.,
repealed. That chapter 14 of the laws of the 23rd General assembly, as amended by chapter 9 and twelve of the laws of the 24th General Assembly be, and the same is hereby repealed, and the following enacted in lieu thereof:

Applicable to
cities of 5,000
under special
charter. SECTION 1. That all cities in this state organized and existing under special charter, and all cities having a population of 5,000 or over, shall have all the powers and be subject to the provisions of this act.

Contract for
labor and
material. SEC. 2. When the council of any such city shall direct the paving and curbing of any street, or streets, or the construction of any sewers, such council, or the board of public works, in case such board shall exist, shall make and enter into contracts for furnishing labor and materials, and for the curbing, and paving the surface with any material, composition, patented or otherwise, or sewerage, as the case may be, either for the entire work in one contract, or for parts thereof in separate and specified sections, as to them may seem best.

Sealed propos-
als and to low-
est bidders. SEC. 3. All such contracts shall be made by the council, or the board of public works, when such board shall exist, and shall be made with the lowest bidder, or bidders, upon sealed proposals, after giving public notice thereof for not less than ten days in at least two newspapers of said city, which notice shall state as nearly as practicable the extent of the work, the kind of materials to be furnished, when the work shall be done, and at what time the proposals shall be acted upon.

Contractors to
give bond. SEC. 4. Each contractor shall be required to give bond to the city, with sureties to be approved by the council, or by the board of public works, where such board shall exist, for the faithful performance of the contract, and the council or such board, shall have power to institute suit in the name of the city to enforce all such contracts.

Duty of city
engineer. SEC. 5. It shall be the duty of the city engineer to furnish the council, or board of public works, in case such board shall exist, with proper grades and lines, and see that the work is done in accordance with the ordinances and regulations of the city, with respect to grades and lines.

Payment of
costs provided
for by bonds. SEC. 6. For the purpose of providing for the payment of the costs and expenses of any such improvement, or improvements, the council, or board of public works, in case such a board shall exist, shall be authorized from time to time, as the work progresses, or is completed, to make requisitions

upon the mayor of the city, for the issuance of bonds, or certificates, as hereinafter provided, in such denominations as shall be deemed best, in anticipation of the deferred payment of the taxes levied for such improvement. And it shall be the duty of the mayor to make and execute bonds, or certificates, accordingly to an amount not exceeding six-sevenths of the amount of the cost and expenses of any such improvement, to be actually assessed upon the property liable hereunder, for the payment of the same.

Said bonds shall bear the name of the street, alley, place or district improved, which shall be particularly described in the resolution authorizing such issue, and shall be signed by the mayor, and countersigned by the city clerk or city recorder, as the case may be, and sealed with the corporation seal of the city, and shall bear the same date, and be payable seven years after date, and be redeemable at any time, at the option of the city, and shall bear interest at the rate of not exceeding 6% per annum, payable semi-annually. Said bonds shall be substantially in the following form:

The city of.....in the state of Iowa, promises to pay as hereinafter stated, to the bearer hereof, on the...day ofor at any time before that date the sum of.....dollars, with interest thereon at the rate of...per cent per annum, payable annually, on the presentation and surrender of the interest coupons hereto attached. Both principal and interest of this bond are payable at the.....bank in the city of.....state of..... This bond is issued by the city of.....under and by virtue of chapter..... of the acts of the 25th General Assembly, of the state of Iowa, and the ordinance of said city passed in accordance therewith, and in accordance with a resolution of the council of said city, duly passed on the...day of..... 189..

This bond is one of a series of bonds of like tenor, date, and amount, numbered from.....to..... and issued for the purpose of defraying the cost of improving, curbing, and paving a portion of.....street (or constructing a sewer on.....street) as described in said resolution, in said city, which cost is payable by the abutting property along said improvements, and is made by said law a lien on all said abutting (or adjacent) property, and payable in seven annual installments, with interest on all deferred payments, at the rate of six per centum per annum, and this bond is payable only out of the.....fund, created by the collection of said special tax, and said fund can be used for no other purpose.

And it is hereby certified and recited, that of all the acts, conditions, and things required to be done, precedent to, and in the issuing of this series of bonds, have been done, happened and performed, in regular and due form, as required by said law and ordinance; and for the assessment, collection

Bonds to bear name of street improved.

Form of bonds.

Payable by abutting property.

Seven installments interest.

Form of bond continued.

and payment hereon, of said special tax, the full faith and diligence of said city of is hereby irrevocably pledged.

In testimony whereof, the city of by its city council has caused this bond to be signed by its mayor, countersigned by its city clerk, with the seal of said city affixed, this day of 18

City Clerk.

Mayor.

COUPON.

No. \$

On the day of the city of Iowa, promises to pay to bearer, as provided in said bond, the sum of dollars, at the bank in the city of being months' interest due that day on its improvement bond No. dated 189

Mayor.

Countersigned,

City Clerk.

Duty of city in the matter.

It shall be the duty of the city to comply with the requirement of this chapter, in the issuance of said bonds or certificates to assess and levy upon the property liable therefor the cost and expenses of such improvement, or improvements, and to collect the same, and apply the proceeds in the redemption of such bonds or certificates, and to no other purpose, and said bonds or certificates shall be payable only out of funds derived from such assessments, and bonds or certificates shall not be delivered on account of any improvement, to an amount in excess of the tax levied on property, the owners of which have signed the waiver provided in section 16 hereof. Said city shall not be obliged to appropriate money from any other funds to the payment of such bonds, or any part of the same, except as to the temporary advancement of interest thereon, as provided in section 14 hereof.

Bonds delivered to city clerk. Registered.

SEC. 7. When such bonds shall have been issued, and sealed with the corporation seal of the city, they shall be delivered to the city clerk, or city recorder, as the case may be, who shall register them in a book to be kept for that purpose, and countersigned, and then delivered to the committee or person authorized to negotiate the same, taking receipt therefor.

Duty of commissioners to negotiate sale of bonds.

SEC. 8. Said committee or person authorized to negotiate said bonds, shall negotiate the same in such manner as they, or he may deem best, and for such prices as may be obtainable for the same, not less than par, and shall pay all moneys received therefrom to the treasurer of the city, and report to the city clerk, or city recorder, as the case may be, the num-

ber of bonds sold, and the amount received therefor, and before delivering the same to the purchaser said bonds shall be countersigned by the person or committee authorized to negotiate the same.

SEC. 9. All moneys received by the city treasurer from the sale of said bonds, shall be kept by him in a separate fund, and paid out on requisition of the council, accompanied by certificate of the city engineer, or board of public works, that the work has been done, or material furnished to the amount of said requisition, and that it is required for the payment of the same, and all moneys received by said treasurer, shall be kept in the same manner, and subject to all the regulations regarding other money of the city, except he shall keep a separate account of the same, and all interest received upon the same shall be credited to such fund.

Money received
for sale of
bonds.

Interest
credited.

SEC. 10. When any such improvement shall have been completed it shall be the duty of the council to ascertain the cost of the improvement, and also what portion of such cost may be by law assessable on abutting, or adjacent property, and the portion of such cost so assessable shall then be assessed as provided by law, or by ordinance of such city, upon the property fronting or abutting on, or adjacent to said improvement. Whenever any railroad or street railway may have been constructed, and shall remain upon any street which the council may direct to be paved, at the time when such direction shall be given, and when the owner of such railroad or street railway may be bound to pave any portion of said street by law or ordinance of the city, or by virtue of the provisions or conditions of any ordinance of the city, under which said railway or street railway may have been constructed or may be maintained, and if the owner shall fail, or refuse to comply with the order of the council to do such paving, then the portion of the cost of paving such street assessable upon such railroad or street railway, shall be ascertained, and shall be assessed against such street railway.

Completion
cost ascer-
tained.

Railway upon
the improved
street.

SEC. 11. The council shall cause a plat to be made and filed with the city clerk, or city recorder, as the case may be, for public inspection of the place, or places, or parts of places on which such improvement shall be made, showing the separate lots, or parcels of ground subject to assessment for such improvement, or a specified portion thereof, and the names (as far as practicable) of the several owners, and the amount to be assessed against each lot or piece of ground, and if such improvement shall be the paving of any street, said plat shall show any, and all railroads or street railway tracks thereon, and the amount, if any, to be assessed against such railroad or street railway, and shall after making and filing of said plat aforesaid, cause to be given ten days' public notice in two daily newspapers published in such city, that such plat is on file in the office of the city clerk, or city recorder, as the case may be, for the inspection of any person

Plat made
and filed.

Plat to show
railway tracks.

Newspaper
notice where
plat may be
inspected.

or company interested therein, and that any such person or company having any objection to the same, or to the tax proposed to be assessed thereby, shall file with the said city clerk, or city recorder, as the case may be, his or their objections in writing, at or before the next meeting of such council after the publication of such notice, that such council at such meeting, or as soon thereafter as practicable, and after hearing and deciding upon any objection so filed, if any, and after making all necessary corrections in the assessment, as proposed by said plat, shall assess and levy as a special tax upon the property of each owner, liable to special assessments as aforesaid, its just and true proportion according to law, and according to said assessments proposed by said plat as corrected and approved of the amount to be specially assessed for any such improvement; said assessment shall be duly entered on the proper tax books of such city, and shall be payable at the office of the city collector of said city, or other officer authorized to collect city taxes in seven equal installments, with interest at the rate of six per centum per annum, from the date of assessment upon the unpaid portion thereof, the first of which with interest at six per cent per annum, shall be payable on and after the date of such assessment, as aforesaid and the others annually after the date of such assessment, with interest on the whole amount unpaid; and said assessment shall be collected like other special taxes, as may be provided by the ordinances of such city.

Provided, that when the whole, or any part of the cost of constructing any sewer, shall be required by ordinance of any city to be paid by the proceeds of a sewer tax, to be levied upon all the property of any sewer district, according to valuation, that said city shall have the power to levy the entire cost of such sewer, required to be paid by such sewer district, at once upon all the taxable real property within such district, and determine by ordinance or resolution the whole percentage of tax necessary to pay such cost, and the percentage to be paid in any one year, and when the same shall become delinquent, and such taxes shall be entered, and payable and collectible, as other special taxes in this chapter provided for; and said city shall have the right to issue bonds in anticipation of the payment of such taxes, in the same manner, and with the same effect, as herein provided for bonds issued for taxes levied upon specified abutting, or adjacent property.

SEC. 12. Said assessment with interest accruing thereon, shall be a lien upon the property abutting upon the street or streets, on which any said improvement is made, or upon such improvement, or the entire property on which such tax is levied, from the commencement of the work, and shall remain a lien until fully paid, and shall have precedence over all other liens except ordinary taxes, and shall not be divested by any judicial sale, *provided* that such lien shall

Objections.

Assessment entered on tax books.

Interest.

Payment.

Cost of sewers to be levied on sewer district.

How collected.

Assessments a lien upon property.

Precedents.

be limited to the lots or lands bounding or abutting on such street, or streets, or on such improvement, and not exceeding in depth therefrom 150 feet, except in the case of sewer improvements, the cost of which is levied on adjacent property or the entire taxable real estate of the particular district. Any assessment against any railroad or street railway for the paving of any street shall be a first and paramount lien upon the entire track of said railroad, or street railway, in the limits of the city making such assessments.

Lien in case of railways of entire road in city limits.

SEC. 13. The owner of any property against which an assessment shall have been made for the cost of any such improvement, shall have the right to pay the same in full, with interest thereon at six per centum per annum, from the time said assessment was made, or after having paid one or more of seven installments, and interest, he may at any time pay in full the balance of his assessments remaining unpaid, with interest thereon at six per centum per annum, from the time when the preceding payment became due, and such payment in full shall satisfy and discharge the lien upon said property, and any owner of such property who shall divide the same so that the feet front on any such improvement are divided into separate lots or parcels, may discharge the lien in like manner upon any one or more of such lots or parcels by payment of the amount unpaid thereon, calculated by the ratio of feet front, or square feet in area of such lot or lots, or parcel, or parcels to the feet front, or area of the whole lot. If any assessment shall have been made against any railroad or street railway for the paving of any street, the owner of said railroad or street railway shall have the same rights as are hereinbefore provided to pay in installments, or to pay in full, the assessment against said railroad or street railway; but no part of the line of said railroad or street railway shall be released from the lien for any portion of any unpaid assessment which may have been made against it for paving any street, as aforesaid.

Right to pay in full at any time.

Interest.

Lien discharged.

Right of railway to pay in installments.

No part of railway released by partial payments.

SEC. 14. All moneys received from assessments shall be appropriated to the payment of the interest, or payment and redemption of the bonds, or of the certificates hereinafter provided for as the case may be, that shall be issued for such improvements, and if any interest shall become due on any of said bonds, when there is no fund to pay the same, the council shall be authorized to make a temporary loan for said fund for the payment thereof.

Money to be applied in payment of interest or redemption of bonds.

SEC. 15. Whenever it is deemed advisable by the city council it shall be lawful for such city to provide by ordinance for the issuance of certificates payable to bearer, or to contractors, who, under contract with the city shall have constructed any such improvements in payment therefor, each of which certificates will state the amount of one or more assessments, or a part of the same, made against the owner, or owners, and lot, or lots, or railroads or street railway, on

City council may issue certificates to contractors.

Certificates may be negotiated.

account of, and for the payment of the cost of any such improvement, and shall negotiate the same, or transfer to the contractor, or assigns all the right and interest of such city, to, in, and with respect to every such assessment, and shall authorize such bearer, contractor or assigns, to receive, sue for, collect or have collected, by, or through any of the methods provided by law for the collection of assessments for local improvements, including the provisions of this act, or the same may be paid by the tax payer to the city collector, who shall receipt therefor, and have the same applied to the payment of the certificate issued therefor.

Agreement in consideration of right to pay in installments.

SEC. 16. Whenever the owner, or owners of any lot or lots, or any street railway, the assessment or assessments against which is or are embraced in any such bonds or certificate, shall severally promise and agree in writing endorsed on such bond or certificate, or in a separate agreement that in consideration of having the right to pay his, or their assessment, or respective assessments, in installments, they will not make any objection of illegality, or irregularity, as to their respective assessments, and will pay the same with interest thereon, at such rate, not exceeding six per cent per annum, as shall by ordinance or resolution of the city council of such city be prescribed and required, he or they, shall have the benefit, and be subject to all the provisions of this act, authorizing the payment of assessments in annual installments, and relating to the lien and collection and payment of assessments so far as applicable.

Rate of interest fixed by ordinance of city council.

Penalty for failure to promise or agree in writing, to pay.

SEC. 17. Any owner of any lot or lots, or any railroad or street railway assessed for payment of cost of any such improvement, who will not promise and agree in writing, as provided by sec. 16 hereof shall be required to pay his assessment in full when made, and the same with interest thereon, shall be collectible by or through any of the methods provided by law for the collection of assessments for local improvements, including the provisions of this act.

Mistake in description.

SEC. 18. Any mistake in the description of the property, or in the name of the owner shall not vitiate the lien.

Improvement not authorized unless petitioned for.

SEC. 19. The council of any such city shall not have the right to authorize any improvement under this act unless the owners of a majority of the feet front, or square feet in area of the property abutting upon, or adjacent to the street, or streets to be improved, or any such improvement shall petition therefor, or unless the same shall be voted for by three-fourths of the members of the council.

Part of street may be improved.

SEC. 20. Any part of any street, or streets may be improved under this act, as well as an entire street, or streets, and the cost of the whole, or any part of the improvement included in any resolution or contract, or contracts, may be levied at one time and under one plat and notice, when such action will allow the just and true proportion of the entire cost to be assessed uniformly to each front foot, or square foot

in area, of the lots or lands abutting on, or adjacent to such improvement.

SEC. 21. All acts and parts of acts in conflict with this act are hereby repealed, so far as applicable to such cities. *Provided*, nothing herein contained shall be construed as prohibiting or preventing such cities from making special assessments to pay for the construction of sewers upon adjacent property, according to area, or from paying for such construction by any method of assessment, or any combination of methods now provided by law. Conflicting acts repealed.

And *provided further*, that nothing herein contained shall be construed as prohibiting or preventing such cities, the councils of which have heretofore ordered and directed any street or streets to be paved and curbed, and have advertised and proceeded pursuant to such order and the laws of Iowa, from possessing all the powers of this act, and such city or cities which have so proceeded, and the councils thereof are hereby empowered to continue such paving and curbing under the provisions of this act. Does not conflict with work already under contract.

SEC. 22. This act being deemed of immediate importance, shall be in force and effect, from and after its publication in the Iowa State *Register*, and Des Moines *Leader*, newspapers published at Des Moines, Iowa. Such cities may continue such improvements.

Approved April 28, 1894. Publication clause.

I hereby certify that the foregoing act was published in the Iowa State *Register*, May 8, and in the Des Moines *Leader*, May 10, 1894.

W. M. McFARLAND, *Secretary of State*.

CHAPTER 8.

AN ACT to amend section two of chapter 38, of the laws of 1882, and H. F. 116, authorizing cities of the second class having not less than five thousand inhabitants, as shown by the last legally authorized census, to levy a special tax for the creation of a general paving fund to pay the cost of paving street and alley intersections. H. F. 116.

Be it enacted by the General Assembly of the State of Iowa:

SECTION 1. That all cities of the second class having a population of not less than five thousand inhabitants, as shown by the last legally authorized census, are hereby authorized and empowered to levy a special tax, not exceeding five mills on the dollar, on the assessed valuation of all the property in such city for the purpose of creating the general paving fund contemplated and referred to in section two of chapter 38 of the laws of 1882, and said section two is hereby so amended and shall be so read and construed. Tax for general paving fund.

SEC. 2. This act being deemed of immediate importance shall take effect from and after its passage and publication in the Des Moines *Leader* and Iowa State *Register*, newspapers published at Des Moines, Iowa. Publication clause.

Approved March 29, 1894.

I hereby certify that the foregoing act was published in the Iowa State *Register* April 4, and Des Moines *Leader* April 3, 1894.

W. M. McFARLAND, *Secretary of State*.