

CITIES AND TOWNS

CHAPTER 6

Local Improvements

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Cross reference provision that no telegraph, telephone constructed within organization without authorities, see art. power of all cities a taxes for general re see § 15-1-103. As to contracts for public see § 15-1-103. As to As to interest of offi the first class, see § city manager in citie manager form of g management of city § 15-4-223. As to aw responsible bidder, et the city manager § 15-4-259. For specifications and precede advertising f city contracts, see § 1 city manager shall l control of all highway local improvements in § 15-4-272. As to pow city manager form c streets, see § 15-4-2 cleaning streets and a liability of cities of

§ 15-6-101. De.

(a) When used in to them:

- (i) "Streets"
- (ii) "Drains" valley gutters conventional g
- (iii) "Engine employed by a
- (iv) "Improv which the gov proposed to be
- (v) "Convent curb and gutte

Cross references. — For constitutional provision that no street passenger railway, telegraph, telephone or electric light line shall be constructed within the limits of any municipal organization without the consent of its local authorities, see art. 13, § 4, Wyo. Const. As to power of all cities and towns to levy and collect taxes for general revenue and other purposes, see § 15-1-103. As to requirements for municipal contracts for public improvements generally, see § 15-1-103. As to additions, see § 15-1-516. As to interest of officers in contracts, in cities of the first class, see § 15-3-206. For authority of city manager in cities operating under the city manager form of government relative to the management of city-owned public utilities, see § 15-4-223. As to awarding contracts to lowest responsible bidder, etc., in cities operating under the city manager form of government, see § 15-4-259. For provision that plans, specifications and estimate of costs shall precede advertising for bids in connection with city contracts, see § 15-4-261. For provision that city manager shall have the supervision and control of all highways, streets, alleys, etc., and local improvements in connection therewith, see § 15-4-272. As to power of city operating under city manager form of government to vacate streets, see § 15-4-273. As to districts for cleaning streets and alleys, see § 15-4-274. As to liability of cities operating under the city

manager form of government for excavations, obstructions, etc., in streets, see § 15-4-277. As to liability for obstructions and streets caused by railroad companies, see § 15-4-279. As to removal of snow from streets, alleys and sidewalks in cities operating under the city manager form of government, see § 15-4-281. As to power of cities operating under a city manager form of government to install public utilities, see § 15-4-282. As to disposal of public utilities by cities operating under a city manager form of government, see § 15-4-283. As to eminent domain generally, see §§ 1-26-101 to 1-26-405 and Rule 71.1, W.R.C.P. As to public works and contractor's bond, see §§ 9-8-301 to 9-8-318. For provision that any surveying or engineering work done by or under the authority of any village, town or city shall be performed by or under the direction of a duly registered professional engineer or land surveyor, see § 33-29-106. For provision that all maps, plats, plans or designs necessary to be filed in all city or town offices shall be made and certified by a professional engineer or land surveyor, see § 33-29-111. As to public utilities generally, see title 37. As to joint operation of drainage districts with municipalities, see §§ 41-9-401 to 41-9-403. As to special benefits to towns, cities and villages with reference to proposed work in connection with drainage districts, see § 41-9-218.

ARTICLE 1. GENERAL PROVISIONS

15-6-101. Definitions.

a) When used in this chapter the following terms have the meanings assigned them:

- (i) "Streets" includes streets, highways, alleys, roads and public ways;
- (ii) "Drains" or "drainage" means all surface sewers, drains, cross street valley gutters and all kinds of draining other than sanitary sewers or conventional gutters;
- (iii) "Engineer" means the city engineer, town engineer, or any engineer employed by a city or town for local improvement work;
- (iv) "Improvement" means any lawful local improvement of any kind, which the governing body finds to be of special benefit to the property proposed to be assessed for the cost thereof;
- (v) "Conventional gutters" means curb and gutter or combined sidewalk, curb and gutter. (Laws 1915, ch. 120, § 3; C.S. 1920, § 1968; R.S. 1931,

§ 22-1503; C.S. 1945, § 29-2003; Laws 1957, ch. 112, § 1; W.S. 1957, § 15-444; Laws 1963, ch. 145, § 1; 1965, ch. 112, § 330; 1967, ch. 105, § 1; 1971, ch. 36, § 1.)

"Improvement" as defined by this section would include modification of sidewalk basements required as incident to the construction of sidewalks within an improvement district. *Blount v. City of Laramie*, 510 P.2d 294 (Wyo. 1973).

Improvement district. — Under this section and §§ 15-6-202, 15-6-207, and 15-6-302 an improvement district may be composed of 2 or more parallel streets. *Bass v. City of Casper*, 28 Wyo. 387, 205 P. 1008, rehearing denied, 208 P. 439 (1922).

Substantial compliance. — Sewer assessments and bonds issued in substantial compliance with essential provisions of law authorizing construction of sewers by first class cities were valid though levied and issued pursuant to later act respecting improvements by all municipalities. *Henning v. Consolidated Bldg. & Loan Co.*, 50 Wyo. 315, 62 P.2d 540 (1936).

Validity of assessment roll prepared by engineer employed by city. — Whether or not

under this section construed liberally as provided by § 15-6-106 any engineer employed by the city may prepare assessment roll, an assessment confirmed by the council is not void because city engineer did not prepare the roll as provided in § 15-6-402, in view of § 15-6-442 providing that it shall be no objection to the validity of an assessment that it was made by an unauthorized officer or person, if confirmed by the city authorities. *Bass v. City of Casper*, 28 Wyo. 387, 205 P. 1008, rehearing denied, 208 P. 439 (1922).

Proposed modification to basements underlying sidewalks does not constitute a taking of private property without just compensation where title to the lands underlying streets and sidewalks is in the city. *Blount v. City of Laramie*, 510 P.2d 294 (Wyo. 1973).

Quoted in *Mealey v. City of Laramie*, 472 P.2d 787 (Wyo. 1970).

Am. Jur. 2d reference. — 70 Am. Jur. 2d Special or Local Assessments § 1 et seq.

§ 15-6-102. Power of city or town to make local improvements and levy assessments; effect on other laws.

(a) Any city or town may provide for the making and maintenance of local improvements and levy and collect special assessments on the property specially benefited to pay all or part of [the] cost of the improvement. This chapter without reference to other statutes unless otherwise expressly provided, constitutes the full authority for the exercise of powers herein granted, including but not limited to the making of local improvements, establishing and changing grades, and levy and collection of assessments, and the authorization and issuance of bonds. No other act or law, relating to any city or town, with regard to like matters, that provides for a petition or an election, requires an approval, or in any way impedes or restricts the doing of things authorized to be done by this chapter, shall be construed as applying to any proceedings or acts done pursuant hereto. No board, agency, bureau or official other than the governing body of the municipality may fix, prescribe, modify, supervise or regulate the levy or collection of special assessments or taxes authorized by this chapter, except as expressly provided or necessarily implied, nor supervise or regulate the establishment or modification of grades and the acquisition of any improvement authorized.

(b) It is intended that this chapter provide a separate method of accomplishing its objectives, and not an exclusive one, and it shall not be construed as repealing, amending or changing any other law. (Laws 1915, ch. 120, § 1; C.S. 1920, § 1962; R.S. 1931, § 22-1501; C.S. 1945, § 29-2001; W.S. 1957, § 15-445; Laws 1963, ch. 145, § 2; 1965, ch. 112, § 331.)

Extent of power. — Municipalities have no inherent power to make local improvements, and their power only when delegated by the legislature, in which the power is exclusively vested only in the legislature by this article. *Bass v. City of Casper*, 28 Wyo. 387, 205 P. 1008, rehearing denied, 208 P. 439 (1922).

Jurisdiction. — If property improvements is within the jurisdiction of a municipality and is not exclusively vested in the legislature, the municipality has jurisdiction over the matter. *Bass v. City of Casper*, 28 Wyo. 387, 205 P. 1008, rehearing denied, 208 P. 439 (1922).

Sanitary sewers. — The power to make "improvements" includes the power to construct and repair sanitary sewers. *Consolidated Bldg. & Loan Co. v. City of Casper*, 28 Wyo. 387, 205 P. 1008, rehearing denied, 208 P. 439 (1922).

Street paving. — Street paving is a public work within the provisions of this article under the provisions of this article be "public works," within the meaning of the statute concerning hours of labor. *Read Co. v. City of Casper*, 33 Wyo. 387, 240 P. 439 (1922).

That arterial street improvements are a matter of law. *Marion v. City of Casper*, 28 Wyo. 387, 205 P. 1008, rehearing denied, 208 P. 439 (1922).

Such streets may be included in the improvement where property primarily benefited. — While chapter 15-7-101, does not prevent the inclusion of arterial streets as a local improvement, municipal authorities under this chapter, municipal authorities exercise the utmost care to be that property to be assessed is that which benefits primarily accrue. *Correia v. City of Casper*, 371 P.2d 835 (Wyo. 1962).

§ 15-6-103. Powers and duties of municipalities in making and maintaining local improvements and the amount of assessments thereon.

The governing body of any municipality may make and maintain any improvement or improvement on any lot, part of lot, or block of lots, if the improvement is to be used. It shall provide for the period not to exceed five (5) years for the assessment for making and maintaining the improvement upon all lots, part of lot, parts of lots, and blocks of lots, and the amount of assessments thereon.

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**Extent of power.** — Municipal corporations have no inherent power to levy assessments for local improvements, and may exercise such power only when delegated to them by the legislature, in which the power of taxation is exclusively vested only in the manner provided in this article. *Bass v. City of Casper*, 28 Wyo. 205 P. 1008, rehearing denied, 208 P. 439 (1922).

**Jurisdiction.** — If property assessed for local improvements is within the territory of the municipality and is not exempt by law, the municipality has jurisdiction of the subject matter. *Bass v. City of Casper*, 28 Wyo. 387, 205 P. 1008, rehearing denied, 208 P. 439 (1922).

**Sanitary sewers.** — The power to make "local improvements" includes the power to construct and repair sanitary sewers. *Henning v. Consolidated Bldg. & Loan Co.*, 50 Wyo. 315, 62 P.2d 540 (1936).

**Street paving.** — Street paving, being done under the provisions of this article, was held to be "public works," within the constitution and statute concerning hours of labor. *State v. A.H. Read Co.*, 33 Wyo. 387, 240 P. 208 (1925).

That arterial street improvements are general, rather than local, is not true as a matter of law. *Marion v. City of Lander*, 394 P.2d 910 (Wyo. 1964), cert. denied, 380 U.S. 925, 85 S. Ct. 929, 13 L. Ed. 2d 810, rehearing denied, 380 U.S. 989, 85 S. Ct. 1352, 14 L. Ed. 2d 283 (1965).

Such streets may be included as local improvement where property assessed is primarily benefited. — While ch. 67, Laws 1961 (§ 15-7-101), does not prevent the inclusion of arterial streets as a local improvement under this chapter, municipal authorities should exercise the utmost care to be certain that the property to be assessed is that to which the benefits primarily accrue. *Gorreil v. City of Casper*, 371 P.2d 835 (Wyo. 1962).

Municipality is not an insurer of safe condition of sewers. — Sewer maintenance is a

proprietary function for which there is liability, but a municipality is not an insurer of the safe condition of its sewers, being liable in damages only for the failure to exercise ordinary and reasonable care to keep them in repair and free from obstruction, and in general, a similar rule is applicable in instances of damages claimed because of nuisance. *Lore v. Town of Douglas*, 355 P.2d 367 (Wyo. 1960).

And burden of proof as to lack of reasonable care is upon the plaintiff. — Whatever the basis for damages against a municipality because of injury arising from sewer maintenance, the burden of proof as to lack of reasonable care is upon the plaintiff. *Lore v. Town of Douglas*, 355 P.2d 367 (Wyo. 1960).

**Limitations.** — In mandamus action by holders of special assessment bonds to compel mayor and city council to make reassessment to cover deficiency in original assessment, both written demand and filing of suit having been well within the time limited by statute, general rule is that such action preserves the right until final judgment. *Cowan v. State ex rel. Blanchar*, 55 Wyo. 427, 100 P.2d 427 (1940).

In mandamus action by holders of special assessment bonds to compel mayor and city council to make reassessment to cover deficiency in original assessment, where a railroad had contested inclusion of its right-of-way, that controversy between railroad and the city was not terminated until the agreed settlement was perfected by dismissal of its appeal, when only it became determinable what deficiency was, and action was well within the 10 years limit of the statute within which reassessment must be made. *Cowan v. State ex rel. Blanchar*, 55 Wyo. 427, 100 P.2d 427 (1940).

Cited in *In re Improvement Under Special Assmt. Statutes by San. Sewer*, 57 Wyo. 121, 113 P.2d 958 (1941).

C.J.S. reference. — 63 C.J.S. Municipal Corporations § 1036.

§ 15-6-103. Powers and duties of governing body; generally.

The governing body of any city or town may when considered expedient, order any improvement or improvements, and determine its character, kind and extent. If the improvement is to be paving, it shall designate the kinds of pavement to be used. It shall provide for the maintenance of an improvement for a specified period not to exceed five (5) years and include the cost of that maintenance in the assessment for making the improvements. It shall levy and collect an assessment upon all lots, parts of lots and parcels of land specially benefited by the improvement to defray all or any part of the cost and expense, and determine what lots, parts of lots, and parcels of land are specially benefited by the improvements, and the amount each of which is benefited. (Laws 1915, ch. 120,

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§ 2; C.S. 1920, § 1967; R.S. 1931, § 22-1502; C.S. 1945, § 29-2002; W.S. 1957, § 15-446; Laws 1963, ch. 145, § 3; 1965, ch. 112, § 332.)

Cross references. — As to costs of construction of state highways through city and towns, see § 24-2-111.

Editor's note. — Most of the cases noted below were decided under former similar statutory provisions.

This section and § 15-6-404 are not inconsistent, nor can the former section be said to control the latter. In re Appeal of Chicago & N.W. Ry., 70 Wyo. 84, 246 P.2d 789, rehearing denied, 70 Wyo. 119, 247 P.2d 660 (1952).

Cities and towns have been granted plenary power as to local improvements. Marion v. City of Lander, 394 P.2d 910 (Wyo. 1964), cert. denied, 380 U.S. 925, 85 S. Ct. 929, 13 L. Ed. 2d 810, rehearing denied, 380 U.S. 989, 85 S. Ct. 1352, 14 L. Ed. 2d 283 (1965).

Determination of extent of improvement rests in discretion of city council. — The determination of the extent of the improvement and what shall be included in it is the exercise of a legislative power and rests in the legislative discretion of the city council and it follows that no impropriety results in leaving details to the city council, and unless it exceeds such power or exercises its discretion in a fraudulent, arbitrary or capricious manner, the courts will not interfere. Marion v. City of Lander, 394 P.2d 910 (Wyo. 1964), cert. denied, 380 U.S. 925, 85 S. Ct. 929, 13 L. Ed. 2d 810, rehearing denied, 380 U.S. 989, 85 S. Ct. 1352, 14 L. Ed. 2d 283 (1965).

The determination is vested in the city council and unless the exercise of its legislative discretion is fraudulent, arbitrary or capricious, the courts will not interfere. Mealey v. City of Laramie, 485 P.2d 1019 (Wyo.), appeal dismissed, 404 U.S. 931, 92 S. Ct. 282, 30 L. Ed. 2d 245 (1971).

Cities, in exercising legislative powers, may fix the boundaries and the nature and extent of the improvements to be made, and a court will interfere only if the city council exceeds those powers or exercises its discretion in a fraudulent, arbitrary or capricious manner. Blount v. City of Laramie, 510 P.2d 294 (Wyo. 1973).

And its determination that property is benefited is very nearly conclusive. — When

the legislature, or its duly delegated agent for that purpose, determines that property is benefited and shall be assessed, such determination is well-nigh conclusive. In re Appeal of Chicago & N.W. Ry., 70 Wyo. 84, 246 P.2d 789, rehearing denied, 70 Wyo. 119, 247 P.2d 660 (1952); Marion v. City of Lander, 394 P.2d 910 (Wyo. 1964), cert. denied, 380 U.S. 925, 85 S. Ct. 929, 13 L. Ed. 2d 810, rehearing denied, 380 U.S. 989, 85 S. Ct. 1352, 14 L. Ed. 2d 283 (1965).

Where no evidence of fraud, etc. — Determination by city council that railroad's right-of-way was benefited by street improvement and was subject to assessment, was conclusive on the supreme court where there was no evidence that determination by city council was due to fraud, arbitrariness or palpable injustice. In re Appeal of Chicago & N.W. Ry., 70 Wyo. 84, 246 P.2d 789 (1952), rehearing of 70 Wyo. 84, 246 P.2d 789 (1952).

Assessment void where real estate incorrectly described on assessment roll. — An assessment against a railway company was held totally void where the assessment roll did not correctly describe the real estate owned by the railroad within the assessment district. In re Appeal of Chicago & N.W. Ry., 70 Wyo. 84, 246 P.2d 789, rehearing denied, 70 Wyo. 119, 247 P.2d 660 (1952).

Bondholders' remedy. — Owner of bonds payable only from improvement fund where bondholders' remedy upon nonpayment is to enforce a special assessment must proceed by mandamus to compel city officials to reassess. Blanchard v. City of Casper, 81 F.2d 452 (10th Cir. 1936).

Substantial compliance. — Sewer assessments and bonds issued in substantial compliance with essential provisions of law authorizing construction of sewers by first class cities were valid though levied and issued pursuant to later act respecting improvements by all municipalities. Henning v. Consolidated Bldg. & Loan Co., 50 Wyo. 315, 62 P.2d 540 (1936).

C.J.S. reference. — 63 C.J.S. Municipal Corporations § 1042.

§ 15-6-104. Same; incidental to street improvement.

The governing body of any city or town may lay out, establish, vacate, widen, extend and open streets or parts thereof; appropriate private property for the

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purpose; and the limits. The government is convenient to the § 1969; R.S. 1965, ch. 112, §

This section does to be given to proposed to vacate vacation of public essentially a legislative plenary and absolute constitutional limit delegated to the Therefore, so far as notice needs to be Thomas v. Jultak, (1951) (decided under

Due process does not take substance who were not deprived by reason of the vac were not in a position property was taken Thomas v. Jultak, (1951).

Vacating alley council's power. —

§ 15-6-105. I

The action and it in relation to a absence of fraud § 22-1556; C.S. 1

Section is inapplicable included in resolution nothing in the public intention or in support directly and concret would be wholly un there be a waiver a never before the prop statute. Consequent application. Gorrell (Wyo. 1962) (dec provisions).

purpose; and establish or alter the grade of any street, within the corporate limits. The governing body may determine and provide everything necessary and convenient to the exercise of this authority. (Laws 1915, ch. 120, § 4; C.S. 1920, § 1969; R.S. 1931, § 22-1504; C.S. 1945, § 29-2004; W.S. 1957, § 15-447; Laws 1965, ch. 112, § 333.)

This section does not provide for any notice to be given to property holders when it is proposed to vacate any street or alley. The vacation of public streets and highways is essentially a legislative function. It is therefore a plenary and absolute power, subject only to constitutional limitations, and it may be delegated to the state's municipal divisions. Therefore, so far as jurisdiction is concerned no notice needs to be given to a property holder. *Thomas v. Jultak*, 68 Wyo. 198, 231 P.2d 974 (1951) (decided under former similar provisions).

Due process not involved where vacation does not take substantial right. — Plaintiffs, who were not deprived of any substantial right by reason of the vacation of a portion of an alley, were not in a position to contend that their property was taken without due process of law. *Thomas v. Jultak*, 68 Wyo. 198, 231 P.2d 974 (1951).

Vacating alley held not abuse of city council's power. — A city council did not abuse

its power in vacating the west portion of an east-west alley which terminated at its west end at the city limits insofar as a company was concerned whose property was located outside the city limits at the termination end of the alley, and insofar as a lot owner was concerned whose property was located at the east end of the alley, even though the company and lot owner used the alley for transportation of merchandise to and from a warehouse located on property of the lot owner. *Thomas v. Jultak*, 68 Wyo. 198, 231 P.2d 974 (1951).

Authority to vacate alley sustained. — Contention by plaintiff that the city was without power or authority to vacate an alley for the sole benefit of a named property owner could not be sustained where the resolution for vacating a portion of the alley did not show it was solely for the benefit of the named property owner but on the contrary showed that it was for the benefit of the city. *Thomas v. Jultak*, 68 Wyo. 198, 231 P.2d 974 (1951).

§ 15-6-105. Decision of governing body final.

The action and decision of the governing body on any matters passed upon by it in relation to any subject covered in this chapter is final and conclusive in the absence of fraud. (Laws 1915, ch. 120, § 60; C.S. 1920, § 2027; R.S. 1931, § 22-1556; C.S. 1945, § 29-2060; W.S. 1957, § 15-448; Laws 1965, ch. 112, § 334.)

Section is inapplicable where matter not included in resolution or maps. — Where nothing in the publication of a resolution of attention or in supplementary maps related directly and concretely to change in grade, it could be wholly unwarranted to provide that there be a waiver as to a matter which was never before the property owners as required by statute. Consequently, this section has no application. *Correll v. City of Casper*, 371 P.2d 660 (Wyo. 1962) (decided under former similar provisions).

Determination by city council conclusive where no evidence of fraud, etc. — Determination by city council that railroad's right-of-way was benefited by street improvement and was subject to assessment, was conclusive in the supreme court where there was no evidence that determination by city council was due to fraud, arbitrariness or palpable injustice. *In re Appeal of Chicago & N.W. Ry.*, 70 Wyo. 119, 247 P.2d 660, denying rehearing of 70 Wyo. 84, 246 P.2d 789 (1952).

§ 15-6-106. Construction of chapter.

The rule that statutes in derogation of the common law are to be strictly construed has no application to this chapter, and it shall be literally [liberally] construed for the purpose of carrying out the objects for which it is intended. (Laws 1915, ch. 120, § 66; C.S. 1920, § 2034; R.S. 1931, § 22-1562; C.S. 1945, § 29-2066; W.S. 1957, § 15-450; Laws 1965, ch. 112, § 335.)

ARTICLE 2. PROCEEDINGS

§ 15-6-201. Proceedings to be governed by chapter; ordinance or resolution required.

(a) When any city or town makes local improvements or establishes or alters the grade of any street at the cost and expense, in whole or in part, of property specially benefited thereby, the proceedings shall be as provided in this chapter.

(b) Any such improvement may be ordered only by ordinance or resolution of the governing body. (Laws 1915, ch. 120, §§ 5, 6; C.S. 1920, § 1970; R.S. 1931, § 22-1505; C.S. 1945, § 29-2005; W.S. 1957, § 15-451; Laws 1965, ch. 112, § 336.)

Resolution and maps not giving specific information held not to comply. — Even if the failure of the city to place grade maps in the clerk's office in accordance with the published notice is disregarded, there was no real compliance, as far as grades were concerned, with this section and § 15-6-202, where the published resolution did not in itself provide any specific information, and such maps as were placed in the offices of the engineers contained information as to the proposed improvements, but were comparatively meaningless except as they might be correlated with the existing elevations which with minor exceptions were not shown, and the city manager testified that the delivery of the maps to the city did not occur until after the beginning of the protest period.

Correll v. City of Casper, 371 P.2d 835 (Wyo. 1962) (decided under former similar provisions).

Substantial compliance. — Sewer assessments and bonds issued in substantial compliance with essential provisions of law authorizing construction of sewers by first class cities were valid though levied and issued pursuant to later act respecting improvements by all municipalities. Henning v. Consolidated Bldg. & Loan Co., 50 Wyo. 315, 62 P.2d 340 (1936).

Am. Jur. 2d and C.J.S. references. — 70 Am. Jur. 2d Special or Local Assessments § 112 to 157.

63 C.J.S. Municipal Corporations §§ 1088, 1104.

§ 15-6-202. Requirements, form, etc., of resolution of intention; estimates of cost and contract price; publication of notice; property owners notified by mail.

(a) Any improvement may be initiated directly by the governing body by resolution declaring its intention to make improvements. The resolution shall specify with convenient certainty the streets, street or part thereof proposed to be improved, if the improvements be street improvements, the boundaries of the proposed assessment district, the character, kind and extent of the improvements, and if any improvement is to be paving, the resolution shall specify the kinds of paving to be used. The resolution shall specify an estimate

of the cost of unit, if any, ar project. The g which exceed b

(b) If an imp grades, it is : description, di change.

(c) If any par fund of the city other source, t maintained by t resolution shall maintenance is t

(d) The resolut body will meet : proposed impro objections must recorder to give property liable to resolution in one ( a week or more o then notice may l county once a wee resolution of inten prior to the hearir proposed district.

(e) The resolutio following caption:

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The resolution shal notice. (Laws 1915, 1945, § 29-2006; Lav § 1; 1963, ch. 145, §

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of the cost of the total improvement project and of each proposed assessment unit, if any, and also an estimate of the contract price of the total improvement project. The governing body shall not accept any bids or combination of bids which exceed by more than ten percent (10%) the estimates of the contract price.

(b) If an improvement will result in a change in existing street elevations or grades, it is sufficient if the resolution of intention so states without a description, directly or by reference, [of] the extent or location of the change.

(c) If any part of an improvement is to be paid out of the general fund or road fund of the city or town or out of funds available to the city or town from any other source, the resolution shall so state. If the improvement is to be maintained by the contractor for a specified period, not to exceed (5) years, the resolution shall contain a statement to that effect and that the charge for maintenance is to be included in the assessment for the improvement.

(d) The resolution shall fix the time and place, when and where the governing body will meet to consider any and all remonstrances and objections to the proposed improvements, and the time within which remonstrances and objections must be filed with the city or town recorder. It shall direct the recorder to give a fifteen (15) days notice to all legal owners of record of the property liable to assessment for the proposed improvements, by publishing the resolution in one (1) issue of some newspaper published in the city or town once a week or more often, and if no newspaper is published within the city or town then notice may be published in any newspaper of general circulation in the county once a week or more often. In addition to the publication, a copy of the resolution of intention shall be mailed, postage prepaid, at least fifteen (15) days prior to the hearing, to each legal owner of record of the property within the proposed district.

(e) The resolution when published and mailed as a notice shall have the following caption:

"Notice to all persons liable to assessment for the improvement of (state names of streets or if improvement is not to be located in the streets, identify by general character and general location). The governing body of the city (city or town) on the . . . . . day of . . . . . passed the following resolution of intention."

The resolution shall be set forth in full immediately after the caption of the notice. (Laws 1915, ch. 120, § 7; C.S. 1920, § 1971; R.S. 1931, § 22-1506; C.S. 1945, § 29-2006; Laws 1957, ch. 4, § 1; W.S. 1957, § 15-452; Laws 1961, ch. 82, § 1963, ch. 145, § 4; 1965, ch. 112, § 337.)

Failure to remonstrate as to inadequate notice does not waive objection. — Failure to remonstrate to the city council on the question of inadequacy of notice of intention to change grades was not a waiver of the right to remonstrate. *Gerrell v. City of Casper*, 371 P.2d 835 (1962).

inapplicable if matter not properly published. — Where nothing in the publication of a resolution of intention or in supplementary maps related directly and concretely to change in grade, it would be wholly unwarranted to provide that there be a waiver as to a matter which was never before the property owners as required by statute. Consequently, § 15-6-105

1st hearing notice



§ 15-6-204

## CITIES AND TOWNS

§ 15-6-206

smaller) would be sufficient to prevent further proceedings. *Correll v. City of Casper*, 371 P.2d 835 (Wyo. 1962).

Substantial compliance. — Sewer assessments and bonds issued in substantial compliance with essential provisions of law authorizing construction of sewers by first class cities were valid though levied and issued pursuant to later act respecting improvements

by all municipalities. *Henning v. Consolidated Bldg. & Loan Co.*, 50 Wyo. 315, 62 P.2d 540 (1936).

Stated in *Associated Enterprises v. Toltec Watershed Imp. Dist.*, 490 P.2d 1069 (Wyo. 1971), aff'd, 410 U.S. 743, 93 S. Ct. 1237, 35 L. Ed. 2d 675 (1973).

C.J.S. reference. — 63 C.J.S. Municipal Corporations § 1097.

### § 15-6-204. Governing body may act to carry out work.

Upon the passage and publication of the resolution of intention the governing body has jurisdiction and the right to pass any and all ordinances and resolutions, and to do any and all acts necessary to prosecute the improvement to completion, and to make and levy an assessment to pay therefor. (Laws 1915, ch. 120, § 9; C.S. 1920, § 1973; R.S. 1931, § 22-1508; C.S. 1945, § 29-2008; W.S. 1957, § 15-454; Laws 1965, ch. 112, § 339.)

### § 15-6-205. Governing body to proceed with improvements if no protests or protests overruled.

If no remonstrances are made and filed or if all remonstrances filed are overruled by the governing body it shall make such deletions of, or modifications to, the improvements and deletions of property to be assessed as it considers proper and shall cause the improvements to be begun and prosecuted with reasonable diligence until completed. (Laws 1915, ch. 120, § 10; C.S. 1920, § 1974; R.S. 1931, § 22-1509; C.S. 1945, § 29-2009; W.S. 1957, § 15-455; Laws 1963, ch. 145, § 6; 1965, ch. 112, § 340.)

### § 15-6-206. Intervening parts of street may be improved on governing body's motion; exception.

When the improvement proposed is that of a street, either by grading or regrading, paving or repaving, macadamizing or remacadamizing, graveling, or regravelling, constructing crosswalks, gutters, curbs, or providing for surface drainage, and not more than two (2) blocks remain unimproved in the street between improvements either already made or proposed to be made, the governing body may on its own motion cause the intervening or unimproved part to be improved. The improvement of that part shall not be stayed, defeated, or prevented by any remonstrance or other objection, unless the governing body considers the remonstrance or objection proper to stay or prevent the improvement. (Laws 1915, ch. 120, § 11; C.S. 1920, § 1975; R.S. 1931, § 22-1510; C.S. 1945, § 29-2010; W.S. 1957, § 15-456; Laws 1965, ch. 112, § 341.)

§ 15-6-207

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§ 15-6-301

§ 15-6-207. Ordinance ordering improvement, showing action on protests and fixing boundaries of assessment district.

(a) Upon the hearing of the resolution of intention, if the governing body decides to proceed with the improvement, it shall pass an ordinance, which shall recite the passage of the resolution of intention; the date of the hearing; and whether or not remonstrances were filed; and if any were filed, the action of the governing body thereon.

(b) The ordinance shall also order the improvements, describe the improvements proposed to be made, and shall direct the city engineer to prepare plans and specifications therefor.

(c) The ordinance shall also fix the boundaries of the assessment district, which shall include all property to be assessed for the improvements. (Laws 1915, ch. 120, § 12; C.S. 1920, § 1976; R.S. 1931, § 22-1511; C.S. 1945, § 29-2011; W.S. 1957, § 15-457; Laws 1963, ch. 145, § 7; 1965, ch. 112, § 342.)

ARTICLE 3. PLANS, SPECIFICATIONS AND CONTRACTS

§ 15-6-301. Plans, specifications and cost estimates; state or city contracts; proceeding without contract; call for bids; cooperation with federal government.

(a) Immediately upon the passage of the ordinance, the city engineer shall prepare and file with the city clerk, plans, specifications, and estimated cost of the improvements, which shall show in detail the work to be done, the quantities of material to be handled, and the estimated cost of the improvements, and shall be approved by the governing body by motion or resolution.

(b) The improvements may be made under contracts, or as a part of a contract, publicly let by the state or any agency thereof, or by the city or town in the manner provided in this section and section 15.1-344 [§ 15-6-302], or the city or town may make the improvements with its own equipment, labor and materials, without contract, or any combination of methods may be followed. If the improvements are to be made by municipal contracts, the city clerk shall call for bids by publishing a notice in at least one (1) issue of some newspaper published within the city or town or within the county in which the city or town is located and in such other papers as the governing body may provide in the ordinance.

(c) The improvements may be made with the cooperation and assistance of the United States government or any agency or subdivision thereof, and the city or town may take advantage of any offer from any source to complete the improvements on a division of expense or responsibility. (Laws 1915, ch. 120, § 13; C.S. 1920, § 1977; R.S. 1931, § 22-1512; Laws 1937, ch. 142, § 1; C.S. 1945, § 29-2012; W.S. 1957, § 15-458; Laws 1963, ch. 145, § 8; 1965, ch. 112, § 343.)

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Cross reference. — As to public works and contractor's bond, see §§ 9-8-301 to 9-8-318.

Substantial compliance. — Sewer assessments and bonds issued in substantial compliance with essential provisions of law authorizing construction of sewers by first class cities were valid though levied and issued pursuant to later act respecting improvements

by all municipalities. *Henning v. Consolidated Bldg. & Loan Co.*, 50 Wyo. 315, 62 P.2d 540 (1936).

Am. Jur. 2d and C.J.S. references. — 70 Am. Jur. 2d Special or Local Assessments §§ 123, 124, 126.

63 C.J.S. Municipal Corporations §§ 1078, 1033, 1141, 1147.

§ 15-6-302. Contents of call for bids; bid check or bond; guarantee and maintenance bonds; opening bids and awarding contracts; execution of contracts.

(a) The notice and call for bids as provided in section 15.1-343 [§ 15-6-301], shall contain in substance, the following:

(i) The streets or parts thereof to be improved where the improvements are to be street improvements;

(ii) The general kind of improvement proposed to be made and whether it is to be maintained for a specified period, but in no event for more than five (5) years by the contractor;

(iii) The time within which bids will be received and the place where they shall be filed;

(iv) That a certified or cashier's check or bid bond, in the sum of five percent (5%) of the amount of the bid must be filed with the bid, to be forfeited to the city or town as liquidated damages if the bidder is awarded the contract and fails to enter into a contract with the city or town within five (5) days from his notification;

(v) The successful bidder shall perform the work and furnish a bond guaranteeing the faithful performance of the work and a maintenance bond, if required by the governing body which shall be furnished at the time of signing the contract. The guarantee and maintenance bond may be a single instrument;

(vi) The bids shall be opened by the governing body and the contract or contracts shall be awarded to the bidder or bidders who in its opinion are the lowest and best responsible bidders. The governing body may reject any and all bids;

(vii) Upon the letting of the contract or contracts to the successful bidders, the governing body shall by motion or resolution order the mayor or clerk or some other officer of the city or town to execute a written contract or contracts on behalf of the city or town, with the successful bidders. The refusal of any official or officer of the city or town to execute the written contract or contracts does not affect the validity of the contract or contracts and the governing body may order some other city or town official or officer or one (1) of its members to execute the written agreement or agreements, in place of the official or officer refusing to do so. (Laws 1915, ch. 120, § 14; C.S. 1920, § 1978; R.S. 1931, § 22-1513; C.S. 1945,

§ 29-2013; W.S. 1957, § 15-459; Laws 1963, ch. 145, § 9; 1965, ch. 112, § 344.)

C.J.S. reference. — 63 C.J.S. Municipal Corporations §§ 1150, 1154, 1163.

ARTICLE 4. ASSESSMENTS AND BONDS GENERALLY

§ 15-6-401. When grades may be established or altered; cost.

If the notice provided for in section 15.1-337 [§ 15-6-202], is in whole or in part to establish or alter a grade, the governing body may, after the expiration of giving the notice as provided in section 15.1-339 [§ 15-6-204], establish it by ordinance or resolution. The cost of establishing or altering the grade of any streets, highway, avenue, road or alley, may be paid out of the general funds of the city or town or may be specially assessed. (Laws 1915, ch. 120, § 16; C.S. 1920, § 1982; R.S. 1931, § 22-1517; C.S. 1945, § 29-2017; W.S. 1957, § 15-462; Laws 1963, ch. 145, § 10; 1965, ch. 112, § 345.)

Cross references. — As to Municipal Budget Act, see §§ 9-7-301 to 9-7-316. As to securities issued by electric and gas corporations, see §§ 37-6-101 to 37-6-107.

Jur. 2d Public Securities and Obligations §§ 30 to 453. 63 C.J.S. Municipal Corporations §§ 1046, 1048.

Am. Jur. 2d and C.J.S. references. — 64 Am.

§ 15-6-402. Levy of assessment on property; costs and expenses to be included.

When the contract or contracts for any improvements have been awarded, or the city or town has determined to construct the improvements by the use of its own equipment, labor and materials, or any of them, or avail itself of any state or federal program contributing to the cost of the improvement, the city engineer shall forthwith, or at the council's discretion, upon the completion of the improvements, levy an assessment upon the property included in the district. The assessment shall include as a part of the cost, the contract price, or the estimated costs of construction, together with the expense of engineering, inspection, advertising, and levying and collecting assessments, and all other charges which the city or town may have incurred, or expects to incur, in the making and financing of the improvements, or the portion of the costs designated by the governing body to be defrayed by special assessments. (Laws 1915, ch. 120, § 17; C.S. 1920, § 1983; R.S. 1931, § 22-1518; Laws 1937, ch. 142, § 2; C.S. 1945, § 29-2018; W.S. 1957, § 15-463; Laws 1963, ch. 145, § 11; 1965, ch. 112, § 346.)

Applicability of later provisions as to apportionment of assessments. — First class city which issued sewer bonds under statute authorizing assessments according to area and distance may take preliminary steps and apportion assessments according to area only as

provided by later act applicable to all municipalities. *Henning v. City of Casper*, 50 Wyo. 1, 57 P.2d 1264, rehearing denied, 62 P.2d 304 (1936).

Omitted property. — Assessment was void because some property in improvement

district was not assessed 28 Wyo. 387, 205 P. 101 P. 439 (1922).

Preparation of roll engineer. — Whether construed liberally as any engineer employed assessment roll, an assessment council is not void because not prepare the roll as provided in view of § 15-6-442, provided objection to the validity of was made by an unauthorized person if confirmed by the city auditor.

§ 15-6-403. Items

When any authorize the cost and expense benefited and included cost of that portion of intersection space or space materials or work and improvement done under the ownership of the lot advertising, mailing and labor, books and blanks the city or town treasurer 120, § 15; C.S. 1920, § 1957, § 15-464; Laws 196

Substantial compliance. assessments and bonds issued compliance with essential provisions authorizing construction of sewer cities were valid though levied pursuant to later act respecting i

§ 15-6-404. Property alternative combining

- (a) The assessment district improvement or improvement municipal and other public government or any agency, absence of the consent of unplatted or undivided land computing assessments and fix distance back in the immediate (b) Assessments shall be computed by the following methods:

district was not assessed. *Bass v. City of Casper*, 28 Wyo. 387, 205 P. 1008, rehearing denied, 208 P. 439 (1922).

Preparation of rolls by engineer not city engineer. — Whether or not under § 15-6-101, construed liberally as provided by § 15-6-106, any engineer employed by the city may prepare assessment roll, an assessment confirmed by the council is not void because the city engineer did not prepare the roll as provided by this section, in view of § 15-6-442, providing that it shall be no objection to the validity of an assessment that it was made by an unauthorized officer or person if confirmed by the city authorities. *Bass v. City*

of Casper, 28 Wyo. 387, 205 P. 1008, rehearing denied, 208 P. 439 (1922).

Substantial compliance. — Sewer assessments and bonds issued in substantial compliance with essential provisions of law authorizing construction of sewers by first class cities were valid though levied and issued pursuant to later act respecting improvements by all municipalities. *Henning v. Consolidated Bldg. & Loan Co.*, 50 Wyo. 315, 62 P.2d 540 (1936).

C.J.S. reference. — 63 C.J.S. Municipal Corporations § 1411.

§ 15-6-403. Items of cost to be assessed.

When any authorized local improvement is ordered, there shall be included in the cost and expense thereof to be assessed against the property specially benefited and included in the district created to pay all or any part thereof, the cost of that portion of the improvement included within the limits of any street intersection space or spaces; the estimated cost and expense of inspection, tests, materials or work and of all engineering and surveying necessary for the improvement done under the direction of the city or town engineer; ascertaining the ownership of the lots or parcels of land included in the assessment district; advertising, mailing and publishing all notices; and all accounting and clerical labor, books and blanks expended or used by the city or town comptroller and the city or town treasurer in connection with the improvements. (Laws 1915, ch. 120, § 15; C.S. 1920, § 1981; R.S. 1931, § 22-1516; C.S. 1945, § 29-2016; W.S. 1957, § 15-464; Laws 1965, ch. 112, § 347.)

Substantial compliance. — Sewer assessments and bonds issued in substantial compliance with essential provisions of law authorizing construction of sewers by first class cities were valid though levied and issued pursuant to later act respecting improvements

by all municipalities. *Henning v. Consolidated Bldg. & Loan Co.*, 50 Wyo. 315, 62 P.2d 540 (1936).

C.J.S. reference. — 63 C.J.S. Municipal Corporations § 1398.

§ 15-6-404. Property to be included in assessment district; alternative methods of computing assessments; combining improvements in 1 district.

- (a) The assessment district shall include all the property benefited by the improvement or improvements, as determined by the governing body, including municipal and other public property, except that of the United States government or any agency, instrumentality or corporation thereof, in the absence of the consent of congress. If the improvement district includes unplatted or undivided land the distance back from the improvement for computing assessments and fixing the assessment lien shall be the same as the distance back in the immediately adjoining platted area.
- (b) Assessments shall be computed by one (1) or more of the following methods:

(i) Each one-half block or fraction thereof within the district contiguous to each street, alley, avenue, boulevard or parkway in or along which the improvement or improvements are to be made, shall be divided, irrespective of number and location of lots, into three (3) equal subdivisions parallel to such street, alley, avenue, boulevard or parkway to be improved. The subdivisions shall be numbered one (1), two (2), and three (3) respectively, beginning next to the street, alley, avenue, boulevard or parkway. The total assessment for each half block or fraction thereof abutting on either side of each street, alley, avenue, boulevard or parkway to be improved, as fixed by the governing body, shall be apportioned as follows:

(A) Subdivision number one (1) — Sixty percent (60%);

(B) Subdivision number two (2) — Thirty percent (30%);

(C) Subdivision number three (3) — Ten percent (10%).

(ii) Each one-half block contiguous to each street, alley, avenue, boulevard or parkway in or along which the improvement or improvements are to be made shall be assessed on an area basis, so that the assessment against each piece of property assessed shall be in the proportion that the square footage of that piece of property bears to the total square footage of the assessable property within the half block;

(iii) Each piece of property abutting on the street, alley, avenue, boulevard or parkway in or along which the improvement or improvements are to be made shall be assessed on a lineal foot basis so that the total assessment against each piece of a property shall be in the proportion that the abutting lineal footage of that piece of property bears to the total abutting lineal footage of the property to be assessed for the same improvement or improvements;

(iv) Each piece of property which the governing body reasonably determines to be benefited by the proposed improvement, regardless of whether the improvement is located in and along a street, alley, avenue, boulevard or parkway, and regardless of whether the property lies within the half block abutting the improvement, shall be assessed on an area basis, or lineal foot basis, or any other uniform basis so that property similarly benefited will be similarly assessed.

(c) Regardless of the method or methods of computation selected by the governing body, and notwithstanding the provisions made for computation to the center of the block or within the half block, the assessment may be levied and the assessment lien thereby made to attach, upon all of a piece of benefited property so as to avoid the imposition of a lien upon a part of a subdivided lot or parcel under common ownership and use. In the case of any irregular-shaped or nonuniform block or lot, tract, parcel of land or other unit of property to be assessed, an appropriate adjustment may be made, so that the assessment there against shall be in proportion to the benefits derived.

(d) More than one (1) improvement may be combined in a single local improvement district when the governing body determines that such a combination is both efficient and economical. If the combination of improvements are separate and distinct by reason of substantial difference

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their character or location, or otherwise, the estimated costs of each improvement shall be segregated for the levy of assessments and an equitable share of the incidental costs allocated to each improvement. In the absence of arbitrary or unreasonable abuse of discretion, its determination of the portion of the project constituting a separate improvement for purposes of segregation is conclusive.

(e) Each city and town may adopt all ordinances and resolutions necessary to levy and collect the special assessment and providing for the manner of sale, redemption and conveyance of lands sold for nonpayment of special assessments. (Laws 1915, ch. 120, § 18; C.S. 1920, § 1984; R.S. 1931, § 22-1519; Laws 1937, ch. 142, § 3; C.S. 1945, § 29-2019; Laws 1957, ch. 112, § 2; W.S. 1957, § 15-465; Laws 1963, ch. 145, § 12; 1965, ch. 112, § 348.)

Editor's note. — Most of the cases noted below were decided under former similar statutory provisions.

Section 15-6-103 and this section are not inconsistent. The former section cannot be said to control the latter. Appeal of Chicago & N.W. Ry., 70 Wyo. 84, 246 P.2d 789, rehearing denied, 70 Wyo. 119, 247 P.2d 660 (1952).

Authority to levy assessments is well established. — The judicial decisions on legislation authorizing special assessments have generally become so crystallized that it would seem to be rather late in the day to question their authority. Marion v. City of Lander, 394 P.2d 910 (Wyo. 1964), cert. denied, 380 U.S. 925, 85 S. Ct. 929, 13 L. Ed. 2d 810, rehearing denied, 380 U.S. 989, 85 S. Ct. 1352, 14 L. Ed. 2d 283 (1965).

It is branch of taxing power. — The authority of the city council to require the property specially benefited to bear the cost of local improvements is a branch of the taxing power, or included within it. Mealey v. City of Laramie, 472 P.2d 787 (Wyo. 1970).

Means of effecting tax measure. — A tax measure will not be effected by any means other than a clear, definite and unambiguous statement of the legislative authority. Mealey v. City of Laramie, 472 P.2d 787 (Wyo. 1970).

City is not required to consider tax valuations in fixing assessments. — Even assuming that the assessed valuation of certain properties for ad valorem tax purposes is properly before the court, there is no requirement that compels the city to take such matters into consideration in fixing and determining the assessment of special benefits. Marion v. City of Lander, 394 P.2d 910 (Wyo. 1964), cert. denied, 380 U.S. 925, 85 S. Ct. 929, 13 L. Ed. 2d 810, rehearing denied, 380 U.S. 989, 85 S. Ct. 1352, 14 L. Ed. 2d 283 (1965).

Determination that property is benefited, is conclusive. — When the legislature, or its delegated agent for that purpose, determines that property is benefited and shall

be assessed, such determination is well nigh conclusive. In re Appeal of Chicago & N.W. Ry., 70 Wyo. 84, 246 P.2d 789, rehearing denied, 70 Wyo. 119, 247 P.2d 660 (1952); Marion v. City of Lander, 394 P.2d 910 (Wyo. 1964), cert. denied, 380 U.S. 925, 85 S. Ct. 929, 13 L. Ed. 2d 810, rehearing denied, 380 U.S. 989, 85 S. Ct. 1352, 14 L. Ed. 2d 283 (1965).

Where there is no evidence of fraud, arbitrariness or palpable injustice. — Determination by city council that railroad's right-of-way was benefited by street improvement and was subject to assessment, was conclusive on the supreme court where there was no evidence that determination by city council was due to fraud, arbitrariness or palpable injustice. In re Appeal of Chicago & N.W. Ry., 70 Wyo. 119, 247 P.2d 660, denying rehearing of 70 Wyo. 84, 246 P.2d 789 (1952).

And property is assessable despite contention no special benefit conferred. — The right-of-way of a railway company is assessable for street improvements under this section, notwithstanding the contention that no special benefits are conferred on the railway company by the improvements. In re Appeal of Chicago & N.W. Ry., 70 Wyo. 84, 246 P.2d 789, rehearing denied, 70 Wyo. 119, 247 P.2d 660 (1952).

This section provides alternative methods of allocation. Marion v. City of Lander, 394 P.2d 910 (Wyo. 1964), cert. denied, 380 U.S. 925, 85 S. Ct. 929, 13 L. Ed. 2d 810, rehearing denied, 380 U.S. 989, 85 S. Ct. 1352, 14 L. Ed. 2d 283 (1965).

Whatever method, or combination of methods, is utilized results prima facie in an equal and uniform allocation. Marion v. City of Lander, 394 P.2d 910 (Wyo. 1964), cert. denied, 380 U.S. 925, 85 S. Ct. 929, 13 L. Ed. 2d 810, rehearing denied, 380 U.S. 989, 85 S. Ct. 1352, 14 L. Ed. 2d 283 (1965).

Omission of property. — Assessment was not void because some property in improvement district was not assessed. Bass v. City of Casper, 28 Wyo. 387, 205 P. 1008, rehearing denied, 208 P. 439 (1922).

Second assessment of corner lot. — Mere fact that corner lot has been once assessed for sewer construction along its front street does not necessarily furnish constitutional reason why it may not be subsequently assessed for

sewer constructed through the other street upon which it abuts. *McGarvey v. Swan*, 17 Wyo. 120, 96 P. 697 (1908).

C.J.S. reference. — 63 C.J.S. Municipal Corporations §§ 1291, 1359, 1417 et seq.

§ 15-6-405. Assessment roll to be filed; hearing; notice; action by governing body; objections; amendments; certification of roll.

(a) When an assessment roll for local improvements has been prepared it shall be filed with the clerk of the city or town. The governing body shall then fix a date for hearing upon the roll before it and direct the clerk to give notice of the time and place of the hearing. Any person may object to the roll in writing and file the objections with the clerk, on or before the date of the hearing. At the time and place fixed and at such other times to which the hearing may be continued, the governing body shall sit as a board of equalization to consider the roll. At the hearing, or hearings, the governing body will consider the objections or any part thereof, and correct, revise, raise, lower, change or modify the roll or any part thereof, or set it aside and order that the roll assessments be made de novo, in a manner appearing just and equitable, and then proceed to confirm the roll by ordinance. The notice of the hearing shall be published at least twice, by two (2) weekly publications, in a newspaper of general circulation in the city or town. However, at least fifteen (15) days must elapse between the date of the first publication and the date fixed for the hearing.

(b) The notice shall also be given by the clerk, or his deputy by deposit of the notice, at least fifteen (15) days prior to the date fixed for hearing in the United States mails, postage prepaid, as first class mail, addressed to the last known owner or owners of each tract being assessed, addressed to their last known addresses. In the absence of fraud the failure to mail any notice does not invalidate any assessment or any proceedings under this chapter. Any list of names or addresses pertaining to any district may be revised from time to time, but it need not be revised more frequently than [at] twelve (12) month intervals. Any mailing of notice prescribed by this chapter shall be verified by the affidavit or certificate of the person mailing the notice, and the verification shall be retained in the records of the city or town at least until all assessments and bonds pertaining thereto have been paid in full.

(c) All objections to the roll shall state clearly the grounds of objections and unless made within the time and in the manner prescribed are conclusively presumed to have been waived. When any roll is amended so as to raise any assessments, or to include omitted property, a new time and place for hearing, and a new notice of hearing on the amended roll shall be fixed and given as in the case of an original hearing. However, when any property has been entered originally upon the roll and the assessment upon the property has not been raised, no objections thereto may be considered by the governing body or by any court on appeal, unless they were made in writing at or before the date fixed for the original hearing. When an assessment roll has been confirmed, it shall be

certified to (Laws 191 ch. 142, § 1965, ch. 1

Notice and process. — D hearing at some that owners r justness of as: Marion v. City 1964), cert. deni L. Ed. 2d 810, re S. CL 1352, 14 L

But section pr city has set in subject matter assessments for co of hearing for co required by this se of law. Bass v. City P. 1008, rehearing

This section's i hearing upon the as to meet due process the assessment roll i contract for installat improvements has b Lander, 394 P.2d 910 380 U.S. 925, 85 S. ( rehearing denied, 380 L. Ed. 2d 283 (1965).

Applicability. — § 15-6-408, with respect apply only to persons n not appealing from thereof, § 15-6-442, decl though made by un confirmed by council in t or oppression, applies al confirmation proceeding least specific irregulariti Bass v. City of Casper, 28 rehearing denied, 208 P under former similar pro Assessments are not : attack in absence of frau this section are adequate

§ 15-6-406. Assess

The charge on the r for the purpose of spec part of any improve assessment roll confir property assessed from officer authorized by law

§ 15-6-406

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certified to by the city clerk and transmitted to the city treasurer for collection. (Laws 1915, ch. 120, § 19; C.S. 1920, § 1985; R.S. 1931, § 22-1520; Laws 1937, ch. 142, § 4; C.S. 1945, § 29-2020; W.S. 1957, § 15-466; Laws 1963, ch. 145, § 13; 1965, ch. 112, § 349.)

Notice and hearing are required by due process. — Due process requires notice and hearing at some stage of the proceeding in order that owners may question the validity and justness of assessments for special benefits. *Marion v. City of Lander*, 394 P.2d 910 (Wyo. 1964), cert. denied, 380 U.S. 925, 85 S. Ct. 929, 13 L. Ed. 2d 810, rehearing denied, 380 U.S. 989, 85 S. Ct. 1352, 14 L. Ed. 2d 283 (1965).

But section provides due process. — Where city has set in motion its jurisdiction of the subject matter in proceedings to levy assessments for local improvements, final notice of hearing for confirmation of the assessment required by this section constitutes due process of law. *Bass v. City of Casper*, 28 Wyo. 387, 205 P. 1008, rehearing denied, 208 P. 439 (1922).

This section's provisions for notice and hearing upon the assessment roll are sufficient to meet due process requirements, even though the assessment roll is not made up until after the contract for installation and construction of the improvements has been let. *Marion v. City of Lander*, 394 P.2d 910 (Wyo. 1964), cert. denied, 380 U.S. 925, 85 S. Ct. 929, 13 L. Ed. 2d 810, rehearing denied, 380 U.S. 989, 85 S. Ct. 1352, 14 L. Ed. 2d 283 (1965).

Applicability. — Since this section and § 15-6-408, with respect to waiver of objections, apply only to persons not filing objections to and not appealing from council's confirmation thereof, § 15-6-412, declaring assessments valid, though made by unauthorized person, if confirmed by council in good faith without fraud or oppression, applies also to objections made in confirmation proceeding itself, and covers at least specific irregularities therein pointed out. *Bass v. City of Casper*, 28 Wyo. 387, 205 P. 1008, rehearing denied, 208 P. 439 (1922) (decided under former similar provisions).

Assessments are not subject to collateral attack in absence of fraud. — The provisions of this section are adequate for the purpose of

determining and equalizing assessments against the property in the district and, absent fraud, such assessments are not subject to collateral attack. *Marion v. City of Lander*, 394 P.2d 910 (Wyo. 1964), cert. denied, 380 U.S. 925, 85 S. Ct. 929, 13 L. Ed. 2d 810, rehearing denied, 380 U.S. 989, 85 S. Ct. 1352, 14 L. Ed. 2d 283 (1965).

Even if legislature did not intend by § 15-6-408, making confirmation by the council final and conclusive against all parties not filing objections as required by this section, to make all steps not constitutionally necessary irregularities only on collateral attack, a defect in resolution of intention in not sufficiently stating character and extent of proposed improvement, as required by § 15-6-202, cannot be taken advantage of in a suit to enjoin collection of assessment, by property owners who filed no objections to the confirmation. *Bass v. City of Casper*, 28 Wyo. 387, 205 P. 1008, rehearing denied, 208 P. 439 (1922).

Limitation of actions. — Holder of improvement bonds need not continuously search municipal records to ascertain whether officers are doing their statutory duty, and limitation against action by him based on treasurer's reduction of assessments does not commence running until he acquires actual notice thereof. *Gray v. Town of Thermopolis*, 33 F. Supp. 73 (D. Wyo. 1936).

Substantial compliance. — Sewer assessments and bonds issued in substantial compliance with essential provisions of law authorizing construction of sewers by first class cities were valid though levied and issued pursuant to later act respecting improvements by all municipalities. *Henning v. Consolidated Bldg. Loan Co.*, 50 Wyo. 315, 62 P.2d 540 (1936). Quoted in *Mealey v. City of Laramie*, 472 P.2d 787 (Wyo. 1970).

C.J.S. reference. — 63 C.J.S. Municipal Corporations § 1443 et seq.

### § 15-6-406. Assessment lien.

The charge on the respective lots, tracts, parcels of land and other property, for the purpose of special assessments, to pay the cost and expense, in whole or part of any improvement authorized in this chapter, when assessed and the assessment roll confirmed by the governing body, shall be a lien upon the property assessed from the time the assessment roll is placed in the hands of the officer authorized by law to collect the assessment. The lien shall be paramount

and superior to any other lien or incumbrance whatsoever, created before or after except a lien for assessments for general taxes. (Laws 1915, ch. 120, § 20; C.S. 1920, § 1986; R.S. 1931, § 22-1521; C.S. 1945, § 29-2021; W.S. 1957, § 15-467; Laws 1965, ch. 112, § 350.)

Assessments are limited to the costs and expenses of the improvement, and bonds are apparently authorized to be issued in the same amount, though not greater, and the city is not liable for any deficiency subsequently arising. *Richardson v. City of Casper*, 48 Wyo. 219, 45 P.2d 1 (1935).

No priorities. — Liens of special assessments levied to pay bonds issued for special improvements, such as grading, paving, sewer, etc., have no priority one over the other, but are of equal rank regardless of the time they were created. *Willard v. Morton*, 50 Wyo. 72, 59 P.2d 338 (1936).

Limitation of actions. — Holder of improvement bonds need not continuously search municipal records to ascertain whether municipal officers are doing their statutory duty and limitation against action by him based on treasurer's reduction of assessments does not commence running until he acquires actual notice thereof. *Gray v. Town of Thermopolis*, 33 F. Supp. 73 (D. Wyo. 1936).

Law review. — See "Tax Lien Priority," 4 Wyo. L.J. 255 (1950).

C.J.S. reference. — 63 C.J.S. Municipal Corporations § 1564 et seq.

§ 15-6-407. Appeals from decisions of governing body.

The decision of the governing body upon any objections made within the time and in the manner prescribed, may be reviewed by the district court upon appeal in the following manner. The appeal shall be taken by filing written notice of appeal with the clerk of the city or town and with the clerk of the district court in the county in which the city or town is situated within ten (10) days after the ordinance confirming the assessment roll becomes effective. The notice shall describe the property and set forth the objections of the appellant to the assessment. Within ten (10) days after filing the notice of appeal with the clerk of the district court, the appellant shall file with the clerk of the district court, a transcript consisting of the assessment roll and his objections thereto, together with the ordinance confirming the assessment roll, and the record of the governing body with reference to the assessment. The transcript, upon payment of the necessary fees, shall be furnished by the city or town clerk and certified by him to contain full, true and correct copies of all matters and proceedings required to be included in the transcript. The fees shall be the same as the fees payable to the clerk of the district court for the preparation and certification of transcripts on appeal to the supreme court in civil actions. At the time of the filing of the notice of appeal with the clerk of the district court, the appellant shall execute and file with the clerk of the district court a sufficient bond in a penal sum of two hundred dollars (\$200.00), with at least two (2) sureties, to be approved by the judge of the court, conditioned to prosecute the appeal without delay and, if unsuccessful, to pay all costs to which the city or town is put by the appeal. The court may order the appellant upon application, to execute and file such additional bond or bonds as the case may require. Within three (3) days after the transcript is filed in the district court the appellant shall give written notice to the head of the legal department of the city or town, and to the city clerk, that the transcript is filed. The notice shall state a time (not less than three (3) days from the service thereof) when the appellant will call up the cause for

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Cross reference. — For governing appeals generally, W.R.C.P.

Bondholders' remedy. — payable only from improv bondholders' remedy upon enforce a special assessme mandamus to compel city o *Blanchard v. City of Casper*, 8, 1936).

§ 15-6-408. Procee  
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When any assessment governing body, the reg relating to the improvem governing body upon the all things upon all parties, in any proceedings by an; provided, and not appeal manner provided. No proce to defeat or contest any su assessment, or any certifi:

§ 15-6-408

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§ 15-6-408

hearing. The district court shall, at that time or at such further time as may be fixed by order of the court or judge thereof, hear and determine the appeal without a jury. The cause has preference over all civil causes pending in the court except proceedings under acts relating to eminent domain in cities and towns, actions of forcible entry and detainer, and irrigation water cases. The judgment of the court, shall confirm, correct, modify or annul the assessment insofar as it affects the property of the appellant. A certified copy of the decision of the court shall be filed with the officer having custody of the assessment roll, and he shall modify and correct it in accordance with the decision. An appeal may be taken to the supreme court from the judgment of the district court, as in other cases. However, the appeal must be taken within fifteen (15) days after the date of the entry of the judgment in the district court and the record and opening brief of the appellant shall be filed in the supreme court within sixty (60) days after the appeal has been taken. The time for filing the record and service and filing of briefs may be extended by order of the district court, or by stipulation of the parties. The supreme court, on appeal may correct, change, modify, confirm, or annul the assessment insofar as it affects the property of the appellant. A certified copy of the order of the supreme court upon appeal shall be filed with the officer having custody of the assessment roll, who shall thereupon modify and correct such assessment roll in accordance with the decision. (Laws 1915, ch. 120, § 21; C.S. 1920, § 1987; R.S. 1931, § 22-1522; C.S. 1945, § 29-2022; W.S. 1957, § 15-468; Laws 1965, ch. 112, § 351.)

Cross reference. — For rule of civil procedure governing appeals generally, see Rule 72 et seq., W.R.C.P.

Bondholders' remedy. — Owner of bonds payable only from improvement fund where bondholders' remedy upon nonpayment is to enforce a special assessment must proceed by mandamus to compel city officials to reassess. *Blanchard v. City of Casper*, 81 F.2d 452 (10th Cir. 1936).

Objection to confirmation. — Objection to inclusion of several streets in 1 district is not available to property owners who did not object to confirmation of assessment. *Bass v. City of Casper*, 28 Wyo. 387, 205 P. 1008, rehearing denied, 208 P. 439 (1922).

C.J.S. reference. — 63 C.J.S. Municipal Corporations § 1502 et seq.

§ 15-6-408. Proceedings conclusive unless objection filed and appeal taken; enjoining sale of property because not on assessment roll or assessment paid.

When any assessment roll for local improvements has been confirmed by the governing body, the regularity, validity and correctness of the proceedings relating to the improvement, and to the assessment, including the action of the governing body upon the assessment roll and its confirmation is conclusive in all things upon all parties, and cannot in any manner be contested or questioned in any proceedings by any person not filing written objections in the manner provided, and not appealing the confirmation of the assessment roll in the manner provided. No proceeding of any kind may be commenced or prosecuted to defeat or contest any such assessment, or the sale of any property to pay an assessment, or any certificate of delinquency issued therefor, or the foreclosure

of any lien issued therefor, except injunction proceedings to prevent the sale of any real estate on the grounds that the property about to be sold does not appear upon the assessment roll, or that the assessment has been paid. (Laws 1915, ch. 120, § 22; C.S. 1920, § 1988; R.S. 1931, § 22-1523; C.S. 1945, § 29-2023; W.S. 1957, § 15-469; Laws 1965, ch. 112, § 352.)

C.J.S. reference. — 63 C.J.S. Municipal Corporations § 1469.

§ 15-6-409. Time of payment; interest; penalty; collection and enforcement of assessments becoming liens.

The city or town shall, in the ordinance confirming the assessment roll prescribe the time within which the assessment, or installments thereof, shall be paid, and provide for the payment and collection of interest thereon, at a rate not to exceed eight percent (8%) per year. Assessments or installments thereof, when delinquent, in addition to interest shall bear a penalty of not more than five percent (5%), as prescribed by general ordinance. Interest and penalty shall be included in, and made a part of, the assessment lien. All local assessments becoming a lien upon any property in any city or town shall be collected by the treasurer, and all such liens shall be enforced in the manner provided. However, in cities and towns other than cities of the first class, delinquent assessments, or delinquent installments thereof, shall be certified to the treasurer of the county in which the city or town is situate and by him entered upon the general tax rolls and collected as other general taxes are collected. The county treasurer shall remit to the city treasurer on the tenth of each month all sums so collected. (Laws 1915, ch. 120, § 23; C.S. 1920, § 1989; R.S. 1931, § 22-1524; C.S. 1945, § 29-2024; W.S. 1957, § 15-470; Laws 1965, ch. 112, § 353.)

Cross reference. — As to interest rates generally, see § 40-14-106 (e).

C.J.S. reference. — 64 C.J.S. Municipal Corporations §§ 2064, 2115.

§ 15-6-410. Sale of property for delinquent assessments.

(a) Any city or town may by general ordinance provide for the sale of property described in any local assessment roll, after the assessment or any installment has become delinquent, for the amount of the delinquent assessment, or installment, together with penalty and interest accruing to date of sale; for the costs of such sale; for the execution and delivery by the treasurer of the city or town of certificates of sale to the purchaser; and for the execution by the treasurer of an assessment deed to the person entitled.

(b) The treasurer shall give notice of such sales by publishing a notice once a week for three (3) consecutive weeks in a newspaper published within the city or town, or if there is none, then in a newspaper of general circulation within the county. The notice shall contain a list of all property upon which assessments are delinquent with the amount of the assessments, interest, penalties and costs to date of sale, including the cost of advertising the sale, together with the name

of the owners of the property upon the assessment roll, that the property is subject to penalties, and that the property shall be sold at ten (10:00) o'clock of the front door of the property until all the property or installment is collected. The lot, tract or parcel shall be sold in the order in which the property is listed.

(c) All lots, tracts and unpaid local assessments to pay the amount thereof, with interest, there is no bidder sufficient to pay the amount thereof, with interest, any bidder to whom assessment, interest, following the sale, the sale shall be deemed closed, be deemed sale shall be issued to 1920, § 1992; R.S. 1931, § 22-1524; C.S. 1945, § 29-2024; W.S. 1957, § 15-470; Laws 1965, ch. 112, § 353.

City is not liable in tort for failure to collect special assessments. — The city is not liable in tort for failure to make any effort to collect special assessments levied to pay special improvement bonds. The city statute gives bondholder the right to sue for special assessments. Richardson v. City of Cheyenne, 219, 45 P.2d 1 (1935). In tort action against city for failure to perform its alleged duties in applying special assessments to special improvement bonds, city is not liable. Bonds contained statutory limitation on liability and also gave holders right to sue for special assessments, no duty being imposed on city to collect and apply the special assessments.

§ 15-6-411. Return of property.

Within fifteen (15) days after the assessment is made return to the comptroller of the sale, with a statement of the amount of the sale, to the person to whom sold and the amount of the sale. (Laws 1929, § 1991; R.S. 1931, § 22-1524; C.S. 1945, § 29-2024; W.S. 1957, § 15-470; Laws 1965, ch. 112, § 355.)

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of the owners of such property, or the words "unknown owners," as they appear upon the assessment roll. The notice shall specify the time and place of sale, and that the property described will be sold to satisfy the assessments, interest, penalties, and costs due upon it. All such sales shall be made between the hours of ten (10:00) o'clock a.m. and four (4:00) o'clock p.m. and shall take place at the front door of the building in which the governing body holds its sessions. The sale shall be continued from day to day, omitting Sundays and legal holidays, until all the property described in the assessment roll on which any assessment, or installment is delinquent and unpaid, is sold. All sales shall be public, and each lot, tract or parcel of land, or other property, shall be sold separately and in the order in which they appear upon the assessment roll.

(c) All lots, tracts and parcels of land and other property sold for delinquent and unpaid local assessments, shall be sold to the first person at the sale offering to pay the amount due on the lot, tract or parcel of land or other property. If there is no bidder for any lot, tract or parcel of land, or other property, for a sum sufficient to pay the delinquent and unpaid assessment thereon, or installment thereof, with interest, penalty and costs, the treasurer shall strike it off to the city or town for the whole amount which he is required to collect by the sale. If any bidder to whom any property is stricken off at the sale does not pay the assessment, interest, penalty and costs before ten (10:00) o'clock a.m. of the day following the sale, the property must then be resold, or if the assessment sale is closed, be deemed to have been sold to the city or town, and a certificate of sale shall be issued to the city or town therefor. (Laws 1915, ch. 120, § 26; C.S. 1920, § 1992; R.S. 1931, § 22-1527; C.S. 1945, § 29-2025; W.S. 1957, § 15-471; Laws 1965, ch. 112, § 354.)

City is not liable in tort for failure to collect.  
 — The city is not liable in tort for its failure to make any effort to collect special assessments levied to pay special improvement bonds, as the statute gives bondholder the right to collect such assessments. *Richardson v. City of Casper*, 48 Wyo. 219, 45 P.2d 1 (1935).  
 In tort action against city for failure to perform its alleged duties in collecting and applying special assessments to the payment of special improvement bonds, city was not liable as bonds contained statutory limitation of liability, and also gave holders right to enforce the assessments, no duty being imposed upon the city to collect and apply the special assessments.

*Richardson v. City of Casper*, 48 Wyo. 219, 45 P.2d 1 (1935).  
 Bondholder may collect assessment if city does not. — The city may by general ordinance provide for enforcement of assessments and sale of property subject thereto, but it is not obligatory upon it to do so, nor is it obligatory upon city to collect the assessments and if it fails, neglects or refuses to pay the bonds or promptly to collect any assessments when due, bond owner may do so. *Richardson v. City of Casper*, 48 Wyo. 219, 45 P.2d 1 (1935).  
 C.J.S. reference. — 64 C.J.S. Municipal Corporations § 2084 et seq.

§ 15-6-411. Return of sale.

Within fifteen (15) days after the completion of the sale of all property described in the assessment rolls, and authorized to be sold, the treasurer shall make return to the comptroller, or other officer by whom the warrant was issued for the sale, with a statement of his action thereon, showing all the property sold by him, to whom sold and the sums paid for each. (Laws 1915, ch. 120, § 25; C.S. 1920, § 1991; R.S. 1931, § 22-1526; C.S. 1945, § 29-2026; W.S. 1957, § 15-472; Laws 1965, ch. 112, § 355.)

§ 15-6-412. Certificate of sale; recordation by purchaser; custodian of certificates of property sold city or town; sale of city's or town's certificates.

(a) After receiving the amount of the assessment, penalty, interest, costs and charges, the treasurer shall make out a certificate, dated on the day of sale, stating (when known) the name of the owner as given on the assessment roll, a description of the land or other property sold, the amount paid therefor, the name of the purchaser, that it was sold for the assessment, giving the names of the streets, or other brief designation of the improvement for which the assessment was made, and specifying that the purchaser is entitled to a deed two (2) years from the date of sale, unless redemption is made. The certificate shall be signed by the treasurer, and delivered to the purchaser who shall record it in the county clerk's office in the county in which the lands or other property is situated within three (3) months from the date thereof. If not recorded within that time, the lien thereof shall be postponed to claims of subsequent purchasers and incumbrances [incumbrancers] for value and in good faith who become such while it is unrecorded.

(b) The city or town comptroller, if there is such, and if not then the city or town clerk, shall be the custodian of all certificates for property sold to the city or town. At any time within two (2) years from the date of a certificate and before redemption of the property, he shall sell and transfer any certificate to any person who presents to him the treasurer's receipt evidencing payment of the amount for which the property described was stricken off to the city, with interest subsequently accrued to the date of payment. The comptroller or clerk may, if authorized by the governing body, sell and transfer any certificate in like manner after the expiration of two (2) years from the date of the certificate. (Laws 1915, ch. 120, § 26; C.S. 1920, § 1992; R.S. 1931, § 22-1527; C.S. 1945, § 29-2027; W.S. 1957, § 15-473; Laws 1965, ch. 112, § 356.)

C.J.S. reference. — 64 C.J.S. Municipal Corporations § 2091.

§ 15-6-413. Assessments to be separate fund; use.

All moneys collected by the treasurer upon any assessments under this chapter shall be kept as a separate fund, to be known as "local improvement fund, district no. . . ." or by any other appropriate designation approved by the governing body, and be used for the retirement of any obligation or debt created in the construction of the improvement. (Laws 1915, ch. 120, § 27; C.S. 1920, § 1993; R.S. 1931, § 22-1528; Laws 1937, ch. 142, § 5; C.S. 1945, § 29-2028; W.S. 1957, § 15-474; Laws 1965, ch. 112, § 357.)

C.J.S. reference. — 64 C.J.S. Municipal Corporations §§ 1957, 2119.

§ 15-6-414. L

If the treasurer therefor, for any money after making has been so paid and his bond are the sale for the amount shall be demanded any court of competent certificate. (Laws C.S. 1945, § 29-202

Cross reference. — generally, see § 40-14-10 Law review. — See "Immunity from Damage Part II," 7 Land & Water

§ 15-6-415. Recordation

When the amount of accrued thereon, is paid mark it paid, with the property sold for any such with the date of margin of the roll opposite § 29, C.S. 1920, § 199 § 15-476; Laws 1965, c

C.J.S. reference. — 63 Corporations § 1574.

§ 15-6-416. Proper trust assessm

When any property is proceeding of this chapter for the fund of the improvement the extent of the assessment, penalty, accrued interest, bonds or warrants. However deed pay the fund the property was sold and all call for bonds or warrants provided, and thereupon t Laws 1915, ch. 120, § 30; § 29-2031; W.S. 1957, § 15

§ 15-6-414

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§ 15-6-414. Liability of treasurer and surety for error in return.

If the treasurer receives any moneys for assessments, giving a receipt therefor, for any property and afterward returns it as unpaid, or receives any money after making such return, and the property is sold for assessment which has been so paid and receipted for by himself, his clerk, assistant or deputy, he and his bond are liable to the holder of the certificate given to the purchaser at the sale for the amount of the face of the certificate, and legal interest which shall be demanded within two (2) years from the date of sale and recovered in any court of competent jurisdiction. No city or town is liable to the holder of any certificate. (Laws 1915, ch. 120, § 28; C.S. 1920, § 1994; R.S. 1931, § 22-1529; C.S. 1945, § 29-2029; W.S. 1957, § 15-475; Laws 1965, ch. 112, § 358.)

Cross reference. — As to interest rates generally, see § 40-14-106 (e).

Law review. — See article, "Governmental Immunity from Damage Actions in Wyoming — Part II," 7 Land & Water L. Rev. 617 (1972).

C.J.S. reference. — 62 C.J.S. Municipal Corporations § 697.

§ 15-6-415. Record of payment or redemption.

When the amount of any assessment, with interest, penalty, costs and charges accrued thereon, is paid to the treasurer before the sale of any property, he shall mark it paid, with the date of payment on the assessment roll. When any property sold for any assessments is redeemed the treasurer shall enter it as such with the date of redemption on the roll. Such records shall be made on the margin of the roll opposite the description of the property. (Laws 1915, ch. 120, § 29; C.S. 1920, § 1995; R.S. 1931, § 22-1530; C.S. 1945, § 29-2030; W.S. 1957, § 15-476; Laws 1965, ch. 112, § 359.)

C.J.S. reference. — 63 C.J.S. Municipal Corporations § 1574.

§ 15-6-416. Property bid in by city or town to be held in trust; trust discharged by municipality's payment of assessment.

When any property is bid in by, or stricken off to any city or town under any proceeding of this chapter the property shall be held in trust by the city or town for the fund of the improvement district for which the assessment was levied to the extent of the assessment or installment for which the property was sold, with penalty, accrued interest, and interest on the installment to time of next call for bonds or warrants. However, the city or town may at any time after receiving the amount of the delinquent assessment for which the property was sold and all accrued interest and interest to the time of the next call for bonds or warrants issued against the assessment fund at the rate provided, and thereupon take and hold the property discharged of the trust. (Laws 1915, ch. 120, § 30; C.S. 1920, § 1996; R.S. 1931, § 22-1531; C.S. 1945, § 29-2031; W.S. 1957, § 15-477; Laws 1965, ch. 112, § 360.)

Cross reference. — As to interest rates generally, see § 40-14-106 (e).

C.J.S. reference. — 64 C.J.S. Municipal Corporations § 2090.

§ 15-6-417. Sale of property held in trust; notice.

(a) Any city or town may at any time after the period of redemption has expired and deeds have been issued to the city or town by virtue of any proceedings under this chapter, sell any such property at public auction to the highest bidder for cash. No bid may be accepted for any amount less than the amount set forth in the deed, plus accrued interest to date of sale, computed on the assessment for which the property was sold from the date of the execution of the deed, and all delinquent assessments and taxes against the property with accrued interest, penalties, costs and other charges. The city or town shall pay into the fund for which the property was held in trust an amount necessary to fully cancel the assessment for which the property was sold, together with all interest thereon.

(b) Any such sale shall be conducted only after notice describing the property has been given, and stating that the city treasurer will, on the day specified, sell the property at the front door of the building in which the governing body holds its sessions, between the hours of ten (10:00) o'clock a.m. and four (4:00) o'clock p.m. and continue the sale from day to day, or withdraw the property from sale after the first day if he deems that the interests of the city or town so require. The notice shall be published at least five (5) times in a daily newspaper published within the city or town, or if there is none, then at least twice in a newspaper mentioned in section 15.1-337 [§ 15-6-202]. At least fifteen (15) days shall elapse between the date of the last publication of the notice and the day the property is sold. (Laws 1915, ch. 120, § 31; C.S. 1920, § 1997; R.S. 1931, § 22-1532; C.S. 1945, § 29-2032; W.S. 1957, § 15-478; Laws 1965, ch. 112, § 361.)

No priorities. — Liens of special assessments levied to pay bonds issued for special improvements, such as grading, paving, sewer, etc., have no priority one over the other, but are

of equal rank regardless of the time when they were created. Willard v. Morton, 50 Wyo. 72, 59 P.2d 338 (1936).

§ 15-6-418. Redemption of property sold for assessment; deed; notice to owner.

(a) Any property sold for an assessment shall be subject to redemption by the former owner, or his grantee, mortgagee, heir, or other representative at any time within two (2) years from the date of the sale upon the payment to the treasurer for the purchaser of the amount for which the property was sold, with interest at the rate of twelve percent (12%) per year, together with all taxes and special assessments, interest, penalties, costs and other charges, thereon paid by the purchaser at or since the sale, with like interest thereon. Unless written notice of taxes and assessments subsequently paid, and the amount thereof, is deposited with the city or town treasurer, redemption may be made without their inclusion. On any redemption being made, the treasurer shall give to the redemptioner a certificate of redemption, and pay over the amount received to

the purchaser of the certificate within the period of two (2) years from the date of the sale to the purchaser or his assigns, and execute to the purchaser or his assigns a deed to be executed until the holder of the property that he holds the title thereto. The notice shall be published in a newspaper of general circulation in the state after diligent search, three (3) successive weeks. The notice shall show that service was made, and the first publication of the notice, the deed shall be executed to the purchaser or his assigns, and after payment of the deed shall be executed to the purchaser or his assigns, and certificates of special or local assessments, whether the issuance of the certificates of town for the face amount of the certificates and charges, and be held for general taxes and special assessments. (b) The deed shall be executed in improvement was made; shall recite certificate of sale, the notice to the owner of the property within the time allowed by the city or town treasurer that the property was assessed according to the notice of demand for deed had been made by the proper officer. The deed shall be subject to all other proceedings from the assessment of the deed, and shall convey the entire interest in the property, except as otherwise provided for cities and towns. (Laws 1915, ch. 120, § 32; W.S. 1945, § 29-2033; W.S. 1957, § 15-478.)

§ 15-6-419. Foreclosure of delinquent assessments.

Any city or town may proceed with the foreclosure of delinquent assessments, or delinquent interest in the district court in the county in which the property is situated, without it being necessary to bring a separate suit therefor.

the purchaser of the certificate of sale or his assigns. If no redemption is made within the period of two (2) years, the treasurer shall, on demand of the purchaser or his assigns, and the surrender to him of the certificate of sale, execute to the purchaser or his assigns, a deed for the property. No deed may be executed until the holder of the certificate of sale has notified the owners of the property that he holds the certificate, and that he will demand a deed therefor. The notice shall be given by personal service upon the owners. However, if the owners are nonresidents of the state or cannot be found within the state after diligent search, then the notice may be given by publication in a newspaper of general circulation within the city or town once a week for three (3) successive weeks. The notice and return thereof, with the affidavit of the person, or in case of a city or town, of the comptroller or clerk, claiming a deed, showing that service was made, shall be filed with the treasurer. If redemption is not made within sixty (60) days after the date of service, or the date of the first publication of the notice, the holder of the certificate of sale is entitled to a deed. The deed shall be executed only for the property described in the certificate, and after payment of all delinquent taxes and special assessments, or installments, and certificates of delinquency or other certificates issued for special or local assessments, whether levied, assessed or issued before or after the issuance of the certificates of sale. Any deed may be issued to any city or town for the face amount of the certificate of sale, plus accrued interest, costs, penalties and charges, and be held by the city or town subject to the liens of general taxes and special assessments.

(b) The deed shall be executed in the name of the city or town by which the improvement was made; shall recite in substance the matters contained in the certificate of sale, the notice to the owner, and that no redemption has been made of the property within the time allowed by law. The deed shall be signed and acknowledged by the city or town treasurer, as such, and is prima facie evidence that the property was assessed according to law; that it was not redeemed; that due notice of demand for deed had been given, and that the person executing the deed was the proper officer. The deed is conclusive evidence of the regularity of all other proceedings from the assessment, up to and including the execution of the deed, and shall convey the entire fee simple title to the property described, except as otherwise provided for cities and towns, stripped of all liens and claims except assessments for local improvements or installments thereof, not delinquent. (Laws 1915, ch. 120, § 32; C.S. 1920, § 1998; R.S. 1931, § 22-1533; C.S. 1945, § 29-2033; W.S. 1957, § 15-479; Laws 1965, ch. 112, § 362.)

Cross reference. — As to interest rates generally, see § 40-14-106 (e).

C.J.S. reference. — 64 C.J.S. Municipal Corporations § 2100 et seq.

§ 15-6-419. Foreclosure of delinquent assessments by suit.

Any city or town may proceed with the collection or enforcement of any delinquent assessment, or delinquent installment in an action brought in its own name in the district court in the county in which the city or town is located. It is not necessary to bring a separate suit for each piece or parcel of property

delinquent, but all or any part of the property delinquent under any single assessment roll, or assessment district, may be proceeded against in the same action, and all or any of the owners or persons interested in any of the property may be joined as parties defendant in the action to foreclose, and all or any liens for delinquent assessments or installments, may be foreclosed in the proceeding. The proceeding shall be tried before the court without a jury. In any such proceeding, it is sufficient to allege the passage of the ordinance providing for the improvement, the making of the improvement, the levying of the improvement assessment, the confirmation thereof, the date of delinquency of the assessment or installment, and that it was not paid prior to the delinquency or at all. The assessment roll and confirmatory order, or authenticated copies are prima facie evidence of the regularity and legality of the proceedings connected therewith, and the burden of proof is upon the defendants. In any action where the owners or parties interested in any particular lot, tract or parcel of land or other property included in the suit suffer a default, the court may enter judgment of foreclosure and sale as to those parties and property and order execution thereon, and the action may proceed as to the remaining defendants and property. The judgment of the court shall specify separately the amount of the assessment or installment, with interest, penalty and costs, chargeable to the several lots, tracts and parcels of land and other property in the proceedings. The judgment has the effect of a separate judgment, and any appeal shall not invalidate or delay it except as to the property which is the subject of the appeal. In entering judgment the court shall decree that such lots, tracts or parcels of land or other property be sold to enforce the judgment and execution shall issue for the enforcement of the decree. Judgment may be entered as to any one (1) or more lots, tracts or parcels of land or other property involved, and the court may retain jurisdiction of the case as to the balance. All proceedings supplemental to judgment, including appeal, order of sale, period of redemption, sale, and the issuance of deed shall be conducted in accordance with the law relating to property sold upon foreclosure of real estate mortgages. (Laws 1915, ch. 120, § 33; C.S. 1920, § 1999; R.S. 1931, § 22-1534; C.S. 1945, § 29-2034; W.S. 1957, § 15-480; Laws 1965, ch. 112, § 363.)

Judgment on bonds where assessment held invalid. — Where holder of local improvement bonds brought suit against abutting property owners to enforce special assessments and called upon city to become a party to that action, which was refused, assessments being invalid, he was not obliged to bring mandamus to compel the city officials to reassess, but was entitled to personal judgment against city for the sum due on the bonds. *Henning v. City of Casper*, 50 Wyo. 1, 57 P.2d 1264, rehearing denied, 62 P.2d 304 (1936).

City not bound by judgment of invalidity. — City not being party to action in which assessments were held invalid is not bound by the judgment and may therefore, under provisions of this section, enforce the assessments by a proceeding in court, or may make reassessment within time limited. *Henning v. City of Casper*, 50 Wyo. 1, 57 P.2d 1264, rehearing denied, 62 P.2d 304 (1936).

C.J.S. reference. — 63 C.J.S. Municipal Corporations § 1608.

§ 15-6-420

§ 15-6-419

When the enforcement chapter does installment ordinance the assessment manner prescribed § 22-1535; C.S.

No priorities. — levied to pay improvements, such as, etc., have no priority.

§ 15-6-421.

(a) Any city or town of delinquency of penalty and interest shall constitute a lien shall bear interest per year and months of issuance in the estate are foreclosed be sold to any person the city or town on payment of the principal evidence that the lien at the time assessed the assessment or certificate.

(b) No certificate of assessment or installment affecting the assessment 1920, § 2001; R.S. 1920, § 2001; Laws 1965, ch. 112, § 363.

Cross reference. — generally, see § 40-14-106

§ 15-6-420. Enforcement of liens for installments; authorizing collection of entire assessment for default in installment.

When the assessment upon property is payable in installments, the enforcement of the lien of any installment by any method authorized in this chapter does not prevent the enforcement of the lien of any subsequent installment when it becomes delinquent. Any city or town may provide by ordinance that, upon failure to pay any installment when due, the entire assessment shall become due and payable and the collection enforced in the manner prescribed. (Laws 1915, ch. 120, § 34; C.S. 1920, § 2000; R.S. 1931, § 22-1535; C.S. 1945, § 29-2035; W.S. 1957, § 15-481; Laws 1965, ch. 112, § 364.)

No priorities. — Liens of special assessments levied to pay bonds issued for special improvements, such as grading, paving, sewer, etc., have no priority one over the other, but are

of equal rank regardless of time when they were created. *Willard v. Morton*, 50 Wyo. 72, 59 P.2d 338 (1936).

§ 15-6-421. Certificates of delinquency.

(a) Any city or town may, by ordinance, provide for the issuance of certificates of delinquency for any and all delinquent assessments or installments and any penalty and interest thereon to date of issuance. The certificates of delinquency constitute a lien against the property upon which assessments were levied, and shall bear interest from the date of issuance at the rate of twelve percent (12%) per year and may be foreclosed after two (2) years from the date of their issuance in the same manner and with the same effect as mortgages upon real estate are foreclosed. The certificates may be issued to the city or town, or may be sold to any person applying for them. They may be assigned in writing, and the city or town may sell and assign any and all certificates issued to it upon the payment of the principal and accrued interest, in cash. A certificate is prima facie evidence that the land against which it was issued was subject to the assessment at the time assessed, that the property was assessed as required by law, and that the assessment or installment was not paid prior to the issuance of the certificate.

(b) No certificate of delinquency may be issued upon any property for any assessment or installment during the pendency of any proceedings in court affecting the assessment or installment thereof. (Laws 1915, ch. 120, § 35; C.S. 1920, § 2001; R.S. 1931, § 22-1536; C.S. 1945, § 29-2036; W.S. 1957, § 15-482; Laws 1965, ch. 112, § 365.)

Cross reference. — As to interest rates generally, see § 40-14-106 (e).

**§ 15-6-422. Assessment of omitted property.**

(a) When by mistake, inadvertence or for any cause property otherwise subject to assessment has been omitted from the assessment roll the governing body may, upon its own motion or upon the application of the owner of any property within the assessment district, assess it according to the special benefits accruing to the omitted property because of the improvement, and in proportion to the assessments levied upon other property within the district.

(b) In any such case, the governing body shall first pass a resolution setting forth that certain described property was omitted from the assessment, and notifying all persons who may desire to object to appear at a meeting of the governing body at a time specified in the resolution, and directing the proper board, officer or authority to report at or prior to the hearing the amount which should be borne by each such lot, tract or parcel of land or other property omitted. The resolution shall be mailed and published in the manner provided for the giving of notice in section 15.1-337 [§ 15-6-202]. After the hearing, the governing body shall consider the matter as though the property had been included upon the original roll, and may confirm all or any portion thereof by ordinance. The roll of omitted property shall then be certified to the treasurer for collection as other assessments. (Laws 1915, ch. 120, § 36; C.S. 1920, § 2002; R.S. 1931, § 22-1537; C.S. 1945, § 29-2037; W.S. 1957, § 15-483; Laws 1963, ch. 145, § 14; 1965, ch. 112, § 366.)

C.J.S. reference. — 64 C.J.S. Municipal Corporations § 2050.

**§ 15-6-423. Fees for issuance of certificates and deeds.**

The city or town treasurer shall charge fifty cents (\$.50) for the issuance of each certificate of sale and each certificate of delinquency, and one dollar (\$1.00) for each deed. (Laws 1915, ch. 120, § 37; C.S. 1920, § 2003; R.S. 1931, § 22-1538; C.S. 1945, § 29-2038; W.S. 1957, § 15-484; Laws 1965, ch. 112, § 367.)

**§ 15-6-424. Lien of purchaser.**

The purchaser at any sale authorized in this chapter acquires a lien on the property bid in by him for the amount paid plus all taxes and delinquent assessments, or delinquency, and all interest, penalties, costs and charges thereon whether levied before or after the sale whether for state, county, city or town purposes, and paid by him. The purchaser is entitled to interest at the rate of twelve percent (12%) per year on the original amount paid by him from the date of the sale and upon subsequent payments from the date of payment of the respective amounts. (Laws 1915, ch. 120, § 38; C.S. 1920, § 2004; R.S. 1931, § 22-1539; C.S. 1945, § 29-2039; W.S. 1957, § 15-485; Laws 1965, ch. 112, § 368.)

§ 15-6-425

Cross reference. — generally, see § 40-14. No priorities. — Lie levied to pay bond improvements, such as etc., have no priority on of equal rank regardless created. Willard v. Mori 338 (1936).  
Setting aside sale to Where petition in actio

§ 15-6-425. Hold sub. trea distri cour

(a) The holder of an before commencing assessments or install property included in tl to the property subject case the complaint, dec and deed shall so state to twelve percent (12% payment.

(b) In any action to for of the complaint shall b the property is located v is struck off to or bid in property is subsequently be applied to discharge i property was sold, and th the city or town to discha surplus shall be distribute § 39; C.S. 1920, § 2005; R § 15-486; Laws 1965, ch. 1

§ 15-6-426. Limitatio.

An action to collect a improvements of any kind, installment, whether broug of delinquency, or by any otl be commenced within ten (10 or within ten (10) years after § 15, ch. 120, § 40; C.S. 1920, W.S. 1957, § 15-487; Laws 1:

§ 15-6-425

## CITIES AND TOWNS

§ 15-6-426

Cross reference. — As to interest rates generally, see § 40-14-106 (e).

No priorities. — Liens of special assessments levied to pay bonds issued for special improvements, such as grading, paving, sewer, etc., have no priority one over the other, but are of equal rank regardless of time when they were created. *Willard v. Morton*, 50 Wyo. 72, 59 P.2d 338 (1936).

Setting aside sale to enforce lien of city. — Where petition in action to set aside sale of

realty pursuant to decree in suit to foreclose city's lien for street improvements sets forth facts which would have produced materially different result in foreclosure suit, it sets out meritorious defense authorizing setting aside of sale. *Elstermeyer v. City of Cheyenne*, 57 Wyo. 256, 116 P.2d 231 (1941), rehearing denied, 57 Wyo. 421, 120 P.2d 599 (1942).  
C.J.S. reference. — 64 C.J.S. Municipal Corporations § 2062.

§ 15-6-425. Holder of certificate for general taxes to pay or take subject to local assessments; notice to city or town treasurer of foreclosure of general tax lien; distribution of proceeds from property bid in by county.

(a) The holder of any certificate of sale or delinquency for general taxes shall, before commencing any action to foreclose the lien pay in full all local assessments or installments outstanding against the whole or any portion of the property included in the certificate, or he may elect to proceed to acquire title to the property subject to certain or all local assessment liens thereon, in which case the complaint, decree of foreclosure, order of sale, sale, certificate of sale and deed shall so state. If the holder pays the local assessments, he is entitled to twelve percent (12%) interest per year on that amount from the date of payment.

(b) In any action to foreclose a lien for general taxes upon any property, a copy of the complaint shall be served on the treasurer of the city or town in which the property is located within five (5) days after it is filed. When any property is struck off to or bid in by the county at any sale for general taxes, and the property is subsequently sold by the county, the proceeds of the sale shall first be applied to discharge in full the lien or liens for general taxes for which the property was sold, and the remainder, or the amount necessary, shall be paid to the city or town to discharge all local assessment liens upon the property. Any surplus shall be distributed among the proper county funds. (Laws 1915, ch. 120, § 39; C.S. 1920, § 2005; R.S. 1931, § 22-1540; C.S. 1945, § 29-2040; W.S. 1957, § 15-486; Laws 1965, ch. 112, § 369.)

§ 15-6-426. Limitation of actions.

An action to collect any special assessment or installment for local improvements of any kind, or to enforce the lien of any such assessment or installment, whether brought by a city or town or by the holder of any certificate of delinquency, or by any other person having the right to bring the action, shall be commenced within ten (10) years after the assessment has become delinquent, or within ten (10) years after the last installment has become delinquent. (Laws 1915, ch. 120, § 40; C.S. 1920, § 2006; R.S. 1931, § 22-1541; C.S. 1945, § 29-2041; W.S. 1957, § 15-487; Laws 1965, ch. 112, § 370.)

Section applies to bondholders' right of action. — This section fixes the time within which the right of action created by § 15-6-434, relative to the remedy of local improvement bondholders, must be brought. *Guernsey v. City*

of Casper, 67 Wyo. 473, 226 P.2d 523 (1951) (decided under former similar provisions). C.J.S. reference. — 64 C.J.S. Municipal Corporations § 2077.

§ 15-6-427. When reassessments authorized or required.

(a) When special assessments for local improvements have failed to be valid in whole or in part for any reason, the governing body may reassess the assessments and enforce their collection in accordance with the provisions of law and ordinance existing at the time the reassessment is made. When, on account of any mistake, inadvertence or other cause, the amount assessed is not sufficient to pay the cost and expense of the improvement made and enjoyed by the owners of property in the assessment district, the governing body shall make reassessments on all property in the assessment district to pay for the improvement. The assessment [is] to be made according to the provisions of law and ordinance existing at the time of its levy. Any city or town may assess or reassess all property which the governing body finds to be specially benefited to pay the whole or any portion of the cost and expense of any local improvement whether or not the property so assessed or reassessed abuts upon, is adjacent to, or proximate to the improvement, or was included in the original assessment district. The right to assess all property found to be specially benefited also applies to any supplemental assessment or reassessment which the city or town finds necessary to make to provide for any deficiency in any local improvement district fund caused by the invalidity of any portion of the original assessment in the improvement district, or where for any cause the amount originally assessed is not sufficient to pay the cost of the improvement.

(b) When any assessment for any local improvement whether an original assessment, assessment upon omitted property, supplemental assessment or reassessment is declared void and its enforcement refused by any court, or for any cause is set aside, annulled or declared void by any court, either directly or by virtue of any decision of the court, the governing body shall make a new assessment or reassessment upon the property which has been or will be benefited by the local improvement, based upon its actual cost at the time of its completion. (Laws 1915, ch. 120, § 41; C.S. 1920, § 2007; R.S. 1931, § 22-1542; C.S. 1945, § 29-2042; W.S. 1957, § 15-488; Laws 1965, ch. 112, § 371.)

Bondholders' remedy. — Owner of bonds payable only from improvement fund where bondholders' remedy upon nonpayment is to enforce a special assessment must proceed by mandamus to compel city officials to reassess. *Blanchar v. City of Casper*, 81 F.2d 452 (10th Cir. 1936).

City not bound by judgment. — City not party to action in which sewer assessments were declared invalid is not bound by the judgment and may enforce the assessments by a proceeding in court, or may make a reassessment within the time limited. *Henning*

*v. City of Casper*, 50 Wyo. 1, 57 P.2d 134 rehearing denied, 62 P.2d 304 (1936).

Mandamus action preserves bondholders' right until final judgment. — In mandamus action by holders of special assessment bonds to compel mayor and city council to reassess to cover deficiency in original assessment, both the written demand and the filing of the suit having been well within the time limited by statute, the general rule is that such action preserves the right until final judgment. *Cowan v. State ex rel. Blanchar*, 55 Wyo. 471 100 P.2d 427 (1940).

Limitation of action by holders of special assessment to compel mayor and reassessment to cover assessment, where inclusion of its right between railroad and until agreed settlement

§ 15-6-428. Reassessment effective until limitation

(a) The governing body authorized by section directing the preparation of property specially benefited in the original assessment becomes a part of reassessments shall be improvement.

(b) The fact that the assessment made and computed in accordance with the provisions of law or resolution to improve, execution of work, or any first assessment thereof, assessment shall not excise together with the accrued assessment is the intent of this chapter, payable by the property proceedings of the governing officers or authority of the whether jurisdictional or other paid on the former attempt which they were paid.

(c) In any case where an assessment district is not affected by [§ 15-6-427], it need not be enforced. After certification of the assessment, the same time for penalties or interest, and the treasurer for collection of the assessment. After delinquency assessment. When the assessment is payable in installments, the new

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Limitation of actions. — In mandamus action by holders of special assessment bonds to compel mayor and city council to make reassessment to cover deficiency in original assessment, where a railroad had contested inclusion of its right-of-way, and controversy between railroad and city was not terminated until agreed settlement was perfected by

dismissal of its appeal, when only it became determinable what the deficiency was, action was well within the limit within which reassessment must be made. *Cowan v. State ex rel. Blanchar*, 55 Wyo. 427, 100 P.2d 427 (1940). C.J.S. reference. — 63 C.J.S. Municipal Corporations § 1541 et seq.

§ 15-6-428. Reassessment ordinance; property included on roll; effect of letting contract or irregularities; limitation on amount; payment.

(a) The governing body of any city or town shall proceed with any assessment authorized by section 15.1-371 [§ 15-6-427] by ordinance so ordering, and directing the preparation of an assessment roll. The roll may include any property specially benefited by the improvement, whether or not it was included in the original assessment district. When assessed the additional property becomes a part of the local improvement district and all payments of assessments shall be paid into the local improvement fund to pay for the improvement.

(b) The fact that the contract has been let or that the improvement has been made and computed in whole or in part does not prevent the making of the assessment, nor does the omission, failure or neglect of an officer to comply with the provisions of law or ordinance of the city or town, as to petition, notice, resolution to improve, estimate, survey, diagram, manner of letting contract or execution of work, or any other matter connected with the improvement and the first assessment thereof, operate to invalidate or in any way affect the making of any assessment authorized by section 15.1-371 [§ 15-6-427]. However, the assessment shall not exceed the actual cost and expense of the improvement, together with the accrued interest thereon, and the cost of the reassessment. It is the intent of this chapter to make the cost and expense of local improvements payable by the property specially benefited thereby, notwithstanding the proceedings of the governing body, board of public works or other board, officers or authority of the city or town may be found irregular or defective, whether jurisdictional or otherwise. When the assessment is completed, all sums paid on the former attempted assessment shall be credited to the property for which they were paid.

(c) In any case where any property within the original local improvement district is not affected by any assessment authorized by section 15.1-371 [§ 15-6-427], it need not be entered upon the assessment roll.

(d) After certification of the roll to the treasurer of the city or town for collection, the same time for payment of assessments, without the imposition of any penalties or interest, and the notice that the assessments are in the hands of the treasurer for collection, shall be given as in the case of an original assessment. After delinquency the penalty and interest shall be charged as on original assessment. When the original assessment for the improvements was payable in installments, the new assessment, after delinquency, may be divided

into equal installments and made payable as the governing body in the ordinance ordering the new assessment may prescribe. (Laws 1915, ch. 120, § 42; C.S. 1920, § 2008; R.S. 1931, § 22-1543; C.S. 1945, § 29-2043; W.S. 1957, § 15-489; Laws 1965, ch. 112, § 372.)

§ 15-6-429. Provisions as to original assessments to apply to reassessments.

All the provisions of assessments authorized by section 15.1-371 [§ 15-6-427] relating to the filing of assessment rolls; time, place, notice and conduct of hearing; the confirmation of the roll; the time when assessments become a lien upon the property assessed; the proceedings on appeal from any assessment; the method of collecting assessments and all proceedings for enforcing the lien shall be conducted the same as in the case of an original assessment. (Laws 1915, ch. 120, § 43; C.S. 1920, § 2009; R.S. 1931, § 22-1544; C.S. 1945, § 29-2044; W.S. 1957, § 15-490; Laws 1965, ch. 112, § 373.)

§ 15-6-430. Time for reassessments or supplemental assessments.

No city or town has jurisdiction to proceed with any reassessment or supplemental assessment unless the ordinance ordering it is passed by the governing body within three (3) years from the time the original assessment for the improvement was finally held to be invalid, insufficient or for any cause set aside, in whole or in part, or held void or its enforcement denied directly or indirectly by the courts. Or in the case of supplemental assessments within three (3) years from the time that it was finally determined that the total amount of the valid assessments levied and assessed on account of any improvement was insufficient to pay the whole or that portion of the cost and expense to be paid by special assessment. (Laws 1915, ch. 120, § 44; C.S. 1920, § 2010; R.S. 1931, § 22-1545; Laws 1939, ch. 19, § 1; C.S. 1945, § 29-2045; W.S. 1957, § 15-491; Laws 1965, ch. 112, § 374.)

Directory provision. — This section must be considered in light of other provisions of act, showing legislative intention that bonds shall be payable only from the assessment against the improved property, as making it the duty of the city to carry out that intention, and should be construed as directory as to time of performance, if that is necessary to carry out the purpose of the statute. Cowan v. State ex rel. Blanchar, 55 Wyo. 427, 100 P.2d 427 (1940).

Mandamus action to compel reassessment. — In mandamus action by holders of special assessment bonds to compel mayor and city council to make reassessment to cover deficiency in original assessment, both written demand and filing of suit having been well within the time limited by statute, the general rule is that such action preserves the right until

final judgment. Cowan v. State ex rel. Blanchar, 55 Wyo. 427, 100 P.2d 427 (1940).

In mandamus action by holders of special assessment bonds to compel mayor and city council to make reassessment to cover deficiency in original assessment, where a railroad had contested inclusion of its right-of-way, controversy between railroad and the city was not terminated until the agreed settlement was perfected by dismissal of appeal, when only it became determinable what the deficiency was, and action was well within the limit within which reassessment could be made. Cowan v. State ex rel. Blanchar, 55 Wyo. 427, 100 P.2d 427 (1940).

Personal judgment against city where assessment held invalid. — Where the basis of local improvement bonds brought suit against

abutting property owners to enforce assessments, and called upon the city a party to that action, which with assessments being held invalid, he obliged to bring mandamus to compel officials to reassess, but was entitled to judgment against city for sum due on Henning v. City of Casper, 50 Wyo. 1264, rehearing denied, 62 P.2d 304 (

§ 15-6-431. Payment by insufficient.

If the amount collected by a improvement, the governing body of the permanent improvement § 22-885; C.S. 1945, § 29-907; W

§ 15-6-432. Local improvement specifications

The governing body of any city ordinance for the issuance of bonds of the cost and expense of any local improvement. The bonds may be issued to the city. The bonds shall be issued in denominations shall be made payable on or from the date of issuance, and shall not to exceed ten percent (10%) per annum and shall have interest coupons at the rate of one (1) upwards, consecutively assigned by the mayor, countersigned by the comptroller. Printed facsimile signatures. Each bond shall have the seal of the improvement for which they are issued. Each bond shall provide that the local improvement fund created for the improvement, and not otherwise, shall be used to pay the excess of the cost and expense of the improvement. C.S. 1920, §§ 2011, 2012; Laws 1939, § 29-2046; W.S. 1957, § 15-493; (

references. — As to funding and interest of bonds generally, see §§ 15-8-101 to 15-8-106 (e). As to interest rates generally, see § 15-106 (e). Assessments are limited to the amount. — Assessments are limited to the cost and expenses of the improvement, and

§ 15-6-430

ordinance  
42; C.S. 1920,  
15-489; Laws

to apply to

§ 15-6-427]  
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Laws 1915, ch.  
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§ 15-6-431

abutting property owners to enforce special assessments, and called upon the city to become a party to that action, which was refused, assessments being held invalid, he was not obliged to bring mandamus to compel the city officials to reassess, but was entitled to personal judgment against city for sum due on the bonds. *Henning v. City of Casper*, 50 Wyo. 1, 57 P.2d 1264, rehearing denied, 62 P.2d 304 (1936).

### CITIES AND TOWNS

§ 15-6-432

City not bound by judgment of invalidity of assessment. — City not being a party to action in which assessments were declared invalid is not bound by the judgment, and it may enforce assessments by a proceeding in court, or may make reassessments within the time limited. *Henning v. City of Casper*, 50 Wyo. 1, 57 P.2d 1264, rehearing denied, 62 P.2d 304 (1936).

#### § 15-6-431. Payment by city or town when assessment insufficient.

If the amount collected by assessment is insufficient to pay the cost of the improvement, the governing body may authorize the payment of the deficit out of the permanent improvement fund. (Laws 1923, ch. 74, § 86; R.S. 1931, § 22-885; C.S. 1945, § 29-907; W.S. 1957, § 15-492; Laws 1965, ch. 112, § 375.)

#### § 15-6-432. Local improvement bonds; method of issuance; specifications as to bonds; limitation on amount.

The governing body of any city or town may, in their discretion, provide by ordinance for the issuance of bonds for the payment of the whole or any portion of the cost and expense of any local improvements, as provided in this chapter. The bonds may be issued to the contractor, or be issued and sold as otherwise provided. The bonds shall be issued only pursuant to ordinance, and by their terms shall be made payable on or before a date not more than ten (10) years from the date of issuance, and shall bear interest as provided in the ordinance, not to exceed ten percent (10%) per year, payable annually or semiannually. Each bond shall have interest coupons attached to it for each interest payment. The bonds shall be in the denominations provided in the ordinance and be numbered from one (1) upwards, consecutively in each series. Each bond and coupon shall be signed by the mayor, countersigned by the treasurer and attested by the clerk or comptroller. Printed facsimile signatures of those officers may be used on the coupons. Each bond shall have the seal of the city or town affixed to it and refer to the improvement for which they are issued and the ordinance ordering their issuance. Each bond shall provide that the principal and interest is payable out of the local improvement fund created for the payment of the cost and expense of the improvement, and not otherwise. No bonds may be issued in any amount in excess of the cost and expense of the improvement. (Laws 1915, ch. 120, §§ 45, 46; C.S. 1920, §§ 2011, 2012; Laws 1931, ch. 73, § 19; R.S. 1931, § 22-1604; C.S. 1945, § 29-2046; W.S. 1957, § 15-493; Laws 1965, ch. 112, § 376; 1971, ch. 254, § 4.)

Cross references. — As to funding and funding of bonds generally, see §§ 15-8-101 to 15-8-106. As to interest rates generally, see § 15-14-106 (e).  
Limit on amount. — Assessments are limited to costs and expenses of the improvement, and

bonds are apparently authorized to be issued in the same amount, though not greater, and the city is not liable for deficiency subsequently arising. *Richardson v. City of Casper*, 48 Wyo. 219, 45 P.2d 1 (1935).

**Bondholders' remedy.** — Owner of bonds payable only from improvement fund where bondholders' remedy upon nonpayment is to enforce a special assessment must proceed by mandamus to compel city officials to reassess. *Blanchar v. City of Casper*, 81 F.2d 452 (10th Cir. 1936).

**City is not liable for failure to collect assessments.** — City is not liable in tort for its failure to make any effort to collect special assessments levied to pay special improvement bonds, as law gives the bondholder the right to collect such assessments. *Richardson v. City of Casper*, 48 Wyo. 219, 45 P.2d 1 (1935).

In tort action against city for failure to perform its alleged duties in collecting and applying special assessments to the payment of special improvement bonds, city was not liable as bonds contained statutory limitation of liability and gave holders the right to enforce the assessments, no duty being imposed upon the city to collect and apply the special assessments. *Richardson v. City of Casper*, 48 Wyo. 219, 45 P.2d 1 (1935).

If city and its officials fulfill their duty in connection with special assessments, nothing further can be expected of them; the contract between the parties, or the statute limiting liability, must then govern, and city is relieved from any liability even though there be a deficiency in the amount collectible. *Henning v.*

*City of Casper*, 50 Wyo. 1, 57 P.2d 1264, rehearing denied, 62 P.2d 304 (1936).

But is liable for refusal to make assessments. — When a municipality has power to make local improvements and pay therefor out of its general fund or by assessments against abutting property, and takes the latter course, but neglects or refuses unreasonably to make valid assessments, by reason of which certificates or bonds issued in payment are rendered valueless, municipality must respond in damages, even though it is agreed between the parties that they shall be paid out of the assessments. *Henning v. City of Casper*, 50 Wyo. 1, 57 P.2d 1264, rehearing denied, 62 P.2d 304 (1936).

**Judgment against city where assessments held invalid.** — Where holder of local improvement bonds brought suit against abutting property owners to enforce special assessments and called upon the city to become party to that action, which was refused, and where assessments were held invalid, he was not obliged to bring mandamus to compel city officials to reassess, but entitled to personal judgment against city for the sum due on the bonds. *Henning v. City of Casper*, 50 Wyo. 1, 57 P.2d 1264, rehearing denied, 62 P.2d 304 (1936).

C.J.S. reference. — 64 C.J.S. Municipal Corporations § 1902 et seq.

§ 15-6-433. Same; cost to be assessed against property; installment payment authorized; interest.

When any city or town issues bonds to pay the cost and expense of any local improvement, the cost and expense shall be assessed against the lots, tracts, and parcels of land and other property liable and the ordinance levying the assessment shall provide that the sum charged against each may be paid during the thirty (30) day period as provided in section 15-1-384 [§ 15-6-440]. Thereafter, the sum remaining unpaid may be paid in equal annual or semiannual installments for a period of years equal to that which the bonds issued to pay for the improvement run, with interest upon the whole unpaid sum at a rate fixed by ordinance. (Laws 1915, ch. 120, § 48; C.S. 1920, § 2014; R.S. 1931, § 22-1546; C.S. 1945, § 29-2047; W.S. 1957, § 15-494; Laws 1963, ch. 145, § 15; 1965, ch. 112, § 377.)

§ 15-6-434. Same; civil action by bondholder in case of nonpayment.

If the city or town fails, neglects, or refuses to pay the bonds or to promptly collect any assessment when due, the owner of any bonds may proceed in his own name to collect the assessments and foreclose the lien in any court of competent jurisdiction. The bondholder shall recover five percent (5%) in addition to the

amount and interest of the bondholders of the bond number of owners of the defendants in the case. § 22-1613; C.S. 19

The right of action must be brought within § 15-6-426. *Guernsey v. Casper*, 67 Wyo. 473, 226 P.2d 523 (1951).

Action need not be brought under it must be a class action for the benefit of those who have the right to sue. It states that an action for the benefit of earlier numbered bonds is not barred by the later bonds. *Casper*, 67 Wyo. 473, 226 P.2d 523 (1951).

Effect of ordering city to cancel assessments. — Where improvement bonds have been issued and enforcement of bond payment of bonds has been ordered by court order, accepted assessments, an owner of lower numbered bonds could not sue for the benefit of later bonds from city on the ground that it had accepted the later bonds and cancelled the earlier ones. *Guernsey v. City of Casper*, 67 Wyo. 473, 226 P.2d 523 (1951).

City is not liable for assessments. — City may be

§ 15-6-435. Same; to enforce local improvement bond.

No holder or owner of bonds may sue against the city or town for improvement for which the city or town has not provided for the enforcement of the assessment. A copy of this section shall be attached to each bond issued. (Laws 1915, ch. 120, § 48; C.S. 1920, § 2014; R.S. 1931, § 22-1546; C.S. 1945, § 29-2050; Laws 1963, ch. 145, § 15; 1965, ch. 112, § 379.)

Editor's note. — The cases noted under former provisions.

Constitutionality. — See note on this section is not amenable to constitutional challenge. *Banner v. City of Casper*, 67 Wyo. 429, 259 P.2d 922 (1955).

amount and interest thereon, together with the cost of the suit. Any number of holders of the bonds for any single improvement may join as plaintiffs and any number of owners of the property on which they are a lien may be joined as defendants in the suit. (Laws 1915, ch. 120, § 50; C.S. 1920, § 2016; R.S. 1931, § 22-1613; C.S. 1945, § 29-2049; W.S. 1957, § 15-495; Laws 1965, ch. 112, § 378.)

The right of action created by this section must be brought within the time fixed by § 15-6-426. *Guernsey v. City of Casper*, 67 Wyo. 473, 226 P.2d 523 (1951).

Action need not be class action. — This section does not require that an action brought under it must be a class action, that is to say, an action for the benefit of all unpaid bonds, nor does it state that an action brought by anyone who has the right to foreclose must be brought primarily for the benefit of the holder of the earlier numbered bonds. *Guernsey v. City of Casper*, 67 Wyo. 473, 226 P.2d 523 (1951).

Effect of ordering city to accept bonds and cancel assessments. — Where owner of local improvement bonds had brought action to enforce payment of bonds and city, pursuant to court order, accepted bonds and cancelled assessments, an owner of similar bonds carrying lower numbers could not recover payment of latter bonds from city on basis that city became liable when it had accepted bonds of higher numbers and cancelled assessments, where no money was actually collected by the city. *Guernsey v. City of Casper*, 67 Wyo. 473, 226 P.2d 523 (1951).

City is not liable for failure to collect assessments. — City may by general ordinance

provide for the enforcement of assessments and a sale of the property subject thereto, but it is not obligatory upon it to do so, nor is it obligatory upon the city to collect the assessments, and if it fails, neglects, or refuses to pay the bonds or promptly to collect any assessments when due, owner of the bonds may do so. *Richardson v. City of Casper*, 48 Wyo. 219, 45 P.2d 1 (1935).

In tort action against city for failure to perform its alleged duties in collecting and applying special assessments to the payment of special improvement bonds, city was not liable as the bonds contained the statutory limitation of liability, and also gave the holders the right to enforce the assessments, no duty being imposed upon city to collect and apply the special assessments. *Richardson v. City of Casper*, 48 Wyo. 219, 45 P.2d 1 (1935).

The city is not liable in tort for its failure to make any effort to collect special assessments levied to pay special improvement bonds, as this section gives the bondholder the right to collect such assessments. *Richardson v. City of Casper*, 48 Wyo. 219, 45 P.2d 1 (1935).

§ 15-6-435. Same; bondholder's remedy for nonpayment limited to enforcement of assessments or payment from local improvement fund; endorsement of section on bond.

No holder or owner of any bond issued under this chapter has any claim against the city or town, except from the special assessment made for the improvement for which the bond was issued, or from the local improvement fund of the city or town. His remedy in case of nonpayment, is limited to the enforcement of the assessments, or for payment out of the local improvement fund. A copy of this section shall be plainly written, printed or engraved on each bond issued. (Laws 1915, ch. 120, § 51; C.S. 1920, § 2017; R.S. 1931, § 22-1614; C.S. 1945, § 29-2050; Laws 1953, ch. 155, § 3; W.S. 1957, § 15-496; Laws 1965, ch. 112, § 379.)

Editor's note. — The cases noted below were decided under former similar statutory provisions.

Constitutionality. — See note to § 15-6-438.

This section is not ambiguous and consistent. *Banner v. City of Laramie*, 74 Wyo. 429, 289 P.2d 922 (1955).

The taxing power of a city is not surrendered nor is an obligation extinguished by virtue of this section. *Banner v. City of Laramie*, 74 Wyo. 429, 289 P.2d 922 (1955).

A municipality is not compelled to take any affirmative steps to enforce special assessments for the payment of local

improvement bonds under this section and § 15-6-434. It follows that it is not compelled to intervene in any action in order to do so. *Guernsey v. City of Casper*, 67 Wyo. 473, 226 P.2d 523 (1951).

Payment from local improvement fund mandatory only if fund created. — Although this section is mandatory in terms, giving the impression that it is necessary to create a local improvement fund, insertion in bonds of the clause relating to payment act of such fund is mandatory only in cases in which the revolving fund has in fact been created, since by § 15-6-438 creation of the fund is made permissive. *Abel v. Town of City of Gillette*, 72 Wyo. 366, 265 P.2d 376 (1954).

Liability of city is at most contingent. — Under this section, liability of a city arising under revolving fund created pursuant to §§ 15-6-438 and 15-6-439, for any delinquency accruing in assessment of bonds, is at most contingent, and a contingent liability does not constitute a debt within the provisions of art. 16, §§ 4 and 5, Wyo. Const. *Banner v. City of Laramie*, 74 Wyo. 429, 289 P.2d 922 (1955).

It is not liable in tort for failure to enforce assessments. — City is not liable in tort for its failure to make any effort to collect special assessments levied to pay special improvement bonds, as statute gives bondholder the right to collect such assessments. *Richardson v. City of Casper*, 48 Wyo. 219, 45 P.2d 1 (1935).

In tort action against city for failure to perform its alleged duties in collecting and applying special assessments to the payment of special improvement bonds, city was not liable as the bonds contained the statutory limitation of liability, and also gave the holders the right to enforce the assessments, no duty being imposed

upon city to collect and apply the special assessments. *Richardson v. City of Casper*, 48 Wyo. 219, 45 P.2d 1 (1935).

If city and its officials fulfill their duty in connection with special assessments, nothing further can be expected of them; the contract between the parties, or the statute limiting liability, must then govern, and city is relieved from any liability even though there be a deficiency in the amount collectible. *Henning v. City of Casper*, 50 Wyo. 1, 57 P.2d 1264, rehearing denied, 62 P.2d 304 (1936).

But it is liable for failure to make assessments. — When municipality has power to make local improvements and pay therefor out of its general fund or by assessments against abutting property, and takes the latter course, but neglects or refuses unreasonably to make valid assessments by reason of which certificates or bonds issued in payment, are rendered valueless, municipality must respond in damages, even though it is agreed between the parties that they shall be paid out of assessments. *Henning v. City of Casper*, 50 Wyo. 1, 57 P.2d 1264, rehearing denied, 62 P.2d 304 (1936).

And is liable on bonds if assessments are invalid. — Where holder of local improvement bonds brought suit against abutting property owners to enforce special assessments, and called upon the city to become a party to that action, which was refused, the assessments being invalid, he was not obliged to bring mandamus to compel city officials to reassess, but was entitled to personal judgment against city for the sum due on the bonds. *Henning v. City of Casper*, 50 Wyo. 1, 57 P.2d 1264, rehearing denied, 62 P.2d 304 (1936).

§ 15-6-436. Same; payment of principal and interest; calls for redemption.

The city or town treasurer shall pay the principal and interest on bonds issued out of the respective local improvement funds from which they are payable. When there is sufficient money in any local improvement fund over the amount required for the payment of maturing principal and interest to pay the principal of one (1) or more bonds, which are subject to redemption on the next interest payment date, the treasurer shall call in and pay those bonds in numerical order. Notice of the call shall be made by publication in a newspaper of general circulation within the city or town, or by mail to the holder, if known, thirty (30) days prior to the date of call and shall state that bonds no. . . . (giving the serial number or numbers of the bonds called) will be paid on the call day and interest on those bonds shall cease upon that date. (Laws 1915, ch. 120, § 52; C.S. 1920,

§ 15-6-437

§ 2018; R.S. 1: 1957, § 15-497

When bonds in order. — This section bonds in numerical order of proper funds on

§ 15-6-437. S

The indebtedness in this chapter are town. (Laws 1915 1945, § 29-2058; 1

§ 15-6-438. Rev SOI

When the government local improvement create concurrently; In payment for such revolving fund, the collected or received amount of the bonds is (10) years or for the lesser is the shorter. In no outstanding bond obligation § 15-499; Laws 1965, c

Editor's note. — The case note under this section were former similar statutory provisions

Constitutionality. — The §§ 15-6-435 and 15-6-439 do not violate art. 1, § 32, Wyo. Const., providing that no person shall be deprived of life, liberty or property without due process of law. *Banner v. City of Laramie*, 74 Wyo. 429, 289 P.2d 922 (1955).

This section and §§ 15-6-435 do not violate art. 1, § 32, Wyo. Const. right of eminent domain. *Banner v. City of Laramie*, 74 Wyo. 429, 289 P.2d 922 (1955).

This section and §§ 15-6-435 do not violate art. 1, § 33, Wyo. Const. just compensation for property. *Banner v. City of Laramie*, 74 Wyo. 429, 289 P.2d 922 (1955).

Under this section and §§ 15-6-439 plaintiff taxpayer is not delinquent but on the contrary he has

§ 2018; R.S. 1931, § 22-1610; C.S. 1945, § 29-2051; Laws 1955, ch. 196, § 1; W.S. 1957, § 15-497; Laws 1965, ch. 112, § 380.)

When bonds must be paid in numerical order. — This section requires the payment of bonds in numerical order when called by reason of proper funds on hand in the treasury of the

city. It makes no provision for any other case. *Guernsey v. City of Casper*, 67 Wyo. 473, 226 P.2d 523 (1951).

§ 15-6-437. Same; indebtedness not considered within debt limit.

The indebtedness created by the issuance of any warrants or bonds provided in this chapter are [is] not within the limitation of indebtedness of any city or town. (Laws 1915, ch. 120, § 58; C.S. 1920, § 2025; R.S. 1931, § 22-1554; C.S. 1945, § 29-2058; W.S. 1957, § 15-498; Laws 1965, ch. 112, § 381.)

§ 15-6-438. Revolving local improvement fund authorized; source of funds; amount of limitations.

When the governing body determines that improvements constructed in any local improvement district confer general benefits on the city or town it may create concurrently a fund to be known as the revolving local improvement fund. In payment for such benefits and to meet the financial requirements of the revolving fund, the city or town shall advance annually to the credit of the fund from the proceeds of city or state gasoline or state cigarette license taxes collected or received by it, a sum of not less than two percent (2%) of the total amount of the bonds issued for the local improvement district for a period of ten (10) years or for the length of time necessary to pay all bonds issued, whichever is the shorter. In no event may the fund exceed twenty percent (20%) of the outstanding bond obligations of the district. (Laws 1953, ch. 155, § 1; W.S. 1957, § 15-499; Laws 1965, ch. 112, § 382.)

Editor's note. — The cases appearing in the note under this section were decided under former similar statutory provisions.

**Constitutionality.** — This section and §§ 15-6-435 and 15-6-439 do not violate art. 1, § 6, Wyo. Const., providing that no person shall be deprived of life, liberty or property without due process of law. *Banner v. City of Laramie*, 74 Wyo. 429, 289 P.2d 922 (1955).

This section and §§ 15-6-435 and 15-6-439 do not violate art. 1, § 32, Wyo. Const., limiting right of eminent domain. *Banner v. City of Laramie*, 74 Wyo. 429, 289 P.2d 922 (1955).

This section and §§ 15-6-435 and 15-6-439 do not violate art. 1, § 33, Wyo. Const., providing for just compensation for property taken. *Banner v. City of Laramie*, 74 Wyo. 429, 289 P.2d 922 (1955).

Under this section and §§ 15-6-435 and 15-6-439 plaintiff taxpayer is not deprived of any property but on the contrary he has been given

property by reason of the fact that he is relieved of a burden which might have been imposed upon him and the public at large, but which instead is imposed upon certain property which is specially assessed. These sections do not violate art. 1, §§ 6, 32 and 33, Wyo. Const. *Banner v. City of Laramie*, 74 Wyo. 429, 289 P.2d 922 (1955).

This section and §§ 15-6-435 and 15-6-439 do not violate the constitutional amendment of 1954, which added art. 15, § 16, Wyo. Const., prohibiting moneys derived from state excise or license taxes on vehicles or fuels from being expended for other than cost of administering such laws, highway and street cost, construction, maintenance, etc. *Banner v. City of Laramie*, 74 Wyo. 429, 289 P.2d 922 (1955).

This section and §§ 15-6-435 and 15-6-439 do not violate art. 16, § 4, Wyo. Const., providing that no debt in excess of taxes for the current year shall be created by any county or city

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officials fulfill their duty in special assessments, nothing expected of them; the contract es, or the statute limiting gov... and city is relieved ev... though there be a amount collectible. *Henning v. 50 Wyo. 1, 57 P.2d 1264, 2 P.2d 304 (1936).*  
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interest on bonds issued which they are payable. fund over the amount erest to pay the principal on the next interest ds in numerical order. a newspaper of general lder, if known, thirty (30) ..... (giving the serial he call day and interest ch. 120, § 52; C.S. 1920,

unless that proposition shall have been submitted to a vote of, and approved by, the people thereof. *Banner v. City of Laramie*, 74 Wyo. 429, 289 P.2d 922 (1955).

This section and §§ 15-6-435 and 15-6-439 do not violate art. 16, § 5, Wyo. Const., providing that no city shall create any indebtedness exceeding 2% on assessed value of taxable property therein as shown by last preceding general assessment. *Banner v. City of Laramie*, 74 Wyo. 429, 289 P.2d 922 (1955).

This section and §§ 15-6-435 and 15-6-439 do not violate art. 16, § 6, Wyo. Const., providing that the state, a county or city, shall not loan or give its credit to any individual, association or corporation. *Banner v. City of Laramie*, 74 Wyo. 429, 289 P.2d 922 (1955).

This section conferred a new power upon cities and towns. It was intended to repair to some extent the unsavory reputation which local improvement bonds had attained in Wyoming, so the supreme court should construe the legislation liberally in that light. *Abel v. Town of City of Gillette*, 72 Wyo. 366, 265 P.2d 376 (1954).

Where this section was not yet effective, town council had no power to create revolving fund since it could not act in anticipation of a power it would later possess. *Abel v. Town of City of Gillette*, 72 Wyo. 366, 265 P.2d 376 (1954).

Nor to make bonds payable from such fund. — Bonds issued or to be issued in connection with the local improvement district would be invalid insofar as purporting to be payable out of such a fund. *Abel v. Town of City of Gillette*, 72 Wyo. 366, 265 P.2d 376 (1954).

But bonds were valid insofar as they referred to and were payable from special assessments from the district. *Abel v. Town of City of Gillette*, 72 Wyo. 366, 265 P.2d 376 (1954).

A city or town council is not compelled to create such a fund as is provided by this section. Creation is permissive only. *Abel v. Town of City of Gillette*, 72 Wyo. 366, 265 P.2d 376 (1954).

And time for the creation of the revolving fund was not intended to be of the essence. Creation of the fund need not necessarily be concurrent with establishment of the local improvement district but may be subsequent. *Abel v. Town of City of Gillette*, 72 Wyo. 366, 265 P.2d 376 (1954).

Fund may be created from any or all of taxes mentioned. — This section provides that the fund should be created out of city or state gasoline or state cigarette license taxes and is in the disjunctive. City may create fund out of any 1 of 3 taxes, or out of all of them, in its discretion and need not designate specifically from which it

intends to create fund. Important point of section is creation of revolving fund, not specific tax out of 3 mentioned. *Banner v. City of Laramie*, 74 Wyo. 429, 289 P.2d 922 (1955).

The fund is not a loan in the ordinary sense but is merely a small contribution to a liability which is shifted from the public onto the shoulders of particular persons and does not violate art. 16, § 6, Wyo. Const. *Banner v. City of Laramie*, 74 Wyo. 429, 289 P.2d 922 (1955).

Nor general obligation of city. — It is a guaranty fund for the payment of bonds, issued in connection with local improvements and not a general obligation of the city, and is taken out of the cigarette tax and gasoline tax which comes into the general fund of the city. Diverting these taxes to guarantee payment of bonds does not create indebtedness against city in violation of art. 16, §§ 4 and 5, Wyo. Const. *Banner v. City of Laramie*, 74 Wyo. 429, 289 P.2d 922 (1955).

The fund is for a public purpose. *Banner v. City of Laramie*, 74 Wyo. 429, 289 P.2d 922 (1955).

It may equal 20% of original amount of bonds. — Under this section and § 15-6-439 it is contemplated that 20% of original amount of bonds issued may be paid into revolving fund and procedure of city in so doing, with privilege of withdrawal, does not violate spirit of these sections even though balance in fund may exceed 20% of amount of bonds outstanding at a given time. *Banner v. City of Laramie*, 74 Wyo. 429, 289 P.2d 922 (1955).

No withdrawals until bonds are paid. — This section and § 15-6-439 do not seem to contemplate any withdrawals of amounts once paid into the revolving fund until all the bonds are paid. *Banner v. City of Laramie*, 74 Wyo. 429, 289 P.2d 922 (1955).

Construction of storm sewers from money supplied through revolving fund. — Contention that storm sewers could not be constructed in cities from moneys supplied by gasoline taxes through revolving local improvement fund because of constitutional amendment, art. 15, § 16, Wyo. Const., prohibiting moneys derived from excise taxes on vehicles or fuel from being used for other than "cost for construction, reconstruction, maintenance and repair of . . . streets . . ." etc., was overruled, since storm sewers are an incidental part of improving streets. *Banner v. City of Laramie*, 74 Wyo. 429, 289 P.2d 922 (1955).

Law review. — For a note, "Municipal Assistance to an Improvement District," see 11 Wyo. L.J. 180 (1957).

The city or town in the local improvement between the property assessments and liens upon the proceeds of the revert to the revolving money in the interest of any bond or interest have been fund shall, by order for disposition as W.S. 1957, § 15-5-

Cross reference. — etc., of this section, see

The owner of any any assessments made any contract price of the portion thereof charged thirty (30) days after shall, as soon as the a publish the notice in a for ten (10) consecutive is in his hands for collection any assessment may be of the first publication shall not be issued prior at any time thereafter. lot or parcel of land made the assessment at any installments of the assessment date of the maturity of t as provided in this section whose duty it is to collect solely to the payment of redemption of the bonds is § 331, § 22-1547; C.S. 1945 § 334.)

§ 15-6-439

CITIES AND TOWNS

§ 15-6-440

§ 15-6-439. Transfer from revolving fund to local improvement fund.

The city or town shall withdraw annually from the revolving fund and deposit in the local improvement district fund sufficient money to meet the difference between the principal amount of assessments due that year and the amount of assessments actually collected that year. Delinquent assessments shall remain liens upon the property assessed, and when they are enforced or foreclosed the proceeds of the sales, or other payments discharging the delinquencies, shall revert to the revolving fund in repayment of the amounts advanced. When there is money in the local improvement fund which is not required for the payment of any bond or interest of the local improvement fund, and after all bonds and interest have been fully paid, the money remaining in the local improvement fund shall, by order of the governing body, be transferred to the revolving fund for disposition as the governing body may determine. (Laws 1953, ch. 155, § 2; W.S. 1957, § 15-500; Laws 1965, ch. 112, § 383.)

Cross reference. — As to constitutionality, etc., of this section, see notes to § 15-6-438.

Constitutionality and construction of section. — See notes to § 15-6-438.

§ 15-6-440. Owner may redeem property by paying assessment; notice of collection; time of issuance of bonds; payment and disposition of assessments.

The owner of any lot, tract or parcel of land or other property charged with any assessments may redeem it from all or any portion of the liability for the contract price of the improvement by paying the entire assessment or any portion thereof charged against the lot or parcel of land, without interest, within thirty (30) days after notice to him of the assessment. The city or town treasurer shall, as soon as the assessment roll has been placed in his hands for collection, publish the notice in a newspaper of general circulation within the city or town, for ten (10) consecutive [daily] or two (2) consecutive weekly issues that the roll is in his hands for collection and that any assessment thereon or any portion of any assessment may be paid at any time within thirty (30) days from the date of the first publication of the notice without penalty, interest or costs. The bonds shall not be issued prior to the expiration of thirty (30) days, but may be issued at any time thereafter. The governing body may provide that the owner of any lot or parcel of land may redeem it from all liability for the unpaid amount of the assessment at any time after the thirty (30) days by paying all the installments of the assessment remaining unpaid, with interest thereon to the date of the maturity of the installment next falling due. When any sum is paid as provided in this section it shall be paid to the city treasurer, or to the officer whose duty it is to collect the assessments, and all sums so paid shall be applied solely to the payment of the cost and expense of the improvements or the redemption of the bonds issued: (Laws 1915, ch. 120, § 49; C.S. 1920, § 2015; R.S. 1931, § 22-1547; C.S. 1945, § 29-2048; W.S. 1957, § 15-501; Laws 1965, ch. 112, § 384.)

**§ 15-6-441. Installment collection required unless assessment paid within 30 days of notice; due date; delinquency.**

Unless the assessment against any parcel is paid within thirty (30) days after the notice it shall be collected in installments as provided in section 15.1-353 [§ 15-6-409]. The first installment becomes due one (1) year from the date of confirmation and other installments become due on the succeeding anniversary dates. Each installment becomes delinquent unless paid when due. (Laws 1955, ch. 197, § 1; W.S. 1957, § 15-502; Laws 1965, ch. 112, § 385.)

C.J.S. reference. — 63 C.J.S. Municipal Corporations § 1573.

**§ 15-6-442. Validity of local improvement assessments.**

When the governing body has made any contract for any local improvement or makes any assessment against property within any local improvement district and has in making the contract or assessment acted in good faith and without fraud the contract and assessment is valid and enforceable and the assessment shall be a lien upon the property involved. No objection to the validity of the contract or assessment may be made on the ground that the contract for the improvement was not awarded in the manner or at the time required by law; nor is it an objection to the validity of the assessment that it was made by an unauthorized officer or person, if it has been confirmed by the governing body; nor is it an objection to the legality of the contract or assessment that it is based upon a front foot basis or upon a basis of benefits to the property within the district unless it appears that the city or town authorities acted fraudulently or oppressively in making the assessment. All assessments made by the city or town authorities in good faith are hereby declared to be valid and in full force and effect, and to be collectible in the manner provided by law for the collection of assessments. (Laws 1915, ch. 120, § 53; C.S. 1920, § 2019; R.S. 1931, § 22-1548; C.S. 1945, § 29-2052; W.S. 1957, § 15-503; Laws 1965, ch. 112, § 386.)

C.J.S. reference.—63 C.J.S. Municipal Corporations § 1300.

**§ 15-6-443. Right of joint owner making payments to contribution; lien of joint owner.**

When any local assessment, or installment thereof, is paid, or any certificate of sale redeemed, or any judgment paid by any joint owner of any property assessed for any local improvement, the joint owner may, after demand and refusal, by an action brought in the district court, recover from each of his coowners the respective amounts of the payment which each coowner should bear, with interest thereon at ten percent (10%) per year from the date of the payments, and the costs of the action. The joint owner making payment has a lien upon the undivided interest of his coowners in the property from date of payment. (Laws 1915, ch. 120, § 54; C.S. 1920, § 2020; R.S. 1931, § 22-1549; C.S. 1945, § 29-2053; W.S. 1957, § 15-504; Laws 1965, ch. 112, § 387.)

**§ 15-6-444. R**

When any pers or installment the and refusal, by an the amount paid a § 2021; R.S. 1931, 1965, ch. 112, § 38

**§ 15-6-445. Cor pay**

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(b) After any local engineer shall prepare governing body shall of the contractor upon percent (90%) of the mc the contractor upon co bear interest at the ra nonpayment for want assessment fund. (Law § 22-1552; C.S. 1945, § 1965, ch. 112, § 389.)

**§ 15-6-446. Jurisdic**

(a) The governing bod resolution or remonstrat jurisdiction until it is full.

(b) The governing body improvements, the making any other matter provided delay, error, or irregularit officer. (Laws 1915, ch. 120 1945, § 29-2059; W.S. 1957,

**§ 15-6-447. Extra worl**

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§ 15-6-444

CITIES AND TOWNS

§ 15-6-447

§ 15-6-444. Recovery of assessment paid in error.

When any person through error or inadvertence, pays any local assessment, or installment thereof, upon the lands of another, the payor, may, after demand and refusal, by an action in the district court, recover from the owner of the lands the amount paid and costs of the action. (Laws 1915, ch. 120, § 55; C.S. 1920, § 2021; R.S. 1931, § 22-1550; C.S. 1945, § 29-2054; W.S. 1957, § 15-505; Laws 1965, ch. 112, § 388.)

§ 15-6-445. Correction of errors in proceedings; warrants for payment of contractor.

(a) It is the duty of the governing body, and it shall by any subsequent proceedings correct any mistakes, errors, or irregularities in any of the proceedings mentioned in this chapter.

(b) After any local improvements have been commenced, the city or town engineer shall prepare an estimate of the work done each month, upon which the governing body shall order the recorder to draw a negotiable warrant in favor of the contractor upon the special assessment fund for an amount equal to ninety percent (90%) of the monthly estimate, the remaining ten percent (10%) to be paid the contractor upon completion and acceptance of the work. The warrants shall bear interest at the rate of six percent (6%) per year after presentation and nonpayment for want of funds, and are payable only out of the special assessment fund. (Laws 1915, ch. 120, § 57; C.S. 1920, § 2023; R.S. 1931, § 22-1552; C.S. 1945, § 29-2056; W.S. 1957, § 15-507; Laws 1963, ch. 145, § 16; 1965, ch. 112, § 389.)

§ 15-6-446. Jurisdiction retained by governing body.

(a) The governing body may continue the hearing upon any petition or resolution or remonstrance, provided for in this chapter and shall retain jurisdiction until it is fully disposed of.

(b) The governing body does not lose jurisdiction over the making of any improvements, the making of any assessment or the issuance of any bonds or any other matter provided for in this chapter by reason of any adjournment, delay, error, or irregularity on the part of any member or any city or town officer. (Laws 1915, ch. 120, § 59; C.S. 1920, § 2026; R.S. 1931, § 22-1555; C.S. 1945, § 29-2059; W.S. 1957, § 15-509; Laws 1965, ch. 112, § 390.)

§ 15-6-447. Extra work authorized; payment.

Extra work in connection with any local improvements not particularly provided for in the plans, specifications, estimates, bids and contracts, shall be performed by the contractor at the direction of the city engineer at a cost of labor and materials, plus fifteen percent (15%) for superintendence. The amount shall be included in the assessment for the improvement or be paid out of the general or road funds of the city or town in the discretion of the governing body. (Laws

1915, ch. 120, § 61; C.S. 1920, § 2028; R.S. 1931, § 22-1557; C.S. 1945, § 29-2061; W.S. 1957, § 15-510; Laws 1965, ch. 112, § 391.)

C.J.S. reference. — 63 C.J.S. Municipal Corporations § 1202.

§ 15-6-448. Description of property; joint owners may pay proportional tax; notice to transferees, etc.

It is sufficient in any case to describe the lot or piece of ground as it is platted or recorded, or described in any official record, although it belongs to several persons, but the owner of any part may pay his proportion of the tax to be determined by the city treasurer. Any purchaser, assignee, or transferee of any property subject to assessment in any improvement district, after the publication of the notice of intention to create the improvement district, is held to notice thereof and of all proceedings with reference thereto the same as owners of the property at the time of the notice or proceedings. (Laws 1915, ch. 120, § 62; C.S. 1920, § 2029; R.S. 1931, § 22-1558; C.S. 1945, § 29-2062; W.S. 1957, § 15-511; Laws 1965, ch. 112, § 392.)

§ 15-6-449. Improvement, repair, etc., of streets along railways.

(a) All railway and street railway companies shall make or reconstruct all or such portions of all paving, graveling or macadamizing between the rails of their tracks and one (1) foot outside thereof at their own expense as the city or town may require. The improvement or the reconstruction shall be of the material and character ordered by the city or town and shall be done at the same time that the rest of the improvement is made or reconstructed. No work on the improvement along the railway or street railway may be permitted to delay or interfere with the work of the general improvement of the street, and no use may be made of that portion of the railway or street railway, without the written permission of the city engineer, during the progress of the work or until the improvement is safe for use and open for traffic by the city engineer.

(b) When the improvement is being constructed or reconstructed the companies shall lay in the best approved manner, such rails as the governing body may require. The companies shall keep and maintain the paving, graveling and macadamizing between their rails and one (1) foot outside thereof and the rails up to the surface grade of the improved street, according to the plans and survey of the city therefor and all in good repair, using the same material as is used for the original improvement or such other material as the governing body may order. When the improvement of any street is being constructed or reconstructed the companies shall raise or lower their tracks and rails to conform to the grade established by the city or town for the improvement. If any railway or street railway company fails or refuses to comply with an order, resolution or ordinance of the governing body to make, reconstruct, maintain or repair an improvement, the work may be done by the city and the cost and expense thereof shall be assessed against the company and upon its real estate

and personal property franchise granted to the owner of such cost against the manner provided for in court. Where the cost against any railway, specifications for the specifications filed portions of the street in connection with the showing the cost per the other portions of be determined separately. At any time after the paving of any street the shall file with the governing to construct or reconstruct town to do the improvement instrument shall be filed bids for the work, and deemed a refusal to do town to construct it at warrants or bonds maintenance of an improvement. (c) Railway or street owner or owners of corporations. (d) When any tracks or upon any street or street company shall do the work a manner as to injure those portions removed a condition as it was before 1931, § 22-1559; C.S. 194 § 393.)

C.J.S. reference. — 63 C.J.S. Corporations § 1311.

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§ 15-6-501. Contracts for population ordinance construction

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and personal property within the corporate limits of the city or town and the franchise granted to the company, in the manner provided for the assessment of such cost against other property. The assessment may be collected in the manner provided for other assessments or in a direct proceeding in the district court. Where the cost of any part of the improvement of any street is charged against any railway or street railway company or its property, plans and specifications for that part of the improvement shall be included in the plans and specifications filed by the city engineer for the improvement of the other portions of the street. The bids therefor shall be called for by the city or town in connection with the bids for the remainder of the improvement and received showing the cost per square yard separately from the cost per square yard of the other portions of the improvement. If done by the city or town, the cost shall be determined separately from the cost of the other portions of the improvement. At any time after the advertisement for bids for graveling, macadamizing or paving of any street or streets occupied by any railway or street railway, they shall file with the governing body a statement indicating whether they refuse to construct or reconstruct the improvement or whether they desire the city or town to do the improving and charge the cost against the company. The instrument shall be filed not more than three (3) days after the opening of the bids for the work, and if the instrument is not filed within that time, it shall be deemed a refusal to do the improving themselves and a request for the city or town to construct it and assess the cost to the company. Special improvement warrants or bonds may be issued for the construction or reconstruction or maintenance of an improvement, the cost of which is assessed to the company.

(c) Railway or street railway companies as used in this section include the owner or owners of any railway or street railway whether persons or corporations.

(d) When any tracks or rails of any railway or street railway are laid or relaid upon any street or streets improved by paving, graveling or macadamizing, the company shall do the work under the supervision of the city engineer and in such a manner as to injure the improvement as little as possible and shall reconstruct those portions removed or injured by them so that the street is left in as good a condition as it was before. (Laws 1915, ch. 120, § 63; C.S. 1920, § 2030; R.S. 1931, § 22-1559; C.S. 1945, § 29-2063; W.S. 1957, § 15-512; Laws 1965, ch. 112, § 393.)

C.J.S. reference. — 63 C.J.S. Municipal Corporations § 1311.

ARTICLE 5. SIDEWALKS

§ 15-6-501. Contracts for construction authorized where population 4,000 or more; hearing on proposed ordinance; contractor's bond; ordinance ordering construction.

Any first class city or any town having population of four thousand (4,000) or more may provide by ordinance for letting to the lowest responsible bidder for

any period not exceeding one (1) year, as prescribed by the ordinance, a contract for the construction, in accordance with specifications prepared by the city engineer and approved by the governing body, of all cement or concrete sidewalks which the governing body may order constructed during the term of the contract. The proposed ordinance shall be published at least two (2) times in a newspaper of general circulation within the city or town and written notice thereof shall be served in the manner provided by rules of civil procedure upon the owner or owners of property abutting the sidewalks which have then been ordered and which are then proposed to be ordered to be constructed. The first publication of the ordinance shall be made and written notices served not less than thirty (30) days before the date for hearing objections. Any owner of any lot or parcel of land or property to be assessed for the cost of construction of the sidewalks then ordered or proposed to be ordered to be constructed may appear in person or by counsel at the hearing and show cause, if any, why the sidewalks should not be constructed. If objections are made to the construction of the sidewalks by the owners or agents representing more than one-half of the total number of lineal feet frontage of all property which would be assessed to defray the cost of the sidewalks, the sidewalks shall not be constructed. The contractor shall give bond for the performance of his contract as required by the ordinance. The ordinance shall provide that upon ordering the construction of any such sidewalk the city engineer or the street commissioner shall immediately give written notice thereof, served personally on the owner or owners, or agents of the abutting property, or by publication once a week for a period of four (4) weeks in a newspaper of general circulation within the city or town, fully describing the termini, course, width and character of the walk ordered. The notice shall provide for a period of thirty (30) days during which parties so desiring may construct the walk abutting their property, and that all the walks so ordered remaining unbuilt at the expiration of the thirty (30) days from the date of service, or of the first publication, shall be constructed by the contractor. The ordinance shall also provide that at the expiration of the thirty (30) days the city engineer or the street commissioner shall notify the contractor to build the portions of the sidewalk ordered that have not been built. The contractor shall construct the sidewalk in accordance with the ordinance and his contract within sixty (60) days after he is so notified. (Laws 1915, ch. 101, § 1; C.S. 1920, § 2036; R.S. 1931, § 22-1563; C.S. 1945, § 29-2101; W.S. 1957, § 15-514; Laws 1965, ch. 112, § 394; 1973, ch. 118, § 1.)

Cross references. — As to construction and maintenance of sidewalks and curbs by cities operating under city manager form of government, see § 15-4-275. For provision that grade and width of parking shall be established prior to order for new sidewalk or curb, in connection with cities operating under the city manager form of government, see § 15-4-276.

Am. Jur. 2d and ALR references. — 70 Am. Jur. 2d Special or Local Assessments § 36.

Degree of inequality in sidewalk which makes question for jury or for court as to municipality's liability, 119 ALR 161; 37 ALR2d 1187.

Municipal liability for injury or death from collision with rope or clothesline across sidewalk or street, 75 ALR2d 565.

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Cross reference. — generally, see § 40-14-1 C.J.S. references. —

§ 15-6-501

§ 15-6-502

CITIES AND TOWNS

§ 15-6-504

§ 15-6-502. Cost to be assessed against fronting property; costs to be included.

The total cost of all sidewalks constructed by the city contractor under this article, (which shall include that of the sidewalk proper as well as that of any notice, curbing, grading, handrailing, private crossing and all other necessary expenses), shall be assessed by the governing body by motion, resolution or ordinance, as a special assessment against the property in front of which the sidewalk is built. The property occupying street corners shall be assessed for that part of the sidewalk thereon which is within the street intersection. (Laws 1915, ch. 101, § 2; C.S. 1920, § 2037; R.S. 1931, § 22-1564; C.S. 1945, § 29-2102; W.S. 1957, § 15-515; Laws 1965, ch. 112, § 395.)

C.J.S. reference. — 63 C.J.S. Municipal Corporations § 1348.

§ 15-6-503. Assessments payable in installments; improvement warrants; collection of assessments.

All costs and expenses of building any sidewalk under this article, shall be defrayed by special assessment payable in installments and extending over a period of four (4) years. The governing body may issue special improvement warrants for the installments and levy assessments to pay them. The assessments shall be collected as other city taxes. (Laws 1915, ch. 101, § 3; C.S. 1920, § 2038; R.S. 1931, § 22-1565; C.S. 1945, § 29-2103; W.S. 1957, § 15-516; Laws 1965, ch. 112, § 396.)

C.J.S. reference. — 63 C.J.S. Municipal Corporations §§ 1452, 1573, 1581.

§ 15-6-504. Interest on payments; duties of city treasurer.

Simple interest at the rate of six percent (6%) per year from the date the governing body issues special improvement warrants shall be collected on all payments and as each becomes due, the interest on all deferred payments also becomes due. The city treasurer shall receive payment in full and give receipts for the entire special assessment of this character on any property with interest to the date of payment when tendered by the owner or agent. Upon receipt of any entire payment the city treasurer shall give notice thereof in writing to the proper tax authorities. (Laws 1915, ch. 101, § 4; C.S. 1920, § 2039; R.S. 1931, § 22-1566; C.S. 1945, § 29-2104; W.S. 1957, § 15-517; Laws 1965, ch. 112, § 397.)

Cross reference. — As to interest rates generally, see § 40-14-106 (e).  
C.J.S. references. — 62 C.J.S. Municipal Corporations § 697; 63 C.J.S. Municipal Corporations §§ 1411, 1578.

§ 15-6-505. Article supplementary to other laws.

Any city or town authorized by this article may proceed in the matter of sidewalk construction either under this article or under the provisions of law already in force in regard to sidewalk construction, or partly under the provisions of this article and partly under the older provisions of law. It is the intention of this article to supplement but not to supersede or otherwise affect other provisions of law with regard to powers of first class cities in relation to sidewalks. (Laws 1915, ch. 101, § 5; C.S. 1920, § 2040; R.S. 1931, § 22-1567; C.S. 1945, § 29-2105; W.S. 1957, § 15-518; Laws 1965, ch. 112, § 398.)

ARTICLE 6. STREET LIGHTING DISTRICTS

§ 15-6-601. Authorized where population more than 8,000; installation costs to be paid by abutting property owners; assessments; maintenance costs to be paid by city or town.

The governing body of any city or town having a population of more than eight thousand (8,000) may create lighting districts in the business portions thereof embracing any street or avenue or portion thereof and abutting property and require the cost of installing the system to be paid by the owners of the property abutting upon a street or avenue within the district, including any street or other railway therein, and assess and collect the cost of the installation by special assessment against that property. The cost of maintenance of the lighting system shall be paid by the city or town at large. (Laws 1915, ch. 118, § 1; C.S. 1920, § 1920; R.S. 1931, § 22-1568; C.S. 1945, § 29-2201; W.S. 1957, § 15-519; Laws 1965, ch. 112, § 399.)

Quoted in Mealey v. City of Laramie, 472 P.2d 787 (Wyo. 1970).

Am. Jur. 2d, ALR2d and C.J.S. references. — 70 Am. Jur. 2d Special or Local Assessments §§ 19, 27, 34.

Liability of municipal corporation for injury or death occurring from defects in, or negligence in construction, operation, or maintenance of its electric street-lighting equipment, apparatus, and the like, 19 ALR2d 344.

Liability of municipal corporation for injury or death occurring from broken, lowered or sagging wires maintained as a part of a street lighting system, 19 ALR2d 360.

Liability of municipal corporation for injury or death occurring from negligence in construction or maintenance of electric street lighting pole, 19 ALR2d 360.

63 C.J.S. Municipal Corporations §§ 1305, 1349.

§ 15-6-602. Special assessment for construction; limitation as to railways.

The entire cost of erecting and maintaining the posts shall be borne by property which abuts upon a street or avenue within the district. Each parcel of land so abutting shall be assessed in the proportion which the street frontage of the parcel bears to the street frontage of the entire district. The owner of any street or other railway upon a street or avenue within the district, shall be

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