

13-1011. Street and alley improvements; resolution; assessments; petition, when; bonds; notice of assessment; cancellation of proceedings, when. (a) When the governing body deems it necessary to grade, regrade or improve any street, lane, avenue or alley, or any part thereof, within the limits of the city, for which a special tax is to be levied, such governing body shall by resolution declare the work or improvement necessary to be done. Such resolution shall be published once in the official paper of the city. If the resident owners of more than 1/2 the property liable for taxation therefor do not, within 20 days from the mailing of notice pursuant to subsection (f), file with the clerk of the city their protest against the work or improvement, the governing body shall have power to cause such work to be done or such improvement to be made and to contract therefor and to levy taxes as provided by law. The work may be done before, during or after the collection of the special assessment.

(b) No provision of this act shall prevent the governing body from grading or regrading any street, lane or alley or part thereof, and pay therefor out of the general improvement fund of such city.

(c) In all cities of the first class having a population of less than 30,000, the governing body, when it deems it necessary to be done, and for the general welfare of such city, may by resolution, regardless of any protest, order the whole or any part of any street which extends from any other paved or macadamized street to any depot or cemetery in or adjoining such city, or any street which extends from the main business street or from the main business center of such city to any depot or cemetery within or adjoining such city, or any street, not to exceed four in number, which extends from the principal business center of such city to and is connected with any main public highway leading to or from such city to be improved and shall have power to cause the improvements to be made, to contract for the making of the same and to levy taxes to pay the expenses of such improvements.

(d) The city at large shall pay the expenses of grading or regrading such street or streets and all expenses of the areas and intersections formed by the crossing of streets and alleys and all crossings of streets and alleys and 1/3 of the expenses of improving each block of such street or streets between cross streets and of improving along each lot or piece of unplatted land adjoining such street or streets. Two-thirds of the expense of improving any block in such street between the cross streets, or any such street along an unplatted lot or piece of land in such city, adjoining or abutting on such street, shall be assessed to the adjoining property by special assessment, and except as to the amount assessed against such adjoining property, the adjoining property shall be appraised and assessed to the extent and in the manner provided by law for paying the expenses of improving streets and alleys in cities of the first class when protest may be made. Such cities are authorized to issue improvement bonds in the manner provided by law to pay the expenses of the improvement. In estimating the expenses of improvements for which the city or adjoining property will be liable, the city shall deduct from the aggregate expense of such improvements the amount or proportion of the expense for the payment of which any street railway company or other railway company will be liable. No street railway company or other railway company shall be relieved by reason of this act from any tax or assessment for which it is now liable under any statute for any street improvement.

(e) In cities of the first class having a population of over 30,000, no resolution to pave, macadamize, grade, repave, remacadamize or regrade any street, lane or alley shall be valid unless a petition requesting such improvement has been filed with the city clerk, which petition must be signed by the resident owners of not less than 1/2 the feet fronting or abutting upon the street, lane or alley to be improved. The feet fronting or abutting upon such street, lane or alley owned or held by persons who are not residents of the city shall not be taken into account in determining the sufficiency of any such protest or any such petition. In case of paving, such petition shall state the width of the paving and the kind of material to be used but shall not include the naming of the brand of material or the name of the manufacturer thereof.

(f) Whenever any governing body has proceeded under this section to grade, regrade or improve any street, lane, avenue or alley, or any part thereof, the governing body shall ascertain before the contract is let therefor the approximate cost of such improvement to the separate tracts and pieces of land liable therefor. The city clerk shall thereupon send by certified mail to the owners of such land, at the address where the owner's tax statement is sent, a written notice of the approximate amount which will be assessed against such land. The governing body shall, within 30 days from the date of mailing such notices, determine whether the approximate cost of such improvement is unreasonable in comparison with the value of the tracts and pieces of land liable therefor. If the cost is found to be unreasonable, the governing body shall cancel the proceedings theretofore taken for such improvements. The failure of the owner to receive such notice or the inaccuracy of the amount of the approximate costs shall not affect the validity of the proceedings.

(g) As used in this section, "improve" means curb, gutter, pave, macadamize, recurb, regutter, repave or remacadamize.

History: R.S. 1923, § 13-1011; L. 1951, ch. 150, § 1; L. 1957, ch. 109, § 1; L. 1968, ch. 229, § 1; L. 1981, ch. 173, § 34; July 1.