CHAPTER 170
SUPPLEMENTAL AND ALTERNATIVE METHOD OF MAKING LOCAL MUNICIPAL IMPROVEMENTS

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170.01 Authority for providing improvements and levying and collecting special assessments against property benefited.—

(1) Any municipality of this state may, by its governing authority:

(a) Provide for the construction, reconstruction, repair, paving, repaving, hard surfacing, rehard surfacing, widening, guttering, and draining of streets, boulevards, and alleys; for grading, regrading, leveling, laying, relaying, paving, repaving, hard surfacing, and rehard surfacing of sidewalks; for constructing or reconstructing

permanent pedestrian canopies over public sidewalks; and in connection with any of the foregoing, provide related lighting, landscaping, street furniture, signage, and other amenities as determined by the governing authority of the municipality;

(b) Order the construction, reconstruction, repair, renovation, excavation, grading, stabilization, and upgrading of greenbelts, swales, culverts, sanitary sewers, storm sewers, outfalls, canals, primary, secondary, and tertiary drains, water bodies, marshlands, and natural areas, all or part of a comprehensive stormwater management system, including the necessary appurtenances and structures thereto and including, but not limited to, dams, weirs, and pumps;

(c) Order the construction or reconstruction of water mains, water laterals, alternative water supply systems, including, but not limited to, reclaimed water, aquifer storage and recovery, and desalination systems, and other water distribution facilities, including the necessary appurtenances thereto;

(d) Pay for the relocation of utilities, including the placement underground of electrical, telephone, and cable television services, pursuant to voluntary agreement with the utility, but nothing contained in this paragraph shall affect a utility's right to locate or relocate its facilities on its own initiative at its own expense;

(e) Provide for the construction or reconstruction of parks and other public recreational facilities and improvements, including appurtenances thereto;

(f) Provide for the construction or reconstruction of seawalls;

(g) Provide for the drainage and reclamation of wet, low, or overflowed lands;

(h) Provide for offstreet parking facilities, parking garages, or similar facilities;

(i) Provide for mass transportation systems;

(j) Provide for improvements to permit the passage and navigation of watercraft; and

(k) Provide for the payment of all or any part of the costs of any such improvements by levying and collecting special assessments on the abutting, adjoining, contiguous, or other specially benefited property.

However, offstreet parking facilities, parking garages, or other similar facilities and mass transportation systems must be approved by vote of a majority of the affected property owners. Any municipality which is legally obligated for providing capital improvements for water, alternative water supplies, including, but not limited to, reclaimed water, water from aquifer storage and recovery, and desalination systems, or sewer facilities within an unincorporated area of the county may recover the costs of the capital improvements by levying and collecting special assessments for the purposes authorized in this section on the specially benefited property; however, collections of the special assessment shall not take place until the specially benefited property connects to the capital improvement.

(2) Special assessments may be levied only for the purposes enumerated in this section and shall be levied only on benefited real property at a rate of assessment based on the special benefit accruing to such property from such improvements when the improvements funded by the special assessment provide a benefit which is different in type or degree from benefits provided to the community as a whole.

(3) Any municipality, subject to the approval of a majority of the affected property owners, may levy and collect special assessments against property benefited for the purpose of stabilizing and improving:

(a) Retail business districts,

(b) Wholesale business districts, or

(c) Nationally recognized historic districts,

or any combination of such districts, through promotion, management, marketing, and other similar services in such districts of the municipality. This subsection does not authorize a municipality to use bond proceeds to fund ongoing operations of these districts.

(4) Notwithstanding any other provision of law, a municipality may not levy special assessments for the provision of fire protection services on lands classified as agricultural lands under s. 193.461 unless the land contains a residential dwelling or nonresidential farm building, with the exception of an agricultural pole barn, provided the nonresidential farm building exceeds a just value of $10,000. Such special assessments must be based

solely on the special benefit accruing to that portion of the land consisting of the residential dwelling and curtilage, and qualifying nonresidential farm buildings. As used in this subsection, the term "agricultural pole barn" means a nonresidential farm building in which 70 percent or more of the perimeter walls are permanently open and allow free ingress and egress.

History.—s. 1, ch. 9298, 1923; CGL 3022; s. 1, ch. 59-396; s. 1, ch. 67-552; s. 1, ch. 78-360; s. 32, ch. 79-164; s. 1, ch. 82-198; s. 32, ch. 83-204; s. 1, ch. 83-337; s. 1, ch. 87-103; s. 39, ch. 91-45; s. 1, ch. 92-156; s. 2, ch. 94-344; s. 4, ch. 95-323; s. 2, ch. 2016-89.

170.02 Method of prorating special assessments.—Special assessments against property deemed to be benefited by local improvements, as provided for in s. 170.01, shall be assessed upon the property specially benefited by the improvement in proportion to the benefits to be derived therefrom, said special benefits to be determined and prorated according to the foot frontage of the respective properties specially benefited by said improvement, or by such other method as the governing body of the municipality may prescribe.

History.—s. 2, ch. 9298, 1923; CGL 3023.

170.03 Resolution required to declare special assessments.—When the governing authority of any municipality may determine to make any public improvement authorized by s. 170.01 and defray the whole or any part of the expense thereof by special assessments, said governing authority shall so declare by resolution stating the nature of the proposed improvement, designating the street or streets or sidewalks to be so improved, the location of said sanitary sewers, storm sewers, and drains, the location of said water mains, water laterals, and other water distribution facilities, the location of the utilities, the location of the recreational facilities, the location of the seawalls, the location of the drainage project, or the location of the retail or wholesale business districts or nationally recognized historic districts to be improved, and the part or portion of the expense thereof to be paid by special assessments, the manner in which said assessments shall be made, when said assessments are to be paid, what part, if any, shall be apportioned to be paid from the general improvement fund of the municipality; and said resolution shall also designate the lands upon which the special assessments shall be levied, and in describing said lands it shall be sufficient to describe them as "all lots and lands adjoining and contiguous or bounding and abutting upon such improvements or specially benefited thereby and further designated by the assessment plat hereinafter provided for." Such resolution shall also state the total estimated cost of the improvement. Such estimated cost may include the cost of construction or reconstruction, the cost of all labor and materials, the cost of all lands, property, rights, easements, and franchises acquired, financing charges, interest prior to and during construction and for 1 year after completion of construction, discount on the sale of special assessment bonds, cost of plans and specifications, surveys of estimates of costs and of revenues, cost of engineering and legal services, and all other expenses necessary or incident to determining the feasibility or practicability of such construction or reconstruction, administrative expense, and such other expense as may be necessary or incident to the financing herein authorized.

History.—s. 3, ch. 9298, 1923; CGL 3024; s. 2, ch. 59-396; s. 2, ch. 67-552; s. 1, ch. 78-330; s. 2, ch. 87-103; s. 40, ch. 91-45; s. 2, ch. 92-156; s. 3, ch. 94-344.

170.04 Plans and specifications, with estimated cost of proposed improvement required before adoption of resolution.—At the time of the adoption of the resolution provided for in s. 170.03, there shall be on file with the town or city clerk, or like officer, of the municipality adopting said resolution, an assessment plat showing the area to be assessed, with plans and specifications, and an estimate of the cost of the proposed improvement, which assessment plat, plans and specifications and estimate shall be open to the inspection of the public.

History.—s. 4, ch. 9298, 1923; CGL 3025; s. 3, ch. 59-396.

170.05 Publication of resolution.—Upon the adoption of the resolution provided for in s. 170.03, the municipality shall cause said resolution to be published one time in a newspaper of general circulation published in said municipality, and if there be no newspaper published in said municipality, the governing authority of said municipality shall cause said resolution to be published once a week for a period of 2 weeks in a newspaper of general circulation published in the county in which said municipality is located.

History.—s. 5, ch. 9298, 1923; CGL 3026.

170.06 Preliminary assessment roll.—Upon the adoption of the resolution aforesaid, the governing authority of the municipality shall cause to be made a preliminary assessment roll in accordance with the method of assessment provided for in said resolution, which assessment roll shall be completed as promptly as possible; said assessment roll shall show the lots and lands assessed and the amount of the benefit to and the assessment against each lot or parcel of land, and, if said assessment is to be paid in installments, the number of annual installments in which the assessment is divided shall also be entered and shown upon said assessment roll.

History.—s. 6, ch. 9298, 1923; CGL 3027; s. 3, ch. 67-552; s. 4, ch. 87-103.

170.07 Publication of preliminary assessment roll.—Upon the completion of said preliminary assessment roll, the governing authority of the municipality shall by resolution fix a time and place at which the owners of the property to be assessed or any other persons interested therein may appear before said governing authority and be heard as to the propriety and advisability of making such improvements, as to the cost thereof, as to the manner of payment therefor, and as to the amount thereof to be assessed against each property so improved. Thirty days' notice in writing of such time and place shall be given to such property owners. The notice shall include the amount of the assessment and shall be served by mailing a copy to each of such property owners at his or her last known address, the names and addresses of such property owners to be obtained from the records of the property appraiser or from such other sources as the city or town clerk or engineer deems reliable, proof of such mailing to be made by the affidavit of the clerk or deputy clerk of said municipality, or by the engineer, said proof to be filed with the clerk, provided, that failure to mail said notice or notices shall not invalidate any of the proceedings hereunder. Notice of the time and place of such hearing shall also be given by two publications a week apart in a newspaper of general circulation in said municipality, and if there be no newspaper published in said municipality the governing authority of said municipality shall cause said notice to be published in like manner in a newspaper of general circulation published in the county in which said municipality is located; provided that the last publication shall be at least 1 week prior to the date of the hearing. Said notice shall describe the streets or other areas to be improved and advise all persons interested that the description of each property to be assessed and the amount to be assessed to each piece or parcel of property may be ascertained at the office of the clerk of the municipality. Such service by publication shall be verified by the affidavit of the publisher and filed with the clerk of said municipality.

History.—s. 7, ch. 9298, 1923; CGL 3028; s. 4, ch. 59-396; s. 1, ch. 77-102; s. 5, ch. 87-103; s. 914, ch. 95-147; s. 1, ch. 98-52.

170.08 Final consideration of special assessments; equalizing board to hear complaints and adjust assessments; rebate of difference in cost and assessment.—At the time and place named in the notice provided for in s. 170.07, the governing authority of the municipality shall meet and hear testimony from affected property owners as to the propriety and advisability of making the improvements and funding them with special assessments on property. Following the testimony, the governing authority of the municipality shall make a final decision on whether to levy the special assessments. Thereafter, the governing authority shall meet as an equalizing board to hear and consider any and all complaints as to the special assessments and shall adjust and equalize the assessments on a basis of justice and right. When so equalized and approved by resolution or ordinance of the governing authority, a final assessment roll shall be filed with the governing authority of the municipality, and such assessments shall stand confirmed and remain legal, valid, and binding first liens upon the property against which such assessments are made until paid; however, upon completion of the improvement, the municipality shall credit to each of the assessments the difference in the assessment as originally made, approved, and confirmed and the proportionate part of the actual cost of the improvement to be paid by special assessments as finally determined upon the completion of the improvement, but in no event shall the final assessments exceed the amount of benefits originally assessed. Promptly after such confirmation, the assessments shall be recorded by the city clerk in a special book, to be known as the "Improvement Lien Book," and the record of the lien in this book shall constitute prima facie evidence of its validity. The governing authority of the municipality may by resolution grant a discount equal to all or a part of the payee's proportionate share of the cost of the project consisting of bond financing costs, such as capitalized interest, funded reserves, and bond discount included in the estimated cost of

the project, upon payment in full of any assessment during such period prior to the time such financing costs are incurred as may be specified by the governing authority.

History.—s. 8, ch. 9298, 1923; CGL 3029; s. 5, ch. 59-396; s. 1, ch. 78-330; s. 73, ch. 81-259; s. 6, ch. 87-103.

170.09 Priority of lien; interest; and method of payment.—The special assessments shall be payable at the time and in the manner stipulated in the resolution providing for the improvement; shall remain liens, coequal with the lien of all state, county, district, and municipal taxes, superior in dignity to all other liens, titles, and claims, until paid; shall bear interest, at a rate not to exceed 8 percent per year, or, if bonds are issued pursuant to this chapter, at a rate not to exceed 1 percent above the rate of interest at which the improvement bonds authorized pursuant to this chapter and used for the improvement are sold, from the date of the acceptance of the improvement; and may, by the resolution aforesaid and only for capital outlay projects, be made payable in equal installments over a period not to exceed 30 years notwithstanding any special act to the contrary, to which, if not paid when due, there shall be added a penalty at the rate of 1 percent per month, until paid. However, the assessments may be paid without interest at any time within 30 days after the improvement is completed and a resolution accepting the same has been adopted by the governing authority.

History.—s. 9, ch. 9298, 1923; CGL 3030; s. 6, ch. 59-396; s. 1, ch. 61-349; s. 4, ch. 67-552; s. 3, ch. 80-318; s. 74, ch. 81-259; s. 5, ch. 82-195; s. 2, ch. 82-198; s. 33, ch. 83-204; s. 29, ch. 99-378.

170.10 Legal proceedings instituted upon failure of property owner to pay special assessment or interest when due; foreclosure; service of process.—Each annual installment provided for in s. 170.09 shall be paid upon the dates specified in said resolution, with interest upon all deferred payments, until the entire amount of said assessment has been paid, and upon the failure of any property owner to pay any annual installment due, or any part thereof, or any annual interest upon deferred payments, the governing authority of the municipality shall cause to be brought the necessary legal proceedings by a bill in chancery to enforce payment thereof with all accrued interest and penalties, together with all legal costs incurred, including a reasonable solicitor's fee, to be assessed as part of the costs and in the event of default in the payment of any installment of an assessment, or any accrued interest on said assessment, the whole assessment, with the interest and penalties thereon, shall immediately become due and payable and subject to foreclosure. In the foreclosure of any special assessment service of process against unknown or nonresident defendants may be had by publication, as now provided by law in other chancery suits. The foreclosure proceedings shall be prosecuted to a sale and conveyance of the property involved in said proceedings as now provided by law in suits to foreclose mortgages; or, in the alternative, said proceeding may be instituted and prosecuted under chapter 173.

History.—s. 10, ch. 9298, 1923; CGL 3031; s. 7, ch. 59-396.

170.11 Bonds may be issued to an amount not exceeding the amount of liens assessed for the cost of improvements to be paid by special assessment.—After the equalization, approval and confirmation of the levying of the special assessments for improvements as provided by s. 170.08 and as soon as a contract for said improvement has been finally let, the governing authority of the municipality may by resolution or ordinance authorize the issuance of bonds, to be designated "Improvement bonds, series No. ," in an amount not in excess of the aggregate amount of said liens levied for such improvements. Said bonds shall be payable from a special and separate fund, to be known as the "Improvement fund, series No. ," which shall be used solely for the payment of the principal and interest of said "Improvement bonds, series No. " and for no other purpose. Said fund shall be deposited in a separate bank account; and all the proceeds collected by the city from the principal, interest, and penalties of said liens shall be deposited and held in said fund. Said bonds so issued shall never exceed the amount of liens assessed, and said bonds shall mature not later than 2 years after the maturity of the last installment of said liens. Said bonds shall bear certificates signed by the clerk of the municipality certifying that the amount of liens levied, the proceeds of which are pledged to the payment of said bonds, are equal to the amount of the bonds issued. The bonds may be delivered to the contractor in payment for his or her work or may be sold at public or private sale for not less than 95 percent of par and accrued interest, the proceeds to be used in paying for the cost of the work. Said bonds shall not be a general obligation of the city, but shall be payable solely out of said

assessments, installments, interest, penalties, provided that said bonds may be secured by any other revenues that may be legally available for such purpose. Any surplus remaining after payment of all bonds and interest thereon shall revert to the city and be used for any municipal purpose. Bonds issued under this section may be refunded from time to time as provided in this section.

History.—s. 11, ch. 9298, 1923; CGL 3032; s. 8, ch. 59-396; s. 5, ch. 67-552; s. 1, ch. 78-330; s. 3, ch. 92-156; s. 915, ch. 95-147.

170.14 Governing authority of municipality required to make new assessments until valid assessment is made if special assessment is omitted or held invalid.—If any special assessment made under the provisions of this chapter to defray the whole or any part of the expense of any said improvement shall be either in whole or in part annulled, vacated or set aside by the judgment of any court, or if the governing authority of any municipality shall be satisfied that any such assessment is so irregular or defective that the same cannot be enforced or collected, or if the governing authority of a municipality shall have omitted to make such assessment when it might have done so, the governing authority of the municipality shall take all necessary steps to cause a new assessment to be made for the whole or any part of any improvement or against any property benefited by any improvement, following as nearly as may be the provisions of this chapter and in case such second assessment shall be annulled, said governing authority of any municipality may obtain and make other assessments until a valid assessment shall be made.

History.—s. 14, ch. 9298, 1923; CGL 3035; s. 11, ch. 59-396.

170.15 Expenditures for improvements.—The governing authority of any municipality may pay out of its general funds or out of any special fund that may be provided for that purpose such portion of the cost of any improvement as it may deem proper.

History.—s. 15, ch. 9298, 1923; CGL 3036; s. 12, ch. 59-396.

170.16 Assessment roll sufficient evidence of assessment and other proceedings of this chapter; variance not material unless party objecting materially injured thereby.—Any informality or irregularity in the proceedings in connection with the levy of any special assessment under the provisions of this chapter shall not affect the validity of the special assessment where the assessment roll has been confirmed by the governing authority. The assessment roll as finally approved and confirmed shall be competent and sufficient evidence that the assessment was duly levied, that the assessment was duly made and adopted, and that all other proceedings adequate to the adoption of the assessment roll were duly had, taken, and performed as required by this chapter, and no variance from the directions hereunder shall be held material unless it be clearly shown that the party objecting was materially injured thereby. However, nothing in this section shall relieve the governing authority from notifying the affected property owners of the special assessments as required by this chapter.

History.—s. 16, ch. 9298, 1923; CGL 3037; s. 7, ch. 87-103; s. 41, ch. 91-45.

170.17 Denomination of bonds; interest; place of payment; form; signatures; coupons; and delivery.—All bonds issued under this chapter shall be the denomination of $500, or some multiple thereof, and shall bear interest as provided in s. 215.84 until paid in full, payable annually or semiannually, and both principal and interest shall be payable at such place or places as the governing authority may determine. The form of such bonds shall be fixed by resolution of the governing authority of the municipality, and said bonds shall be signed by the mayor or chief executive officer of the municipality and the clerk or other like officers thereof, under the seal of the municipality; the coupons, if any, shall be executed by the facsimile signatures of said officers. The delivery of any bond and coupon so executed at any time thereafter shall be valid although before the date of delivery the person signing such bond or coupons shall cease to hold office.

History.—s. 17, ch. 9298, 1923; CGL 3038; s. 13, ch. 59-396; s. 16, ch. 73-302; s. 6, ch. 82-195; s. 4, ch. 92-156.

170.18 Notice required where no newspaper is published in county in which municipality is situated.—Where, by any of the provisions of this chapter, any notice is required to be given by publication in a newspaper, if there be no newspaper published in the county in which the municipality is situated, then such notice shall be

posted for the prescribed period of time in at least five public places in the municipality, one of which shall be the city or town hall, or the place of meeting of the governing authority, if there be no city or town hall.

History.—s. 18, ch. 9298, 1923; CGL 3039.

170.19 Construction and authority of chapter.—This chapter shall, without reference to any other law of Florida, be full authority for the issuance and sale of the bonds by this chapter authorized, and shall be construed as an additional and alternative method for the financing of the improvements referred to herein. No ordinance, resolution, election or proceeding in respect of the issuance of any bonds hereunder shall be necessary, except such as is required by this chapter, and no publication of any resolution, ordinance, election, notice or proceeding relating to the issuance of the bonds provided for by this chapter shall be required, except such as required by this chapter.

History.—s. 19, ch. 9298, 1923; CGL 3040; s. 14, ch. 59-396.

170.20 Bonds negotiable.—Bonds issued under s. 170.11 shall have all the qualities of negotiable paper under the law merchant, and shall not be invalid for any irregularity or defect in the proceedings for the issue and sale thereof, and shall be incontestable in the hands of bona fide purchasers or holders thereof for value.

History.—s. 20, ch. 9298, 1923; CGL 3041; s. 15, ch. 59-396.

170.201 Special assessments.—

(1) In addition to other lawful authority to levy and collect special assessments, the governing body of a municipality may levy and collect special assessments to fund capital improvements and municipal services, including, but not limited to, fire protection, emergency medical services, garbage disposal, sewer improvement, street improvement, and parking facilities. Without limiting the foregoing, a municipality that has a population of fewer than 100 persons for the previous year's taxing year may also levy and collect special assessments to fund special security and crime prevention services and facilities, including guard and gatehouse facilities for the current taxing year. However, if prior to the levy of the assessment, the cost of the services and facilities are funded by ad valorem taxes, the taxes shall be abated annually thereafter, in an amount equal to the full amount of the special assessment. The governing body of a municipality may apportion costs of such special assessments based on:

(a) The front or square footage of each parcel of land; or

(b) An alternative methodology, so long as the amount of the assessment for each parcel of land is not in excess of the proportional benefits as compared to other assessments on other parcels of land.

(2) Property owned or occupied by a religious institution and used as a place of worship or education; by a public or private elementary, middle, or high school; or by a governmentally financed, insured, or subsidized housing facility that is used primarily for persons who are elderly or disabled shall be exempt from any special assessment levied by a municipality to fund any service if the municipality so desires. As used in this subsection, the term "religious institution" means any church, synagogue, or other established physical place for worship at which nonprofit religious services and activities are regularly conducted and carried on and the term "governmentally financed, insured, or subsidized housing facility" means a facility that is financed by a mortgage loan made or insured by the United States Department of Housing and Urban Development under s. 8, s. 202, s. 221(d)(3) or (4), s. 232, or s. 236 of the National Housing Act and is owned or operated by an entity that qualifies as an exempt charitable organization under s. 501(c)(3) of the Internal Revenue Code.

History.—s. 30, ch. 96-324; s. 1, ch. 97-110; s. 5, ch. 98-167; s. 14, ch. 99-378; s. 26, ch. 2011-144.

170.21 Provisions of chapter supplemental, additional, and alternative procedure.—This chapter shall not repeal any other law relating to the subject matter hereof, but shall be deemed to provide a supplemental, additional, and alternative method of procedure for the benefit of all cities, towns, and municipal corporations of the state, whether organized under special act or the general law, and shall be liberally construed to effectuate its purpose.

History.—s. 21, ch. 9298, 1923; CGL 3042; s. 16, ch. 59-396.

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