

# Special Assessment Financing of Major Highway Improvements

H. R. BRIGGS, Economic Research Agency, Madison, Wisconsin

Special assessments are an accepted, established, and legal method of obtaining funds for public improvements. The questions arise as to the place of special assessments in plans for the financing of modern highways — when and for what purposes they should be used, and how they should be levied. This method can be used when the improvement to be financed creates benefits enhancing the value of specific properties, when these benefits are definitely measurable and can be allocated to the specific properties, and when the proceeds of the assessments are wholly applied to construction costs. It can be used for almost any type of facility.

The "how" of levying special assessments involves many alternatives. The financing may be from certificates imposing a liability only on each tract or parcel involved, or it may be guaranteed by the full faith and credit of the governments concerned. If the former, excessive costs of financing may be incurred; if the latter, the financing is likely to be sound and economical. Special assessments, soundly used, are feasible and should be employed to meet the costs of modern highway development.

• **SPECIAL ASSESSMENTS** are based on the premise that a new public improvement enhances the value of adjacent property and that hence the cost of the project should be recovered in whole or in part by charges against the properties benefited. By the end of the 1920's the use of special assessments was widespread and, to a considerable degree, excessive and unwarranted. With the depression years of the 1930's wholesale default of special assessment bonds occurred. This, coupled with extensive aids for public improvements through WPA and other major relief grants, caused the practical discontinuance of the special assessment method of finance. With the 1940's a renaissance of this system developed until at present (1962) special assessments play a significant role in financing highways and other public improvements. But this development is largely a return by communities to their previous procedures. Therefore, except in those places having historical experience with special assessment, public authorities and particularly those at the State and county level are unaware of the fact that substantial revenues for highway and other purposes can be obtained through special assessments. The purpose of this article is, therefore, to show that this is being done and how the benefits of special assessment finance can be obtained.

Parkways, major thoroughfares, through streets connecting a downtown business area with outlying territory, access roads, off-street parking, downtown business district rehabilitation — all can be financed through special assessment. This method of public finance at present is not being used to the extent characteristic of former years — and it well could and probably should be.

Up to the early 1930's, the common practice was to finance public improvements, including major street developments in whole or in part, through special assessments — even in the building of courthouses, fire stations, and other public buildings.

In the boom days of the 1920's, wildcat subdividing was rampant. Highways, sewer, and water systems were extended in all directions and largely financed through special assessments, but the optimistic hopes of the 1920's collapsed in the depression years of the 1930's. Properties were saddled with special assessments, often in excess of their value. The result was that wholesale delinquency occurred. Table 1 shows this condition.

In San Diego County, of \$13,868,000 bonds outstanding, \$8,563,000 were in default.

In Cleveland, of \$17,373,589 of special assessments due in 1929, \$10,731,901 were delinquent in 1931 (2).

In one county in southeastern Michigan (3), of the dozens of special assessment districts shortly after 1930, one was considered to have an excellent special assessment collection record. Its levies were only 92 percent delinquent! The others were 100 percent.

These happenings, plus misuse of the special assessment authority, caused the method to fall into disrepute. Also, the fact that civic improvements were constructed through WPA and other emergency grants resulted in there being little resort to special assessment finance during the 1930's

With the 1940's, municipalities returned to using special assessment method of financing extensively and are getting large amounts from this source to pay the costs of public improvements, including highways.

Table 2 shows to some degree the role special assessment can play. These figures are sufficient to show substantial revenues are being derived for highway purposes from special assessments. Many other examples can be given. In fact, this is a common and accepted way of financing streets in whole or in part in American cities.

Of the 876 cities of over 10,000 population reporting the use of special assessments in response to the questionnaire sent out in 1959 by the International City Manager Association, 719 (or 80%) finance street paving by special assessments. A total of 211 (24%), also use this method for repaving.

That large sums for public improvements can be obtained from special assessments is of major importance. Public demands for facilities and services outstrip the funds available for governmental units. Billions will be needed to meet future highway demands. More billions will be required for education, public health, conservation, and many other purposes. Sound public finance, therefore, demands that thorough and careful consideration must be given to exploring various means available to get funds for these undertakings. Special assessments can be a legal and equitable source of revenue for financing many public undertakings.

### SPECIAL ASSESSMENT THEORY

Because this is intended as a practical rather than a theoretical discussion, the theory and legal basis for special assessments is mentioned only briefly.

Special assessments are based on the principle stated by Justinian — that the burden should be borne by those who derive

TABLE 1  
SPECIAL ASSESSMENT  
TAX DELINQUENCY  
LOS ANGELES COUNTY, 1936<sup>1</sup>

Percent	No. of Districts	Percent	No. of Districts
90 to 99	9	50 to 59	9
80 to 89	11	40 to 49	15
70 to 79	20	30 to 39	16
60 to 69	15	Under 30	25

<sup>1</sup> Source: (1).

TABLE 2  
SPECIAL ASSESSMENTS FOR  
HIGHWAYS

City	Date	Assessment (\$)
New York	1950-1958	84,506,000
Milwaukee	1950-1957	18,005,000
Detroit	1949-1958	21,722,000
Los Angeles	1955-1959	18,147,000

the benefit. This principle was embodied in early English law, was carried over to the colonies, and by 1800 was an accepted method of financing public improvements in the young American States. When the legality of the method was questioned, the courts were hard put to justify the legality of this procedure. The position was first taken that special assessments could be imposed through the use of eminent domain or the police power, but it subsequently shifted and evolved the unique doctrine that special assessments were legal as a manifestation of the taxing power, although they were not taxes — and this theory is now universally accepted. Thus, special assessment finance is a method legally approved as a means for defraying the costs of public improvements. The following (3) is a good definition of these assessments:

Taxation by Special Assessment is a compulsory charge upon real estate within a pre-determined district, made under express legislative authority, for defraying in whole or in part the expense of a permanent public improvement, therein enhancing the present value of such real estate, and laid by some reasonable rule of uniformity based upon, in the ratio of, and limited by, such enhanced value.

The applications of this rule are widespread. The 1957 Census of Local Governments lists well over 100 different types of special assessments, even to such an extreme as a district empowered to levy an assessment per bushel of oysters to finance construction of dikes to protect the oyster beds. Highways, water, sewer and drainage improvements are quite commonly financed through assessments.

#### SPECIAL ASSESSMENT AND HIGHWAYS

That the cost either in whole or in part of a new access road, curbs, sidewalks, and water and sewer, can be met by a special assessment charge against the abutting property is quite generally known. But that this method can also be used in connection with parkways, major thoroughfares, through streets leading to downtown areas, off-street parking, and rehabilitation of central business districts is not generally realized. However, the use of special assessments for financing such improvements has long been established. This is of particular significance in connection with modern highway development. Among many specific cases which could be cited are the following.

The Arroyo-Seco Parkway between Los Angeles and Pasadena was financed through special assessment.

Milwaukee and Detroit have used special assessments in connection with the construction of arterials.

New York City since 1909 has met the cost of building major thoroughfares 200 ft or more wide across entire boroughs out of special assessments.

The Kilbourn Avenue development in Milwaukee consisted of creating a broad avenue from Lake Michigan some 2 miles to the courthouse. Associated with the project was the clearing of several blocks of ramshackle buildings and a conversion of the property to an open area approach to the courthouse and for a setting for other buildings. A large share of the cost was met by special assessments.

Milwaukee has also used special assessments to defray in part its share of the cost of a major highway development primarily financed out of State and Federal funds. A section of Capitol Drive was improved at a cost of \$284,803. The city's share was \$55,410, of which \$22,052 was raised through special assessments.

Similar examples as to the use of special assessments for financing the improvement of major thoroughfares could be given for Chicago, Minneapolis, and a number of other places. The fact that a substantial part of the cost of the improvement of major thoroughfares can be met through special assessments should be of major importance in connection with the need for creating improved highway facilities in cities.

Mention was made as to other improvements allied with highways which can be and are being financed through special assessments. The practice of providing off-street parking facilities through special assessments is well established. Milwaukee and Los Angeles — and undoubtedly many other cities — pay the entire costs of acquiring downtown parking facilities through special assessments against surrounding business

properties. Both these cities have established formulas and procedures for allocating the assessments.

Special assessments can also be used for downtown rehabilitation. Royal Oak, Mich., is making the following improvements:

1. Widening and redesigning major streets leading to the central district.
2. The creation of 3,404 free parking spaces.
3. The closing of certain sections of the streets and installation of flower beds, pools, fountains, and other landscaping effects as well as conveniences for the shopper.

Another and rather new use of special assessments having some connection with highways is the creation of "green belts." Detroit has a procedure under which, if residential property is located across a highway from a railroad track, factory, or other use thought unsightly, through special assessments property can be acquired and a "green belt" created screening the unesthetic use.

Other applications of the special assessment principle in relation to modern highway development are being proposed. One is that special assessments can properly be levied against lateral streets having access to throughways at interchanges. Another is to finance service roads along throughways through this method. Both proposals would seem to have considerable merit.

### BASIC SPECIAL ASSESSMENT PROCEDURE

This material is sufficient to show that special assessments can be used in connection with modern highway programs. And with the demands for facilities increasing, coupled with the problem of getting funds for this and other major public activities, it would seem that highway authorities should give serious consideration to using special assessment finance to a greater degree. This gives rise to the question as to how highway administrators can proceed to avail themselves of this method of financing.

Every special assessment project is governed by laws and methods peculiar to it. Consequently, hundreds and perhaps thousands of variations in types of procedures exist. But all are governed by the following underlying principles:

1. Although usually imposed under the taxing power, the right to levy them is not an inherent power of government such as the taxing power, the police power, eminent domain, and others. Special assessments, therefore, can be imposed only under specific laws authorizing the use of this method.
2. The laws granting the public assessment right must be strictly construed and all assessments levied in exact compliance with such laws.
3. The first step is the initiation of the special assessment project. Usually this is on petition of property owners, although it may be by a city, county, or local government. Sometimes the legislature by law specifies that an improvement is to be financed through special assessments. The principle giving property owners the right to initiate a special assessment is one of the elements that distinguishes a special assessment from a property tax.
4. Unless otherwise specified by legislative act, the proposal after initiation is referred to a board which does the following things:
  - a. Establishes the special assessment district boundaries.
  - b. Estimates the cost of the project.
  - c. Determines the amount of benefits to be charged property owners as special assessments, and decides on the method of allocating the assessments.
5. Unless otherwise specified by legislative act, property owners must be notified of a public hearing concerning the project. Adequate notification is mandatory and special assessments are invalid unless the property owners affected have been given adequate notice. But what the courts consider adequate notice is most highly controversial and even after hundreds of years has not been settled. This matter of notice is a fundamental element which distinguishes a special assessment from a property tax.
6. A public hearing is usually held. The original plans and specifications may be modified at such a hearing. A special assessment project theoretically can be under-

taken only with the approval of those affected. (However, in Minnesota under the Elwell Law, a public hearing is not held.)

7. The board then confirms the project as approved at the hearing and notifies the property owners as to the scope and character of the operation.

8. If no appeal is taken, the actions of the board are carried on.

9. The contract is awarded and the work is carried on. The contractor is paid through obligations which are charged against the property benefited in the amount assessed against each property by the board.

10. In connection with this step, the board makes up a special assessment roll showing the amount charged against each property. Property owners have the right of appeal and frequently hearings are held in connection with the spreading of the assessments.

11. Property owners are given the opportunity of paying the entire amount of the assessment immediately. Bonds or other evidences of indebtedness are issued in the amount unpaid. These bonds are payable in installments over a period of five to thirty years, with ten years being most common.

12. When the costs of improvement have been paid, the special assessment project is terminated. This element, that special assessments are used solely to pay the costs of a public improvement and ceases when the object is accomplished with no ensuing or continuing charges for that project, is another way in which special assessments differ from taxes.

These are the principles governing the special assessment activity when a capital investment is involved. Special assessments can also be levied to meet annual recurring costs such as highway maintenance and lighting. When once established, these become automatic reoccurring charges.

The manner in which these principles are applied differs greatly among the various cities. Exception to the rule is more common than adherence.

Two examples illustrate typical procedures. The first is a standard California procedure as used in Pomona:

#### Steps Under Improvement Act of 1911

- Request for petition from engineering department
- 4 weeks — Petition returned to engineering department
- 2 weeks — Council accepts petition and orders city engineer to proceed
- 2 weeks — Survey information obtained for design of project
- 4 weeks — Design completed
- 2 weeks — Assessment district formed, estimate cost calculated
- 4 weeks — Resolution of intention
- 5 weeks — Resolution hearing
- 5 weeks — Open bids, award contract
- 12 weeks — Construction completed
- 2 weeks — Assessment of costs
- 4 weeks — Assessment hearing
- 4 weeks — Data bond
- 4 weeks — Bond printed

(Records and work completed in 54 weeks)

In this procedure, although the city initiates the action, a petition signed by the property owner is required before a project is authorized.

The second example is the procedure used in Minnesota under the Elwell Law:

#### Elwell Project Steps

1. First resolution. —Designates lands to be acquired and/or improvements to be made. Orders city engineer to make survey, plats, and estimates. Specifies duration of assessment (no time interval specified).
2. Second resolution. —City Council adopts plats and estimates. Appoints commissioners. States limits of city portion (three days after publication of second resolution).

3. City clerk's notification. — Notifies commissioners of appointment. Administers oath of office (no time interval).

4. Commissioner's notice. — Notice that plats and surveys are on file in city clerk's office, published two times. Designates place and time to view premises (at least ten days).

5. Viewing. — Commissioners view premises at time and place designated in Step 4. During this period the commissioners, with the assistance of the city engineer's department and the city clerk's office, determine the awards, damages, benefits, and assessments. Report filed with city clerk (no time interval specified).

6. Commissioner's estimate. — Estimate of project including cost of procedure. Estimate shows city's portion, assessed portion, and the portion that would have been assessed against parcels of land that have been forfeited to the State for nonpayment of taxes (no time interval specified).

7. Assessment rolls published. — Designates time and place for public hearing. City clerk serves notice on each property owner at least two weeks before public hearing. At this time property owners may file objections (at least three weeks).

Minneapolis which uses special assessments extensively has a little different procedure:

#### Condemnation Procedure Under City Charter—Minneapolis, Ch. 10, §§ 1-4, 6, and 7

Initiation. — Under resolution, city council appoints a committee on location and description. Committee (a) examines and proposes suitable land, (b) presents a plat of proposed acquisition, (c) includes in report any other appropriate information relative to the proceeding; and (d) files report and plat with city clerk.

Committee report filed.

Notices of filing of committee reports published twice in official newspaper.

Report presented to city council one week after last notice.

City council acts on report. — May act on committee report at same or subsequent meeting. May hear evidence or refer to a committee. May adopt committee report and plat in resolution — (a) designates land to be condemned; (b) files directing plat and committee report; and (c) appoints five commissioners.

Condemnation committee appointed. — Notification published twice that project plans are on file.

Property viewed and report prepared. — Ten days after first publication commission views property, prepares report, and submits to city council.

Report laid over for minimum of one week. — Council confirms, annuls, or refers back report. Property owner within ten days may appeal to district court. Commission views premises again, considers evidence, and prepares revised report.

Council confirms or annuls the proceedings. — Under this law, the project is initiated entirely by the city. After the assessments have been imposed, the property owner may file objections.

#### NATURE OF BENEFITS

Special attention is called to the preceding material dealing with the assessing of benefits. The benefits must be reasonably measurable and the assessment must not exceed the benefits. In the past, a common assumption was that a benefit occurred equal to the cost of the major public improvement; hence, the practice was to charge such cost against supposedly benefited property owners.

This arose from the concept and principle that the local road or street is a property appurtenance that should be financed by the property owners. The construction of local roads and streets can be done by local contract directly between the property owners and the highway builders. Construction by special assessment differs from this in only one major manner — property owners in an area recognize the need for an improved highway facility and believe the cost will be a recoverable investment because of an enhanced value to their properties.

Unfortunately, the practice developed quite extensively of assuming that almost any



highway improvement automatically created benefits equal to the cost. The result was that assessments sometimes exceeded the value of the properties. But since 1930 this condition has become virtually nonexistent.

With respect to major highways, a commonly-accepted theory is that the benefit extends beyond the limits of the abutting properties. Zones or districts are set up and a portion of the cost of a major highway improvement is charged in the form of a special assessment against the entire district. When 12th Street in Chicago was widened at a land cost of \$3,259,708 for  $2\frac{1}{2}$  mi, properties within an area of a little over 5 sq mi were considered benefited, and \$1,490,490 of the entire cost was recovered through special assessment charges in that area. Similarly, when Michigan Avenue was widened  $\frac{3}{4}$  mi at a cost of \$13,762,302, special assessment charges of \$5,926,702 were imposed on an area of  $2\frac{1}{2}$  sq mi (4).

The theory is that the improved highway facility enhances the value of properties whose occupants are capable of using such facilities.

The fact that a modern highway may result in appreciation of values to areas warrants particular consideration. The principle that benefit charges may be imposed on areas made more accessible through such a development is well established and sustained by the courts.

In Omaha, where a special assessment was levied against property  $\frac{3}{4}$  mi from a boulevard, the court found that remote property could receive an assessable benefit<sup>1</sup>.

It has been held in Arkansas, Connecticut, Nebraska, and Kentucky that the building of a bridge or a viaduct creates a benefit that may be assessed against the surrounding area<sup>2</sup>.

A business district may be assessed for a portion of the cost of a street improvement which carries vehicular traffic into the business district on a more direct route<sup>3</sup>.

The Arroyo-Seco Parkway (where the cost was assessed against large areas in Los Angeles and Pasadena), the 12th Street improvement in Chicago, and the Kilbourn Avenue development in Milwaukee are examples of places where costs were met by special assessments spread over fairly large territories. Reference has also been made to the policy in New York of charging part of the cost of the major thoroughfare against the the borough and the entire city.

The development most analogous to a major cross-country highway improvement is the Moffat Tunnel. To finance this tunnel under the Continental Divide, a special assessment district 145 mi long was created. Benefits were assessed against the entire city of Denver, three other entire counties, and parts of five additional counties.

The lack of major through or arterial highway facilities may stifle or hamper normal growth of an area. Under such conditions, when a new adequate highway facility is provided a rapid rise in the property values in the area tributary to the new throughway may develop. Under such conditions special assessments may possibly be used legitimately to recover a part of the cost of the improvement.

## METHODS OF SPREADING ASSESSMENTS

When an improvement creates special benefits, great latitude is allowed in determining the way in which the assessments may be allocated to or spread among the various parcels. Furthermore, so long as the method is not arbitrary, a special assessment is not invalid even if inequities result. The special assessment district may also be of any size. As to the method, the U. S. Supreme Court<sup>4</sup> has stated:

The state, in its discretion, may levy such assessments in proportion to position, frontage, area, market value or to benefits estimated by commissioners.

<sup>1</sup>Hart v. City of Omaha, 74 Neb. 836 (1905), 195 N.W. 546.

<sup>2</sup>Mullins v. Little Rock, 131 Ark. 59, 198 S.W. 262; State ex. rel. Sulkeley v. Williams, 68 Conn. 131, 35 Atl. 24, 421, affirmed in 170 U.S. 304, 42 L.Ed. 1047, 18 Sup. Ct. 617; Springfield v. Hayden 216 Ky. 483, 388, S.W. 337.

<sup>3</sup>Re Aurora Ave., 180 Wash. 523, 41 P.2d 143, 96 A.L.R. 1374.

<sup>4</sup>Houck v. Little River Drainage Dist., 239 U.S. 254, 265 (1913).

### As to the fact that inequities may occur:

Assume that the only theory of these assessments for local improvements upon which they can stand, is that they are imposed on account of the benefits received, and that no land ought in justice to be assessed for a greater sum than the benefits received, yet it is plain that the fact of the amount of benefits is not susceptible of that accurate determination which appertains to a demonstration in geometry.

It may be that the front foot rule is not the best that might be devised for the assessment of street improvements in cities upon abutting property, but for the present it is the only one we have;... It is perhaps impossible to frame any general rule that would produce exact uniformity and do equal justice in all cases. This arises from the fact that a rule to be valid must be general, and the further conceded fact, that in the application of all general rules there will be cases of individual hardship.

### As to the size of the district:

Fixing the tax district or, in other words, defining the territory within which the special assessment shall be made is exclusively a legislative prerogative.... How small it may be had never been determined.... The taxing district may embrace an entire city.

Metropolitan sewerage districts commonly embrace a central city and outlying areas. The Moffat Tunnel special assessment district includes all or part of eleven counties. The consequence is that many methods are used for spreading special assessments.

The following are the main methods used for allocating special assessment benefits to properties:

#### Front Foot Against Abutting Property

The cost is apportioned on the basis of the footage fronting on the improvement. Sidewalks, curbs and gutters, and alley improvement charges may be said to be universally spread on that basis. Highway construction and reconstruction, sanitary sewers, and sometimes storm sewers commonly use this method, although frequently in combination with other systems. Street maintenance and highway lighting are usually financed by a front foot charge.

#### Sliding-Scale Front Foot Area Basis

When the benefits resulting from an improvement are considered to benefit an area rather than just the strip of the property abutting, the front foot method is used for all properties within the area. The basis is a sliding scale with the assessment per front foot decreasing progressively, sometimes geometrically, with the distance each street is from the improvement. Some cities have well-established formulas for spreading such assessments.

The sliding scale method of apportioning benefits is subject to criticism. If adequate access is provided to the improvement, properties several blocks away may have a benefit equal to or in excess of those in direct proximity to the development.

#### Square Foot Basis

The amount assessed is simply apportioned on the basis of the area of such parcel. This may be a flat uniform amount per square foot for each property in the area or

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<sup>5</sup>Harrisburg v. McCormick, 129 Pa. St. 213, 18 Atl. 135.



decreasing unit per square foot may be used according to the proximity of the property to the improvement. This method is also frequently applied to business properties, particularly industrial sites. In rural areas the acre instead of the square foot becomes the unit.

#### Ad Valorem Basis

The assessment is spread in proportion to the value of each property. Usually the assessed value is the basis. Assessments may be laid against land owner, land and buildings, buildings only, although rarely, and against all taxable property including personal property. The use of the ad valorem method is more extensive than generally realized.

#### Building Site Basis

A rather new development consists of using the number of building sites benefited by an improvement and charging an equal amount to each site, irrespective of its frontage or sides. This plan was developed to meet the situation caused by the modern subdivision development with its curving streets and odd-shaped lots.

#### Personal Property Basis

In some rare instances a public improvement has been made to benefit a particular type of industry. The original costs and maintenance are recovered by charges against the commodity produced, such as per ton of coal or per bushel of oysters. This method is an extremely uncommon and minor part of special assessment finance.

### METHODS OF FINANCING

Although there are probably hundreds of ways of financing special assessment projects, basically they fall into the following six types:

#### Revolving Fund Method

Under the revolving fund method a municipality sets up a specific fund for special assessment work. The city meets the expenses of the undertaking out of this fund. No bonds or other evidences of indebtedness are issued. When the work is done the city charges against each property benefited the proportionate share of the benefits. These amounts when collected are paid back into the revolving fund.

#### City General Bond—Sinking Fund Method

The city itself directly pays the contractor for the work done. General city sinking fund bonds are issued equal to the amount of the cost and from these the city derives the needed revenue for the payment to the contractor. A sinking fund is set up against these bonds, and special assessment charges levied against the benefited properties are paid into this sinking fund.

In neither of the first two methods are public improvements financed by special assessment bonds resting directly on an obligation of benefited properties or a district, although the amounts advanced out of general municipal sources are recovered from special assessments.

#### "Full Faith and Credit" Bond Method

Under this system special assessment bonds are issued which are a specific obligation against benefited properties—whether against individual properties or a district. The municipality underwrites such bonds by guaranteeing payment of any delinquencies out of other municipal resources.

#### Reserve Fund Method

The municipality sets up a special reserve fund and in the event of delinquency pays

bondholders out of this fund. The city then enforces the collection of delinquent assessments and pays the proceeds into the reserve fund.

#### General Assessment Bond Method

The cost of the work is met through bonds issued against the benefited properties. These may be against either all the real estate within the district or each property benefited. The contractor is given these bonds in payment for his services. In case of delinquency it becomes the responsibility of the bondholder to enforce collection. The city or county may initially act as the collecting agent but in case of default the responsibility for collection is thrown on the bondholder.

#### Assessment Certificate or Assessment Bill Method

The contractor gets a special receipt, a bill, or a certificate against the property benefited for the amount of his services. The certificates may be drawn so as to be a liability against all the property in a benefited area, against groups of property in the area, or against individual specific properties. Under this method the work is considered to be of a contract nature directly between the property owner and the contractor. Though formerly a very common system and still prevalent, this method is not now used extensively.

### MERITS OF FINANCING METHODS

The method of financing has an effect on the cost of public improvements financed by special assessments. Under the first four plans, the municipality through one device or another guarantees or underwrites full payment of bonds. Furthermore, the contractor is assured full and prompt payment for his services.

Under the last two, the contractor must face the probability that a portion of the bonds may become delinquent. A standard practice, therefore, is for him to increase his price by an amount adequate to cover these delinquent items. Also, under the general bond or certificate plans, sometimes the contractor does not receive his payments even in that form until after the completion of the job. This necessitates his adding to his price the carrying charges during construction. Also, special assessment bonds or certificates not underwritten in some manner by the full credit of the community bear higher interest rates than for obligations where such guarantee is present. This is shown by Table 3.

Of the 91 cities using full faith and credit finance, 56 (61%) sold bonds with an interest rate of less than 5 percent compared with 18 (22%) of the 83 cities using unguaranteed obligations. Inasmuch as the maximum legal rate in many places is 6 percent, it is possible that some of the 6 percent bonds were discounted.

### SPECIAL ASSESSMENT DISTRICT

Special assessment districts can and do carry on almost all types of governmental activities. Under statutory authority a special assessment district is created as a

TABLE 3  
INTEREST RATES ON SPECIAL ASSESSMENT OBLIGATIONS

Type of Obligation	Number of Cities												
	Total	8%	7%	6½%	6%	5½%	5%	4½%	4%	3½%	3%	2½%	2%
Full faith	91	-	2	1	22	1	9	2	17	12	12	9	4
General	83	1	5	1	40	2	14	3	5	5	5	1	1
Certificate	17	-	-	1	11	-	3	-	1	1	-	-	-

separate and distinct entity. These districts have the authority to determine and levy special assessments, fix and collect charges for services, and may incur indebtedness without review by other authorities. These autonomous districts have their own headquarters (sometimes in the homes of one of their officers), keep their own records, and prepare their own financial reports, if any. Commonly, they are not required to report their activities to any central accounting authority such as the State or accounting auditing department, although there are exceptions. However, cities and counties that use special assessments usually have separate departments for such work. Although these departments keep records generally of the financial status of the special assessment districts under their jurisdiction, commonly this is on a project by project basis without any general annual summation of special assessment activities. Because they operate independently, special assessment data are often hard to come by.

For example, California is known to have at least 2,982 special assessment districts created under 183 different statutory authorizations of which 45 had been repealed, leaving 138 laws authorizing the creation of a particular type of district. In San Diego City in 1959, there were 125 separate assessment roles for paving, sewer, walks and lights; in addition, San Diego County had 84 special assessment districts, besides many local districts.

The California situation is considerably more confused than most States, but to a considerable degree, the same conditions are found generally.

### OVERLAPPING DISTRICTS

The possible multiplicity of districts can create a serious problem — that of overlapping assessments. A property may be within the boundaries of a number of special assessment districts. Figure 1 shows overlapping special assessments for park purposes in Minneapolis. Also, special assessments for highways, sewers, and other public purposes may be laid against these same areas. The result is that the pyramiding of assessments may result in the aggregate of creating levies that are excessive. Though this was an all too frequent occurrence in the past, modern practice has largely alleviated this condition.

### SPECIAL ASSESSMENT DELINQUENCY

Special assessment financing has an inherent danger in that anticipated benefits may not develop and hence the assessments may become delinquent. Optimism as to future city growth may cause overdevelopment. Real estate promoters may be willing to gamble one or two special assessment payments to get the improvements in and to have the opportunity of enhancing the value of their properties. Special assessments are akin to installment buying; as in the purchase of commodities, payments may be associated with the degree of general economic prosperity.

In the 1920's tremendous growth occurred in many cities, coupled with a major demand for improved roads and streets. Overexpansion and overdevelopment occurred. With the depression and, even previously, wholesale delinquency of special assessment bonds developed.

### ADVANTAGES AND DISADVANTAGES OF SPECIAL ASSESSMENT FINANCING

Whether special assessments are justifiable is a debatable question. Some of the positions taken are as follows.

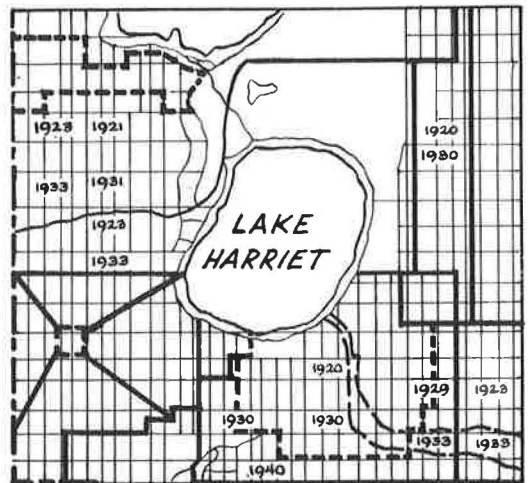


Figure 1. Overlapping park districts in Minneapolis (year indicating overlapping district).

Proponents of special assessments give these reasons:

1. With debt and tax limitation, revenues from general taxation for needed improvements sometimes cannot be obtained.

2. The amount collected from general property taxes should remain relatively stable. Loading the cost of an expensive public improvement on the regular tax bill may cause an erratic fluctuation in such levies, felt by all taxpayers within the municipality; whereas a special assessment localizes the impact to benefited properties and does not affect the public as a whole.

3. Special assessments are levied against religious, educational, charitable, and other types of property which are exempt from property taxations.

4. The cost of a public improvement such as a street or sewer may be much greater in one section of the city than another and property owners generally should not be required to pay out of their general taxes the extra cost of such improvements. For example, in Los Angeles the construction of street and sewer facilities in an adjacent semimountainous area costs many times that of providing comparable facilities in the level sections, and the owners of properties in those areas should not be called on to subsidize the expensive construction in the other areas. Similarly, in another city, streets are being constructed across an area of marshy land, again entailing extra-heavy construction costs.

5. The sound use of special assessments makes possible the development of a city plan in an orderly manner.

6. When special assessment obligations are full faith and credit bonds, funds for construction can be made available at lower interest rates than if the work was undertaken under private contract.

7. A number of subdivisions in the same area may be in the process of development simultaneously. Though each subdivider may be required to finance the costs of improvements within his area, economies are effected by consolidating under municipal authority as one project what would otherwise be a number of separate enterprises.

8. Financing by general taxation might result in an intolerable tax burden because property taxes are already as great as many can or will stand.

9. A special assessment imposes no real burden on the property owner because the benefit equals or exceeds the cost and payments are spread over an extended period.

10. There can be no intelligently planned improvement that will not result in some local benefit, and it should follow that there should always be some local assessment.

11. Special assessments are the essence of democracy in that generally they originate at the request or with the approval of those on whom the charges will fall.

12. Special assessments constitute an established part of the public finance structure and comprise an established institution essential to the financial operations of many municipalities.

13. Groups of property owners independently cannot often get together and finance and construct needed improvements in their areas.

14. Roads and sewers serving properties comprise parts of a general system, and though theoretically they might be built directly by property owners, this could result in haphazard developments. Special assessments insure against this.

Among the points considered to be disadvantages of the special assessment system are the following:

1. Improvements, such as pavements and sewers, are essentially public in character; therefore, the costs should be met out of general taxes.

2. When the principle of benefit taxation is accepted, there is no logical place to stop.

3. The degree of benefit is speculative.

4. Methods of equitably apportioning benefits to particular properties are not based generally on sound principles and levies are made by guesswork of some rule-of-thumb device.

5. Special assessment levies are commonly made by local boards lacking the proper and necessary administrative abilities.

6. Unless rigidly controlled by an overall city planning, public works, engineering, or other continuing authoritative department of an established governmental unit, extension of facilities beyond the reasonable and legitimate needs may take place.

7. Costs will be definitely inflated under improper use of special assessment financing.

8. If improvements enhance the value of properties, enhanced value will be reflected in an increase in taxable values and the cost of the improvement will automatically in time be recovered through the resultant greater taxes from these properties.

9. The use of the special assessment procedure may cause unnecessary delays.

10. Although benefits to the property may arise, the owners may not be in a position to realize on them.

11. The property owner is deprived of his rights because he does not have adequate information nor the technical ability to appraise the feasibility of the improvement.

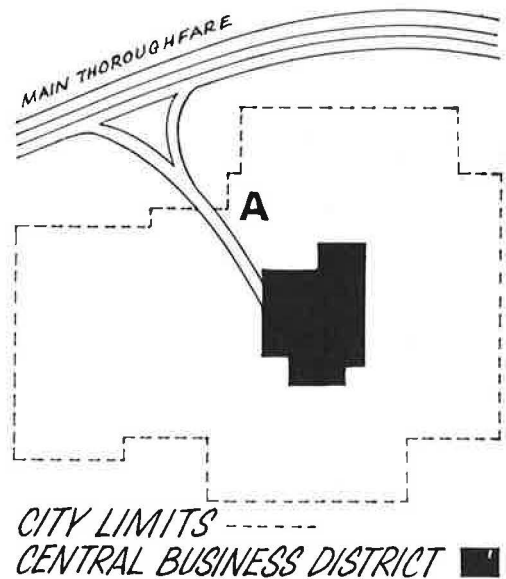


Figure 2. Application of special assessments in financing connecting routes.

#### ILLUSTRATIONS OF SPECIAL ASSESSMENT USE

Figures 1 and 2 show the use of special assessments. Figure 1 shows how special assessments can overlay the "pyramiding" of the charges. Figure 2 shows the application of special assessments in financing connecting routes. Connecting highway A can be financed in part by a special assessment against the central business district.

Part of a main thoroughfare cost can be met through special assessments, as in New York. There a through highway such as a main road traversing part of the city is financed by charging the cost of the central 60 ft against contiguous property, the next 20 ft on each side of the central portion against the borough, and the outside 50-ft strips of the right-of-way against the city as a whole.

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