CONSTRUCTION, IMPROVEMENT, AND MAINTENANCE OF HIGHWAYS

Act 59 of 1915

AN ACT to provide for the construction, improvement and maintenance of highways; for the levying, spreading and collecting of taxes and of special assessments therefor; to authorize the borrowing of money and the issuance of bonds under certain restrictions, regulations and limitations; to prescribe the powers and duties of certain officers with reference thereto; and to validate certain proceedings heretofore taken.

History: 1915, Act 59, Eff. Aug. 24, 1915 ;-- Am. 1917, Act 125, Imd. Eff. Apr. 25, 1917

The People of the State of Michigan enact:

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ASSESSMENT.

247.415-247.417 Repealed. 1958, Act 77, Eff. Sept. 13, 1958.

Compiler's Notes: The repealed sections pertained to payment of assessments in installments, creation of special assessment districts, and cost apportionment.

247.418 Review of roll; notice, posting, publishing, service.

Sec. 18.

On the completion of the roll, apportioning the per cent of benefits to be paid by the respective parties and municipalities, the county road commissioners or the state highway commissioner shall give notice by advertising and posting, of a review of said roll. Notice of such hearing shall be given by publishing a notice thereof, at least 2 insertions in some newspaper published and of general circulation in the county, if there is one. Such notice shall be so published at least once not less than 10 days prior to the hearing. If there is no such newspaper within the county, then the publishing of such notice will not be necessary. The county road commissioners or the state highway commissioner shall also give notice of such hearing by posting notices thereof in 5 conspicuous and public places in each township where the special assessment district is located, within the limits of said district at least 10 days prior to such hearing. They shall also serve notice of such hearing upon each township or city to be assessed, and upon the county, in case the same is operating under the county road system, at least 10 days prior to such hearing. Such notice may be served upon the clerks of the county or townships, respectively, as notice to such county or townships.

History: 1915, Act 59, Eff. Aug. 24, 1915 ;-- CL 1915, 4688 ;-- Am. 1917, Act 125, Imd. Eff. Apr. 25, 1917 ;-- Am. 1919, Act 107, Eff. Aug. 14, 1919 ;-- Am. 1921, Act 22, Imd. Eff. Mar. 31, 1921 ;-- CL 1929, 4333 ;-- CL 1948, 247.418

247.419 Hearing of objections; adjournment; roll, approval, filing of copy.

Sec. 19.

At such review the said county road commissioners or the state highway commissioner shall appear and hear all objections to the proposed apportionment of benefits, and equalize the same, and may make such changes and corrections in such rolls as they shall deem just and equitable. Such hearing may be adjourned from time to time as may be necessary in the judgment of the county road commissioners or the state highway commissioner, by giving legal notice of the time and place. After hearing objections, the county road commissioners or the state highway commissioner shall sign and approve such apportionment of benefits roll, and shall file a copy thereof with the county clerk of the county, and with the township clerk of each township within which the improvement is located, or within which any lands assessed a per cent of benefits therefor are situate, or where any township at large is to be assessed a per cent of benefits on such improvement. In any case where a city is liable to an assessment at large on account of such improvement a copy of the roll aforesaid shall be filed with the clerk of said city and shall be by said clerk placed before the legislative body of the city at the next meeting thereof.

History: 1915, Act 59, Eff. Aug. 24, 1915 ;-- CL 1915, 4689 ;-- Am. 1917, Act 125, Imd. Eff. Apr. 25, 1917 ;-- Am. 1919, Act 107, Eff. Aug. 14, 1919 ;-- CL 1929, 4334 ;-- CL 1948, 247.419

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247.420 Yearly roll for divided improvement.

Sec. 20.

In case the proposed improvement is divided into sections for letting in separate years, as heretofore provided, then this roll shall be for the first section only, and a new roll shall be prepared each succeeding year for each succeeding section. Each such assessment roll shall be equalized in the manner herein provided.

History: 1915, Act 59, Eff. Aug. 24, 1915 ;-- CL 1915, 4690 ;-- Am. 1917, Act 125, Imd. Eff. Apr. 25, 1917 ;-- CL 1929, 4335 ;-- CL 1948, 247.420

247.421 Rolls; computation of cost, total.

Sec. 21.

If the rolls are made before the contracts for the construction of the improvement are let the total amount of such rolls shall be the estimates heretofore referred to, to which estimates the county road commissioners or the state highway commissioner shall add such further sum, not exceeding 10 per cent, as shall be deemed necessary to cover contingent expenses. If the rolls are not made until after the letting of the contracts for the improvement, the county road commissioners or the state highway commissioner shall take the contract price for such improvement, to which they shall add the incidental expenses to the time of making the roll, and to this total such further sum, not exceeding 10 per cent, as shall be deemed necessary to cover contingent expenses. Such rolls shall show the total sums exclusive of interest, which shall be paid by the county, the townships at large, and the lands benefited, and also the sums that may be payable hereunder by any cities assessed at large.

History: 1915, Act 59, Eff. Aug. 24, 1915 ;-- CL 1915, 4691 ;-- Am. 1917, Act 125, Imd. Eff. Apr. 25, 1917 ;-- Am. 1919, Act 107, Eff. Aug. 14, 1919 ;-- CL 1929, 4336 ;-- CL 1948, 247.421

247.422 Rolls; tax assessment, certification, collection of tax; township exemption.

Sec. 22.

After the time for appeal from said roll has expired, or after an appeal shall have been decided, the county road commissioners or the state highway commissioner shall then prepare a tax assessment roll for the first year, for the collection of taxes and shall certify the same to the several township boards, to the legislative body of any city assessed at large, and to the county clerk of the county, on or before the first day of the annual meeting of the boards of supervisors; and the several boards of supervisors shall order such taxes collected at the same time, and in the same manner as are county, state and township taxes. All provisions of law with respect to the collection of said county, state and township taxes, shall apply to these special taxes. Said board of supervisors shall also order spread on the county at large, such sum, if any, as is apportioned thereto, which sum shall be entered upon the assessment rolls with the other county taxes but in a separate column. The legislative body of any city assessed at large hereunder shall order spread and collected in the same manner as other general taxes are spread and collected the amount that may be apportioned to such city: Provided, however, That any township that is entitled to the return of the county road tax paid thereby under the provisions of section 26 of chapter 4 of Act No. 283 of the Public Acts of 1909, as amended, shall be exempt from the payment of any portion of the tax spread at large upon the county under the provisions thereof, and such tax shall be apportioned among the other townships and cities of such county.

History: 1915, Act 59, Eff. Aug. 24, 1915 ;-- CL 1915, 4692 ;-- Am. 1917, Act 125, Imd. Eff. Apr. 25, 1917 ;-- Am. 1919, Act 107, Eff. Aug. 14, 1919 ;-- CL 1929, 4337 ;-- CL 1948, 247.422
Compiler's Notes: Section 26 of chapter 4 of Act 283 of 1909, referred to in this section, was repealed by Act 77 of 1958.

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247.422a Lands assessed for Covert road; purchase of part or interest; apportionment of assessment, procedure; expenses.

Sec. 22a.

Any person who has, or shall become the owner of, any interest, less than the whole, in any lands subject to the special assessments for road purposes as provided in this act, and the acquiring of said interest occurred or shall occur subsequent to the time for appeal from the roll as referred to in section 22 of this act, may pay on the part thus acquired and owned, its proportionate share of said road assessments, by paying an amount having the same relation to the whole assessment as the area of the part on which payment is made has to the whole area originally assessed: Provided, That anyone desiring to so pay shall make application in writing to the county road commission or the state highway commissioner, as the case may be, setting forth fully and correctly a description of the part or parcel of land upon which the applicant desires to pay the assessment and also setting forth therein the interest of the applicant in such part or parcel. It shall be the duty of the county road commission or the state highway commissioner, as the case may be, to cause the description and claimed ownership to be checked, and if satisfied that the applicant is the owner of the interest claimed, said county road commission or state highway commissioner shall make a certificate over the signature of the proper officers and official seal, setting forth the proportion of the road assessment to be borne by the parcel, parcels or interest of the applicant and file the same in the office of the county treasurer of the county in which the lands in question lie and shall thereafter, and shall so long as any assessments under this act remain unpaid, prepare the annual rolls as provided in this act in accordance with any such division or divisions of such road assessment: Provided, That the actual costs incurred by said county road commission or state highway commissioner, as the case may be, shall be paid by such applicant, which cost, in the case of

platted lands, of which a plat is of record in the county where the lands lie, shall not exceed $10.00 per lot and in the case of unplatted lands shall not exceed $50.00. These costs shall be paid before the filing of the certificate aforesaid in the office of the county treasurer.

History: Add. 1941, Act 253, Eff. Jan. 10, 1942 ;-- CL 1948, 247.422a

247.423 Division of roll for total cost of improvement by number of years in which assessment paid; interest charge; payment of full tax; notice of taxes paid in full and of delinquent taxes; payment of tax spread against township at large; present payment of annual installments by county.

Sec. 23.

Exclusive of interest, the roll for the total cost of the improvement shall be divided by the number of years in which the total assessment is to be paid. The roll prepared for the first year's collection may contain an interest charge at the rate of 6% per annum upon the total assessment from the date of the confirmation of the roll until the taxes carried on the roll are due and payable. The roll for the next year shall contain an interest charge of 6% upon the whole amount unpaid and each succeeding roll shall likewise contain an interest charge of 6% for the whole amount unpaid for the preceding year. Where bonds are to be issued in anticipation of the collection of the unpaid installments of the roll the interest charge for the first and each succeeding years' roll shall be at a rate of not more than 1% above the average rate of interest borne by the bonds. A taxpayer may pay his full tax at any time after the completion of the assessment roll and when taxes are due and save interest thereon so far forth. Upon the expiration of the time for collecting taxes hereunder the township treasurer shall notify the board of county road commissioners, or the department of state highways and transportation, of all taxes paid in full under the provisions hereof, specifying the names of the parties so paying, the dates when paid, and the amounts paid by each; and the treasurer shall likewise give notice of all delinquent taxes. The electors of a township at any regular annual meeting thereof, may, by resolution, provide for the payment of any tax spread against the township at large, in anticipation of installments thereafter to become due. The county board of commissioners of any county that is subject to the payment of annual installments, may likewise, at any regular or special meeting thereof, direct the present payment of the installments to be due at some future time, it being the intent hereof to extend to the township and to the county, the same privilege with respect to anticipation of installments and the consequent saving of interest hereinbefore granted to individual taxpayers.

History: 1915, Act 59, Eff. Aug. 24, 1915 ;-- CL 1915, 4693 ;-- Am. 1917, Act 125, Imd. Eff. Apr. 25, 1917 ;-- Am. 1919, Act 107, Eff. Aug. 14, 1919 ;-- CL 1929, 4338 ;-- CL 1948, 247.423 ;-- Am. 1975, Act 308, Imd. Eff. Dec. 22, 1975

247.424 Interest on annual installments; preparation of annual tax rolls or assessments; delivery and collection of rolls for successive installments; hearing of objections; installments, interest, and charges as lien on land.

Sec. 24.

Except as provided in section 23, after the first installment of the assessment, the succeeding annual installments of all taxes and moneys to be paid shall draw interest at the rate of 6% per annum. The commissioners or commissioner shall prepare their successive annual tax rolls or assessments in proper time each year. After the first installment, the rolls for

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the successive installments shall be delivered to the county, city, and township clerks, as heretofore provided, and collected in the same manner as state, county, city, and township taxes are collected, as heretofore provided. A hearing of objections shall not be deemed necessary in the case of the several installment rolls. From and after the confirmation of the original assessment roll, all installments of taxes together with the interest and other charges thereon, shall be a lien on the land against which the same are assessed.

History: 1915, Act 59, Eff. Aug. 24, 1915 ;-- CL 1915, 4694 ;-- Am. 1917, Act 125, Imd. Eff. Apr. 25, 1917 ;-- Am. 1919, Act 107, Eff. Aug. 14, 1919 ;-- CL 1929, 4339 ;-- CL 1948, 247.424 ;-- Am. 1975, Act 308, Imd. Eff. Dec. 22, 1975

247.425 Money collected; disposition; disbursement; interest; secured deposits; limitation on acceptable assets; designation of financial institution; "financial institution" defined.

Sec. 25.

(1) Money collected on account of an improvement shall be paid to the county treasurer and credited to the special assessment district.

(2) The money shall be disbursed only by an order of the county road commission or the state transportation commission and only for the purposes of this act.

(3) The county treasurer shall deposit the money in a manner that will draw interest, in a financial institution approved by the county board of commissioners or by the state transportation commission. The interest accrued shall become a part of the fund.

(4) Assets acceptable for pledging to secure deposits of county funds are limited to any of the following:

(a) Assets considered acceptable to the state treasurer under section 3 of 1855 PA 105, MCL 21.143, to secure deposits of state surplus funds.

(b) Any of the following:

(i) Securities issued by the federal home loan mortgage corporation.

(ii) Securities issued by the federal national mortgage association.

(iii) Securities issued by the government national mortgage association.

(c) Other securities considered acceptable to the county and the financial institution.

(5) If the improvement is carried on by and under the direction of the state transportation commission, the commission shall designate the financial institution the money is to be deposited in under this act.

(6) As used in this section, "financial institution" means a state or nationally chartered bank or a state or federally chartered savings and loan association, savings bank, or credit union whose deposits are insured by an agency of the United States government and which maintains a principal office or branch office located in this state under the laws of this state or the United States.

History: 1915, Act 59, Eff. Aug. 24, 1915 ;-- CL 1915, 4695 ;-- Am. 1917, Act 125, Imd. Eff. Apr. 25, 1917 ;-- Am. 1919, Act 107, Eff. Aug. 14, 1919 ;-- CL 1929, 4340 ;-- CL 1948, 247.425 ;-- Am. 1997, Act 37, Imd. Eff. June 30, 1997

247.426, 247.427 Repealed. 1958, Act 77, Eff. Sept. 13, 1958.

Compiler's Notes: The repealed sections regulated borrowing in anticipation of proceeds and imposed limitation on indebtedness.

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247.428 Certification of sums to be paid.

Sec. 28.

The county road commissioners or the state highway commissioner shall certify to the county treasurer of the county, the various sums to be paid by the county at large, townships at large, and lands benefited in each township, and shall also certify to the treasurer of any city assessed at large the amount to be paid by such city.

History: 1915, Act 59, Eff. Aug. 24, 1915 ;-- CL 1915, 4698 ;-- Am. 1917, Act 125, Imd. Eff. Apr. 25, 1917 ;-- Am. 1919, Act 107, Eff. Aug. 14, 1919 ;-- CL 1929, 4343 ;-- CL 1948, 247.428

247.429 Deficiency assessments; surplus, crediting, transfer.

Sec. 29.

If the sum ordered raised shall not be enough to complete the improvement or to pay in full outstanding indebtedness with the interest thereon, whether such insufficiency is due to the anticipation of installments as provided in section 25 or otherwise, then the county road commissioners or the state highway commissioner shall raise such additional sums as may be necessary, in the same proportion as the original roll was made. Such shortage may be raised and collected in 1 installment, for which the county road commissioners or the state highway commissioner shall make their special assessment roll. Such roll shall be collected at the same time state, county and township taxes are collected. In case there is a surplus after completing the improvement amounting to 3 per cent or more of the cost of the improvement, such surplus shall be refunded or credited on the next installment of the assessment pro rata according to their assessments whether due from individuals or municipalities; where the surplus is less than 3 per cent and more than 1 per cent such surplus shall be credited to the road fund to which it belongs and applied to reducing the payments on the last annual installment, or if there is more money than is required to pay the last installment it shall be applied to reducing the last preceding installment or installments pro rata to their assessments whether due from individuals or municipalities; but any surplus less than 1 per cent shall constitute a maintenance fund to be expended under the direction of the county road commissioners or the state highway commissioner as the case may be, for the proper maintenance and repair of such road, and the state highway commissioner or the board of county road commissioners, as the case may be, shall make such refund or give such credit in all cases of roads heretofore built in which such funds may not already have been expended under the provisions of this act prior to this amendment: Provided, however, That in case such surplus amounts to $15,000.00 or less on roads already constructed under the provisions of this act, and where said road is being maintained by the county road commissioners, such surplus may be transferred by the county road commissioners to a fund to be established as a general Covert fund and to be used for the maintenance of all Covert roads, including bridges, in said county.

History: 1915, Act 59, Eff. Aug. 24, 1915 ;-- CL 1915, 4699 ;-- Am. 1917, Act 125, Imd. Eff. Apr. 25, 1917 ;-- Am. 1919, Act 107, Eff. Aug. 14, 1919 ;-- Am. 1921, Act 22, Imd. Eff. Mar. 31, 1921 ;-- CL 1929, 4344 ;-- Am. 1931, Act 68, Imd. Eff. May 5, 1931 ;-- Am. 1939, Act 250, Eff. Sept. 29, 1939 ;-- CL 1948, 247.429

247.431 Orders on improvement fund; payment, limitation.

Sec. 31.

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Orders on the improvement fund of any special assessment district created and existing hereunder, shall be drawn by the state highway commissioner or by the chairman of the board of county road commissioners on the majority vote of the members of said board, as the case may be, and countersigned by the county clerk. In no event shall any order or orders be drawn in excess of the amount raised or directed to be raised on account of any particular improvement. Such order shall be payable by any county treasurer having in custody any portion of the funds of such special assessment district or out of such funds. In any case where the special assessment district is situated in 2 or more counties, no orders shall be drawn upon the treasurer of either of said counties payable out of the funds of said district in excess of the amounts that will come into his custody as a part of said fund under the provisions hereof.

History: 1915, Act 59, Eff. Aug. 24, 1915 ;-- CL 1915, 4701 ;-- Am. 1917, Act 125, Imd. Eff. Apr. 25, 1917 ;-- CL 1929, 4346 ;-- CL 1948, 247.431

247.432 Donation of money; application, return.

Sec. 32.

Donations of money may be received by either the state highway commissioner or the county road commissioners for the benefit of any road sought to be improved in accordance with the provisions of this act. Such money shall be paid to the treasurer of the county in which such special assessment district, or the greater portion thereof, is situated. Donations received before the preparation of the assessment roll shall be so applied as to decrease proportionately special assessments apportioned against individual property owners. In the event that the proposed improvement is not made, money so donated shall be returned to the donor on the warrant of the state highway commissioner or the board of county road commissioners as the case may be.

History: 1915, Act 59, Eff. Aug. 24, 1915 ;-- CL 1915, 4702 ;-- Am. 1917, Act 125, Imd. Eff. Apr. 25, 1917 ;-- CL 1929, 4347 ;-- CL 1948, 247.432

247.433 Taxes; interest charges, collection, powers of collecting officers, return as delinquent, lien.

Sec. 33.

All taxes assessed under the provisions of this act, shall be subject to the same interest and charges as are state and other general taxes. When the rolls are delivered to the township boards, they shall be collected in the same manner as state and other general taxes are collected. Collecting officers are hereby vested with the same power and authority in the collection of such taxes, as are, or may be conferred by law for collecting general taxes. All taxes not collected, shall be returned to the county treasurer, as are state and other general taxes, and may be paid to such officer. All uncollected taxes shall, by the county treasurer, be returned, together with the lands upon which they were levied, at the same time, and in the same manner as lands are returned for state, county and township taxes, and such taxes shall follow such lands the same as all other taxes, and all the general provisions of law now existing or that may be hereafter enacted for enforcing the payment of state, county and township taxes, shall apply to these special taxes, and to lands returned delinquent therefor, in the same manner, and with like effect. All taxes levied under the provisions of this act, with all lawful costs, interest and charges, shall be, and remain a perpetual lien upon the lands upon

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which they are assessed, and a personal claim against the owner of such lands, until they are paid.

History: 1915, Act 59, Eff. Aug. 24, 1915 ;-- CL 1915, 4703 ;-- CL 1929, 4348 ;-- CL 1948, 247.433

247.434 Taxes; rejection; reassessment.

Sec. 34.

If any tax assessed under this act is rejected because of an error in the description of the premises sought to be charged, the tax shall be ordered charged back by the board of supervisors, and reassessed upon the lands in the same manner that unpaid or rejected taxes may be charged back by the state treasurer and reassessed under the general provisions of law applicable to state, county, and township taxes.

History: 1915, Act 59, Eff. Aug. 24, 1915 ;-- CL 1915, 4704 ;-- CL 1929, 4349 ;-- CL 1948, 247.434 ;-- Am. 2002, Act 351, Imd. Eff. May 23, 2002

247.435 Taxes; apportionment on parcels; notice of hearing; correction of roll.

Sec. 35.

If 2 or more parcels of land owned by different persons are assessed as 1 parcel and the frontage of the different parcels upon the improvement are not relatively the same, then upon discovery of the error the county road commissioners or the department of transportation, or any 1 of the several owners, may require the county road commissioners or the state highway commissioner to apportion this tax between the several parcels, upon the principle of benefits derived. The county road commissioners or the department of transportation shall give the parties in interest 5 days' notice of their hearing, by posting a notice of the hearing in a conspicuous place on each of such premises. On apportioning the tax as provided in this section, the county road commissioners or the department of transportation shall change their roll accordingly, and if any rolls have been delivered to the county or township clerks, or to collecting officers, shall certify the change to them. The county or township clerk or other collecting officer shall correct the roll in their hands, and collection shall be made accordingly. This change may be made at any time before final decree is taken by the state treasurer for the sale of the lands for delinquent taxes.

History: 1915, Act 59, Eff. Aug. 24, 1915 ;-- CL 1915, 4705 ;-- Am. 1917, Act 125, Imd. Eff. Apr. 25, 1917 ;-- CL 1929, 4350 ;-- CL 1948, 247.435 ;-- Am. 2002, Act 351, Imd. Eff. May 23, 2002

247.436 Legality of proceedings, evidence; finality of determination.

Sec. 36.

All special assessment rolls and copies of rolls heretofore required to be delivered to county or township clerks under this act shall be prima facie evidence of the regularity and legality of all proceedings had to levy such tax. Any determination herein required to be made by the state highway commissioner or by the board of county road commissioners shall be deemed to be final and conclusive as to the existence of the facts therein involved.

History: 1915, Act 59, Eff. Aug. 24, 1915 ;-- CL 1915, 4706 ;-- Am. 1917, Act 125, Imd. Eff. Apr. 25, 1917 ;-- CL 1929, 4351 ;-- CL 1948, 247.436

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STATE HIGHWAY COMMISSIONER.

247.437 Petition for improvement; transmission to proper authorities.

Sec. 37.

In case a petition is presented to the state highway commissioner where authority to act is hereby vested in the board of county road commissioners of the county wherein such road is situated, such petition shall be immediately transmitted to said board and action thereon is hereby authorized as though the said petition had been properly addressed and presented in the first instance. Should a petition be presented to these county road commissioners for the improvement of any highway, in any county, and in the judgment of the county road commissioners, there should be lands liable to an assessment for benefits situate in any other county, then the county road commissioners shall certify such petition to the state highway commissioner, who shall thereupon proceed to act upon the same as though the said petition had been addressed to him in the first instance.

History: 1915, Act 59, Eff. Aug. 24, 1915 ;-- CL 1915, 4707 ;-- Am. 1917, Act 125, Imd. Eff. Apr. 25, 1917 ;-- CL 1929, 4352 ;-- CL 1948, 247.437

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247.438 Deputy; acting for commissioner, legal effect.

Sec. 38.

Any act or proceeding herein directed or authorized to be performed or conducted by the state highway commissioner, may be done by said commissioner in person, or by 1 of his deputies or by any other person generally or specifically deputized by him for the doing of such work. Any determination made by such deputy, or any hearing or other proceeding conducted by him shall be deemed to be for the purpose of this act, and have the same legal force and significance as though personally performed by said commissioner.

History: 1915, Act 59, Eff. Aug. 24, 1915 ;-- CL 1915, 4708 ;-- Am. 1917, Act 125, Imd. Eff. Apr. 25, 1917 ;-- CL 1929, 4353 ;-- CL 1948, 247.438

247.440 Jurisdiction over highways in more than one county.

Sec. 40.

All highways improved under the provisions of this act by the county road commissioners, or by the state highway commissioner, where more than 1 county is affected, that are parts of county roads shall be and remain under the jurisdiction of the county road commissioners of the county in which such highway is situate. Any township road improved hereunder shall be and remain subject to the jurisdiction or authority of the proper township officials after such improvement: Provided, however, That in all cases, the jurisdiction of the county and township officials shall be subject to the right to make proper repairs out of the maintenance fund, if any, hereinbefore provided for. In any highways improved along a county line, jurisdiction over the portion improved shall remain the same as though no improvement had been made upon such highway.

History: 1915, Act 59, Eff. Aug. 24, 1915 ;-- CL 1915, 4710 ;-- Am. 1917, Act 125, Imd. Eff. Apr. 25, 1917 ;-- CL 1929, 4355 ;-- CL 1948, 247.440

REVIEW OF ASSESSMENTS.

247.441 Appeal by municipality; application for board of review, limitations; authorized representative.

Sec. 41.

The county or city at large, or any township at large assessed a per cent for any benefit for the improvement of any highway by the county road commissioners, or by the state highway commissioner, may within 10 days after the final hearing of the review heretofore provided for, appeal therefrom, and for such purpose make an application to the probate court of the proper county for the appointment of a board of review, as hereinafter provided. Townships shall appear by their respective supervisors; and counties shall appear by their clerk and prosecuting attorney; cities shall appear by their chief executive officers or by the city attorney, under the direction of the legislative body of such city. The supervisor shall act upon the direction of his township board. The clerk and prosecuting attorney shall act upon the direction of their board of supervisors, or of a committee of that board to whom may have been referred by the whole board, questions pertaining to the highway improvements. Only 1 application for a board of review shall be entertained by the probate court to review any special assessment.

History: 1915, Act 59, Eff. Aug. 24, 1915 ;-- CL 1915, 4711 ;-- Am. 1917, Act 125, Imd. Eff. Apr. 25, 1917 ;-- Am. 1919, Act 107, Eff. Aug. 14, 1919 ;-- CL 1929, 4356 ;-- CL 1948, 247.441

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247.442 Appeal by municipality; hearing, notice; board of review or joint board; appointment, meeting, notice, duties.

Sec. 42.

The probate court upon the receipt of any such application for appeal, shall forthwith notify the county road commissioners or the state highway commissioner in writing of such an appeal. The probate court shall thereupon make an order appointing the day of hearing upon such application, and shall require notice of such hearing to be given the county at large, if subject to assessment hereunder, to the several township boards of the townships interested, and to any city liable to an assessment at large, and the county road commissioners, or the state highway commissioner, at least 3 days before such hearing. Such notice may be served on the clerk of the board of supervisors, on the city clerk and upon the township clerks of the respective townships. At such hearing, the probate court shall thereupon make an order, appointing 3 disinterested and competent freeholders of such county, not residents or freeholders of the township or townships affected or assessed for the proposed improvement, as members of a board of review. The persons so appointed shall constitute the board of review. The court shall thereupon immediately fix a time and place where the said board of review shall hold its first meeting to review such assessments, which time shall not be less than 5, nor more than 15 days from the date of such hearing. The county road commissioners, or the state highway commissioner, shall thereupon give notice to the persons so appointed of their appointment, and of the time and place of their first meeting, and shall give notice of such first meeting by posting notices in at least 5 public and conspicuous places in each township within the assessment district affected by such assessment, and by giving notice to the prosecuting attorney in the county, in all cases where the state is an interested party. Said notice shall be served and posted at least 10 days before the meeting: Provided, That if the road to be improved, or the assessment district, shall lie in 2 or more counties, the application

referred to in the preceding section shall be presented simultaneously to the probate court in each of said counties. Thereupon each said court, proceeding as above set forth, shall appoint a disinterested and competent freeholder of such county as a member of the board of review. Upon certification to him of such appointment the state highway commissioner shall fix the time and place of the first meeting thereof and shall give notice as above provided, to the members so appointed, of the time and place of such meeting. If but 2 counties are concerned, and if the members appointed therefrom are unable to agree, such members shall select a third member of the board, who shall be a competent and disinterested freeholder from another county of the state. Notice of such appointment shall be given to the state highway commissioner who shall notify the member so appointed thereof and thereupon the members of the board shall proceed in the same manner as is herein provided in the case of a board appointed within 1 county by the probate court thereof. In case of the selection of a third member of the board as herein provided the state highway commissioner shall fix the time and place of meeting of the board to be held thereafter and shall notify all members accordingly.

History: 1915, Act 59, Eff. Aug. 24, 1915 ;-- CL 1915, 4712 ;-- Am. 1917, Act 125, Imd. Eff. Apr. 25, 1917 ;-- Am. 1919, Act 107, Eff. Aug. 14, 1919 ;-- Am. 1921, Act 22, Imd. Eff. Mar. 31, 1921 ;-- CL 1929, 4357 ;-- CL 1948, 247.442

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247.443 Board of review; duty, limitation, oath.

Sec. 43.

At such hearing the board of review shall have the right, and it shall be their duty to review and equalize all assessments of per cent of benefits made by the county road commissioners, or the state highway commissioner, for such improvement upon the county at large, or upon any city, and the total assessment made upon the several townships, including the total per cent assessed upon lands benefited therein. Such board shall not review or equalize the assessment for benefits upon particular lands. The persons so appointed as such board of review shall be sworn to faithfully discharge the duties of such board of review.

History: 1915, Act 59, Eff. Aug. 24, 1915 ;-- CL 1915, 4713 ;-- Am. 1917, Act 125, Imd. Eff. Apr. 25, 1917 ;-- Am. 1919, Act 107, Eff. Aug. 14, 1919 ;-- CL 1929, 4358 ;-- CL 1948, 247.443

247.444 Board of review; hearing, view of lands, correction of errors, additions; hearing of objections on change; decision, preparation and finality.

Sec. 44.

The board of review shall proceed to hear the proofs and allegations of the county, or of any city assessed at large, and of the several townships at large, in respect to the matter of the appeal, and shall proceed to view the lands benefited by such improvement, and to review the total per cent ordered to be paid by the county at large, and by each township, including the sum total per cent assessed upon lands benefited in such township, and if, in their judgment, there be manifest error or inequality in such assessment, they shall order, or make such changes therein within the limitations hereinbefore provided, as they may deem just and equitable. The board of review shall not equalize the assessment between the several tracts or parcels of land. Should the board of review find, upon personal examination, that there are lands liable to be assessed for the construction of such improvement, that were not included in the assessment district made by the county road commissioners, or the state highway commissioner, they shall add such lands to the assessment district for such improvement.

Before adding any lands to such special assessment district not included in the final order of the county road commissioners, or the state highway commissioner, the said board of review shall give the same notice as hereinbefore provided to be given by the county road commissioners, or the state highway commissioner, in establishing a special assessment district. The board of review shall meet at the time and place mentioned in their notice, to hear objections from the persons interested with respect to change in such district. On hearing such objections, the board of review, should they still deem it just and equitable that additional lands be included in the district, shall make their order in accordance therewith. The action and decision of the board of review shall be final. The action and decision of such board shall be reduced to writing and signed by a majority making the same, and shall be delivered to the county road commissioners, or the state highway commissioner, together with all other papers relating thereto.

History: 1915, Act 59, Eff. Aug. 24, 1915 ;-- CL 1915, 4714 ;-- Am. 1917, Act 125, Imd. Eff. Apr. 25, 1917 ;-- Am. 1919, Act 107, Eff. Aug. 14, 1919 ;-- CL 1929, 4359 ;-- CL 1948, 247.444

247.445 Costs of appeals.

Sec. 45.

In case the assessment of the county road commissioners, or the state highway commissioner, shall be sustained by such board of review, the appellant shall pay the whole cost and expense of the appeal. Such cost and expense shall be ascertained and determined by the judge of probate; and the amount so determined by said judge, or by the court on appeal therefrom, shall be paid by the county, city, or township appealing, to the county treasurer of said county, and placed to the credit of the road district. If the apportionment of the county road commissioners, or the state highway commissioner, is not sustained, the road district shall pay the cost of such appeal.

History: 1915, Act 59, Eff. Aug. 24, 1915 ;-- CL 1915, 4715 ;-- Am. 1917, Act 125, Imd. Eff. Apr. 25, 1917 ;-- Am. 1919, Act 107, Eff. Aug. 14, 1919 ;-- CL 1929, 4360 ;-- CL 1948, 247.445

247.446 Appeal by land owner; application for board of review; bond, liability, costs.

Sec. 46.

The owner of any lands assessed a per cent for benefits for improving any highway, who may conceive himself aggrieved by the assessment made by the county road commissioners, or the state highway commissioner, may, within 10 days after the hearing of the review heretofore provided by the county road commissioners, or the state highway commissioner, appeal therefrom, and for such purpose make an application to the probate court of the county in which his land is situate, for a review of the per cent of benefits assessed for such improvement upon his land in any township. Said appellant shall file with the probate court a bond in the sum of 200 dollars, with 1 or more sureties, to be approved by said court, conditioned for the payment of all costs in case the assessment made by the county road commissioners, or the state highway commissioner, shall be sustained. In case the assessment of the per cent of benefits made by the county road commissioners, or the state highway commissioner, upon lands assessed in that township shall be sustained by the board of review, the appellant shall pay the whole cost of such appeal. Such cost and expenses shall be ascertained and determined by the probate court; and if not paid the appellant shall be liable on his bond for the full amount of such costs in an action in law to be brought by the county road

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commissioners, or the state highway commissioner, before any court having jurisdiction. If the assessments made by the county road commissioners, or the state highway commissioner, on lands in such townships shall be changed, the road districts shall pay the cost of such appeal.

History: 1915, Act 59, Eff. Aug. 24, 1915 ;-- CL 1915, 4716 ;-- Am. 1917, Act 125, Imd. Eff. Apr. 25, 1917 ;-- CL 1929, 4361 ;-- CL 1948, 247.446

247.447 Appeal by land owner; board of review, appointment, eligibility, notice; hearing, notice; assessment district in more than one county.

Sec. 47.

On the receipt of such claim of appeal by the land owner and the giving of a bond as aforesaid, the probate court shall appoint a board of review to examine into and equalize the apportionment of the per cent of benefits assessed upon lands within the assessment district. Such board of review shall consist of 3 competent and disinterested freeholders selected from townships in the same county, adjoining the township where the land of the appellant is situated outside of the assessment district. Notice of the appointment of the board of review to review the apportionment of the per cent of benefits upon lands shall be given by posting a notice thereof in 5 public and conspicuous places in the special assessment district at least 5 days prior to the hearing in the probate court for the appointment of such board of review. Such board of review when appointed shall give notice of its hearing in the matter, and of the time and place when and where it will meet to review the apportionment of benefits upon the lands in the assessment district, by posting a notice thereof at least 5 days before the day of hearing in 5 public and conspicuous places within the special assessment district. Such board of review shall also cause a copy of such notice to be delivered to the appellant, or left at his place of residence, if his residence is within the said district. If the assessment district is situated in more than 1 county the application for the board of review and the appointment thereof shall be made in the same manner as is hereinbefore provided for the application for and the appointment of the board of review to equalize and review assessments made upon the counties at large, the several townships, and the assessment district in any such case. When so selected said board of review shall proceed to review the assessments upon all lands within the assessment district as provided in this section and in the following section.

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History: 1915, Act 59, Eff. Aug. 24, 1915 ;-- CL 1915, 4717 ;-- Am. 1921, Act 22, Imd. Eff. Mar. 31, 1921 ;-- CL 1929, 4362 ;-- CL 1948, 247.447

247.448 Apportionment final; hearing, duties of board; boundaries of districts.

Sec. 48.

The apportionment of benefits for the proposed improvements against the county at large, or against any city at large, and against the several townships at large, as made by the county road commissioners, or the state highway commissioner, or in case of appeal by the county or any township as made by the board of review hereinbefore provided for shall be final and conclusive and shall not be changed by the board of review herein appointed to review the apportionment of benefits upon lands. The board of review herein shall proceed at the time and place specified in their notice to hear the proofs and allegations of the parties in interest, and shall proceed to view the lands benefited by the proposed improvement, and to review all of the apportionments for benefits made by the county road commissioners or the state highway commissioner, on lands benefited in the assessment district on account of such

improvement, and if in their judgment there be manifest error in any such apportionment upon lands benefited, they shall make such changes therein and equalize the same as they deem just and equitable. All boundaries of the special assessment district as made by the county road commissioners, or the state highway commissioner, or by the board of review hereinbefore mentioned, upon appeal shall be final and conclusive; the board of review appointed to review the apportionment of the per cent upon lands shall have no power to add additional lands to the special assessment district. But 1 appeal shall be acted upon to review the apportionment of the per cent of benefits assessed upon lands in the assessment district.

History: 1915, Act 59, Eff. Aug. 24, 1915 ;-- CL 1915, 4718 ;-- Am. 1917, Act 125, Imd. Eff. Apr. 25, 1917 ;-- Am. 1919, Act 107, Eff. Aug. 14, 1919 ;-- Am. 1921, Act 22, Imd. Eff. Mar. 31, 1921 ;-- CL 1929, 4363 ;-- CL 1948, 247.448

247.449 Hearing; adjournment.

Sec. 49.

The several boards of review may adjourn from time to time, for the hearing of appeals; and public announcement of such adjourning shall be given.

History: 1915, Act 59, Eff. Aug. 24, 1915 ;-- CL 1915, 4719 ;-- CL 1929, 4364 ;-- CL 1948, 247.449

247.450 Determination; certification, finality.

Sec. 50.

The several boards of review shall certify to the county road commissioners, or the state highway commissioner, their finding and determination upon any appeal, which finding and determination as to the per cent of benefits to be assessed upon particular tracts, or parcels of lands benefited, shall be final and conclusive.

History: 1915, Act 59, Eff. Aug. 24, 1915 ;-- CL 1915, 4720 ;-- Am. 1917, Act 125, Imd. Eff. Apr. 25, 1917 ;-- CL 1929, 4365 ;-- CL 1948, 247.450

247.451 Vacancy on board; filling.

Sec. 51.

Should any person appointed on either of the boards of review as aforesaid, neglect or refuse to serve, or be unable to act, the county road commissioners, or the state highway commissioner, shall report the same to the probate court, who shall, upon like notice, as in the first instance, proceed to appoint others, or another, competent and disinterested person or persons, to act on said board of review. The person or persons so appointed shall have the same power and perform the same duties as herein provided for the board of review in the first instance.

History: 1915, Act 59, Eff. Aug. 24, 1915 ;-- CL 1915, 4721 ;-- Am. 1917, Act 125, Imd. Eff. Apr. 25, 1917 ;-- CL 1929, 4366 ;-- CL 1948, 247.451

247.452 Assessment rolls; spread and collection; delayed report of rolls, subsequent installments.

Sec. 52.

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All the assessment rolls under this act, reported to the board of supervisors at the annual meeting thereof, shall be ordered spread and collected by the board and they shall order any rolls reported to them, while they are in session, spread and collected. Rolls not reported before the final adjournment of such boards at their annual October meeting, shall stand over until the following year, notwithstanding they may have been ordered collected by the county road commissioners the prior year. Where the contract is let prior to the annual meeting of the board of supervisors in October, and by reason of delay occurring from appeals to review the apportionment of benefits taken, so that the assessment roll, as finally determined, cannot be laid before the meetings of the board of supervisors, such delay shall not affect the collection of the second installment of the assessment, but both the first and second installments shall be collected the next year.

History: 1915, Act 59, Eff. Aug. 24, 1915 ;-- CL 1915, 4722 ;-- Am. 1917, Act 125, Imd. Eff. Apr. 25, 1917 ;-- Am. 1919, Act 107, Eff. Aug. 14, 1919 ;-- CL 1929, 4367 ;-- CL 1948, 247.452

MISCELLANEOUS.

247.453 Tax set aside; new proceedings.

Sec. 53.

In case any tax assessed under the provisions of this act shall be set aside, except for the reason that the petition for the improvement does not confer jurisdiction to act, the county road commissioners, or the state highway commissioner, as the case may be, shall begin proceedings anew at the stage where they shall be correct.

History: 1915, Act 59, Eff. Aug. 24, 1915 ;-- CL 1915, 4723 ;-- Am. 1917, Act 125, Imd. Eff. Apr. 25, 1917 ;-- CL 1929, 4368 ;-- CL 1948, 247.453

247.454 Apportionment based on benefits; description of lands.

Sec. 54.

All apportionment for benefits under the provisions of this act, shall be upon the principle of benefits derived. All description of lands under the provisions of this act shall be made by bounding the same or by giving the local sub-divisions thereof; and it may be described by designations of the lot, or in some way by which it may be known and identified.

History: 1915, Act 59, Eff. Aug. 24, 1915 ;-- CL 1915, 4724 ;-- CL 1929, 4369 ;-- CL 1948, 247.454

247.456 Drainage; petition of commissioner.

Sec. 56.

In case the county road commissioners, or the state highway commissioner, shall deem it necessary for the proper drainage of the highway to be improved, that any drain or water course be laid out and established, deepened and widened, cleaned out, straightened or extended, they may petition the county drain commissioner for the same, and such petition shall have all the force and effect of the requisite petitions by freeholders to the county drain commissioner for the same purpose; and thereupon the county drain commissioner shall proceed to act upon such petition, and shall take the same steps that are provided for him to take under the drain laws of the state.

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History: 1915, Act 59, Eff. Aug. 24, 1915 ;-- CL 1915, 4726 ;-- Am. 1917, Act 125, Imd. Eff. Apr. 25, 1917 ;-- CL 1929, 4371 ;-- CL 1948, 247.456

247.457 Legal and clerical service, expenses.

Sec. 57.

The county road commissioner, or the state highway commissioner, acting under the provisions of this act, may employ all necessary clerks, and such clerk hire, and any legal expense shall be charged to the several road districts in behalf of which they shall be employed. They may likewise employ an attorney when they deem the same necessary. All incidental expenses shall be paid out of the first moneys collected.

History: 1915, Act 59, Eff. Aug. 24, 1915 ;-- CL 1915, 4727 ;-- Am. 1917, Act 125, Imd. Eff. Apr. 25, 1917 ;-- Am. 1919, Act 107, Eff. Aug. 14, 1919 ;-- CL 1929, 4372 ;-- CL 1948, 247.457

247.458 Record of proceedings; supplies.

Sec. 58.

The county road commissioners, or the state highway commissioner, shall procure record books, and keep a record of all the proceedings had under this act, and they shall procure the necessary stationery and supplies, which expense shall be paid by the county, or by the state as the case may be.

History: 1915, Act 59, Eff. Aug. 24, 1915 ;-- CL 1915, 4728 ;-- Am. 1917, Act 125, Imd. Eff. Apr. 25, 1917 ;-- CL 1929, 4373 ;-- CL 1948, 247.458

247.459 County road commissioners; annual report.

Sec. 59.

The county road commissioners shall render an annual report to the board of supervisors, of their doings, showing itemized statements of all the sums ordered raised by them and expended by them. Such statements shall be filed on or before the first day of the annual meeting of the supervisors in October.

History: 1915, Act 59, Eff. Aug. 24, 1915 ;-- CL 1915, 4729 ;-- CL 1929, 4374 ;-- CL 1948, 247.459

247.460 County road commissioners; administrative board.

Sec. 60.

The county road commissioners shall work together as an administrative board in the performance of their work.

History: 1915, Act 59, Eff. Aug. 24, 1915 ;-- CL 1915, 4730 ;-- CL 1929, 4375 ;-- CL 1948, 247.460

247.461 County road commissioners; disqualification to act; procedure; special road commissioner.

Sec. 61.

(1) If a county road commissioner is interested in the improvement of a highway, or is for any reason disqualified to act on the improvement of a highway, then the remaining county

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road commissioner or commissioners, shall proceed with the work. The action of the county road commissioner or commissioners not interested shall be valid and effective. If a county road commissioner is disqualified to act upon a proposed improvement, the facts shall be entered upon the records of the county road commissioners. If all of the members of the board of county road commissioners are disqualified for any reason from acting on an application, a special road commissioner may be appointed by the judge of probate. If a disqualification of all of the members of the board of county road commissioners is made, the board of county road commissioners to whom a petition is addressed immediately shall transmit the petition to the judge of probate with a certified statement as to the fact of the disqualification or the petition, in the first instance, may be submitted to the judge of probate accompanied by a certified statement of an elector of the county as to the fact of disqualification, with a request that a special road commissioner be appointed for the purposes of the application.

(2) The judge of probate shall then appoint a day for hearing on the question of making the appointment. Due notice of the hearing shall be printed in a newspaper of general circulation in the county, or counties, in which the special assessment district is located, not less than 10 days before the day of hearing. The publication shall be all the notice required as to the hearing. On the appointed day, or on a subsequent day to which adjournment is made, the judge of probate shall determine whether or not all the members of the board of county road commissioners are in fact disqualified. If the judge finds that to be the case, the judge immediately shall appoint a special road commissioner, invested with all the rights, powers, duties, and obligations granted to or conferred upon the board of county road commissioners by this act for the purposes of the application for the improvement of a highway under this act.

(3) If it is found on hearing, that all the members of the board of county road commissioners are not in fact disqualified to act, the judge of probate shall certify accordingly and immediately shall transmit the application to the board of county road commissioners, and the board or the members of the board not disqualified, shall proceed as provided in this act.

(4) As determined by the county board of commissioners, a special road commissioner appointed in accordance with this section, either shall be covered by a blanket bond or shall be required to give a bond in a reasonable amount and with the sureties the judge of probate directs and approves. The special commissioner shall receive compensation for time actually expended by him or her, added to his or her reasonable expenses, out of the funds of the special assessment district as fixed by the county board of commissioners or by the board of county auditors, in a county having that board.

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History: 1915, Act 59, Eff. Aug. 24, 1915 ;-- CL 1915, 4731 ;-- Am. 1917, Act 125, Imd. Eff. Apr. 25, 1917 ;-- CL 1929, 4376 ;-- Am. 1933, Act 75, Imd. Eff. May 8, 1933 ;-- CL 1948, 247.461 ;-- Am. 1978, Act 569, Imd. Eff. Jan. 2, 1979

247.462 Repealed. 1958, Act 77, Eff. Sept. 13, 1958.

Compiler's Notes: The repealed section provided for employment of an engineer.

247.463 Estimates and certificates of completed work; payments on contracts, prerequisites, portion withheld.

Sec. 63.

As the work of improvement progresses, the county road commissioners, or the state highway commissioner, shall cause written estimates to be made, and certificates of work done

and materials furnished, according to specifications, and of the value of the work accomplished by the several contractors. These estimates and certificates shall be made and signed by a competent engineer. At the request of any contractor doing work, such estimate shall be made at least once in each month. The county road commissioners, or the state highway commissioner, shall make no payment on any contract without such written estimates and certificates that the work is done according to specifications where the total contract price shall be 500 dollars or over. Before the final completion of the work and its final acceptance, they shall not pay more than 80 per cent of the amount of such estimates and certificates: Provided, That upon satisfactory showing of the paying of outstanding indebtedness as hereinafter provided the amount retained on such estimates may be proportionately reduced in the discretion of the state highway commissioner or the board of county road commissioners as the work progresses. Before payment is made on any estimate or certificate aforesaid, the contractor shall file an affidavit showing, either that all labor and material so far used in the improvement has been paid for by him, or an itemized statement giving the several amounts and names of persons to whom anything is owing for labor and material used in the particular improvement contracted for by him, or he shall file releases from all persons unpaid for either labor or material used in such improvement. In case it appears from such affidavits that any labor or material is not paid for, the county road commissioners, or the state highway commissioner, shall deduct from any payment to be made by them such indebtedness for material and labor. The county road commissioners, or the state highway commissioner, out of money so retained by them, may pay any such indebtedness; and they shall pay such indebtedness out of such money on the request of any contractor. They shall not be obliged to pay on the request of a creditor until such creditor shall have put his claim into final judgment.

History: 1915, Act 59, Eff. Aug. 24, 1915 ;-- CL 1915, 4733 ;-- Am. 1917, Act 125, Imd. Eff. Apr. 25, 1917 ;-- Am. 1921, Act 22, Imd. Eff. Mar. 31, 1921 ;-- CL 1929, 4378 ;-- CL 1948, 247.463

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247.464 Repealed. 1963, Act 213, Eff. Sept. 6, 1963.

Compiler's Notes: The repealed section required bond of successful bidder.

247.465 Contracts under $500; payments.

Sec. 65.

The county road commissioners, or the state highway commissioner, may let contracts under 500 dollars without advertising. They may make payments on such contracts without the estimates and certificates above required.

History: 1915, Act 59, Eff. Aug. 24, 1915 ;-- CL 1915, 4735 ;-- Am. 1917, Act 125, Imd. Eff. Apr. 25, 1917 ;-- CL 1929, 4380 ;-- CL 1948, 247.465

ACTIONS AND HEARING PROVISIONS.

247.466 Certiorari; notice, hearing, bond; proceedings, setting aside; costs; postponement in letting of contracts.

Sec. 66.

The proceedings herein provided for improving any highway, shall be subject to review upon certiorari. Notice of such certiorari shall be served upon the county commissioners, or 1

of them or upon the state highway commissioner, within 10 days after the making of their apportionment of benefits for such improvement has been filed with the county clerk in the same manner as notice is required to be given of certiorari for reviewing judgments returned by the justice of the peace, and the writ shall be issued and served, and the bond given and approved, and all subject matter brought to issue in the same way and manner as in such case provided, except that such certiorari may be heard by the court during term, or at chambers, upon 5 days' notice given to the opposing party; and the circuit court of the county shall hear and determine the same without necessary delay; and if any material defect be found in the proceedings, such proceedings shall be set aside in so far as erroneous with consent to the county road commissioners, or the state highway commissioner, to proceed anew with their proceedings from the point where the defect occurs. The entire proceedings shall not be set aside except where the county road commissioners, or the state highway commissioner, are found to have no jurisdiction to act upon the petition presented. If the proceedings be sustained, the party bringing the certiorari shall be liable for the costs thereof; and if they be not sustained in whole, or in part, the parties petitioning for the proposed improvement, shall be liable for the costs. If no certiorari be brought within the time herein described, the improvements shall be deemed to have been legally ordered and established, and its legality shall not thereafter be questioned in any suit at law, or in equity. When such proceedings are brought, the county road commissioners, or the state highway commissioner, shall postpone the letting of contracts if they have not been let, and of all other proceedings until after the determination of the court.

History: 1915, Act 59, Eff. Aug. 24, 1915 ;-- CL 1915, 4736 ;-- Am. 1917, Act 125, Imd. Eff. Apr. 25, 1917 ;-- CL 1929, 4381 ;-- CL 1948, 247.466

Compiler's Notes: In the second sentence of this section, "necessary" evidently should read "unnecessary."

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247.467 Tax assessment; irregularities not prejudicial; presumptions; prima facie evidence; absent or omitted records; signing of papers; deeds.

Sec. 67.

A tax assessed under this act upon any property or sale of the property shall not be held invalid by any court of this state on account of any irregularity in any assessment, or on account of any tax roll not having been made, or proceeding had within the time required by law, or on account of the property having been assessed without the name of the owner, or in the name of any person other than the owner, or on account of any other irregularity, informality, omission, or want of any matter or form or substance in any proceeding that does not prejudice the property rights of the person whose property is taxed. All proceedings in assessing and levying taxes, and in the sale and conveyance therefor, shall be presumed by all the courts of this state to be legal until the contrary is affirmatively shown. All records, statements and certificates provided for under this act shall be prima facie evidence of the facts therein set forth. The absence of any record of any proceeding or proceedings, or the omission of any mention in any record of any vote or proceeding, or mention of any matter in any statement or certificate that should appear therein under this act, does not affect the validity of any proceeding, tax, or title thereon, if the fact that the vote or proceeding was had or tax authorized is shown by any other record, statement or certificate made evidence by the terms of this act or any other law of this state. A tax or sale of property for any tax shall not be rendered or held invalid by showing that any record, statement, affidavit, certificate, paper, or return cannot be found in the proper office. Unless the contrary is affirmatively shown, the

presumption shall be that the record was made, and that the certificate, statement, affidavit, paper, or return was duly made and filed. If any statement, certificate, or record is required to be made or signed by the county road commissioners, that statement, certificate, or record may be made and signed by the members of the commission, or a majority of them, and it is not necessary that other members be present when each signs the statement, certificate, or record. The provisions of this section shall not be construed to authorize any showing impeaching the validity of any deed executed by the state treasurer under this act, but the deed shall be held absolute and conclusive as provided in general tax laws of this state.

History: 1915, Act 59, Eff. Aug. 24, 1915 ;-- CL 1915, 4737 ;-- CL 1929, 4382 ;-- CL 1948, 247.467 ;-- Am. 2002, Act 351, Imd. Eff. May 23, 2002

247.468 Limitation of actions; tax payment under protest; suit against county.

Sec. 68.

No suit shall be instituted to recover any tax or money paid, or for property therefor, or for damages on account thereof, unless brought within 30 days from the time of payment of such money to, or for the sale of such property by, the collecting officers; and if such tax be paid under protest, the reasons therefor shall be specified, and the same procedure observed as is, and may be required by the general tax law: Provided, That suits specified in this section shall be brought against the county at large.

History: 1915, Act 59, Eff. Aug. 24, 1915 ;-- CL 1915, 4738 ;-- CL 1929, 4383 ;-- CL 1948, 247.468

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247.469 Injunction restricted.

Sec. 69.

After any taxes shall have been assessed for the improvement of any highway under this act, no injunction shall issue to restrain the spreading of the same upon the tax roll, nor to restrain the collection thereof, nor shall the same be in any manner stayed, except as provided in provisions for certiorari unless the amount of such assessment shall be first paid to the county treasurer to be applied upon such taxes in case the court in which the suit upon which such injunction is tried, shall so order.

History: 1915, Act 59, Eff. Aug. 24, 1915 ;-- CL 1915, 4739 ;-- CL 1929, 4384 ;-- CL 1948, 247.469

247.470 Faulty proceedings; collection of tax; new proceedings.

Sec. 70.

The collection of no tax levied, or ordered to be levied for the payment of the improvement or construction of any highway laid out under this act shall be perpetually enjoined, or declared absolutely void in consequence of any error or informality appearing in the record of the proceedings under which any highway shall have been constructed or improved, nor on account of any irregularity or informality in the condemnation of the right of way, nor for want of any record thereof, but the court in which any action may be brought to recover any tax or assessment paid, or to declare void the highway proceedings, or to enjoin any tax or assessment levied or ordered to be levied for the payment of the labor and expenses of the improvement thereof, shall, if there be manifest error in the proceedings, allow the county

road commissioners, or the state highway commissioner, to begin their proceedings anew at the stage prior to which the error occurred.

History: 1915, Act 59, Eff. Aug. 24, 1915 ;-- CL 1915, 4740 ;-- Am. 1917, Act 125, Imd. Eff. Apr. 25, 1917 ;-- CL 1929, 4385 ;-- CL 1948, 247.470

247.471 Delinquent tax; collection.

Sec. 71.

Any taxes that may have been assessed and returned delinquent to the county treasurer upon any lands and by virtue of the provisions of this act and remaining unpaid, may be sued for, by the county road commissioners of the county in which such delinquent lands are situated, or by the state highway commissioner, in an action of assumpsit before any court of competent jurisdiction; or the county road commissioners, or the state highway commissioner, may file their bill in equity to enforce the lien of such tax against the real estate charged therewith, in the same manner as mortgages are foreclosed in chancery. The court may order the sale of such delinquent lands at any time after 6 months from the filing of such bill in chancery.

History: 1915, Act 59, Eff. Aug. 24, 1915 ;-- CL 1915, 4741 ;-- Am. 1917, Act 125, Imd. Eff. Apr. 25, 1917 ;-- CL 1929, 4386 ;-- CL 1948, 247.471

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247.472 Tax set aside; parties to action.

Sec. 72.

In case any suit shall be brought to set aside any tax assessed under the provisions of this act, or in any way attacking the legality of the proceedings had under this act, the county road commissioners, or the state highway commissioner, shall be made a party to such suit. The county in which such road district shall be situated, if operating under the county road system, shall likewise be made a party and process shall be served upon the clerk of such county.

History: 1915, Act 59, Eff. Aug. 24, 1915 ;-- CL 1915, 4742 ;-- Am. 1917, Act 125, Imd. Eff. Apr. 25, 1917 ;-- CL 1929, 4387 ;-- CL 1948, 247.472

247.473 Tax set aside; new proceedings.

Sec. 73.

In case any tax assessed under the provisions of this act shall be set aside, except for the reason that the petition for the improvement does not confer jurisdiction to act, the county road commissioners, or the state highway commissioner, as the case may be, shall begin proceedings anew at the stage where they shall be correct.

History: 1915, Act 59, Eff. Aug. 24, 1915 ;-- CL 1915, 4743 ;-- Am. 1917, Act 125, Imd. Eff. Apr. 25, 1917 ;-- CL 1929, 4388 ;-- CL 1948, 247.473

247.474 Proceedings; recommencement; notice of hearing; credit for tax paid.

Sec. 74.

Whenever the work of improving any highway has been wholly or partly completed, and payment for same has not been legally made, the county road commissioners, or the state

highway commissioner, shall proceed without unnecessary delay to start such proceedings anew, providing the petition for the improvement confers jurisdiction upon the county road commissioners, or the state highway commissioner, at such a stage as may be correct; and the county road commissioners, or the state highway commissioner, shall proceed to take the necessary steps under the provisions of this act, and shall reassess upon the lands benefited by the improvement, the original cost thereof, together with all expense of completing the proceedings, and continue so to do, until such improvement has been legally constructed: Provided, That on such recording and legally completing the proceedings, it shall not be necessary to re-advertise the letting or to make a new contract for the letting and constructing of the improvement, but the county road commissioners, or the state highway commissioner, shall advertise a day of review for benefits in the manner provided in the first instance: Provided further, That any person who has paid taxes for benefits assessed against him for such improvement, shall be allowed the amount so paid; and the collecting officer shall accept the receipt theretofore issued as cash, and the same shall be applied upon such new assessment.

History: 1915, Act 59, Eff. Aug. 24, 1915 ;-- CL 1915, 4744 ;-- Am. 1917, Act 125, Imd. Eff. Apr. 25, 1917 ;-- CL 1929, 4389 ;-- CL 1948, 247.474

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247.476 Saving clause.

Sec. 76.

All proceedings heretofore taken under this act shall not be defeated or nullified because of any irregularity therein if there has been a substantial compliance with the requirements of the said measure as hereby amended. Such proceedings heretofore commenced under said act shall not be invalidated either in whole or in part hereby, but may be completed under the provisions hereof.

History: Add. 1917, Act 125, Imd. Eff. Apr. 25, 1917 ;-- CL 1929, 4391 ;-- CL 1948, 247.476

247.477 Clerical errors; correction.

Sec. 77.

After the county road commissioners shall have made their apportionment of benefits, and held a review of the same, whether an appeal has been taken therefrom or not, but in case of appeal, then after such appeal shall have been decided, and it shall appear that any parcel of land has been omitted by clerical error within the boundaries of the district finally established, or that parcels of land have been misdescribed, or the acreage stated to be more or less than it really is or that the amount appearing on the roll as assessed against any parcel of land is erroneous because of a clerical error, the county road commissioners, or the state highway commissioner, as the case may be, may correct such errors in the manner herein provided.

History: Add. 1917, Act 125, Imd. Eff. Apr. 25, 1917 ;-- Am. 1919, Act 107, Eff. Aug. 14, 1919 ;-- CL 1929, 4392 ;-- CL 1948, 247.477

247.478 Clerical errors; notice of review and correction.

Sec. 78.

The county road commissioners, or the state highway commissioner, on discovering any of the aforesaid errors, may make their order reciting the particular errors, or that there appears to be error in the designated descriptions, and give notice of the review and correction thereof in any road district affected in the same manner as is required for the review of the apportionment of benefits in the first instance, except that the county at large or townships at large need not be notified. The meeting of the county road commissioners or of the state highway commissioner to review and correct such errors shall be held at some place in the road district to be affected.

History: Add. 1917, Act 125, Imd. Eff. Apr. 25, 1917 ;-- CL 1929, 4393 ;-- CL 1948, 247.478

247.479 Clerical errors; correction of omissions, descriptions, acreage, apportionment of benefits.

Sec. 79.

At such meeting, the county road commissioners, or the state highway commissioner, shall correct the errors aforesaid. Such meeting may be adjourned from time to time, public announcement of such adjournment being made in each case. Where lands within the boundaries of the assessment district as established have been omitted by clerical mistake from the apportionment of benefits, or from the special assessment roll, they may be added thereto, and shall be assessed their proportionate share of the cost of the improvement. Where lands have been erroneously described, they shall be correctly described as near as may be. Where the acreage of any parcel is erroneously stated to be more or less than it really is, such acreage shall be correctly stated as near as may be. Where the apportionment of benefits has already been determined by the state highway commissioner, or by the appellate boards, upon an acreage basis, the tax or apportionment upon any parcel where the acreage was wrong in the first instance shall be increased or reduced as the case may be, proportionate to the increase or decrease of the acreage of that parcel. Where any parcel of land is charged on the roll with an assessment that is improper because of some clerical error, such assessment shall be corrected.

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History: Add. 1917, Act 125, Imd. Eff. Apr. 25, 1917 ;-- Am. 1919, Act 107, Eff. Aug. 14, 1919 ;-- CL 1929, 4394 ;-- CL 1948, 247.479

247.480 Correction of tax in next assessment roll.

Sec. 80.

If a parcel of land shall have been erroneously assessed too high by reason of a mistake in the acreage of the parcel, and 1 or more years' tax shall have been paid thereon, the board of county road commissioners or the state highway commissioner, as the case may be, in their next assessment roll after the hearing herein provided, shall credit such parcel with the excessive tax theretofore paid or charged to it, and thereafter shall place the same upon the assessment roll as equalized under this act. If a parcel of land theretofore has been assessed too low by reason of a mistake of the acreage of such parcel, the board of county road commissioners or the state highway commissioner, as the case may be, in the aforesaid next roll, shall charge such parcel with the additional tax which said parcel did not pay or was not charged with on prior rolls by reason of the mistake aforesaid, and thereafter shall place such parcel upon the assessment roll as equalized under this act. If any parcel of land has been erroneously omitted from the apportionment of benefits of the tax roll, the board of county

road commissioners or the state highway commissioner, as the case may be, in their next assessment roll shall add such parcel to the roll and charge the same with all taxes theretofore omitted, as well as the tax it should regularly bear on that roll, and thereafter shall place the same upon the assessment roll as equalized under this act. It shall be assessed its just proportion of the cost of the same. Where the tax upon any parcel of land as shown by the roll is improper because of some clerical error the same shall be corrected, and the county road commissioners or the state highway commissioner, as the case may be, in their next assessment roll shall charge such parcel with the tax found to have been omitted, or credit said parcel with the amount of tax theretofore charged in excess of what it should have been; and thereafter they shall place said parcel upon the assessment roll as equalized under this act.

History: Add. 1917, Act 125, Imd. Eff. Apr. 25, 1917 ;-- Am. 1919, Act 107, Eff. Aug. 14, 1919 ;-- CL 1929, 4395 ;-- CL 1948, 247.480

247.481 Change in apportionment or tax; restriction.

Sec. 81.

The county road commissioners or the state highway commissioner, as the case may be, shall have no power to change the apportionment or tax upon any parcels of land except for the errors as in this act provided, or has been provided in said Act No. 59 of the Public Acts of 1915.

History: Add. 1917, Act 125, Imd. Eff. Apr. 25, 1917 ;-- CL 1929, 4396 ;-- CL 1948, 247.481
Compiler's Notes: For provisions of Act 59 of 1915, referred to in this section, see MCL 247.418 et seq.

247.482-247.487 Repealed. 1958, Act 77, Eff. Sept. 13, 1958.

Compiler's Notes: The repealed sections provided for construction or widening of highway into city and for a refunding plan for special assessments.

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