

CHAPTER 311

SECONDARY ROAD ASSESSMENT DISTRICTS

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311.1 Definitions.

As used in this chapter, unless the context otherwise requires, “book”, “list”, “record”, or “schedule” kept by a county auditor, assessor, treasurer, recorder, sheriff, or other county officer means the county system as defined in section 445.1.

2000 Acts, ch 1148, §1

311.1A Power to establish.

In order to provide for improvements such as grading, draining, bridging, aggregate surfacing, paving, or resurfacing of secondary roads, the board of supervisors may, on petition, establish secondary road assessment districts.

[C24, 27, 31, 35, 39, §4746; C46, §311.3; C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §311.1]
85 Acts, ch 143, §1
C2001, §311.1A

311.2 Width of district.

Any such secondary road assessment district shall be not more than one-half mile wide on each side of the road or roads to be improved by said district.

[C24, 27, 31, 35, 39, §4746; C46, §311.3; C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §311.2]

311.3 Amount of assessment.

Special assessments in the aggregate amount of not less than fifty percent of the total estimated cost of improvement of a road included in a secondary road assessment district project shall be apportioned and levied on the lands included in the secondary road assessment district.

[C24, 27, 31, 35, 39, §4753; C46, §311.10; C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §311.3]
85 Acts, ch 143, §2

311.4 County line road.

When it is desired to improve a secondary road on a county line, as a secondary road assessment district project, the board of supervisors of any county may establish an assessment district in its county, and levy and collect special assessments for the payment of that portion of the estimated cost of the project assessable against lands in that county. Each

county shall pay its share of the cost of the project as provided in this chapter, in the same manner as though the project were located wholly within that county.

[C24, 27, 31, 35, 39, §4746; C46, §311.3; C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §311.4] 85 Acts, ch 143, §3

311.5 Project in city.

A road or street which is a continuation of a secondary road within a city and which the county board desires to improve, may by resolution of the county board and concurrence by the council of the city be improved as a secondary road assessment district project or part of a project as provided in this chapter. The lands within the city abutting on or adjacent to the street or road may be included within the secondary road assessment district and assessed for the improvement upon the same basis and in the same manner as though the lands were located outside of a city.

[C24, §4754; C27, 31, 35, §4745-a1; C39, §4745.1; C46, §311.2; C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §311.5] 85 Acts, ch 143, §4

311.6 Petition — information required.

The petition for a secondary road assessment district proposing to establish the district shall intelligibly describe the road or roads proposed to be improved, the nature of the proposed improvement, the percentage of the estimated cost of improving the road proposed to be assessed against the property in the district and the lands proposed to be included in the district.

The petition shall be signed by fifty percent of the owners of the lands within the proposed district, or by fifty percent of the owners of the land within the proposed district who reside within the county.

[C24, 27, 31, 35, 39, §4746; C46, §311.3; C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §311.6] 85 Acts, ch 143, §5

311.7 Improvement by private funds.

1. a. The owner or a group of owners of not less than seventy-five percent of the lands adjacent to, or abutting upon any secondary road may, on or before October 1 of any year, petition the board of supervisors of their county for the improvement of the road, and for the assessment of not less than fifty percent, or a greater portion as provided in the petition, of the cost of the improvement, to the lands adjacent to, or abutting upon the road. When the petition has been filed, the board of supervisors shall review the project proposed by the petition and may accept or reject the proposed project. If the board of supervisors accepts the petition, the board shall include the project in the secondary road construction program of the county and establish a priority for the completion of the project.

b. The board of supervisors shall proceed with the construction and completion of the project in accordance with its assigned priority and under the same procedure as is prescribed generally for the improvement of secondary roads by assessment, and shall establish a special secondary road assessment district and assess against the lands included in the district not less than fifty percent, or a greater portion as provided in the petition, of the engineer's estimated cost of the improvements of the road included in the project against all the lands adjacent to or abutting upon the road.

c. However, if the owners of all the lands included in any special secondary road assessment district under this section, subscribe and deposit with the county treasurer an amount not less than fifty percent, or a greater portion as provided in the petition, of the engineer's estimated cost of the improvement of the road included in the project, the board of supervisors shall not establish the special assessment district, but shall accept the donations in lieu of an assessment, and shall otherwise proceed to the improvement of the road.

2. The total expenditure of secondary road funds of the county in any year for or on account of special secondary road assessment district projects on local secondary roads under this section shall not exceed the total secondary road funds legally expendable for construction on local secondary roads in the county in the year.

3. Upon the completion of the road, and the satisfaction of all claims in relation to the road, any balance then remaining of the funds provided by the sponsors shall be returned to them according to their respective interests, providing all guarantees made by the sponsors have been fulfilled.

[C24, 27, 31, 35, 39, §4747, 4753; C46, §311.4, 311.10; C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §311.7]

83 Acts, ch 123, §112, 209; 85 Acts, ch 143, §6; 86 Acts, ch 1024, §1; 2010 Acts, ch 1061, §180

311.8 County engineer's report.

Upon the filing of the petition with the county engineer proposing the establishment of a secondary road assessment district, the county engineer shall prepare a report on the proposed district, which report shall include:

1. An estimate of the cost of the improvement proposed on the road included in the proposed district.

2. A plat of said proposed district which plat shall show the road or roads proposed to be improved, the various tracts and parcels of real estate included in said proposed district, and the ownership of such lands.

3. An approximately equitable apportionment of not less than fifty percent of the estimated cost of the improvement among the tracts and parcels of real estate included in the proposed district.

4. A statement whether all of the secondary roads to be improved in the proposed secondary road assessment district project have been built to permanent grade and properly drained.

5. Any information the county engineer may deem pertinent.

[C24, 27, 31, 35, 39, §4746, 4748; C46, §311.3, 311.5; C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §311.8; 81 Acts, ch 117, §1211]

85 Acts, ch 143, §7

311.9 Publicly owned real estate.

In making said apportionment, real estate owned by the state, county or any city, shall be treated as other real estate, but no other publicly owned real estate shall be included. In apportioning benefits to real estate owned by a city, the county or the state, no consideration shall be given to the buildings thereon.

[C24, §4707; C27, 31, 35, §4753-a1; C39, §4753.01; C46, §311.11; C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §311.9]

311.10 Estimate and apportionment — presumption.

Said estimated cost shall carry the presumption, in the absence of a contrary showing, that the same correctly represents the probable cost of said project as nearly as can be determined in advance of the actual doing and completion of the work. Said apportionment shall carry the presumption, in the absence of a contrary showing, that the same is fair, just, equitable, and in proportion to the benefits and not in excess thereof.

[C24, §4707; C27, 31, 35, §4753-a1; C39, §4753.01; C46, §311.11; C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §311.10]

311.11 Hearing — notice.

The board of supervisors shall fix a time for hearing on the proposal for the establishment of the secondary road assessment district and on the apportionment of not less than fifty percent of the estimated cost of the proposed improvement, and shall cause the county engineer to publish notice of the hearing. The notice shall state:

1. The time and place of hearing,
2. The road or roads proposed to be improved,
3. The type of surfacing proposed,
4. The estimated cost of the proposed improvement,
5. A description of the lands lying within said proposed district,
6. The ownership of said lands as shown by the transfer books in the auditor's office,

7. A statement of the amount apportioned to each tract or parcel of real estate as shown by the engineer's report,

8. That at said hearing the amount apportioned to any tract or parcel of land may be increased or decreased without further notice,

9. That all objections to the establishment of the district, to the apportionment report, or to the proceedings relating to the district or report must be specifically made in writing and filed with the county engineer on or before noon of the day set for the hearing, and

10. That a failure to make and file such objections will be deemed a conclusive waiver of all such objections.

[C24, §4707, 4750, 4751; C27, 31, 35, §4750, 4751, 4753-a1; C39, §4750, 4751, 4753.01; C46, §311.7, 311.8, 311.11; C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, S81, §311.11; 81 Acts, ch 117, §1212]

85 Acts, ch 143, §8

311.12 Publication of notice.

The notice shall be published as provided in section 331.305 in the county as near as practicable to the district. Proof of the publication shall be made by the publisher by affidavit filed with the county engineer.

[C24, §4707; C27, 31, 35, §4753-a1; C39, §4753.01; C46, §311.11; C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, S81, §311.12; 81 Acts, ch 117, §1213]

87 Acts, ch 43, §8

311.13 Errors in notice or apportionment report.

Any omission or error in said apportionment report or notice with respect to any tract or parcel of real estate or the description thereof, or the name of the owner, or the amount of the assessment apportioned thereto, shall work no loss of jurisdiction on the part of the board over such proceeding. Such omission or error shall only affect the particular tract of real estate or person in question. If, before or after the board has entered its final order in the establishment of the said district or in the apportionment proceedings such omission or error is discovered, the board shall fix a time for a hearing as to such party or real estate and shall cause service of notice to be made upon them, either by publication as in this chapter provided, or by personal service in the time and manner required for service of original notices in the district court. After such hearing the board shall proceed as to such person or land as though such omission or error had not occurred.

[C24, §4707; C27, 31, 35, §4753-a1; C39, §4753.01; C46, §311.11; C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §311.13]

311.14 Appearance.

The appearance of any interested party, either in writing or personally, or by authorized agent, before the board of supervisors at any stage of the pending proceedings for a secondary road assessment district shall be deemed a full appearance. Only interested parties shall have the right to appear in such proceedings. All persons so appearing shall state for whom they appear. The clerk of the board shall make definite entry accordingly in the minutes of the board.

[C24, §4707; C27, 31, 35, §4753-a1; C39, §4753.01; C46, §311.11; C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §311.14]

311.15 Hearing — adjournment — order.

Hearings on the proposed establishment of said district may be adjourned from time to time without loss of jurisdiction by the board. On final hearing the board shall proceed to a determination of said matters. It may reject, approve, or modify and approve said proposal. The board may exclude lands from the district or may add lands thereto or otherwise modify the proposal.

Should the proposal be approved in whole or in part, the board shall establish such district. The order of the board establishing such district shall state the road or roads to be improved,

the type of improvement, and the lands included in said district. Said order shall be final. No lands shall thereafter be added to or excluded from said district.

[C24, §4709; C27, 31, 35, §4753-a2; C39, §**4753.02**; C46, §311.12; C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §311.15]

311.16 Final hearing — assessment levied.

On final hearing the board shall hear and determine all objections filed. The board may increase, diminish, annul, or affirm the apportionment made in said report, or any part thereof, as may appear to the board to be just and equitable.

On the final determination the board shall levy the assessments and all installments thereof upon the real estate within the district as finally established. The entire amount of the assessment shall be then due and payable, and bear interest at a rate not exceeding that permitted by chapter 74A commencing twenty days from the date of the levy, and shall be collected at the succeeding September semiannual payment of ordinary taxes.

[C24, §4710; C27, 31, 35, §4753-a3; C39, §**4753.03**; C46, §311.13; C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §311.16]

311.17 Assessments over one hundred dollars — waiver.

1. If an owner other than the state or a county or city, of any tracts of land on which the assessment is more than one hundred dollars, shall, within twenty days from the date of the assessment, agree in writing filed in the office of the county auditor, that in consideration of the owner having the right to pay the assessment in installments, the owner will not make any objection of illegality or irregularity as to the assessment upon the real estate, and will pay the assessment plus interest, the assessment shall be payable in ten equal installments. The first installment shall be payable on the date of the agreement. The other installments shall be paid annually at the same time and in the same manner as the September semiannual payment of ordinary taxes with interest accruing as provided in section 384.65, subsection 3. The rate of interest shall be as established by the board, but not exceeding that permitted by chapter 74A.

2. An owner of land who has used the ten-year option may at any time discharge the assessment by paying the balance then due on all unpaid installments, with interest on the entire amount of the unpaid installments to the following December 1.

[C24, §4710; C27, 31, 35, §4753-a3; C39, §**4753.03**; C46, §311.13; C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §311.17]

98 Acts, ch 1107, §4

311.18 Assessment delinquent — interest.

The assessed taxes shall become delinquent from October 1 after their maturity. However, when the last day of September is a Saturday or Sunday, the assessed taxes shall become delinquent from the second business day of October. Taxes assessed pursuant to this chapter which become delinquent shall bear the same interest, and be attended with the same rights and remedies for collection, as ordinary taxes.

[C24, §4710; C27, 31, 35, §4753-a3; C39, §**4753.03**; C46, §311.13; C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §311.18]

92 Acts, ch 1016, §3; 98 Acts, ch 1107, §5; 2005 Acts, ch 34, §1, 26

311.19 Assessment one hundred dollars or less.

Assessments of one hundred dollars or less against any tract of land, and assessments against lands owned by the state, county or city, shall be due and payable from the date of levy by the board of supervisors, or in the case of any appeal, from the date of final confirmation of the levy by the court.

In case of assessments on lands owned by the county, the assessments shall be paid from the county treasury. In case of assessments on lands owned by the state, the assessments shall be paid out of any funds in the state treasury not otherwise appropriated. In case of

assessments on lands owned by a city, the assessments shall be paid from any available city fund.

[C24, §4710; C27, 31, 35, §4753-a3; C39, §**4753.03**; C46, §311.13; C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §311.19]

83 Acts, ch 123, §113, 209; 98 Acts, ch 1107, §6

311.20 Variation between estimated and actual cost.

Any variation between the engineer's estimated cost and the actual cost of a secondary road assessment district project shall in no way affect the validity of the assessment. It is the intent of this chapter that the assessment shall be based on the estimated cost and not on the actual cost.

[C24, §4711; C27, 31, 35, §4753-a4; C39, §**4753.04**; C46, §311.14; C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §311.20]

311.21 Procedures.

The preparation and approval of plans and specifications, the advertising for bids, the award and approval of contract, the supervision and inspection of construction work, and the approval and payment of claims on any secondary road assessment district project, shall be conducted in the manner provided in the laws for secondary road construction work generally.

[C24, 27, 31, 35, 39, §**4749, 4752**; C46, §311.6, 311.9; C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §311.21]

311.22 Road graded and drained.

Any such secondary road shall be built to permanent grade and drained in a manner approved by the county engineer before being surfaced, as provided in this chapter.

[C27, 31, 35, 39, §**4746**; C46, §311.3; C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §311.22]

311.23 Payment of construction costs.

The total cost of any secondary road assessment district project shall in the first instance be paid out of the county treasury. Any assessments which are paid in cash and in anticipation of which assessments no certificates have been issued, shall be transferred to the county treasury.

If no special assessment certificates are issued and sold on account of any particular secondary road assessment district, the special assessments on lands included in that district, and the interest on the assessments when collected, shall be transferred to the secondary road fund of the county. If certificates are issued and sold in anticipation of the special assessments levied on a district, the proceeds of the certificates shall be credited to the county treasury. In that event, the special assessments in anticipation of which certificates have been issued, and the interest on the assessments shall, when collected, be used to retire the certificates.

[C24, 27, 31, 35, 39, §**4752**; C46, §311.9; C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §311.23]
83 Acts, ch 123, §114, 209

311.24 Appeal from assessment.

Any owner of land in a secondary road assessment district may appeal to the district court from the order of the board of supervisors in levying the assessment against the owner's real estate, by filing with the county engineer within fifteen days of the date of the levy, a bond conditioned to pay all costs in case the appeal is not sustained, and a written notice of appeal where the owner shall, with particularity, point out the specific objection which the owner desires to lodge against the levy. The appeal has precedence over all other business pending before the court except criminal matters. The appeal shall be heard as in equity. The court may raise or lower the assessment in question and make an equitable assessment in the judgment of the court. The clerk of the district court shall, upon the entry of the final order of

the court, certify the final order to the county engineer. The board of supervisors shall adjust the assessments to comply with the final order of the court.

[C24, §4713; C27, 31, 35, §4753-a5; C39, §**4753.05**; C46, §311.15; C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, S81, §311.24; 81 Acts, ch 117, §1214]

311.25 Appeal docketed.

When an appeal is taken, the county engineer shall make a transcript of the notice of appeal and appeal bond and transmit them to the district court. The appellant shall, within twenty days after perfection of the appeal, docket the appeal and file a petition setting forth the order or decision of the board of supervisors appealed from, and the appellant's specific objections. A failure to comply with either of these requirements is a conclusive waiver of the appeal and the court shall dismiss the petition. Appellee need not file answer, but may do so.

[C24, §4714; C27, 31, 35, §4753-a6; C39, §**4753.06**; C46, §311.16; C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, S81, §311.25; 81 Acts, ch 117, §1215]

311.26 Assessments certified to county treasurer.

When the board of supervisors has entered its final order as to the amounts of all special assessments on a given improvement, the county engineer shall at once certify a list of the assessments and a list of real estate upon which each assessment has been levied, with the specific designation of the district embracing the real estate, to the county treasurer, who shall enter each assessment on the tax books and continue the entry until the assessment is paid.

Each special assessment and all installments of the special assessments are a lien upon the real estate upon which levied from the date of the certificate by the county engineer to the same extent and in the same manner as taxes levied for state and county purposes. Changes in the amount of a special assessment by reason of a ruling of the district court on appeals shall be likewise certified and the county treasurer shall make the proper correction on the books.

[C24, §4715; C27, 31, 35, §4753-a7; C39, §**4753.07**; C46, §311.17; C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, S81, §311.26; 81 Acts, ch 117, §1216]

311.27 Each district separate unit.

Each assessment district shall be considered a unit and all funds received by the county treasurer for or on behalf of such unit shall be carried as a distinct and separate account and under the same specific name as that used by the board in establishing such unit.

[C24, §4716; C27, 31, 35, §4753-a8; C39, §**4753.08**; C46, §311.18; C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §311.27]

311.28 Certificates anticipating assessments.

In order to render immediately available that amount of the estimated cost of an improvement which has been specially assessed, the board may issue road certificates in the name of the county in an aggregate amount not exceeding the then unpaid amount of the special assessment levied in the district. Each issue of certificates shall be under, and in accordance with, a duly adopted resolution of the board which shall recite all of the following:

1. The name or designation of the road district on account of which the certificates are issued.
2. That a stated amount has been specially assessed against the lands within the district.
3. That a stated amount of the aggregate special assessment has not yet been paid.
4. That it is necessary to render the unpaid amount immediately available.
5. The number of road certificates authorized and the specific amount of each certificate.
6. The specific numbering or designation of the certificates.
7. The rate of interest which each certificate shall bear from date, not exceeding that permitted by chapter 74A.
8. The fact that the certificates are payable solely from the proceeds of the special assessments which have been levied on the lands within the districts.

9. That each certificate shall be payable on or before January 1 of the first year following the maturity of the last installment of the special assessments, and that interest on the certificate shall be paid annually.

10. The authorization to the chairperson of the board, and to the county treasurer, to sign and countersign each of the certificates.

[C24, §4717; C27, 31, 35, §4753-a9; C39, §4753.09; C46, §311.19; C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, S81, §311.28; 81 Acts, ch 117, §1217]

311.29 Sale of certificates.

Upon the signing of each of the certificates by the chairperson of the board, the certificates shall be delivered to the county treasurer, who shall countersign them and who shall be responsible for them on the treasurer's bond. The treasurer may apply the certificates in payment of warrants duly authorized and issued for improving the roads within the district, or the treasurer may sell the certificates for the best attainable price and for not less than par, plus accrued interest. The certificates shall be retired in the order of their numbering.

[C24, §4717; C27, 31, 35, §4753-a9; C39, §4753.09; C46, §311.19; C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, S81, §311.29; 81 Acts, ch 117, §1218]

83 Acts, ch 123, §115, 209; 85 Acts, ch 143, §9

311.30 Certificates registered — payment.

The county treasurer shall, in connection with the road account for said district, enter the name and post office address of all persons to whom any of said certificates are issued, with a particular designation of the certificates delivered to each person. Any subsequent holder may present the certificate to the county treasurer and cause the subsequent holder's name and post office address to be entered in lieu of that of such former holder. Whenever the fund for such particular district has money to pay the first retirable certificate or certificates, the county treasurer shall, by mail, as shown by the county treasurer's records, promptly notify the holder of such certificate of such fact and that from and after ten days after the mailing of such letter all interest on such certificates will cease.

[C24, §4717; C27, 31, 35, §4753-a9; C39, §4753.09; C46, §311.19; C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §311.30]

311.31 Repealed by 87 Acts, ch 115, § 83.

311.32 Administration and maintenance of roads.

Any road established by petition and any road improved by petition under this chapter shall be administered and maintained by the county under chapters 306, 309, 314, 317, and 318. However, the fact that right-of-way is donated by property owners for the establishment of a road or a portion of the cost of a road improvement is paid by property owners under this chapter, does not preclude the board of supervisors from exercising its responsibility over these roads as secondary roads.

86 Acts, ch 1024, §2; 2006 Acts, ch 1097, §16