

CONSTRUCTION, IMPROVEMENT, AND MAINTENANCE OF HIGHWAYS (EXCERPT)
Act 59 of 1915
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."

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

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

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

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.

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.