

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

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.

**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 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.

**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 note:** 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.

**247.464 Repealed. 1963, Act 213, Eff.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

**Compiler's note:** 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.