OHIO SPECIAL ASSESSMENTS OUTLINE

AUDITOR OF STATE
14TH ANNUAL LOCAL GOVERNMENT OFFICIALS’ CONFERENCE

APRIL 3, 2013

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I. INTRODUCTION

II. SPECIAL ASSESSMENTS ARE

(A) Charges against property (not owner) to pay costs of improvements or services that benefit the property

(B) NOT taxes

(C) Improvements include: sidewalks, sanitary sewers, water lines, storm water drainage and streets and roads

(D) Services includes lighting, sidewalk repair, cleaning and snow removal

III. PROCESS (GENERALLY AND USING MUNICIPAL CORPORATION ASSESSMENTS AS EXAMPLE)

(A) Either (i) Determination of necessity of improvement by municipal corporation

   or

   (ii) Petition by property owner

(B) Determine Costs (R.C. §727.08)

   (i) Cost of real estate interests

   (ii) Surveys

   (iii) Plans, specifications, profiles and estimates

   (iv) Publishing and serving notices

   (v) All proceedings

   (vi) Labor and material

   (vii) Interest on debt or money advanced to pay costs in anticipation of levy or collection of special assessments

   (viii) Damages

   (ix) Costs incurred in connection with preparation, levy and collection of special assessments, including legal expenses
(x) Incidental costs

(C) Limitation on Costs

(i) By petition – current and prior five years assessments cannot exceed 33-1/3% of actual value of parcel

(ii) Without petition

(a) current and prior five years assessments cannot exceed 33-1/3% of actual value of parcel

(b) Sewer mains cannot exceed costs of sewer to drain the property to be assessed

(c) Repaving streets when original paving was assessed, cannot exceed 50% of costs

(d) Municipal corporation to pay at least 2% (1/50th) of total cost and all costs of intersections

(D) Determine Property to be Assessed and Method

(i) By percentage of the tax value of the property

(ii) In proportion to benefits

(iii) By front foot of property bounding and abutting improvement

(E) Filing of plans, specifications and estimate; determination of necessity

(F) Notice of passage of determination of necessity; notice

(i) Served on property owners in same manner as summons or by certified mail

(ii) If service or return of certified mail fails, publication in newspaper

(iii) Usually, automatically do both

(iv) Exception for service: If assessment for lighting; sprinkling, sweeping or cleaning streets; planting or maintaining shade trees or improvement of ditches, then publish once for two consecutive weeks
(G) Opportunity to object

(i) Object to amount or apportionment of assessment

(ii) Not opportunity to object to improvement or service

(H) Hearing on objections

(i) By assessment equalization board consisting of three disinterested freeholders of municipal corporation

(I) Report of Assessment Equalization Board

(i) If increases amount or apportionment of property owner that did not object, send notice described in (E) again

(ii) If lower amount or apportionment without affecting other property owners, municipal corporation will pick up difference

(iii) Deliver report to council

(J) Council approves or disapproves report

(i) Approves, council determines whether to proceed

(ii) Disapproves, counsel appoints new assessment equalization report

(K) Determination to proceed

(i) State intention to proceed

(ii) Adopt estimated assessment prepared and file previously or as revised by assessment equalization board

(iii) Determine whether or not claims for damages will be reviewed before or after completion of project

(L) File Ordinance to Proceed with County Auditor

(i) Establishes priority of lien of assessment over all other liens if filed timely, including previously filed liens (O.R.C. §319.61)

(ii) But, adverse opinion of court of common pleas of Cuyahoga County
(M) Bids

(i) If in excess of 15% of estimate, cannot proceed until after public hearing council determines to proceed

(ii) Notice of public hearing to affected property owners publish at least 48 hours prior to public hearing

(N) Assessment Ordinance

(i) After final costs known, final assessments determined

(ii) Publish notice of passage of ordinance once

(iii) Recommend notice be given to property owner

(iv) Provide period for payment

(v) Assessments not paid bear interest at rate of debt issued in anticipation of collection of assessments or as determined by council

(vi) County auditor also charges fee to property owner for collection

(O) Issuance of debt

(i) After ordinance to proceed to pay costs of improvement

(ii) After final payment of assessments to retire debt or advance to pay costs of improvement

(iii) If no debt issued, council can determine an interest rate to be charged

(P) Certify assessment to county auditor for collection

(i) Including interest charge

(ii) For current year or all years?

IV. EACH ASSESSMENT AUTHORIZATION HAS OWN PROCESS

(A) Necessary to read appropriate statute
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UNIFORM BOND LAW PROVISIONS

133.17 Anticipation securities for special assessments.

(A) The taxing authority of a subdivision may issue securities in anticipation of the collection of unpaid special assessments in an amount sufficient to pay that portion of the cost of the permanent improvement or service for which the special assessments have been levied. Proceeds of the annual collections of the special assessments shall be applied first to pay the debt charges on the securities payable from those special assessments and then, after the payment in full of those debt charges, to pay any other permitted costs.

(B) The taxing authority of a subdivision may issue anticipatory securities in anticipation of the levy of special assessments and of the issuance of securities under division (A) of this section. The anticipatory securities shall mature not later than the last day of December of the fifth year following the year in which the first such anticipatory securities are issued, except that the anticipatory securities may be renewed thereafter from time to time until the final disposition of any litigation that prevents or delays the delivery of the securities to be issued under division (A) of this section. The principal amount of those anticipatory securities issued shall not exceed that portion of the estimated cost of the permanent improvement for which the special assessments are to be levied. When anticipatory securities are issued, the proceeds of any securities thereafter issued in anticipation of the levy or of the collection of the same special assessments and all of the special assessments collected for the purpose shall be applied first to the extent necessary to the payment of the debt charges on the anticipatory securities. After the debt charges on the anticipatory securities have been paid or provided for in full, all of the special assessments shall be applied first to the payment of the debt charges on subsequent outstanding securities.

(C) In addition to authority for combination in other provisions of this chapter, securities authorized to be issued under either division (A) or (B) of this section may be combined for all purposes of this chapter in a single issue composed of securities issued under the applicable division (A) or (B) of this section and of securities to pay the subdivision’s share of the cost of the permanent improvements for which the special assessment securities are issued, which combined issue shall be considered to be for one purpose.

(D) Securities issued under this section in anticipation of the levy or of the collection of special assessments are general obligations of the issuing subdivision.

133.37 Refunding special assessment bonds.

With the approval of the tax commissioner, the taxing authority of any subdivision at any time may refund any outstanding bonds of the subdivision which have matured or which are about to mature and which were issued in anticipation of the collection of special assessments, together with the amount of the interest coupons due or to become due on such bonds. The commissioner shall approve such issue only to any extent it is found that no other method of payment in whole or in part exists or will exist prior to the maturity date of such bonds which are about to mature from the collection of special assessments in anticipation of which such bonds were issued or from other funds in the bond retirement fund of the subdivision, excluding securities held in the bond retirement fund only when the commissioner finds that the sale of such securities in order
to meet the debt charges thereon would necessitate an unwarranted sacrifice of the securities so held, thereby impairing the ability to meet other debt charges in the future. In the order approving such issue, the commissioner shall fix the maturities of the bonds to be issued, which need not be subject to sections 133.20 and 133.21 of the Revised Code. No such bonds shall mature in more than ten years. The debt charges thereon shall have the same status with respect to the limitations imposed by Section 2 of Article XII, Ohio Constitution, as the debt charges which are refunded.

The proceeds derived from the sale of such refunding bonds shall be transferred to the bond retirement fund of the subdivision, and shall be used only for the purpose of meeting the debt charges on the bonds to be refunded.

This section supplements section 133.34 of the Revised Code.

COUNTY RENEWAL AREA

303.26 Removal of slum or blighted area definitions.

As used in sections 303.26 to 303.56 of the Revised Code, unless a different meaning is clearly indicated by the context:

(A) “Municipality” means any incorporated city or village of the state.

(B) “Public body” means the state, any county, municipality, township, board, commission, authority, district, or other subdivision.

(C) “Federal government” means the United States or any agency or instrumentality, corporate or otherwise thereof.

(D) “Slum” has the meaning defined in section 1.08 of the Revised Code.

(E) “Blighted area” has the meaning defined in section 1.08 of the Revised Code.

If such blighted area consists of open land, the provisions of section 303.34 of the Revised Code shall apply.

Any disaster area referred to in section 303.36 of the Revised Code shall constitute a “blighted area”.

(F) “County renewal project” may include undertakings and activities of a county in a county renewal area for the elimination and for the prevention of the development or spread of slums and blight, and may involve slum clearance and redevelopment in a county renewal area, or rehabilitation or conservation in a county renewal area, or any combination or part thereof, in accordance with a county renewal plan, and such aforesaid undertakings and activities may include acquisition of a slum area or a blighted area, or portion thereof; demolition and removal of buildings and improvements; installation, construction, or reconstruction of streets, utilities,
parks, playgrounds, and other improvements necessary for carrying out in the county renewal area the county renewal objectives of sections 303.26 to 303.56, inclusive, of the Revised Code in accordance with the county renewal plan; disposition of any property acquired in the county renewal area, including sale, initial leasing, or retention by the county itself, at its fair value for uses in accordance with the county renewal plan; carrying out plans for a program of voluntary or compulsory repair and rehabilitation of buildings or other improvements in accordance with the county renewal plan; and acquisition of any other real property in the county renewal area where necessary to eliminate unhealthful, insanitary, or unsafe conditions; lessen density, eliminate obsolete, or other uses detrimental to the public welfare, or otherwise to remove or prevent the spread of blight or deterioration, or to provide land for needed public facilities.

(G) “County renewal area” means a slum area or a blighted area or a combination thereof which the board of county commissioners designates as appropriate for a county renewal project.

(H) “County renewal plan” means a plan, as it exists from time to time, for a county renewal project, which plan shall conform to the general plan for the county, except as provided in section 303.36 of the Revised Code, and shall be sufficiently complete to indicate such land acquisition, demolition, and removal of structures, redevelopment, improvements, and rehabilitation as may be proposed to be carried out in the county renewal area, zoning, and planning changes, if any, land uses, maximum densities, building requirements, and the plan’s relationship to definite local objectives respecting appropriate land uses, improved traffic, public transportation, public utilities, recreational and community facilities, and other public improvements.

(I) “Redevelopment” and derivatives thereof, when used with respect to a county renewal area, mean development as well as redevelopment.

(J) “Real property” includes all lands, including improvements and fixtures thereon, and property of any nature appurtenant thereto, or used in connection therewith, and every estate, interest, right, and use, legal or equitable, therein, including terms for years and liens by way of judgment, mortgage, or otherwise.

(K) “Person” means any individual, firm, partnership, corporation, company, association, joint stock association, or body politic, and includes any trustee, receiver, assignee, or other person acting in a similar representative capacity.

(L) “Obligee” includes any bondholder, agents, or trustees for any bondholders, or lessor demising to the county property used in connection with a county renewal project, or any assignee or assignees of such lessor’s interest or any part thereof, and the federal government when it is a party to any contract with the county.

(M) “Bond,” as used in section 303.46 of the Revised Code, means bonds, including refunding bonds, notes, interim certificates of special indebtedness, debentures, or other obligations of a county, payable and secured as authorized by section 303.46 of the Revised Code.
303.29 Adoption of resolution of necessity.

No board of county commissioners shall exercise the authority conferred upon counties by sections 303.26 to 303.56, inclusive, of the Revised Code, until after it has adopted a resolution finding that one or more slum or blighted areas exist in the county; and the rehabilitation, conservation, redevelopment, or combination thereof, of such slum or blighted area or areas is necessary in the interest of the public health, safety, morals, or welfare of the residents of such county.

303.30 Prerequisites for approval county renewal project for county renewal area.

A board of county commissioners shall not approve a county renewal project for a county renewal area unless it has, by resolution, determined such area to be a slum area or a blighted area or a combination thereof and designated such area as appropriate for a county renewal project. The board shall not approve a county renewal plan until a general plan for the county has been prepared by the planning commission of the county. A board shall not acquire real property for a county renewal project unless it has approved the county renewal project in accordance with section 303.33 of the Revised Code.

303.31 Preparing county renewal plan.

A board of county commissioners may itself prepare or cause to be prepared a county renewal plan, or any person or agency, public or private, may submit such a plan to the county. Prior to its approval of a county renewal project, the board shall submit such plan to the planning commission of the county for review and recommendations as to its conformity with the general plan for the development of the county. The planning commission shall submit its written recommendations with respect to the proposed county renewal plan to the board within thirty days after receipt of the plan for review. Upon receipt of the recommendations of the planning commission or, if no recommendations are received within thirty days, then without such recommendations, the board may proceed with the hearing on the proposed county renewal project.

303.32 Public hearing on county renewal project.

The board of county commissioners shall hold a public hearing on a county renewal project. Publication of the hearing shall be made on two successive days by the board at least fifteen days prior to the scheduled hearing date in a newspaper having general circulation in the county. The notice shall describe the time, date, place, and purpose of the hearing; shall generally identify the county renewal area covered by the county renewal plan; and shall outline the general scope of the county renewal project under consideration.

303.33 Approving county renewal project for county renewal area.

Following the public hearing required by section 303.32 of the Revised Code, the board of county commissioners may approve a county renewal project for the county renewal area if it finds that a feasible method exists for the location of families who will be displaced from the
county renewal area in decent, safe, and sanitary dwelling accommodations within their means and without undue hardship to such families; the county renewal plan conforms to the general plan of the county; and the county renewal plan will afford maximum opportunity, consistent with the sound needs of the county, for the rehabilitation or redevelopment of the county renewal area by private enterprise. If the county renewal area consists of an area of open land to be acquired by the county, such area shall not be so acquired unless, if it is to be redeveloped for residential uses, the board determines that a shortage of housing of sound standards and design which is decent, safe, and sanitary exists in the county; that the need of housing accommodations has been or will be increased as a result of the clearance of slums in other areas, including other portions of the county renewal area; that the conditions of blight in the area and the shortage of decent, safe, and sanitary housing cause or contributed to an increase in and spread of disease and crime and constitute a menace to the public health, safety, morals, or welfare; and that the acquisition of the area for residential uses is an integral part of and essential to the program of the county, or, if it is to be developed for nonresidential uses, the board determines that such nonresidential uses are necessary and appropriate to facilitate the proper growth and development of the county in accordance with sound planning standards and county objectives, which acquisition may require the exercise of governmental action, as provided in sections 303.26 to 303.56, inclusive, of the Revised Code, because of defective or unusual conditions of title, diversity of ownership, tax delinquency, improper subdivisions, outmoded street patterns, deterioration of site, economic disuse, unsuitable topography, or faulty lot layouts, the need for the correlation of the area with other areas of the county by streets and modern traffic requirements, or any combination of such factors or other conditions which retard development of the area.

303.36 Redeveloping or rehabilitating disaster areas.

Where the board of county commissioners certifies that an area in the county, but outside the corporate limits of any city or other incorporated municipality, is in need of redevelopment or rehabilitation as a result of a flood, fire, hurricane, earthquake, storm, or other catastrophe respecting which the governor has certified the need for disaster assistance under public law 875, eighty-first congress, or other federal law, it may approve a county renewal plan and a county renewal project with respect to such area without regard to the provisions of section 303.33 of the Revised Code and the provisions of sections 303.30 and 303.32 of the Revised Code requiring a general plan for the county and a public hearing on the county renewal project.

303.37 Board of county commissioners - powers and duties.

Every board of county commissioners shall have all the powers, and the right to exercise such powers, necessary or convenient to carry out sections 303.26 to 303.56, inclusive, of the Revised Code, including the following powers granted in addition to those specifically authorized by sections 303.26 to 303.56, inclusive, of the Revised Code:

(A) To undertake and carry out county renewal projects within the county but outside the corporate limits of cities and other incorporated municipalities, to make and execute contracts and other instruments necessary or convenient to the exercise of its powers under sections 303.26
to 303.56, inclusive, of the Revised Code, and to disseminate slum clearance and county renewal information;

(B) To provide, arrange, or contract for the furnishing or repair by any person or agency, public or private, of services, privileges, works, streets, roads, public utilities, or other facilities for or in connection with a county renewal project; to install, construct, and reconstruct streets, utilities, parks, playgrounds, and other public improvements; and to agree to any conditions that it determines reasonable and appropriate attached to federal financial assistance and imposed pursuant to federal law relating to the determination of prevailing salaries or wages or compliance with labor standards, in the planning, undertaking, or carrying out of a county renewal project, and to include in any contract let in connection with such a project, provisions to fulfill such of said conditions as it determines reasonable and appropriate;

(C) To enter into any building or property in any county renewal area of the county in order to make inspections, surveys, appraisals, soundings, or test borings, and to obtain an order for this purpose from a court of competent jurisdiction in the event entry is denied or resisted; to acquire by purchase, lease, option, gift, grant, bequest, devise, eminent domain, or otherwise, any real property, or personal property for its administrative purposes, together with any improvements thereon; to hold, improve, clear, or prepare for redevelopment any such property; to mortgage, pledge, hypothecate, or otherwise encumber or dispose of any real property; to insure or provide for the insurance of any real or personal property or operations of the county against any risks or hazards, including the power to pay premiums on any such insurance; and to enter into any contracts or agreements necessary to effectuate the purposes of sections 303.26 to 303.56, inclusive, of the Revised Code. No statutory provision with respect to the acquisition, clearance, or disposition of property by public bodies shall restrict a board of county commissioners or other public body exercising any powers under sections 303.26 to 303.56, inclusive, of the Revised Code, in the exercise of such functions with respect to a county renewal project, unless the general assembly shall specifically so state;

(D) To invest any county renewal project funds held in reserves or sinking funds or any such funds not required for immediate disbursement, in property or securities in which savings banks may legally invest funds subject to their control; to redeem such bonds as have been issued pursuant to section 303.46 of the Revised Code at the redemption price established therein or to purchase such bonds at less than redemption price, all such bonds so redeemed or purchased to be cancelled;

(E) To borrow money and to apply for and accept advances, loans, grants, contributions, and any other form of financial assistance from the federal government, this state, or any other public body, or from any sources, public or private, for the purposes of sections 303.26 to 303.56, inclusive, of the Revised Code, and to give such security as may be required and to enter into and carry out contracts or agreements in connection therewith; and to include in any contract or agreement for financial assistance with the federal government for or with respect to a county renewal project such conditions imposed pursuant to federal laws as the board determines reasonable and appropriate and which are not inconsistent with the purposes of sections 303.26 to 303.56, inclusive, of the Revised Code;
(F) Within the county but outside the corporate limits of cities and other incorporated municipalities, to make or have made all surveys and plans necessary to carry out the purposes of sections 303.26 to 303.56, inclusive, of the Revised Code, and to contract with any person, public or private, in making and carrying out such plans, and to adopt or approve, modify, and amend such plans, which plans may include, without limitation: a general plan for the county; county renewal plans; preliminary plans outlining county renewal activities for county communities or neighborhoods to embrace two or more county renewal areas; plans for carrying out a program of voluntary or compulsory repair and rehabilitation of buildings and improvements; plans for the enforcement of state and local laws, codes, and regulations relating to the use of land and the use and occupancy of buildings and improvements and to the compulsory repair, rehabilitation, demolition, or removal of buildings and improvements; and appraisals, title searches, surveys, studies, and other plans and work necessary to prepare for the undertaking of county renewal projects; and, to develop, test, and report methods and techniques, and carry out demonstrations and other activities, for the prevention and the elimination of county area slums and blight, and to apply for, accept, and utilize grants of funds from the federal government for such purposes;

(G) To prepare plans for the relocation of persons, including families, business concerns, and others, displaced by a county renewal project, and to make relocation payments to or with respect to such persons for moving expenses and losses of property for which reimbursement or compensation is not otherwise made, including the making of such payments financed by the federal government.

(H) To appropriate such funds and make such expenditures as may be necessary to carry out the purposes of sections 303.26 to 303.56, inclusive, of the Revised Code, and to levy taxes and assessments for such purposes; to zone or rezone any part of the county other than areas within the corporate limits of cities and other incorporated municipalities or make exceptions from building regulations of the county;

(I) To close, vacate, plan, or replan streets, roads, sidewalks, ways, or other places; and to plan or replan any part of a county area outside the corporate limits of cities and other incorporated municipalities;

(J) To organize, coordinate, and direct the administration of the provisions of sections 303.26 to 303.56, inclusive, of the Revised Code, as they apply to the area of the county outside the corporate limits of cities and other incorporated municipalities in order that the objective of remedying county slum and blighted areas and preventing the causes thereof within the county’s unincorporated areas may be most effectively promoted and achieved, and to establish such new office or offices of the county or such new department or departments or commissions thereof in order to carry out most effectively the purposes and objectives of sections 303.26 to 303.56, inclusive, of the Revised Code.

303.38 Acquiring real property by right of eminent domain.

Every board of county commissioners may acquire by eminent domain any interest in real property, whether owned privately or publicly, including a fee simple title thereto, which it
determines necessary for or in connection with a county renewal project within the county, and this power may be exercised in the manner provided in section 307.08 of the Revised Code, or it may be exercised in the manner now or which may be hereafter provided by any other statutory provisions for the exercise of the power of eminent domain by boards of county commissioners. Real property belonging to the United States, the state of Ohio, or any political subdivision of the state, or municipalities shall not be acquired under this section without its consent.

303.39 Disposing of real property.

Notwithstanding any of the provisions of sections 303.07 to 303.10, inclusive, of the Revised Code, a county which acquires any real property, or any interest therein, in a county renewal area for or in connection with a county renewal project thereof for such area may dispose of any of such real property or interest therein as follows:

(A) The board of county commissioners may sell, lease, or otherwise transfer real property or any interest therein acquired by it, and may enter into contracts with respect thereto, in a county renewal area for residential, recreational, commercial, industrial, or other uses or for public use, or may retain such property or interest for public use, in accordance with the county renewal plan for such county renewal area, subject to such covenants, conditions, and restrictions, including covenants running with the land, as it determines to be necessary or desirable to assist in preventing the development or spread of future slums or blighted areas or to otherwise carry out the purposes of sections 303.26 to 303.56, inclusive, of the Revised Code. Such sale, lease, or other transfer, or retention, and any agreement relating thereto, may be made only after the approval of the county renewal plan by the board. The purchasers or lessees and their successors and assigns shall be obligated to devote such real property only to the uses specified in the county renewal plan, and may be obligated to comply with such other requirements as the county may determine to be in the public interest, including the obligation to begin within a reasonable time any improvements on such real property required by the county renewal plan. Such real property or interest shall be sold, leased, otherwise transferred, or retained at not less than its fair value for uses in accordance with the county renewal plan. In determining the fair value of real property for uses in accordance with the county renewal plan, the board shall take into account and give consideration to the uses provided in such plan; the restrictions upon, and the covenants, conditions, and obligations assumed by the purchaser or lessee or by the county retaining the property; and the objectives of such county renewal plan for the prevention of the recurrence of slum or blighted areas. The board in any instrument of conveyance to a private purchaser or lessee may provide that such purchaser or lessee shall be without power to sell, lease, or otherwise transfer the real property without the prior written consent of the board until he has completed the construction of any or all improvements which he has obligated himself to construct thereon. Real property acquired under the provisions of sections 303.26 to 303.56, inclusive, of the Revised Code, by the county which, in accordance with the provisions of the county renewal plan, is to be transferred, shall be transferred as rapidly as feasible in the public interest consistent with the carrying out of the provisions of the county renewal plan. Any contract for such transfer and the county renewal plan, or such part or parts of such contract or plan as the board may determine, shall be recorded in the land records of the county in such manner as to afford actual or constructive notice thereof.
(B) The board of county commissioners may by resolution authorize the sale, lease, transfer, or conveyance of any real property or any interest therein acquired by it in accordance with and for the purposes of the county renewal plan either with or without competitive bidding therefor upon such lawful terms and conditions and in such manner as are prescribed in such resolution by the board of county commissioners.

(C) The board of county commissioners may for a period not to exceed three years operate and maintain any real property or interest therein acquired by it in a county renewal area for or in connection with a county renewal project of such county pending the disposition of the property as authorized in sections 303.26 to 303.56, inclusive, of the Revised Code, without regard to the provisions of division (A) of this section, for such uses and purposes as it determines desirable even though not in conformity with the pertinent county renewal plan.

303.41 Special assessments.

A board of county commissioners may levy assessments against specially benefited lots or lands within a county renewal area or areas for any purpose within or without such area or areas for which special assessments may be levied by a county. In the exercise of such power to levy special assessments, the provisions of, including but not limited to Chapters 5555., 5559., 6103., and 6117. of the Revised Code, shall control. A board may include among such specially benefited lots or lands any or all lots or lands then or thereafter owned by the county, provided that the specially benefited lots or lands may consist entirely of county-owned property.

303.42 Method of making a special assessment.

In making a special assessment by percentage of the tax value or by the front foot on lots or lands not subdivided into lots, on county-owned, or other, lots or lands within a county renewal area or areas, when such lots or lands are not assessed for taxation, the board of county commissioners shall fix, for the purpose of such assessment the value of such lots as they stand and of such land at what the board considers a fair average depth for lots in the neighborhood, so that it will be a fair average of the assessed value of other lots in the neighborhood, if there be such lots.

303.45 Funds for planning or county renewal project functions.

In addition to all other powers of boards of county commissioners provided by any other laws, any board, in order to provide funds for or in connection with its planning or county renewal project functions, under sections 303.26 to 303.56 of the Revised Code, or for the exercise of any of the powers granted by those sections, may:

(A) Use its general tax revenues;

(B) Issue and sell its bonds, and its notes in anticipation of such bonds, pursuant to Chapter 133. of the Revised Code.
303.46 Bonds for county renewal project.

In addition to all other powers of boards of county commissioners provided by any other laws, any board may issue bonds from time to time to finance its undertaking and carrying out of any county renewal project of such county, including, without limiting the generality thereof, the payment of principal and interest upon any advances for surveys and plans for or in connection with any such county renewal project, and may also issue refunding bonds for the payment or retirement of such bonds previously issued by it pursuant to this section. The bonds covered by this section shall be payable, as to both principal and interest, solely from the county renewal project income, proceeds, revenues, and funds of the county derived by it from its undertaking and carrying out of the county renewal project with respect to which such bonds are issued. Such bonds, both as to principal and interest, may be made payable or additionally payable from or secured by a pledge of any loan, grant, gift, or contribution from the federal government or any other source, in aid of such county renewal project. Bonds issued under this section shall not constitute a part of the net indebtedness of the county. Bonds issued under this section shall not constitute general obligations of the county, and the general credit or taxing power of the county shall not be pledged for the payment of any part of the principal of or interest on such bonds. Bonds issued under this section shall be authorized by resolution of the board of county commissioners and may be authorized, issued, and sold without a vote of the electors of the county. Bonds issued under this section shall bear interest at such rate or rates, not exceeding the rate determined as provided in section 9.95 of the Revised Code, as may be provided by such resolution.

FILING WITH COUNTY AUDITOR

319.61 Notice of intention to proceed with public improvement.

(A) When a political subdivision of this state authorized to undertake public improvements has determined to construct or make such an improvement and to levy special assessments or charges to pay all or a part of the cost thereof, the authority of such subdivision empowered to levy such special assessments or charges shall, within the time limitations prescribed by this section, cause notice of intention to proceed with such improvement to be filed with the auditor of each county in which any property to be specially assessed or charged is located and shall, within the time limitations prescribed by this section, cause notice of the levy of such assessments or charges for such improvement to be filed with the auditor of each county in which any property specially assessed or charged is located.

The filing of the notice of intention to proceed with the improvement shall take place within fifteen days after the earliest of the following actions: the adoption of an ordinance or resolution determining to proceed with the improvement; the adoption of an ordinance or resolution directing that the improvement be made by force account or authorizing or directing entry into a contract for the making of the improvement; or the written or verbal order that the improvement be made by force account or authorizing or directing entry into a contract for the improvement; provided, that if any of these actions occur prior to September 1, 1961, such notice shall be filed within six months following such date.
The filing of the notice of the levy of special assessments or charges shall take place within twenty days after the earliest of the following actions: the adoption of an ordinance or resolution levying such assessments or charges; the adoption of an ordinance or resolution certifying the same to the auditor; the determination by the officer empowered to establish the amount to be assessed or charged of the amounts of such assessments or charges; provided, that if any of these actions occur prior to September 1, 1961, such notice shall be filed within six months following such date.

(B) The failure to file with the auditor either the notice of intention to proceed or the notice of the levy of special assessments or charges, in the manner and within the times prescribed in this action, shall not impair the validity of the assessments or charges, and, subject to section 727.34 of the Revised Code, the lien of such assessments or charges shall be and remain prior to any and all liens obtained by any private person, firm, partnership, or corporation irrespective of the date thereof except the lien of a mortgage obtained by a bona fide mortgagee and duly filed for record after either:

(1) The expiration of the period prescribed in this section for the filing of the notice of intention to proceed and prior to the filing of such notice; or

(2) The expiration of the period prescribed in this section for the filing of the notice of the levy of special assessments or charges and prior to the filing of such notice; provided, that if the notice of intention to proceed has not been filed but the notice of the levy of special assessments or charges has been filed, then no private person, firm, partnership, or corporation shall obtain any lien prior to the lien of such assessments or charges except pursuant to division (B)(1) of this section; and provided, that if on September 1, 1961 any assessments or charges have been certified to the auditor or bonds have been issued in anticipation of the collection thereof, the lien of such assessments shall be and remain prior to any and all liens obtained by any private person, firm, or corporation whether or not the notices required in this section are filed in the manner and within the times prescribed in this section.

(C) As used in this section:

(1) “Political subdivision” means the city health district; general health district; municipal corporation; board of park commissioners of a city, county, township, park district, conservancy district; sanitary district; regional sewer and water district; and any other political subdivision of this state which is empowered to levy special assessments or charges.

(2) “Notice of intention to proceed” means a copy, certified as true and accurate by the custodian of the records of the political subdivision, of an ordinance or resolution determining to proceed with such an improvement; a copy, certified as true and accurate by the custodian of the records of the political subdivision, of an ordinance, resolution, entry, or order that the work be done by force account or authorizing or directing the entry into a contract for such work; or certificate of the officer having supervision of the improvement reciting that the improvement is to be made and that all or a portion of the cost thereof will be assessed or charged against designated property.
(3) “Notice of the levy of special assessments or charges” means a copy, certified as true and accurate by the custodian of the records of the political subdivision, of an ordinance or resolution levying the assessments for such improvement; a copy, certified as true and accurate by the custodian of the records of the political subdivision, of an ordinance or resolution certifying the assessments or charges to the auditor; or certificate of the officer empowered to establish the amounts to be assessed or charged that such amounts have been determined.

(4) “Special assessments or charges” means special assessments or charges excluding charges for utility services.

The auditor of each such county shall charge and collect a fee of one dollar for each copy of any such resolution, ordinance, entry, order, or certificate filed in his office pursuant to this section. The auditor, upon receiving for filing any of the foregoing items, shall endorse thereon the time of its filing and its consecutive filing number and shall enter in a book or on cards, which shall be known as the special assessment record, and which shall be alphabetically arranged as between political subdivisions, the filing number, the number, if any, set forth on any ordinance or resolution, the date of its enactment or of the entry, order, or certificate, the date upon which it was received, and an abbreviated description of the improvement for which the assessments or charges are to be levied or are levied as disclosed by such items. The auditor shall also file each such item received in his office to be kept for inspection of all persons interested therein.

**PREPAYMENT OF SPECIAL ASSESSMENTS**

**323.06 Payment of special assessments with assessment bonds.**

Where improvements have been made for which special assessments have been levied and bonds have been issued, in anticipation of the collection of such special assessments, under section 133.17 of the Revised Code, a person chargeable by law with the payment of such special assessments may purchase and acquire such special assessment bonds and use them at their full face value plus any accrued interest in the payment of past due assessments, current assessments, or future assessments, plus any penalties or interest accrued at the time of such payment.

This section does not permit the offering of a special assessment bond in payment of special assessments other than in the case of a bond issued in anticipation of any special assessments of that political subdivision.

**323.07 County treasurer authorized to accept bonds - no cash refunds - distribution.**

The county treasurer may accept special assessment bonds as provided in section 323.06 of the Revised Code when offered in an amount equal or greater than the amount of the assessment owing, in full payment of such special assessment. The treasurer shall not refund in cash or in any other form to the special assessment taxpayer the difference between the value of the bonds offered and the amount of the special assessment for which payment is made, but a group of special assessment taxpayers may purchase one or more bonds and the treasurer shall accept them in payment of the special assessments owing in such instance.
The treasurer, at the time for distributing special assessment taxes, shall distribute to the proper subdivision the bonds received by the treasurer under this section and section 323.06 of the Revised Code. The distribution so made shall be a full or partial discharge of the special assessment taxes.

323.071 Advance payment of installments of special assessment - cancellation of installments - use of money.

The taxing authority of any political subdivision which levies any special assessment or reassessment payable in installments over a period of more than one year may by resolution authorize its fiscal officer to accept payment in cash of all of the installments of such assessments or reassessments charged against any lot or parcel of land and not due at the time such resolution is adopted. Such taxing authority may waive the payment of interest included in such installments, except that if such installments are pledged to the payment of outstanding bonds or notes, interest upon such installments must be collected at the rate borne by such bonds or notes up to the time when an amount of such bonds or notes, not less than the amount of such installments, can be paid, redeemed, or purchased according to their terms or by agreement with their holders.

If such installments have been certified to the county auditor for collection, the fiscal officer of the subdivision shall, upon the payment of such installments, certify the fact of payment to said auditor, who shall thereupon cancel such installments upon his records.

If any bonds or notes issued in anticipation of the levy or collection of such installments are outstanding, the money derived from such payments shall be used only for the payment, redemption, or purchase of, and the payment of interest on, such bonds or notes, and if the subdivision has no such bonds or notes outstanding, such money shall be used for the payment of any other funded debt of the subdivision. If the subdivision has no funded debt, such money shall be credited to its general fund and used for the purposes thereof.

Any assessment in the amount of twenty-five dollars or less, or any unpaid balance of twenty-five dollars or less, shall be paid in full, and not in installments, at the time the first or next installment would otherwise become due and payable.

LIMITED HOME RULE TOWNSHIPS

504.18 Supplying water or sewer services.

(A) As used in this section and in sections 504.19 and 504.20 of the Revised Code, “water supply facilities” means all buildings, facilities, and pipelines acquired, constructed, or operated by or leased to a township, or to be acquired, constructed, or operated by or leased to a township, that the board of township trustees considers necessary for the storage, transportation, or treatment of water resources and the operation of facilities that supply water, together with all property rights, easements, and interests in real or personal property that may be required for the operation of the facilities.
(B) For the purpose of supplying water or sewer services to users within the unincorporated area of the township, the board of township trustees may provide a supply of water or sewer services by contract with any municipal corporation, county sewer district, or regional water and sewer district or any person, firm, or private corporation furnishing a public water supply or sewer services within or outside the township.

(C) To pay all or any part of the costs of a water supply or sewer services under this section or section 504.19 of the Revised Code, the board of township trustees by resolution may levy special assessments upon lots and lands in the township benefiting from the water supply facilities or sewer improvements and may issue unvoted securities in anticipation of the levy or collection of those special assessments in accordance with Chapter 133. of the Revised Code. At the discretion of the board, assessments may be levied by one of the following methods:

1. By a percentage of the tax value of the property assessed;
2. In proportion to the benefits that result from the improvements;
3. By the front footage of the property bounding and abutting the improvements.

504.19 Adopting general plan of water supply or sewer services.

(A) The board of township trustees may prepare and adopt a general plan of water supply or sewer services. After the general plan has been approved by the board, the board immediately shall notify the board of county commissioners if territory served by a county water supply facility or a county sewer district includes territory to be covered by the plan, the legislative authority of a municipal corporation that operates a water supply or sewer system in any of the territory to be covered by the plan, and the board of trustees of any existing regional water and sewer district that includes any territory to be covered by the plan, of the township’s intention to provide water supply or sewer services and shall describe the area where the township proposes to provide water supply or sewer services. The notified board of county commissioners, legislative authority of a municipal corporation, and board of trustees of the regional water and sewer district then have thirty days from the date of notification to comment and object in writing to the township’s provision of water supply or sewer services. An objection may be based on one or more of the following:

1. The county, municipal corporation, or special district already provides the proposed water supply or sewer services to the area to be served.
2. The county, municipal corporation, or special district has in its service plan provisions to provide the proposed water supply or sewer services in the future to the proposed area within a reasonable period of time.

Within fifteen days after receiving objections, the board of township trustees may request in writing submitted to the objecting party that the issue of the township’s provision of the proposed water supply or sewer services be mediated. The mediation shall be performed either by the Ohio commission on dispute resolution and conflict management or by having each party
select a mediator and having those two mediators select a third mediator who, together with the other two mediators, shall conduct the mediation.

Within forty-five days after the request for mediation is submitted, any mediation shall be completed, and any agreements reached between the parties shall be filed in writing with the parties. Thereafter, the respective governing boards may adopt the agreements, making those agreements binding on the parties, or, if one or more of the agreed-upon points is rejected, that rejection shall be considered a final decision of a governing board for purposes of Chapter 2506 of the Revised Code, and the board of township trustees may file an appeal under that chapter regarding its provision of the proposed water supply or sewer services. In addition to any findings of the court provided in section 2506.04 of the Revised Code, the court may determine that the county, municipal corporation, or special district has not met the criteria specified in divisions (A)(1) and (2) of this section and, therefore, the township may provide its proposed water supply or sewer services or, in the alternative, may determine that the township could provide the proposed water supply or sewer services more expeditiously than the county, municipal corporation, or special district with no substantial increase in cost to the users of the water supply or sewer services and, therefore, order that the township may provide its proposed water supply or sewer services.

(B) Once the board has approved a general plan of water supply or sewer services under division (A) of this section, the board shall hire an engineer to prepare detailed plans, specifications, and estimates of the cost of the improvements, together with a tentative assessment of the cost based on the estimates. The tentative assessment shall be for the information of property owners and shall not be certified to the county auditor for collection. The detailed plans, specifications, estimates of cost, and tentative assessment, as prepared by the engineer and approved by the board, shall be preserved in the office of the board and shall be open to inspection of all persons interested in the improvements.

(C) Once it has been determined under division (A) of this section that a township may provide its proposed water supply or sewer services, the board may appropriate for the use of the township any public or private land, easement, rights, rights-of-way, franchises, or other property within or outside the township required by it for the accomplishment of its purposes. Except as provided in division (D) of this section, the appropriation shall be according to the procedure set forth in sections 163.01 to 163.22 of the Revised Code. The engineer hired by the board may enter upon any public or private property for the purpose of making surveys and examinations necessary for the design or examination of water supply or sewer facilities. No person shall forbid or interfere with the engineer or the engineer’s authorized assistants entering upon property for these purposes. If actual damage is done to property by the making of a survey and examination, the board shall pay the reasonable value of the damage to the owner of the property damaged, and the cost shall be included in the assessment upon the property benefited by the improvement.

(D)

(1) For purposes of this division, either of the following constitutes a public exigency:
(a) A finding by the director of environmental protection that a public health nuisance caused by
an occasion of unavoidable urgency and suddenness due to unsanitary conditions compels the
immediate construction of sewers for the protection of the public health and welfare;

(b) The issuance of an order by the board of health of a health district to mitigate or abate a
public health nuisance that is caused by an occasion of unavoidable urgency and suddenness due
to unsanitary conditions and compels the immediate construction of sewers for the protection of
the public health and welfare.

(2) If a board of township trustees of a township that has adopted a limited home rule
government is unable to purchase property for the purpose of the construction of sewers to
mitigate or abate the public health nuisance that is the subject of a finding of the director or an
order of the board of health, the board of township trustees may adopt a resolution finding that it
is necessary for the protection of the public health and welfare to appropriate property that the
board considers needed for that purpose. The resolution shall contain a definite, accurate, and
detailed description of the property and the name and place of residence, if known or with
reasonable diligence ascertainable, of the owners of the property to be appropriated.

The board of township trustees shall fix in its resolution what it considers to be the value of the
property to be appropriated, which shall be the board’s determination of the compensation for the
property and shall be supported by an independent appraisal, together with any damages to the
residue. The board shall deposit the compensation so determined, together with an amount for
the damages to the residue, with the probate court or the court of common pleas of the county in
which the property, or a part of it, is situated. Except as otherwise provided in this division, the
power to appropriate property for the purposes of this division shall be exercised in the manner
provided in sections 163.01 and 163.22 of the Revised Code for an appropriation in time of
public exigency. The board’s resolution and a written copy of the independent appraisal shall
accompany the petition filed under section 163.05 of the Revised Code.

(E) As soon as all questions of compensation and damages have been determined for any water
supply facilities or sewer services improvement project, the board shall cause to be made an
estimated assessment, upon the lots and lands to be assessed, of such part of the compensation,
damages, and costs of the improvement as is to be specially assessed according to the method
specified by resolution of the board. The schedule of the assessments shall be filed with the
township fiscal officer for the inspection of interested persons. Before adopting the estimated
assessment, the board shall cause written notice to be sent to the owners of all lots and lands to
be assessed that the assessment has been made and is on file with the township fiscal officer, and
the date when objections to the assessment will be heard. Objections shall be filed in writing
with the board before the date of the hearing. If any objections are filed, the board shall hear
them and act as an equalizing board, and may change the assessments if, in its opinion, any
change is necessary to make the assessments just and equitable. The board shall adopt a
resolution approving and confirming the assessments as reported to or modified by the board.

(F) The resolution levying the assessments shall apportion the cost among the benefited lots and
lands in the manner provided by the board by resolution. The board shall certify the amounts to
be levied upon each lot or parcel of land to the county auditor, who shall enter the amounts on
the tax duplicate, to be collected as other taxes. The principal shall be payable in not more than forty semiannual installments, as determined by the board. Any assessment in the amount of twenty-five dollars or less, or of which the unpaid balance is twenty-five dollars or less, shall be paid in full and not in installments, at the time the first or next installment otherwise would become due and payable. Assessments are a lien upon the respective lots or parcels of land assessed from the date of adoption of the resolution under division (E) of this section. If bonds are issued to pay the compensation, damages, and the costs of an improvement, the principal amount of the assessment shall be payable in such number of semiannual installments and in such amounts as the board determines to be necessary to provide a fund for the payment of the principal of and interest on the bonds and shall bear interest from the date of the issuance of the bonds and at the same rate as the bonds.

(G) Any owner of property to be assessed for any water supply facilities or sewer services improvement project, or other person aggrieved by the action of the board in regard to any water supply facilities or sewer services improvement project, may appeal to the court of common pleas, in the manner prescribed by Chapter 2506. of the Revised Code.

(H) When collected, the assessments shall be paid by the county auditor by warrant of the county treasurer into a special fund in the township treasury created for the purpose of constructing, improving, maintaining, and operating water supply facilities or sewer improvements. The board may expend moneys from the fund only for the purposes for which the assessments were levied.

504.20 Construct, maintain, improve, repair, operate, and pay costs of water supply facilities or sewer improvements.

(A) For the purpose of supplying water and providing sewer services to users within the unincorporated area of the township under a plan adopted pursuant to section 504.19 of the Revised Code, the board of township trustees by resolution may acquire, construct, maintain, improve, repair, operate, and pay all or any part of the costs of water supply facilities or sewer improvements. If the best interests of the township and the users of the water supply facilities or sewer services so require, the board may sell or otherwise dispose of a water supply facility or sewer improvement.

(B) To cover the costs of acquiring, constructing, maintaining, improving, repairing, or operating a water supply facility or sewer improvement, the board may issue general obligation bonds of the township in accordance with Chapter 133. of the Revised Code, for which the full faith and credit of the township shall be pledged.

(C) For the purpose of paying costs of constructing or otherwise improving a water supply facility or sewer improvement and paying debt service charges on voted or unhvoted securities of the township issued for those purposes, and for paying costs of operating, repairing, and maintaining a water supply facility or sewer improvement, the board may charge, alter, and collect rents and other charges for the use of services of a water supply facility or sewer improvement, which rents and charges if not paid when due may be certified by the township fiscal officer to the county auditor, who shall place the same on the tax duplicate to be collected
as other taxes. Those rents and charges are a lien on the property served from and after the date of entry by the county auditor on the tax duplicate.

(D) The costs of constructing or otherwise improving a water supply facility or sewer improvement may include any of the following:

(1) The purchase price of real estate or any interest in real estate;
(2) The cost of preliminary and other surveys;
(3) The cost of preparing plans, specifications, profiles, and estimates;
(4) The cost of printing, serving, and publishing notices and any required legislation;
(5) The cost of all special proceedings;
(6) The cost of labor and material, whether furnished by contract or otherwise;
(7) Interest on bonds or notes issued in anticipation of the levy or collection of special assessments;
(8) The total amount of damages resulting from the project that are assessed in favor of any owners of lands affected by the project and any interest on those damages;
(9) The cost incurred in connection with the preparation, levy, and collection of the special assessments, including legal expenses incurred by reason of the project;
(10) All contract construction costs;
(11) Incidental costs connected with the project.

(E) The board may adopt, amend, rescind, publish, administer, and enforce rules for the construction, maintenance, operation, protection, and use of water supply facilities and sewer services, that are considered necessary and advisable. The rules shall not be inconsistent with the laws of the state or the rules of the environmental protection agency. The board may enforce the rules by mandamus, injunction, or other legal remedy.

TOWNSHIP WATERWAY ASSESSMENTS

505.88 Special assessment upon facilities directly or indirectly benefiting from maintenance and improvement of waterways.

(A) As used in this section:
(1) “Facilities” means boat docks and other boat storage facilities but does not include boat launching ramps or facilities or any boat docks or other boat storage facilities owned by the state or any state agency.

(2) “State agency” has the same meaning as in section 1.60 of the Revised Code.

(B) For the purpose of maintaining and improving navigable waterways in the township, the board of township trustees, by resolution, may annually levy a special assessment upon facilities directly or indirectly benefiting from the maintenance and improvement of waterways. Assessments shall be levied by one of the following methods, at the discretion of the board:

(1) By a percentage of the taxable value of the property assessed;

(2) In proportion to the benefits that may result from maintenance or improvement of waterways in the township.

In levying an assessment by the method described in division (B)(2) of this section, the board may consider the number of boats or other watercraft capable of being docked or stored or otherwise capable of using the facility upon which the assessment is levied, or any other factor that is reasonably related to the benefits directly or indirectly derived from maintenance or improvement of waterways.

Before adopting a resolution under division (B) of this section, the board shall send written notice to the owner of each facility stating the estimated assessment for that facility. If the owner objects to the stated estimated assessment, the owner shall file a written objection with the board not later than two weeks after the notice was mailed. The board shall review the written objections and may revise the estimated assessments before adopting a resolution under division (B) of this section. If the owner of a facility objects to the final assessment for the facility levied in a resolution adopted under division (B) of this section, the owner may appeal the final assessment under Chapter 2506. of the Revised Code.

(C) The assessment made by the board pursuant to division (B) of this section shall be at a rate that will produce, in any year, a total assessment that is not more than the annual cost of such maintenance or improvement provided that if the board determines that recovery of the full cost of the maintenance or improvement in one year will place an undue burden on the owners of the facilities being assessed, the board may recover the full cost of the maintenance or improvement through assessments imposed during no more than the ten years immediately following the year of the first assessment. In no case shall the aggregate total of the assessments imposed exceed the cost of the maintenance or improvement. In the resolution imposing the assessment, the board shall apportion the cost among the benefited facilities as provided in division (B) of this section. The board shall certify the amounts to be levied upon each facility to the county auditor, who shall enter the amounts on the tax duplicate for collection by the county treasurer in equal semiannual installments in the same manner and at the same times as the collection of taxes on real property. Assessments shall be paid by owners of the facilities upon which assessments are levied.
The assessments, when collected, shall be paid by the county auditor by warrant on the county treasurer into a special fund in the township treasury created for the purpose of maintaining and improving waterways. The board may expend moneys from the fund only for the purposes for which the assessments were levied.

**TOWNSHIP LIGHTING ASSESSMENT**

**515.01 Lighting unincorporated districts.**

The board of township trustees may provide artificial lights for any road, highway, public place, or building under its supervision or control, or for any territory within the township and outside the boundaries of any municipal corporation, when the board determines that the public safety or welfare requires that the road, highway, public place, building, or territory shall be lighted. The lighting may be procured either by the township installing a lighting system or by contracting with any person or corporation to furnish lights.

If lights are furnished under contract, the contract may provide that the equipment employed may be owned by the township or by the person or corporation supplying the lights.

If the board determines to procure lighting by contract and the total estimated cost of the contract exceeds fifty thousand dollars, the board shall prepare plans and specifications for the lighting equipment and shall, for two weeks, advertise for bids for furnishing the lighting equipment, either by posting the advertisement in three conspicuous places in the township or by publication of the advertisement once a week, for two consecutive weeks, in a newspaper of general circulation in the township. Any such contract for lighting shall be made with the lowest and best bidder.

The board may also cause notice to be inserted in trade papers or other publications designated by it or to be distributed by electronic means, including posting the notice on the board’s internet web site. If the board posts the notice on its web site, it may eliminate the second notice otherwise required to be published in a newspaper of general circulation in the township, provided that the first notice published in such newspaper meets all of the following requirements:

(A) It is published at least two weeks before the opening of bids.

(B) It includes a statement that the notice is posted on the board’s internet web site.

(C) It includes the internet address of the board’s internet web site.

(D) It includes instructions describing how the notice may be accessed on the board’s internet web site.

No lighting contract awarded by the board shall be made to cover a period of more than twenty years. The cost of installing and operating any lighting system or any light furnished under contract shall be paid from the general fund of the township treasury.
**515.02 Petition for lighting.**

When the owners of more than one-half of the feet front of the lots and lands abutting on the streets and public ways of any unincorporated district in a township sign a petition for artificial lighting of the streets and public ways in the district and file it with the township fiscal officer, the fiscal officer shall give to the board of township trustees a notice of the filing of the petition and a copy of it.

**515.03 Contents and effect of petition - lighting district limitations.**

A petition for the lighting of streets and public ways under section 515.02 of the Revised Code shall specify the metes and bounds of the district in which such lights are to be erected. The signing of such petition by a property owner is a waiver by him of all claims for compensation and damages for lands necessarily appropriated for the purpose of supporting and maintaining such lights.

A lighting district shall neither include lands more than six hundred sixty feet from the streets and public ways to be lighted, nor include any lands not abutting on those streets and public ways, except that any lot whose only access is by way of an easement through land abutting such a street or public way may be included in a lighting district to the extent the land is no more than six hundred sixty feet from that street or public way.

**515.04 Notice of petition.**

The township fiscal officer shall fix a day, not more than thirty days from the date of notice to the board of township trustees, for the hearing of the petition authorized by section 515.02 or 515.16 of the Revised Code. The township fiscal officer or the fiscal officer’s designee shall prepare and deliver to any of the petitioners a notice in writing directed to the lot and land owners and to the corporations, either public or private, affected by the improvement. The notice shall set forth the substance, pendency, and prayer of the petition and the time and place of the hearing on it.

A copy of the notice shall be served upon each lot or land owner or left at the lot or land owner’s usual place of residence, and upon an officer or agent of each corporation having its place of business in the district or area, at least fifteen days before the date set for the hearing. On or before the day of the hearing, the person serving the notice shall make return on it, under oath, of the time and manner of service and shall file the return with the township fiscal officer.

The township fiscal officer or the fiscal officer’s designee shall give the notice to each nonresident lot or land owner, by publication once, in a newspaper of general circulation in the county in which the district or area is situated, at least two weeks before the day set for hearing. The notice shall be verified by affidavit of the printer or other person knowing the fact and shall be filed with the township fiscal officer or the fiscal officer’s designee on or before the day of hearing. No further notice of the petition or the proceedings under it shall thereafter be required.
515.05 Hearing procedures.

At the time and place specified in the notice for hearing on a petition authorized by section 515.04 or 515.16 of the Revised Code, the board of township trustees shall meet and hear any and all proof offered by any of the parties affected by the improvement, and by other persons competent to testify. The board shall go over and along such streets and public ways, and, by actual view thereof, and of the premises along and adjacent thereto and to be lighted or benefited thereby, it shall determine the necessity of the improvement. The board may find that the improvement will result in general as well as special benefits. The board may adjourn from time to time and to such place as necessity requires.

515.06 Number of lights specified by board of township trustees.

If the board of township trustees decides in favor of a lighting improvement as provided by section 515.02 of the Revised Code, it shall specify the number of lights it deems necessary for properly lighting the streets and public ways in the district, determine the candle power thereof, locate the points at which the lights shall be located, and the kind of supports for them.

515.07 Notice to bidders - acceptance and rejection.

If the total estimated cost of any lighting improvement provided for in section 515.06 of the Revised Code is fifty thousand dollars or less, the contract may be let without competitive bidding. When competitive bidding is required, the board of township trustees shall post, in three of the most conspicuous public places in the district, a notice specifying the number, candle power, and location of lights and the kind of supports for the lights as provided by section 515.06 of the Revised Code, as well as the time, which shall not be less than thirty days from the posting of the notices, and the place the board will receive bids to furnish the lights. The board shall accept the lowest and best bid, if the successful bidder meets the requirements of section 153.54 of the Revised Code. The board may reject all bids.

515.08 Contract with successful bidder to furnish artificial lighting - assessments.

On accepting a bid for artificial lighting and bond as provided by section 515.07 of the Revised Code, the board of township trustees shall enter into a contract with the successful bidder for the furnishing of such lights according to specifications. The contract shall not be for a longer term than ten years. The cost and expenses of furnishing and maintaining such lights, and of the proceedings in relation thereto, shall be paid from a fund raised by special assessments against the lots and lands in the district which are benefited by such lighting, provided, if the board finds that the lighting will result in general as well as special benefits there may be paid from the general fund of the township treasury such portion of the cost and expenses, except for any accrued interest on unpaid assessments, as is found to represent the value of the general benefit.

Special assessments shall not be in excess of the special benefits resulting from such lighting, they shall be paid and collected in equal semiannual installments, equal in number to twice the number of years for which the contract is made, and they shall be paid and collected in the same manner and at the same times that taxes are paid and collected. Any such assessment in the
amount of five dollars or less, or with an unpaid balance of five dollars or less, shall be paid in full, and not in installments, at the time the first or next installment would otherwise become due and payable. Such assessments may be made and levied by any one of the following methods:

(A) By a percentage of the tax value of the property assessed;

(B) In proportion to the benefits which may result from the lighting;

(C) By the foot frontage of the property bounding and abutting upon the streets, or public ways so lighted;

(D) In an equal amount against each benefited lot, this amount to be determined by dividing the total cost per semiannual installment by the number of benefited lots in the district.

The board of township trustees, by resolution, may provide for the payment of interest on unpaid assessments, which shall be treated as part of the costs and expenses of furnishing and maintaining the lights. The resolution shall specify the rate of interest, which shall be based on the current prime rate.

After the levy of such special assessment the board may, at any time during any year in which installments thereof become due, pay out of the general fund of the township the full amount of the contract price for that year, provided such amount does not exceed the aggregate amount of the installments due for that year.

515.081 Contract for lighting - petition for discontinuance.

The board of township trustees, at the expiration of an existing contract for lighting, may award a new contract pursuant to section 515.07 of the Revised Code, unless the owners of lots and lands containing in excess of fifty per cent of the front feet abutting on the streets and public ways of the unincorporated district in the township sign a petition for the discontinuance of the artificial lighting and file the petition with the township fiscal officer not less than thirty days prior to the expiration of the existing contract.

515.09 Increase in number of lights.

At any time during the term of the contract for the furnishing of artificial lights under section 515.08 of the Revised Code, but not more than once in each year, unless mutually satisfactory to both parties to the contract, the board of township trustees may increase the number of lights to be maintained under the contract, at not more than the same price per light, and the contract shall provide for such change in the number of lights.

515.10 Inspectors.

The board of township trustees may employ inspectors at such times as it deems proper to test the lights installed as provided by sections 515.08 and 515.09 of the Revised Code and determine
whether they comply with the contract. The compensation of such inspectors shall be paid from the general fund of the township.

515.11 Certificate by trustees to county auditor - assessments.

The board of township trustees shall certify to the county auditor the boundaries of the district in which lights are to be erected, and, when requested to do so by the board, the auditor shall apportion the valuation for taxation of any lot or parcel of land lying partly within and partly without the district.

The board shall, by resolution, assess against the benefited lots and parcels of land in the district, in accordance with section 515.08 of the Revised Code, such portion of the costs of furnishing and maintaining the lights, for the period of the contract and the proceedings in relation thereto, as does not exceed the special benefits resulting from the lighting, and shall certify such costs to the auditor. The auditor shall annually place upon the tax duplicate, for collection in semiannual installments as provided in that section, the two installments of the assessment for that year, which installments, together with any accrued interest on unpaid assessments, shall be paid and collected as provided in that section.

If the number of lights to be furnished and maintained in a district under any such contract is increased, pursuant to section 515.09 of the Revised Code, the board shall make such additional assessments as are necessary to pay the cost of furnishing and maintaining the additional number of lights. If the cost of providing the lights increases, the board may make such additional assessments as are necessary to pay the additional cost of the lights. The additional assessments shall be made, certified, and collected in the same manner as an original assessment, but shall be only for the unexpired portion of the term of the contract.

The additional assessments and any unpaid interest thereon, when collected, shall go into the township treasury and shall be used by the board only for the purpose for which they were levied and collected.

515.12 Compensation of officers - additional personnel.

(A) All officers shall receive for services performed under sections 515.01 to 515.16 of the Revised Code the same fees allowed for other similar services.

The township fiscal officer shall receive for the fiscal officer’s services the sum of fifty cents from each lot or land owner for whom a notice is prepared and the sum of fifty cents for each annual assessment certified to the county auditor.

All payments for the services of township officials shall be included in the cost of the lighting district or relocation and assessed against the property. The compensation shall be in addition to all other compensation provided by law.

(B) The board of township trustees may, by resolution, employ additional personnel in place of the township fiscal officer to prepare and certify notices for each lot or land owner and shall pay
a reasonable sum not to exceed fifty cents for each lot or land owner for whom a notice is prepared and a reasonable sum not to exceed fifty cents for each annual assessment certified to the county auditor. The actual cost of the additional personnel, together with other reasonable expenses incurred by the board, shall be assessed proportionately against each lot or land owner and shall be included in the cost of the lighting district or relocation.

515.13 Combined contract.

The board of township trustees may combine in a single contract the lighting of streets, public ways, roads, highways, or public places as authorized by sections 515.01 to 515.11, inclusive, of the Revised Code, provided:

(A) That no such contract shall be made to cover a period of more than ten years;

(B) That the procedure for entering into such contract is in accordance with the provisions of section 515.01 of the Revised Code;

(C) That the price per light in the contract is the same throughout the township and for each district within the township.

515.15 Relocation of overhead cables, wires, equipment.

A board of township trustees may contract only with the corporation, company, partnership, association, municipal corporation, or person that owns overhead cables, wires, and appurtenant equipment on a street or right-of-way located within the township for the relocation of the overhead cables, wires, and appurtenant equipment underground. Nothing in this section requires the owner of the overhead cables, wires, and appurtenant equipment to agree to a contract that contains terms or conditions that are not acceptable to the owner. Unless a pre-existing arrangement provides otherwise or the parties to the contract agree otherwise, the township shall pay the cost of the relocation as provided in the contract. A proceeding for the relocation may be combined with a proceeding for the furnishing of new street lighting facilities or other street improvement.

A board of township trustees may, by resolution, adopt and enforce regulations requiring owners of property abutting a street in which overhead wires, cables, and appurtenant equipment supplying a utility service have been relocated underground and service connections have been provided to the street, right-of-way, or property line, to install underground wires, cables, or conduits from the street or right-of-way to the buildings or other structures on the property to which the utility service is supplied. The township may pay the cost incurred in installing underground wires, cables, or conduits from the street or right-of-way to the buildings or other structures on the property to which the utility service is supplied.

For the purpose of relocating overhead wires, cables, and appurtenant equipment and installing underground wires, cables, conduits, and appurtenant equipment, a township may enter upon any private land to examine or survey lines for the wires, cables, conduits, and appurtenant equipment and may appropriate as much land as is necessary for the relocation and installation.
The township is not liable for any service outages or other damage caused by the underground relocation project. The owner of the overhead cables, wires, and appurtenant equipment is not liable for any service outages or other damage caused by the underground relocation project, unless the outage or other damage was caused by the owner’s negligence. Nothing in this section otherwise alters township liability under Chapter 2744. of the Revised Code.

515.16 Petition to relocate overhead wires, cables, and equipment.

Any person may file a petition with the township fiscal officer requesting the board of township trustees to relocate underground any overhead cables, wires, and appurtenant equipment on streets or rights-of-way and designated private streets in an unincorporated area of the township. The petition shall specify the metes and bounds of the area to be included in the underground relocation project and any designated properties served by private streets as designated in the petition and shall be signed by at least seventy-five per cent of the landowners in the specified area whose land either abuts the streets or rights-of-way, including any designated properties served by private streets, or otherwise would be specially benefited by the project.

The township fiscal officer shall give notice of the petition and a copy of it to the board of township trustees, schedule a hearing on the petition, and provide notice in the manner set forth in section 515.04 of the Revised Code. The board shall hear the petition in the manner set forth in section 515.05 of the Revised Code.

If the board of township trustees decides in favor of the petition, it shall contract only with the corporation, company, partnership, association, municipal corporation, or person that owns the overhead cables, wires, and appurtenant equipment that are to be relocated. Nothing in this section requires the owner of the overhead cables, wires, and appurtenant equipment to agree to a contract that contains terms or conditions that are not acceptable to the owner. Unless a pre-existing arrangement provides otherwise or the parties to the contract agree otherwise, the township shall pay the cost of the relocation project as provided in the contract. Any part of the costs of the relocation project to be paid by the township pursuant to the contract shall be assessed upon abutting or specially benefited property.

Except as otherwise provided in this section, the costs and expenses of the underground relocation project and related proceedings ultimately shall be paid by special assessments against the properties located in the project area that abut the streets or rights-of-way in question, including any designated properties served by private streets, or that otherwise are specially benefited by the project. The assessments shall be made and levied in one of the following methods:

(A) As a percentage of the tax value of the property.

(B) In proportion to the special benefit resulting from the relocation project.

(C) By the foot frontage of the property abutting the streets or rights-of-way.

(D) In an equal amount against each property.
The board of township trustees, by resolution, shall assess all lands abutting the streets or rights-of-way in the project area, including any designated properties served by private streets, and lands otherwise specially benefited by the project. The resolution may allow the assessments to be paid over a number of years, but not more than ten years.

The board of township trustees, by resolution, may provide for the payment of interest on unpaid assessments, which shall be treated as part of the costs and expenses of the underground relocation project. The resolution shall specify the rate of interest, which shall be based on the current prime rate.

If the board of township trustees finds that the underground relocation project will result in general as well as special benefits, the board may pay from the township general fund a portion of the costs and expenses of the project, except for any accrued interest on unpaid assessments, that represents the value of the general benefits. In no case shall the total assessments exceed the special benefits to the entire project area resulting from the project.

The board of township trustees shall certify the assessments and interest on unpaid assessments, when applicable, to the county auditor. The auditor shall place the assessments and interest on unpaid assessments, when applicable, upon the tax duplicate and collect the assessments and interest in the same manner and at the same time that taxes are paid and collected. The collected assessments and collected interest shall be deposited into the township general fund.

During any year in which installment payments of the assessments are due, the board of township trustees, by resolution, may waive the payments for all the assessed lands and pay the aggregate amount of the assessments for that year minus any accrued interest on unpaid assessments out of the township general fund.

The township is not liable for any service outages or other damage caused by the underground relocation project. The owner of the overhead cables, wires, and appurtenant equipment is not liable for any service outages or other damage caused by the underground relocation project, unless the outage or other damage was caused by the owner’s negligence. Nothing in this section otherwise alters township liability under Chapter 2744. of the Revised Code.

The provisions of section 515.15 of the Revised Code govern relocation projects requested by petition under this section.

**TOWNSHIP PRIVATE SEWAGE COLLECTION TILE ASSESSMENTS**

**521.01 Maintenance and repair private sewage collection tiles.**

(A) As used in this chapter, “private sewage collection tile” means any tile, ditch, pipe, or other improvement installed by a private person to receive and convey sewage and sewage effluent from at least five household sewage treatment systems, as those systems are defined in section 3718.01 of the Revised Code.
(B) A board of township trustees may maintain and repair private sewage collection tiles located within a township road right-of-way in the township, where the expenditure from the township general fund for materials to maintain and repair the tiles does not exceed two hundred dollars for any one project. No maintenance or repair shall be performed that is paid for from the township general fund under this division until the board adopts a resolution authorizing the maintenance or repair. If material costs would exceed two hundred dollars, the board may proceed under this chapter to maintain and repair the tiles by assessing the cost against property based on the special benefits the property receives from the project.

521.02 Petition for maintenance and repair private sewage collection tiles.

Upon a petition filed with the township fiscal officer by one or more property owners whose property is served by a private sewage collection tile, or upon the board’s own initiative by the adoption of a resolution, the board of township trustees may repair or maintain a private sewage collection tile within a township road right-of-way in the township as provided in this chapter. On receiving a petition, the township fiscal officer shall give to the board of township trustees a notice of the filing of the petition and a copy of the petition.

521.03 Notice of hearing on petition.

On receiving a petition filed under section 521.02 of the Revised Code, or at the request of the board of township trustees, the township fiscal officer shall fix a time, not more than thirty days after the date of giving notice of the filing to the board or the date of receiving the request from the board, and place for a hearing on the issue of repair or maintenance of the tiles. The township fiscal officer shall prepare a notice in writing directed to the lot and land owners and to the corporations, either public or private, affected by the improvement. The notice shall set forth the substance of the petition or board request, and the time and place of the hearing on it.

If the hearing is to be held in response to a petition, the township fiscal officer shall deliver a copy of the notice to any of the petitioners, who shall see that the notice is served on each lot or land owner or left at the lot or land owner’s usual place of residence, and served on an officer or agent of each corporation affected by the improvement, at least fifteen days before the date set for the hearing. If the hearing is to be held at the request of the board, the board shall see that the notice is so served. On or before the day of the hearing, the person serving the notice shall certify, under oath, the time and manner of service, and shall file this certification with the township fiscal officer.

The township fiscal officer shall give notice of the hearing to each nonresident lot or land owner, by publication once, in a newspaper of general circulation in the county in which the township is situated, at least two weeks before the day set for the hearing. This notice shall be verified by affidavit of the printer or other person knowing the fact, and shall be filed with the township fiscal officer on or before the day of the hearing. No further notice of the petition or the proceedings under it shall thereafter be required.
521.04 Hearing on petition.

At the time and place specified in the notice given under section 521.03 of the Revised Code, the board of township trustees shall meet and hear any and all proof offered by any of the parties affected by the improvement, and by other persons competent to testify. The board shall go over and along the rights-of-way where the tiles in need of repair or maintenance are located, and, by actual view of them and of the premises along and adjacent to the area that would be benefited by the repair or maintenance, shall determine the necessity of the improvement. The board may find that the improvement will result in general as well as special benefits. The board may adjourn from time to time and to any place it considers necessary.

521.06 Special assessments for maintenance and repair private sewage collection tiles.

The cost and expenses of making the improvement made pursuant to a determination by the board under section 521.04 of the Revised Code shall be paid from a fund raised by special assessments against the lots and lands in the township that are benefited by the improvement, except that if the board of township trustees finds, by resolution, that the improvement will result in general as well as special benefits, there may be paid from the general fund of the township treasury such portion of the cost and expenses as is found to represent the value of the general benefit. If moneys are to be paid from the general fund of the township treasury, no improvement shall be made until the adoption of the resolution required under this division.

The assessments shall not exceed the special benefits resulting from the improvement, they shall be paid and collected in equal semiannual installments, equal in number to twice the number of years for which the contract is made, and they shall be paid and collected in the same manner as and at the same times that taxes are paid and collected. Any such assessment in the amount of five dollars or less, or with an unpaid balance of five dollars or less, shall be paid in full, and not in installments, at the time the first or next installment would otherwise become due and payable. The assessments may be made and levied by any one or more of the following methods:

(A) By a percentage of the tax value of the property assessed;

(B) In proportion to the benefits that may result from the improvement;

(C) By the front footage of the property abutting the right-of-way;

(D) In an equal amount against each benefited lot, this amount to be determined by dividing the total cost per semiannual installment by the number of benefited lots in the township.

521.07 Collecting and disposing of assessments.

The board of township trustees shall, by resolution, assess against the benefited lots and parcels of land in the township, in accordance with section 521.06 of the Revised Code, such portion of the costs of the improvement, for the period of the contract and the proceedings in relation to the contract, as does not exceed the special benefits resulting from the improvement, and shall certify these costs to the auditor. The auditor shall annually place on the tax duplicate, for
collection in semiannual installments as provided in that section, the two installments of the
assessment for that year, which installments shall be paid and collected as provided in that
section.

When collected, the assessments shall go into the township treasury and shall be used by the
board only for the purpose for which they were levied and collected.

MUNICIPAL SPECIAL ASSESSMENTS - GENERALLY

727.01 Power to levy and collect special assessments - methods.

Each municipal corporation shall have special power to levy and collect special assessments. The
legislative authority of a municipal corporation may assess upon the abutting, adjacent, and
contiguous, or other specially benefited, lots or lands in the municipal corporation, any part of
the cost connected with the improvement of any street, alley, dock, wharf, pier, public road,
place, boulevard, parkway, or park entrance or an easement of the municipal corporation
available for the purpose of the improvement to be made in it by grading, draining, curbing,
paving, repaving, repairing, treating the surface with substances designed to lay the dust on it or
preserve it, constructing sidewalks, piers, wharves, docks, retaining walls, sewers, sewage
disposal works and treatment plants, sewage pumping stations, water treatment plants, water
pumping stations, reservoirs, and water storage tanks or standpipes, together with the facilities
and appurtenances necessary and proper therefor, drains, storm-water retention basins,
watercourses, water mains, or laying of water pipe, or the lighting, sprinkling, sweeping, or
cleaning thereof, or removing snow therefrom, any part of the cost and expense of planting,
maintaining, and removing shade trees thereupon; any part of the cost of a voluntary action, as
defined in section 3746.01 of the Revised Code, undertaken pursuant to Chapter 3746. of the
Revised Code by a special improvement district created under Chapter 1710. of the Revised
Code, including the cost of acquiring property with respect to which the voluntary action is
undertaken; any part of the cost and expense of constructing, maintaining, repairing, cleaning,
and enclosing ditches; any part of the cost and expense of operating, maintaining, and replacing
heating and cooling facilities for enclosed pedestrian canopies and malls; any part of the cost and
expense of acquiring and improving parking facilities and structures for off-street parking of
motor vehicles or of acquiring land and improving it by clearing, grading, draining, paving,
lighting, erecting, constructing, and equipping for parking facilities and structures for off-street
parking of motor vehicles, to the extent authorized by section 717.05 of the Revised Code, but
only if no special assessment made for the purpose of developing off-street parking facilities and
structures is levied against any land used solely for off-street parking or against any land
used solely for single or two-family dwellings; any part of the cost and expense of operating and
maintaining the off-street parking facilities and structures; and any part of the cost connected
with changing the channel of, or narrowing, widening, dredging, deepening, or improving, any
stream or watercourse, and for constructing or improving any levees or boulevards on any stream
or watercourse, or along or about any stream or watercourse, together with any retaining wall,
riprap protection, bulkhead, culverts, approaches, flood gates, waterways, or drains incidental to
any stream or watercourse, or for making any other improvement of any river or lake front,
whether it is privately or publicly owned, which the legislative authority declares conducive to
the public health, convenience, or welfare. In addition, a municipal corporation may levy a
special assessment for public improvement or public services plans of a district formed under
Chapter 1710. of the Revised Code, as provided in that chapter. Except as otherwise provided in Chapter 1710. of the Revised Code, special assessments may be levied by any of the following methods:

(A) By a percentage of the tax value of the property assessed;

(B) In proportion to the benefits that may result from the improvement;

(C) By the front foot of the property bounding and abutting upon the improvement.

727.011 Control, planting, care, and maintenance of shade trees.

For the purpose of controlling the blight and disease of shade trees within public rights-of-way, and for planting, maintaining, trimming, and removing shade trees in and along the streets of a municipality, the legislative authority of such municipal corporation may establish one or more districts in the municipality designating the boundaries thereof, and may each year thereafter, by ordinance, designate the district in which such control, planting, care, and maintenance shall be effected, setting forth an estimate of the cost and providing for the levy of a special assessment upon all the real property in the district, in the amount and in the manner provided in section 727.01 of the Revised Code, for planting, maintaining, trimming, and removing shade trees. The ordinance shall be adopted as other ordinances and a succinct summary of the ordinance shall be published in the manner provided in section 731.21 of the Revised Code. Bonds and anticipatory notes may be issued in anticipation of the collection of such special assessments, under section 133.17 of the Revised Code.

727.012 Constructing, maintaining, repairing, cleaning, and enclosing of ditches.

For the purpose of constructing, maintaining, repairing, cleaning, and enclosing ditches, the legislative authority of such municipal corporation may establish one or more districts in the municipality designating the boundaries thereof, and may each year thereafter, by ordinance, designate the district in which such constructing, maintaining, repairing, cleaning, and enclosing of ditches shall be effected, setting forth an estimate of the cost and providing for the levying of a special assessment upon all the real property in the district, in the amount and in the manner provided in section 727.01 of the Revised Code, for constructing, maintaining, repairing, cleaning, and enclosing ditches. The ordinance shall be adopted as other ordinances and a succinct summary of the ordinance shall be published in the manner provided in section 731.21 of the Revised Code. Bonds and anticipatory notes may be issued in anticipation of the collection of such special assessments, under section 133.17 of the Revised Code.

727.013 Relocation of overhead cables, wires, and appurtenant equipment.

A municipal corporation may contract with any corporation, company, partnership, association, or person maintaining overhead cables, wires, and appurtenant equipment on a street of the municipal corporation for the relocation of such overhead cables, wires, and appurtenant equipment underground within the limits of the street. Such contract shall provide for the payment of the contract price by the municipal corporation in not less than five nor more than ten
annual installments. Any part of the cost of relocating such overhead wires, cables, and appurtenant equipment to be paid by the municipal corporation pursuant to such contract, or the cost incurred by the municipal corporation in the relocation of its own overhead wires, cables, and appurtenant equipment within street limits, may be assessed upon the abutting, adjacent and contiguous or other specially benefited lots or lands in the municipal corporation in the manner provided in sections 727.01 to 727.49, inclusive, of the Revised Code. A proceeding for the relocation of overhead wires, cables, and appurtenant equipment underground may be combined with a proceeding for the furnishing of new street lighting facilities or other street improvement.

A municipal corporation may, by ordinance, adopt and enforce regulations requiring owners of property abutting upon a street in which overhead wires, cables, and appurtenant equipment supplying a utility service have been relocated underground and service connections have been provided to the property line, to install underground wires, cables, or conduits from the property line to the buildings or other structures on such property to which such utility service is supplied.

727.02 Fixing value of lands not assessed for taxation.

In making a special assessment by percentage of the tax value or by the foot front on lots or lands not subdivided into lots, when such lots or lands are not assessed for taxation, the legislative authority of a municipal corporation shall fix, for the purpose of such assessment, the value of such lots as they stand and of such lands at what the legislative authority considers a fair average depth for lots in the neighborhood, so that it will be a fair average of the assessed value of other lots in the neighborhood. In making assessments either way on land not subdivided into lots but which is assessed for taxation, the legislative authority shall fix the value and depth in the same manner, but such rule shall not apply in making a special assessment according to benefits.

727.03 Limitation on special assessments.

The legislative authority of a municipal corporation shall limit all special assessments levied under sections 727.01 to 727.49, inclusive, of the Revised Code, to the special benefits conferred upon the property assessed. In no case shall there be levied, under sections 727.01 to 727.49, inclusive, of the Revised Code, upon a lot or parcel of land in the municipal corporation, any assessment for any purpose which, together with all assessments made for all other purposes within a period of five years preceding the passage of the assessing ordinance under section 727.25 of the Revised Code, would be in excess of thirty-three and one-third per cent of the actual value of such lot or parcel including improvements thereon, as enhanced by the improvement for which the assessment is levied, such value to be determined as of the date of the assessing ordinance passed under section 727.25 of the Revised Code, except as provided by section 727.06 of the Revised Code. Assessments levied for the construction of main sewers shall not exceed the sum that, in the opinion of the legislative authority, would be required to construct an ordinary street sewer or drain of sufficient capacity to drain or sewer the lots or lands to be assessed for such improvement, nor shall any lots or lands be assessed that are provided with adequate drainage.
727.04 Assessments for repaving of streets.

When a special assessment is levied under sections 727.01 to 727.49, inclusive, of the Revised Code, by the legislative authority of a municipal corporation for the reimproving of any street within the municipal corporation by paving, for the original paving of which a special assessment has previously been levied by ordinance of the municipal corporation within the last twenty years, such assessments for repaving shall not exceed fifty per cent of the cost of such repaving.

727.05 Portion of improvement cost to be paid by municipal corporation.

The municipal corporation shall pay such part of the total cost of improvements for which special assessments are levied under sections 727.01 to 727.49, inclusive, of the Revised Code, as the legislative authority thereof deems just, which part shall not be less than one-fiftieth of the total cost of the improvement, and in addition thereto, the municipal corporation shall pay the cost of intersections, except as provided by section 727.06 of the Revised Code.

727.06 Petition by 60% of owners of front footage for improvement.

When a petition subscribed by the owners of sixty per cent of the front footage of property abutting upon a street, alley, public road, place, boulevard, parkway, park entrance, easement, or other public improvement in a municipal corporation, or the owners of seventy-five per cent of the area to be assessed for such improvement, requesting such improvement, is regularly presented to the legislative authority of the municipal corporation, the total cost of such improvement, including the cost of intersections, regardless of the limitations of sections 727.03 and 727.04 of the Revised Code, and without reference to the value of the lands of those who subscribe to such petition, may be assessed and collected in equal annual installments, proportioned to the whole assessment, in a manner which may be fixed by the legislative authority. When the lot or land of one who did not subscribe to the petition is assessed, such assessment shall not exceed the thirty-three and one-third per cent limitation prescribed by section 727.03 of the Revised Code.

727.07 Change in grade assessment.

When a street, alley, public highway, sidewalk, wharf, or landing within a municipal corporation is graded, or pavements are constructed in conformity to grades established by the authorities of the municipal corporation, and the expense of such work is assessed on the lots or lands benefited thereby, such lots or lands shall not be subject to any special assessment occasioned by any subsequent change of grade in such pavement, sidewalk, street, alley, public highway, wharf, or landing unless a petition for the change is subscribed by a majority of such owners. The expense of improvements occasioned by such change of grade, not so petitioned for, shall be included as part of the cost of the improvement to be paid by the municipal corporation.
727.08 Determining total cost of public improvement.

The cost of any public improvement to be paid for directly or indirectly, in whole or in part, by funds derived from special assessments may include but not be limited to:

(A) The purchase price of real estate or any interest therein when acquired by purchase, or not more than fifty per cent of the cost of acquiring such real estate or any interest therein when acquired by appropriation;

(B) The cost of preliminary and other surveys;

(C) The cost of preparing plans, specifications, profiles, and estimates except, to the extent that costs of plans, specifications, and estimates of cost have been paid for by the levy of assessments under section 729.11 of the Revised Code, such costs shall not be included in determining the cost of the improvement under this section;

(D) The cost of printing, serving, and publishing notices and summaries of resolutions and ordinances;

(E) The cost of all special proceedings;

(F) The cost of labor and material, whether furnished by contract or otherwise;

(G) Interest on securities issued in anticipation of the levy and collection of the special assessments or, if securities in anticipation of the levy of the special assessments are not issued, interest, at a rate to be determined by the legislative authority in the resolution of necessity adopted pursuant to section 727.12 of the Revised Code, on moneys advanced by the municipal corporation for the cost of the public improvement in anticipation of the levy of the special assessments;

(H) The total amount of damages, resulting from the improvement, assessed in favor of any owner of lands affected by the improvement, and interest thereon;

(I) The cost incurred in connection with the preparation, levy, and collection of the special assessments, including legal expenses incurred by reason of the improvement;

(J) Incidental costs directly connected with the improvement.

727.09 Special assessment proceedings may include more than one improvement.

When it is determined by the legislative authority of a municipal corporation and is recited in the resolution of necessity adopted under section 727.12 of the Revised Code, that the streets, alleys, easements, or other public places, or parts thereof, to be improved by construction of sidewalks, curbs, gutters, sewers, drains, or water lines or by paving, lighting, relocating overhead wires, cables, and appurtenant equipment underground, or treating the surface with dust-laying or preservative substances, sprinkling, sweeping, or cleaning are so situated in relation to each other
that in order to complete the improvement thereof in the most practical and economical manner they should be improved at the same time, with the same kind of materials, and in the same manner, then such streets, alleys, easements, or other public places, or parts thereof, may be treated as a single improvement, and one resolution, ordinance, or contract providing for such improvement may include one or more of such streets, alleys, easements, or other public places, or parts thereof, at the discretion of the legislative authority, whose determination in respect thereto shall be final.

727.10 Describing lots and lands to be charged.

In all proceedings in which lots or lands are to be charged with special assessments to pay any part of the cost of a public improvement, such lots and lands bounding and abutting upon the improvement may be described as all the lots and lands bounding and abutting upon such improvement between and including the termini of the improvement and those lots and lands which do not so bound and abut may be described by their appropriate lot numbers or by metes and bounds.

727.11 Annual installment payment schedules.

Special assessments for any improvement under this chapter shall be payable in annual installments pursuant to one or more payment schedules authorized by the legislative authority in the resolution of necessity adopted pursuant to section 727.12 of the Revised Code. Except as otherwise provided in section 727.251 of the Revised Code, the number of annual installments of any assessment for street lighting purposes or to pay the costs of relocating overhead wires, cables, and appurtenant equipment underground shall not exceed thirty and the number of annual installments of all other assessments shall not exceed the maximum maturity for which securities could be issued in anticipation thereof under Chapter 133. of the Revised Code. If no period of maximum maturity is so specified, then the period for which such other assessments shall be levied, except as otherwise provided under section 727.251 of the Revised Code, shall not be less than one year, but may not exceed the estimated life of the usefulness of the improvement as certified by the fiscal officer of the municipal corporation.

727.12 Filing plans - resolution of necessity.

When it is deemed necessary by a municipal corporation to make a public improvement to be paid for in whole or in part by special assessments levied under this chapter, plans, specifications, profiles of the proposed improvement showing the proposed grade of the street and improvement after completion with reference to the property abutting thereon, and an estimate of the cost of the improvement shall be prepared and filed in the office of the clerk of the legislative authority of the municipal corporation and shall be open to the inspection of all persons interested. After such plans, specifications, profiles, and estimate of cost of the improvement have been filed as provided in this section, the legislative authority of the municipal corporation may declare the necessity for such improvement by the passage of a resolution.
Such resolution shall:

(A) State the nature and location of the improvement and the lots or parcels of land to be assessed for the improvement;

(B) Approve the plans, specifications, profiles, and estimate of cost of the proposed improvement on file as provided by this section;

(C) State what part of the cost of the improvement is to be paid for by the municipal corporation and what part is to be paid for by special assessments;

(D) State whether the method of levying the special assessments shall be:

(1) By a percentage of the tax value of the property assessed;

(2) In proportion to the benefits which may result from the improvement;

(3) By the foot front of the property bounding and abutting upon the improvement.

(E) State the mode of payment, the payment schedule or schedules according to which the special assessments to be levied will be payable, and, if more than one payment schedule is authorized, criteria for use of the different schedules. In no case shall the use of different payment schedules affect the amount of special assessment levied on any lot or parcel of land assessed.

(F) State whether the municipal corporation intends to issue securities in anticipation of the levy of the special assessments;

(G) State whether the municipal corporation intends to issue securities in anticipation of the collection of the special assessments;

(H) Provide for the preparation of an estimated assessment in accordance with the method of assessment set forth in the resolution, showing the amount of the assessment against each lot or parcel of land to be assessed. Such estimated assessment shall be filed in the office of the clerk of the legislative authority of the municipal corporation.

Such resolution may also provide for the assessment to be levied and collected before the improvement for which the assessment is levied is commenced.

The passage of such resolution shall require the concurrence of three-fourths of the members elected to the legislative authority unless petitioned for by the owners of a majority of the front footage or the area to be assessed, in which event the passage of such resolution shall require the concurrence of a majority of such members. Such resolution shall be published as other resolutions are published.
727.13 Notice of passage of resolution of necessity and filing of estimated assessment.

Notice of the passage of a resolution of necessity and the filing of the estimated assessment under section 727.12 of the Revised Code, shall, after the estimated assessment has been made and filed as provided by section 727.12 of the Revised Code, be served by the clerk of the legislative authority, or a person designated by such clerk, upon the owners of the lots or parcels of land to be assessed for the proposed improvement, in the same manner as service of summons in civil cases, or by certified mail addressed to such owner at his last known address or to the address to which tax bills are sent, or by a combination of the foregoing methods. If it appears by the return of service or the return of the certified mail notice that one or more of the owners cannot be found, such owners shall be served by publication of the notice once in a newspaper of general circulation within the municipal corporation. The notice shall also set forth the place where such estimated assessments are on file and are open for public inspection. The return of the person serving the notice or a certified copy thereof or a returned receipt for notice forwarded by certified mail accepted by the addressee or anyone purporting to act for him shall be prima facie evidence of the service of notice under this section.

727.14 Publishing notice of certain special assessments.

In lieu of the procedure provided in section 727.13 of the Revised Code, the legislative authority may provide for notice of the passage of a resolution of necessity providing for the lighting, sprinkling, sweeping, or cleaning of any street, alley, public road, or place, or parts thereof or for treating the surface of the same with dust-laying or preservative substances, or for the planting, maintaining, and removing of shade trees, or for the constructing, maintaining, repairing, cleaning, and enclosing of ditches, and the filing of the estimated assessment under section 727.12 of the Revised Code, to be given by publication of such notice once a week for two consecutive weeks in a newspaper of general circulation in the municipal corporation or as provided in section 7.16 of the Revised Code. When it appears from the estimated assessment filed as provided by section 727.12 of the Revised Code, that the assessment against the owner of any lot or parcel of land will exceed two hundred fifty dollars, such owner shall be notified of the assessment in the manner provided in section 727.13 of the Revised Code.

727.15 Objection filed by owner.

The owner of any lot or parcel of land who objects to the amount or apportionment of, or the assessment against such lot or parcel as set forth in the estimated assessment filed under section 727.12 of the Revised Code, shall file such objection, in writing, with the clerk of the legislative authority within two weeks from the date of completion of the notice required under section 727.13 of the Revised Code. Such objection shall include the address for mailing of the notice provided in section 727.16 of the Revised Code. An owner who fails to so file an objection shall be deemed to have waived any objection.

727.16 Assessment equalization board.

In the event the owner of any lot or parcel of land to be assessed objects to the amount or apportionment of the estimated assessment or to the assessment against such lot or parcel, as
provided in section 727.15 of the Revised Code, the legislative authority of the municipal corporation shall appoint an assessment equalization board, consisting of three disinterested freeholders of the municipal corporation, and shall fix the time and place for the hearing by such board of such objections, and the clerk of the legislative authority shall notify, by certified mail, the persons so objecting of the time and place of such hearing. Such notice shall be mailed at least five days before the date of such hearing. In the event that all lands within the municipal corporation are to be subject to assessment, the assessment equalization board shall consist of three disinterested freeholders from the county outside the municipal corporation.

727.17 Powers and duties of board.

On the day appointed by the legislative authority of the municipal corporation for that purpose, the assessment equalization board appointed under section 727.16 of the Revised Code, shall meet and take an oath before a proper officer to honestly and impartially discharge its duties. It shall at such meeting or at any adjournment thereof, hear and determine all objections to the estimated assessment which have been filed under section 727.15 of the Revised Code, and shall equalize such estimated assessments as it thinks proper to conform to the standards prescribed in the resolution adopted under section 727.12 of the Revised Code.

If the board determines to increase the estimated assessment against any lot or parcel of land or to assess any lot or parcel of land not included in the estimated assessment and the owner of such lot or parcel of land has not filed an objection to the estimated assessment under section 727.15 of the Revised Code, the board shall notify such owner by certified mail of such fact and set a time and place for a hearing on such increase or assessment. Such notice shall be mailed at least five days before the date of such hearing.

After the completion of all hearings provided for by this section the board shall report to the legislative authority its recommendations including any changes which should be made in the estimated assessment.

The legislative authority may approve or disapprove the report including any changes recommended by the board in the estimated assessment.

In the event the legislative authority disapproves the report of the board it shall appoint a new equalization board and shall fix the time and place for the hearing by such board of objections to the estimated assessments. Such new board shall have the same powers and duties and shall proceed in the same manner as the original board.

727.171 Special assessment for off-street parking facilities.

The legislative authority of a municipal corporation may declare, by resolution, the necessity of levying and collecting special assessments for the purpose of paying the principal and interest, or part thereof, of bonds previously issued to pay the cost and expense of acquiring, constructing, and equipping off-street parking facilities, structures, or lands required therefor, which principal and interest was contemplated or required to be paid, under the provisions of an indenture given
to secure the payment of such indebtedness at maturity, from the fees and charges for the use of such facilities and structures.

Such resolution shall:

(A) Describe each such off-street parking facility or structure, its location, and the lots or parcels of land to be assessed;

(B) State the principal amount of revenue bonds remaining unpaid, the amount and rate of interest, and the number of years over which the bonds to be paid by such assessments are to mature;

(C) State whether the method of levying such special assessments shall be:

(1) By a percentage of the tax value of the property assessed; or

(2) In proportion to the benefits which may result from the improvement;

(D) State the mode of payment and the number of annual installments of the special assessments to be levied;

(E) Provide for the preparation of a proposed assessment list in accordance with the method set forth in the resolution showing the amount of the assessment to be made against each lot or parcel of land to be assessed.

The total amount of special assessments made by the legislative authority of the municipality under this section shall not exceed the total sum required to meet the maturing principal and interest costs on all unpaid bonds originally secured, when issued, by the revenues accruing from the operation of off-street parking facilities or structures.

Such proposed assessments shall be filed in the office of the clerk of the legislative authority of the municipal corporation, and notice of the passage of such resolution and the filing of the proposed assessments shall be given to the owners of the lots or parcels of land against which the assessments are made, as provided by section 727.13 of the Revised Code. Objections to the proposed assessments may be made as provided in section 727.15 of the Revised Code, and such objections shall be heard and determined as provided in sections 727.16 and 727.17 of the Revised Code.

The legislative authority of the municipal corporation shall, after the expiration of the time for filing objections to the proposed assessments and following the hearing and determination on any such objections, determine, by an ordinance, to proceed with and adopt the proposed assessment list as prepared and filed pursuant to the resolution of necessity adopted hereunder, or as equalized and approved by the legislative authority under section 727.17 of the Revised Code, and shall assess, as provided in section 727.25 of the Revised Code, in the manner provided in such resolution of necessity, upon the lots and parcels of land enumerated in the proposed
assessment adopted by said ordinance, the cost of the improvement to be paid for by such special assessment.

Such assessments shall be payable as provided in the resolution of necessity adopted hereunder and shall be final upon the adoption of the ordinance provided for in this section. No publication of the ordinance provided for in this section need be made under sections 731.21 and 731.22 of the Revised Code.

Assessments made under this section shall be filed with the clerk of the legislative authority and shall be open for public inspection. Notice of the passage of the ordinance provided for in this section, adopting the assessments, shall be given as provided in section 727.26 of the Revised Code. Such assessments shall be payable and shall be collected in the manner provided by sections 727.27 to 727.40, inclusive, of the Revised Code.

Such assessments, when collected, shall be paid into a separate fund in accordance with section 5705.10 of the Revised Code. As the principal and interest requirements on the bonds which have been contemplated or required to be paid from the income arising from the operation of off-street parking facilities or structures mature, moneys in such special fund, in an amount sufficient to meet such interest and principal requirements, may be transferred to the fund from which such principal and interest is to be paid. Any moneys remaining in such special fund, after all obligations have been paid, may be transferred by the legislative authority of the municipal corporation and used for off-street parking purposes.

727.18 Filing damage claims.

An owner of a lot or parcel of land, claiming that he will sustain damages by reason of a proposed public improvement, to be paid for in whole or in part by special assessments, shall, within two weeks from the date of completion of the notice required under section 727.13 of the Revised Code, file a claim in writing with the clerk of the legislative authority of the municipal corporation, setting forth the amount of the damages claimed and a general description of the property with respect to which it is claimed such damages will accrue. An owner who fails to file such claim, shall be deemed to have waived damages and shall be barred from filing a claim or receiving damages. This section applies to all damages which will obviously result from the improvement, but shall not deprive the owner of his right to recover damages arising, without his fault, from the acts of the municipal corporation or its agents. If, subsequent to the filing of such claim, the owner sells the property, or any part thereof, the assignee has the same right to damages which the owner would have had without the transfer.

727.19 Claims for damages.

When claims for damages are filed under section 727.18 of the Revised Code and the legislative authority of the municipal corporation determines in the ordinance adopted under section 727.23 of the Revised Code that the damages shall be assessed before commencing such improvement, the municipal corporation shall, within ten days after the passage of the ordinance to proceed with the improvement under section 727.23 of the Revised Code, make a written application for a jury to the court of common pleas, or a judge thereof in vacation, or to the probate court of the
county in which the municipal corporation or the larger area of it is situated. The court shall
direct the summoning of a jury in the manner provided by section 163.10 of the Revised Code,
and shall fix the time and place for the inquiry and the assessment of such damages, which
inquiry and assessments shall be confined to such claims.

727.20 Assessment of damages.

When claims for damages are filed in accordance with section 727.18 of the Revised Code and
the legislative authority of the municipal corporation determines, in the ordinance adopted under
section 727.23 of the Revised Code, that the damages shall be assessed after the completion of
the improvement, the municipal corporation shall, within ten days after the completion of such
improvement, make written application to the court of common pleas, or a judge thereof in
vacation, or to the probate court of the county in which the municipal corporation or the larger
area thereof is situated, to summon a jury in the manner provided by section 163.10 of the
Revised Code, to assess the amount of damages in each particular case. Such court shall fix the
time and place of inquiry and the assessment of damages, which inquiry and assessment shall be
confined to such claims.

727.21 Jury procedure.

The jury summoned under section 727.19 or 727.20 of the Revised Code shall be sworn to
inquire into and assess the actual damages in each case separately, under such rules and
instructions as are given it by the court. When the jury cannot agree, it may be discharged, but
the court may receive its verdict as to one or more of the claimants, and discharge it with respect
to the parties concerning whose claims it cannot agree. In case of the discharge of the jury
because of such disagreement, a new jury shall be summoned, and the same proceedings shall be
had with respect to the claims concerning which there was no verdict, as on the original trial.

727.22 Jury costs.

If the jury summoned under section 727.19 or 727.20 of the Revised Code finds no damages, the
costs of the inquiry shall be taxed against the claimant or claimants and collected on execution.
In other cases the costs shall be paid by the municipal corporation.

727.23 Ordinance for public improvement.

The legislative authority of a municipal corporation which has adopted a resolution under section
727.12 of the Revised Code declaring the necessity for a public improvement shall, after the
expiration of the time for filing claims for damages under section 727.18 of the Revised Code,
and, in the event objections to the estimated assessment have been filed under section 727.15 of
the Revised Code, and the report of the assessment equalization board has been approved under
section 727.17 of the Revised Code, determine whether or not it will proceed with the proposed
improvement.

In the event the legislative authority determines to proceed with the improvement it shall pass an
ordinance which shall:
(A) State the intention of the legislative authority to proceed with the improvement in accordance with the provisions of the resolution of necessity adopted under section 727.12 of the Revised Code;

(B) Adopt the estimated assessment prepared and filed in accordance with the resolution of necessity passed under section 727.12 of the Revised Code, or, in the event objections to such estimated assessment have been filed under section 727.15 of the Revised Code, adopt the estimated assessment approved by the legislative authority under section 727.17 of the Revised Code;

(C) State whether or not claims for damages filed in accordance with section 727.18 of the Revised Code shall be judicially inquired into before commencing or after completing the proposed improvement.

**727.24 Low bid exceeds estimates.**

After the passage of an ordinance under section 727.23 of the Revised Code, to proceed with a public improvement, the improvement may be constructed by force account, or a contract for the construction of the improvement shall be let in the manner provided by law, provided that in the event that the lowest and best bid for labor and materials for the public improvement exceeds the estimated cost for labor and materials as filed under section 727.12 of the Revised Code by fifteen per cent or more, then no contract shall be entered into until the legislative authority determines by a majority vote at a special meeting or its next regular meeting, after public hearing, that the improvement should be made. When the lowest and best bid will so exceed the estimated cost, the clerk of the legislative authority shall publish a notice once in a newspaper of general circulation in the municipal corporation specifying the time and place, not sooner than forty-eight hours following such notice, when owners of property to be assessed for the improvement shall be heard on the question of whether such improvement should be made. In the event that such hearing is to be held at a special meeting, the clerk of the legislative authority shall serve notice on each member of the legislative authority of a special meeting to be held at the time and place set forth in the notice of the hearing and the purpose of the special meeting. Such notice shall be served in the manner provided for the service of notice of special meetings of legislative authority. At the meeting for such hearing, or any adjournment thereof, the legislative authority shall, by a majority vote, determine whether or not the public improvement should be made. If the legislative authority determines that the improvement should be made, the improvement may be constructed by force account or a contract may be let for the construction of such public improvement to the lowest and best bidder.

Notwithstanding the foregoing provisions of this section, in the event that the improvement is being undertaken by the municipal corporation in cooperation with the government of the United States or the state or any department or agency thereof, or any political subdivision of this state, or any one or more of them, and under the statutes or the cooperative contract authorizing such improvement the municipal corporation is required to pay its share of the estimated cost of the improvement to another party to such contract prior to the advertising for construction bids, the legislative authority of the municipal corporation may, by majority vote, determine to dispense with any notice, hearing, and determination that might otherwise be required by this section prior

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to the entry into a construction contract; provided that, if after the actual cost of such improvement has been ascertained, the cost to the municipal corporation for labor and materials exceeds the estimated cost therefor as filed under section 727.12 of the Revised Code by fifteen per cent or more, then the assessments levied under section 727.25 of the Revised Code shall not exceed in the aggregate the estimated assessment adopted under section 727.23 of the Revised Code unless the legislative authority, by majority vote, determines that this shall be done after notice and hearing in the manner provided in this section.

No subsequent change in the cost of the improvement shall affect the validity of the assessment proceedings taken under Chapter 727. of the Revised Code if the applicable provisions of this section have been complied with.

727.25 Procedure for ordinance of assessment.

After the actual cost of a public improvement authorized under section 727.23 of the Revised Code has been ascertained, the legislative authority of the municipal corporation shall by ordinance assess, in the manner provided in the resolution of necessity adopted under section 727.12 of the Revised Code, upon the lots and lands enumerated in the estimated assessment adopted under section 727.23 of the Revised Code, that portion of the total cost of the improvement to be paid for by special assessments and such assessments as to each lot or parcel of land, shall be increased or decreased in the same proportion to the estimated assessment on each such lot or parcel of land as the actual cost of the improvement bears to the estimated cost of the improvement upon which the estimated assessment was based. Such assessments shall be payable as provided in the resolution of necessity adopted under section 727.12 of the Revised Code, and shall be final upon the adoption of the ordinance provided for in this section, unless the ordinance and resolution are amended pursuant to section 727.251 of the Revised Code. No publication of the ordinance provided for in this section need be made under the provisions of sections 731.21 and 731.22 of the Revised Code.

Assessments made under this section shall be filed with the clerk of the legislative authority and shall be open to public inspection.

727.251 Applying for deferment of payment.

Within fifteen days after adoption of an ordinance of assessment pursuant to section 727.25 of the Revised Code, an owner of property against which assessments are levied or are to be levied pursuant to this chapter may apply to the legislative authority of the municipal corporation for a deferment of payment of the assessment on grounds that timely payment will impose financial hardship upon him. The legislative authority shall examine the applicant’s financial condition only to the extent necessary to determine whether or not timely payment of the assessment will cause such hardship. If the legislative authority determines that timely payment will cause such hardship, it may by majority vote amend the resolution of necessity adopted pursuant to section 727.12 of the Revised Code and the assessing ordinance to provide for deferred payment of all or part of the amount of the assessment until the earliest of the following:

(A) Such future date or dates as the legislative authority considers reasonable;
(B) Such time as the property is sold or transferred by the applicant;

(C) Such time as the property becomes subject to estate taxes under Chapter 5731. of the Revised Code.

Any charges, fees, or other costs incurred by the municipal corporation as a result of additional accounting requirements or borrowing made necessary by the deferment shall be added to the amount of the assessment and collected in the same manner as the assessment. The amount of any assessment deferred under this section shall be a lien upon the property until full payment is received by the municipal corporation.

727.26 Notice of passage of ordinance.

Upon the passage of an ordinance under section 727.25 of the Revised Code levying a special assessment, the legislative authority of the municipal corporation shall publish notice of the passage of such ordinance once in a newspaper of general circulation in the municipal corporation, stating that such assessment has been made and is on file in the office of the clerk of the legislative authority for the inspection and examination of persons interested therein.

727.27 Payment schedule.

Special assessments are payable by the time and in the manner stipulated in the assessing ordinance passed under section 727.25 of the Revised Code, except that any such assessment in the amount of twenty-five dollars or less, or any unpaid balance of any such assessment which is twenty-five dollars or less, shall be paid in full, and not in installments, at the time the first or next installment would otherwise become due and payable, and are a lien from the date of the passage of such ordinance upon the respective lots or parcels of land assessed.

727.28 Interest rate on securities issued in anticipation of collection of special assessments.

(A) When securities are issued in anticipation of the collection of special assessments, the interest on the securities shall be treated as part of the cost of the improvement for which the special assessments are made. The unpaid special assessments anticipated by issuance of securities shall bear interest at the same rate or rates of interest and for the same period as the securities issued in anticipation of the special assessments.

(B) When securities are not issued in anticipation of the collection of the special assessments, the legislative authority of the municipal corporation may provide in the assessing ordinance passed pursuant to section 727.25 of the Revised Code for interest on unpaid special assessments which shall be treated as part of the cost of the improvement for which the special assessments are made. The unpaid special assessments shall bear the rate or rates of interest determined by the legislative authority in the assessing ordinance, which rate or rates shall be determined by the legislative authority to be substantially equivalent to the fair market rate or rates that would have been borne by securities issued in anticipation of the collection of the special assessments if such securities had been issued by the municipal corporation.
(C) When the contribution of a municipal corporation, under an agreement pursuant to section 6121.13 of the Revised Code, between the municipal corporation and the Ohio water development authority, for the construction of an improvement for which the municipal corporation can levy assessments as provided in this chapter and sections 6117.41 to 6117.45 of the Revised Code, is to be made over a period of time from the proceeds of the collection of an assessment, the interest accrued and to accrue before the first installment of such assessment is collected, that is payable by such municipal corporation on such contribution under such agreement, shall be treated as part of the cost of the improvement for which such assessment is made, and that portion of such assessments as is collected in installments shall bear interest at the same rate that the municipal corporation is obligated to pay on its contribution under such agreement and for the same period of time as the contribution is to be made under such agreement. If the assessment or any installment thereof is not paid when due, it shall bear interest until the payment thereof at the same rate as such contribution or as the securities issued in anticipation thereof, and the county auditor shall annually place upon the tax list and duplicate the penalty and interest as provided in this chapter.

727.29 Apportioning assessment between life tenant and owner.

When a special assessment is made on real estate subject to a life estate, the assessment shall be payable by the tenant for life, but upon application by the life tenant to a court of competent jurisdiction, by action against the owner of the estate in fee, such court may apportion the cost of the assessment between the life tenant and the owner in fee in proportion to the relative value of the improvement to their estates, respectively, to be ascertained and determined by the court on principles of equity.

727.30 Duties of officers in implementing special assessments.

When any special assessment is levied under section 727.25 of the Revised Code, and securities of the municipal corporation are issued in anticipation of the collection thereof, the clerk of the legislative authority, on or before the second Monday in September of each year, shall certify the special assessment to the county auditor, stating the amounts and the time of payment. The auditor shall place the special assessments upon the tax list. If section 727.301 of the Revised Code applies, the county auditor shall certify the special assessment, and the time it is payable, to the treasurer of the municipal corporation.

Except as provided in section 727.301 of the Revised Code, the county treasurer shall collect the special assessments in the same manner and at the time as other taxes are collected, and shall pay the amounts collected, together with any interest and penalty, to the treasurer of the municipal corporation, to be applied by him to the payment of securities issued in anticipation of the collection of the special assessments and interest thereon, and for no other purpose.

For the purpose of enforcing the collection, the county treasurer has the same power and authority as allowed by law for the collection of state and county taxes. Each installment of the special assessments remaining unpaid after becoming due and collectible is delinquent and shall bear the same penalty as delinquent real property taxes. The city director of law or the authorized
legal representative of the municipal corporation may act as attorney for the county treasurer in actions brought for the enforcement of the lien of the delinquent special assessments.

No interest or penalty shall be added to a special assessment unless at least thirty days have intervened between the date of passage of the assessing ordinance and the time the special assessment is certified to the county auditor for collection.

727.301 Collecting assessments by municipal treasurer.

When securities are issued in anticipation of the collection of a special assessment, the legislative authority of a municipal corporation, in the assessing ordinance, may provide that the treasurer of the municipal corporation shall collect the special assessments in place of the county treasurer and apply the amounts collected, together with any interest and penalty thereon, to payment of the securities and interest thereon, and for no other purpose.

For the purpose of enforcing the collection, the treasurer of the municipal corporation has the same power and authority as allowed by law to the county treasurer for the collection of state and county taxes. Each installment of the special assessments remaining unpaid after becoming due and collectible is delinquent and shall bear the same penalty as delinquent real property taxes. The city director of law or the authorized legal representative of the municipal corporation shall act as attorney for the treasurer of the municipal corporation in actions brought for enforcement of the lien of the delinquent special assessments.

No interest or penalty shall be added to a special assessment unless at least thirty days have intervened between the date of passage of the assessing ordinance and the time the special assessment is certified to the county auditor for collection.

727.31 Proceedings to recover special assessment.

If the payment of a special assessment, which has not been certified to the county auditor for collection, is not made by the time stipulated in the ordinance providing therefor, the amount assessed, with interest, and a forfeiture of ten per cent thereon, may be recovered by suit before a county court, municipal court, or other court of competent jurisdiction, in the name of the municipal corporation, to enforce the lien against the lots and lands charged with such assessment.

Proceedings for the recovery of the assessment may be instituted by the municipal corporation to enforce the lien, against all the lots or lands, or any of them embraced in any one assessment, but the judgment or decree shall be rendered severally or separately for the amount assessed. Any proceeding may be severed, in the discretion of the court, for the purpose of trial, review, or appeal when an appeal is allowed.

In proceedings to enforce the lien, when the owner of any lot or land assessed is a nonresident of this state, or is unknown, notice shall be given by publication in the manner prescribed by law in similar cases.

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727.32 Court to determine amount of recovery.

If in any action for the recovery of a special assessment, it appears that by reason of any technical irregularity or defect, whether in the proceedings of the legislative authority or of any officer of the municipal corporation, or in the plans or estimates, the assessment has not been properly made upon any lot or parcel of land sought to be charged, the court may nevertheless, on satisfactory proof that expense has been incurred which is a proper charge against such lot or parcel of land in question, render judgment for the amount properly charged against it. The court shall make such order for the payment of the costs as is equitable and proper.

727.33 Collecting unpaid assessments.

When any special assessment, levied under section 727.25 of the Revised Code and in anticipation of which securities of the municipal corporation have not been issued, is unpaid, the legislative authority of the municipal corporation may order the clerk of the legislative authority or any other proper officer of the municipal corporation to certify the unpaid special assessment to the county auditor for collection. The county auditor shall place the unpaid special assessment upon the tax list. If section 727.331 of the Revised Code applies, the county auditor shall certify the unpaid special assessment to the treasurer of the municipal corporation.

Except as provided in section 727.331 of the Revised Code, the county treasurer shall collect the unpaid special assessment with and in the same manner as state and county taxes, and pay the amount collected to the treasurer of the municipal corporation.

No interest or amount to cover the cost of collection shall be added to the unpaid special assessment unless at least thirty days have intervened between the date of passage of the assessing ordinance and the time the unpaid special assessment is certified to the county auditor for collection.

727.331 Municipal treasurer to collect unpaid assessments.

The legislative authority of a municipal corporation, when securities are not issued in anticipation of the collection of a special assessment, may provide, in the assessing ordinance, that if a special assessment is unpaid, the treasurer of the municipal corporation shall collect the unpaid special assessment in place of the county treasurer. For purposes of enforcing the collection, the treasurer of the municipal corporation has the same power and authority as allowed by law to the county treasurer for the collection of state and county taxes. The city director of law or the authorized legal representative of the municipal corporation shall act as attorney for the treasurer of the municipal corporation in actions brought for enforcement of the lien of delinquent special assessments.

No interest or amount to cover the cost of collection shall be added to the unpaid special assessment unless at least thirty days have intervened between the date of passage of the assessing ordinance and the time the unpaid special assessment is certified to the treasurer of the municipal corporation for collection.
727.332 Municipal treasurer to deliver statement showing amount collected to auditor.

The treasurer of a municipal corporation collecting special assessments pursuant to section 727.301 or 727.331 of the Revised Code, within five business days after the collection, shall prepare a written statement showing the amount collected and deliver the statement to the county auditor. The county auditor, after endorsing the statement with the time of filing, shall remove the amount of the special assessment collected from the tax list.

727.34 Lien of assessment or installment.

The lien of an assessment or any installment thereof shall continue for two years from date of passage of the ordinance under section 727.25 of the Revised Code, and no longer, unless the municipal corporation, before the expiration of such time, causes it to be certified to the county auditor for entry upon the tax lists for collection under section 727.30 or 727.33 of the Revised Code, or causes the proper action to be commenced, in a court having jurisdiction thereof, to enforce the lien against such lots or lands, in which case the lien shall continue in force so long as the assessment or any installment thereof remains on the tax list uncollected, or so long as the action is pending, and any judgment obtained under and by virtue thereof remains in force and unsatisfied.

727.35 Statute of limitations for action for recovery.

If an action for the recovery of an assessment is commenced within due time, and a judgment therein for the plaintiff is reversed, or if the plaintiff fails in such action otherwise than upon the merits and the time limited for the action has expired, a new action may be commenced within one year after such reversal or failure.

727.36 Adding collection costs to assessment.

In placing any assessment on the tax list, the county auditor shall add to each assessment such per cent as he deems necessary to defray the expense of collecting it.

If the legislative authority of a municipal corporation provides that the treasurer of the municipal corporation shall collect an assessment, the legislative authority, in the assessing ordinance, shall add to the assessment an amount to cover the cost of its collection.

727.37 Court of common pleas jurisdiction.

The court of common pleas shall have the jurisdiction authorized by sections 727.01 to 727.49, inclusive, of the Revised Code, for the collection of any charge or debt or the enforcement of any lien, notwithstanding the amount involved is less than that to which the jurisdiction is limited in other cases. Such courts may make such special rules concerning the class of cases authorized to be brought under such sections as will tend to expedite the disposition and prevent unnecessary costs.
727.38 Additional assessment to supply deficiency.

If an assessment proves insufficient to pay the cost of a public improvement, the legislative authority of a municipal corporation may levy an additional assessment to supply the deficiency. Such additional assessment shall be levied against the same properties as were assessed for the cost of the improvement and shall be assessed among such properties in the same proportion as the assessment for the cost of the improvement was levied. Such additional assessment shall be subject to the same limitations as the assessment for the cost of the improvement. In case a larger amount is collected from an assessment than is necessary to pay the cost of the improvement or to retire the bonds or notes issued in anticipation thereof, the amount of such assessments collected in excess of that necessary to pay such costs or retire such bonds or notes shall be returned to the persons from whom it was collected in proportion to the amounts collected from each such person respectively.

727.39 Reassessment order.

When it appears to the legislative authority of a municipal corporation that a special assessment is invalid by reason of informality or irregularity in the proceedings, or when an assessment is adjudged to be illegal by a court of competent jurisdiction, the legislative authority may order a reassessment whether the improvement has been made or not.

Proceedings upon a reassessment, and for the collection thereof, shall be conducted in the same manner as is provided for the original assessment.

727.40 Rules of construction.

Proceedings with respect to public improvements to be paid for in whole or in part by special assessments shall be liberally construed by the legislative authorities of municipal corporations and by the courts in order to secure a speedy completion of the work at reasonable cost, and the speedy collection of the assessment after the time has elapsed for its payment. Merely formal objections shall be disregarded, but the proceedings shall be strictly construed in favor of the owner of the property assessed or injured as to the limitations on assessment of private property and compensation for damages sustained.

With respect to any assessment upon the abutting, adjacent, and contiguous, or other especially benefited lots or lands in a municipal corporation for any part of the cost connected with an improvement authorized by law, the passage by the legislative authority of an ordinance levying such assessment shall be construed a declaration by such legislative authority that the improvement for which it is levied is conducive to the public health, convenience, and welfare. No assessment shall be held invalid by any court because of the omission of the legislative authority to expressly declare in the proceedings and legislation for such improvement and assessment that the improvement is conducive to the public health, convenience, or welfare.
727.41 Cooperative agreements for street improvements.

Whenever the boundary line between two municipal corporations is located within or along the side lines of a street, avenue, or other public highway, such municipal corporations may enter into an agreement for the improvement of such street, avenue, or other public highway in such manner as the respective legislative authorities thereof determine. The agreement may provide for any of the improvements specified in section 727.01 of the Revised Code, and the cost thereof may be assessed upon the property specially benefited thereby, in the manner provided in such section, and to the same extent and subject to the same limitations as provided by sections 727.01 to 727.49 of the Revised Code. By the agreement, the cost of the entire improvement shall be apportioned between the two municipal corporations as their legislative authorities agree, and the legislative authority of each shall determine whether or not any portion of the cost to be paid by it shall be specially assessed or paid from other funds of the municipal corporation available for such purpose. Such agreement shall designate one of the municipal corporations to take exclusive charge of the details of construction of the improvement, including advertising for bids and awarding the contract. Such contract may be entered into by such municipal corporation when the necessary funds have been provided therefor, and when the amount to be paid by the other municipal corporation has been paid to the treasurer of the municipal corporation authorized to supervise such construction.

Bonds may be issued and sold in anticipation of the collection of the assessments by the municipal corporation levying the assessments, and bonds may likewise be issued and sold by either municipal corporation for the purpose of paying its share of such improvement under the conditions and limitations, and in the manner, provided by Chapter 133. of the Revised Code.

727.42 Apportioning costs among municipal corporations for park boulevard.

Whenever a park boulevard extends from a municipal corporation to which it belongs into or adjacent to one or more other municipal corporations, and it is desired by the several municipal corporations so situated to improve the boulevard by grading, draining, curbing, paving, repaving, surfacing, resurfacing, or otherwise improving such boulevard, such municipal corporations may apportion the cost of the improvement among themselves in such manner as the legislative authorities thereof agree. The amount agreed to be borne by each municipal corporation may be defrayed out of its general fund, or by the issue of bonds.

Where such boulevard adjoins private property, abutting thereon and benefited thereby, such property may be assessed a portion of the cost of the improvement by the municipal corporation in which the property is situated, in the same manner, to the same extent, and subject to the same limitations as are provided by Chapter 727. of the Revised Code for the levying and collection of special assessments.

The amount agreed to be paid by the municipal corporations in which or adjacent to which such park boulevard is situated shall be paid to the treasurer of the municipal corporation owning such park boulevard. The contract for such improvement shall be let by and the work done under the supervision of the municipal corporation owning said park boulevard in the same manner
provided for the letting and execution of contracts for the improvement of streets in such municipal corporation.

In the event that a part of the cost of such improvement is to be specially assessed upon the abutting property, the municipal corporation in which such property is situated may issue bonds in anticipation of the collection of such assessments, in the same manner in which bonds are authorized to be issued and sold in anticipation of the collection of special assessments for the improvement of streets and highways.

727.43 Damage claim limits.

No person who claims damages, arising without his fault from the acts of a municipal corporation or its agents in the construction of a public improvement, shall commence a suit therefor against a municipal corporation until he files a claim for such damages with the clerk of such municipal corporation, and sixty days elapse thereafter, to enable the municipal corporation to take such steps as it deems proper to settle or adjust the claim.

This section does not apply to an application for an injunction or other proceeding to which it may be necessary for such applicant to resort in case of urgent necessity.

727.44 Establishing sanitary sewerage, storm sewerage, and water supply districts.

In addition to the power conferred by other sections of the Revised Code, the legislative authority of a municipal corporation may by ordinance establish in the municipal corporation such number of districts as may be deemed necessary by it for the purpose of providing efficient sanitary sewerage, storm sewerage, or water supply. Each of such districts shall be designated by a name or number and shall be so arranged as to be independent of each other so far as practicable. The legislative authority shall cause the engineer of the municipal corporation or other person employed by it to devise and form a general plan for each district for storm sewerage, sanitary sewerage, or water supply as may be appropriate. Such plan shall be devised with regard to the present and prospective needs and interests of the municipal corporation and shall be reported to the legislative authority when completed. A plan for sanitary sewerage may include facilities and appurtenances necessary and proper for the collection, treatment, and disposal of sanitary sewage. A plan for storm sewerage may include facilities and appurtenances necessary and proper for the collection retention, control, and disposal of storm sewage. A plan for a water system may include facilities and appurtenances necessary and proper for the supply, treatment, storage, and distribution of water.

727.45 Showing location of facilities.

The plan prepared under section 727.44 of the Revised Code shall show the location of all facilities included within the plan.
727.46 Filing plan for sanitary sewerage, storm sewerage, and water supply districts.

When a general plan has been prepared under section 727.44 of the Revised Code and reported to the legislative authority, it shall be filed with the clerk of the legislative authority and the legislative authority shall cause its clerk to publish, once a week for two consecutive weeks in a newspaper of general circulation in the municipal corporation or as provided in section 7.16 of the Revised Code, a notice stating that such general plan has been prepared and is on file in the office of the clerk of the legislative authority for examination by interested persons and that written objections to such plan may be filed in the office of such clerk before the date specified in the notice, which shall not be earlier than the seventeenth day following the date of the first publication in said newspaper. Any person having an objection to the general plan shall file such objection in writing, with the clerk of the legislative authority within the time specified.

727.47 Adopting plan for sanitary sewerage, storm sewerage, and water supply districts.

The legislative authority shall consider any objections filed under section 727.46 of the Revised Code, and after such consideration may adopt the general plan with any amendments or corrections thereto which it believes proper. The general plan with any amendments or corrections and certified by the clerk of the legislative authority as the plan adopted, shall then be filed in the office of such clerk.

727.48 Alteration of districts.

The legislative authority of a municipal corporation may, from time to time rearrange existing districts, establish new districts or subdistricts, or amend the general plan for the district as provided under sections 727.44 to 727.49, inclusive, of the Revised Code.

727.49 Constructing portion of plan.

After a general plan has been approved under section 727.47 of the Revised Code, the legislative authority of the municipal corporation shall designate, from time to time, such portion of the general plan as is required for immediate use and may provide for the construction thereof. In the event the cost of the construction of such portion of the plan as is designated for immediate use is to be paid for in whole or in part by special assessments the legislative authority may treat such construction as a single improvement in one resolution, ordinance, or contract and the provisions of sections 727.01 to 727.08, inclusive, and 727.10 to 727.43, inclusive, of the Revised Code shall apply to such construction and the levy and collection of the special assessments to pay the cost thereof.

MUNICIPAL ASSESSMENTS – SIDEWALKS; SEWERS

729.01 Construction or repair of sidewalks, curbs, and gutters at expense of owners.

In addition to the power conferred upon municipal corporations under section 727.01 of the Revised Code to construct sidewalks, curbs, or gutters and levy an assessment therefor, the legislative authority of a municipal corporation may require the construction or repair of
sidewalks, curbs, or gutters within the municipal corporation by the owners of lots or lands abutting thereon, and upon the failure of such owners to construct or repair such sidewalks, curbs, or gutters within the time prescribed in the resolution adopted under section 729.02 of the Revised Code, may cause such sidewalks, curbs, or gutters to be constructed or repaired and assess the total cost thereof against the lots or lands abutting thereon, notwithstanding the provisions of sections 727.03 and 727.05 of the Revised Code.

### 729.02 Resolutions of necessity for construction or repair of sidewalks, curbs, or gutters.

When it is deemed necessary by a municipal corporation to require the construction or repair of sidewalks, curbs, or gutters within the municipal corporation by the owners of the lots or lands abutting thereon, the legislative authority of the municipal corporation shall cause plans, specifications, and an estimate of the cost of such construction or repair to be prepared, showing the location and dimensions of such sidewalks, curbs, or gutters and the specifications for the construction or repair thereof, and filed in the office of the clerk of the legislative authority. After such plans, specifications, and estimate of cost have been filed, as provided in this section, the legislative authority may declare the necessity for the construction or repair of such sidewalks, curbs, or gutters by the adoption of a resolution which shall:

(A) Approve the plans, specifications, and estimate of cost of the proposed construction or repair on file as provided by this section;

(B) Describe the lots and lands abutting upon the sidewalks, curbs, or gutters to be constructed or repaired by the termini of the improvement or by street address;

(C) Set forth that such sidewalks, curbs, or gutters shall be constructed or repaired by the owners of the lots or lands abutting thereon in accordance with the specifications on file in the office of the clerk of the legislative authority of the municipal corporation;

(D) Set forth the time within which such sidewalks, curbs, or gutters shall be constructed or repaired by the owners of the lots and lands abutting thereon, which shall not be less than thirty days from the date of service of notice under section 729.03 of the Revised Code, on the owner of the lots or lands;

(E) State that in the event such sidewalks, curbs, or gutters are not constructed or repaired by the owners of the lots and lands abutting thereon in accordance with such plans and specifications and within the time prescribed in this resolution, the municipal corporation will so construct or repair such sidewalks, curbs, or gutters and assess the cost thereof against the lots and lands abutting thereon.

### 729.03 Notice to construct or repair sidewalks, curbs, and gutters.

Notice of the passage of a resolution of necessity under section 729.02 of the Revised Code shall be served by the clerk of the legislative authority, or a person designated by such clerk, upon the owners of the lots or lands abutting upon the sidewalks, curbs, or gutters to be constructed or repaired in the same manner as service of summons in civil cases, or by certified mail addressed
to such owner at his last known address or to the address to which tax bills are sent, or by a combination of the foregoing methods. If it appears by the return of service or the return of the certified mail notice that one or more of the owners cannot be found, such owners shall be served by publication of the notice once in a newspaper of general circulation within the municipal corporation. The return of the person serving the notice or a certified copy thereof or a returned receipt for notice forwarded by certified mail accepted by the addressee or anyone purporting to act for him shall be prima-facie evidence of the service of notice under this section. Such notice shall also set forth the place where the specifications governing the construction or repair of such sidewalks, curbs, or gutters are on file, the time within which the owner of such lot or parcel of land may construct or repair such sidewalks, curbs, or gutters, and that in the event such owner does not construct or repair such sidewalks, curbs, or gutters in accordance with such specifications and within such time, the municipal corporation will construct or repair such sidewalks, curbs, or gutters and assess the costs thereof against the lot or land of such owner.

729.04 Assessment of costs of improvements.

Upon the expiration of the time within which sidewalks, curbs, or gutters shall be constructed or repaired by the owner of the lots or lands abutting thereon as set forth in the resolution adopted under section 729.02 of the Revised Code, the sidewalks, curbs, or gutters not constructed or repaired by the owners of the lots and lands abutting thereon shall be constructed or repaired by the municipal corporation in accordance with the resolution adopted under section 729.02 of the Revised Code, and the legislative authority of the municipal corporation shall, upon the completion of such construction or repair, assess the cost thereof against the lots or lands abutting thereon.

In anticipation of the collection of the cost of the construction or repair of such sidewalks, curbs, or gutters from the owners of the lots or lands abutting thereon, the legislative authority of the municipal corporation may provide for the issuance of bonds or notes and the proceeds thereof shall be used to pay for the construction or repair of such sidewalks, curbs, or gutters.

729.05 Assessment proceedings may include different owners on different streets.

In all proceedings pertaining to the construction or repair of sidewalks, curbs, or gutters under sections 729.01 to 729.08, inclusive, of the Revised Code, sidewalks, curbs, or gutters upon different streets abutting upon lots or lands owned by different owners may be included in the same resolution, notice, contract, ordinance, or other proceedings.

729.06 Requiring installation of sewer or water connections.

In addition to the power conferred upon municipal corporations under section 727.01 of the Revised Code to levy and collect special assessments, the legislative authority of a municipal corporation may require the installation of sewer or water connections and assess the cost thereof as provided in this section.

Whenever the legislative authority of a municipal corporation deems it necessary, in view of contemplated street paving or as a sanitary regulation, that sewer or water connections or both be
installed, the legislative authority shall cause written notice thereof to be given to the owner of each lot or parcel of land to which such connections are to be made, which notice shall state the number and the character of connections required.

The notice under this section shall be served by the clerk of the legislative authority, or a person designated by such clerk, upon the owners of the lots or parcels of land to which such connections are to be made in the same manner as service of summons in civil cases, or by certified mail addressed to such owner at his last known address or to the address to which tax bills are sent, or by a combination of the foregoing methods. If it appears by the return of service or the return of the certified mail notice that one or more of such owners cannot be found, such owners shall be served by publication of the notice once in a newspaper of general circulation within the municipal corporation. The return of the person serving the notice or a certified copy thereof or a returned receipt for notice forwarded by certified mail accepted by the addressee or anyone purporting to act for him shall be prima-facie evidence of the service of notice under this section.

If said connections are not installed within thirty days from the date of service of such notice, the work may be done by the municipal corporation and the cost thereof together with a forfeiture of five per cent, assessed against the lots and lands for which such connections are made.

729.07 List of estimated assessments.

Upon completion of the construction or repair of sidewalks, curbs, or gutters under sections 729.01 to 729.05, inclusive, of the Revised Code, or the installing of sewer or water connections under section 729.06 of the Revised Code, the total cost of such construction, repair, or installation as defined in section 727.08 of the Revised Code, shall be ascertained and reported to the legislative authority by its clerk, and the legislative authority shall cause a list of estimated assessments to be prepared. Such list shall include the total cost of such construction, repair, or installation to each lot or land abutting upon such construction, repair, or installation and shall be filed in the office of the clerk of the legislative authority and be available for public inspection.

729.08 Publication of notice of estimate.

The legislative authority of the municipal corporation shall cause a notice to be published for three consecutive weeks in a newspaper of general circulation in the municipal corporation or as provided in section 7.16 of the Revised Code, stating that such list of estimated assessments has been made and is on file in the office of the clerk of the legislative authority for the inspection and examination of persons interested therein.

If any person objects to an assessment on such list, the person shall file the objection in writing with the clerk of the legislative authority within two weeks after the expiration of the notice provided in this section.
729.09 Adoption of assessment ordinance.

The clerk of the legislative authority shall deliver the objections received under section 729.08 of the Revised Code to the legislative authority of the municipal corporation. The legislative authority shall review the written objections and shall adopt an ordinance levying upon the lots and lands enumerated in the list of estimated assessments the amounts set forth on such list with such changes or corrections as the legislative authority shall determine to be proper after consideration of the written objections filed under section 729.08 of the Revised Code. Such ordinance shall state the number of annual installments, not exceeding ten, over which the assessments shall be payable and shall establish a period of time during which the assessments shall be payable in cash.

729.11 Ordinance for construction, enlargement, or improvement of system of storm or sanitary sewerage.

In addition to the power conferred upon municipal corporations under section 727.01 of the Revised Code to levy and collect special assessments, the legislative authority of a municipal corporation may, whenever it has determined by ordinance that it is necessary to construct, enlarge, or improve a system of storm or sanitary sewerage for the municipal corporation or any part thereof, including sewage disposal works, treatment plants, and sewage pumping stations, or a water supply system for the municipal corporation or any part thereof including mains, dams, reservoirs, wells, intakes, purification works, and pumping stations, and that any such improvement shall be constructed, enlarged, or improved, may levy upon property to be benefited in the municipal corporation or any designated part thereof, which property shall be described in the ordinance, a preliminary assessment upon the benefited lots and lands within the corporation or such part thereof, apportioned according to benefits or to the tax valuation or partly by one method and partly by the other, as the legislative authority determines for the purpose of paying the costs of general and detailed plans, specifications, estimates, preparation of the tentative assessment, financing, and legal services incident to the preparation of such plans, and a plan for financing the proposed improvements.

Prior to the adoption of such ordinance, the legislative authority of such municipal corporation shall give notice of the pendency thereof and of the proposed determination of the necessity of the improvement therein generally described, which notice shall set forth the description of the benefited property as designated in the ordinance and the time and place of hearing of objections to and endorsements of the improvement. Such notice shall be given by publication in a newspaper of general circulation in the municipal corporation once a week for two consecutive weeks or as provided in section 7.16 of the Revised Code, the first publication to be at least two weeks prior to the date set for the hearing. At such hearing, or at any adjournment thereof, of which no further published notice need be given, the legislative authority shall hear all persons whose properties are proposed to be assessed, and such evidence as is deemed to be necessary, and shall then determine the necessity of the proposed improvement and in addition shall determine whether the improvement shall be made by the municipal corporation, and shall direct the preparation of tentative assessments upon the benefited properties and by whom they shall be prepared.
Such assessments shall be in the amount determined to be necessary by the legislative authority to pay the costs of general and detailed plans, specifications, estimates of cost, preparation of the tentative assessment, financing and legal services incident to the preparation of such plans, and a plan of financing the proposed improvements, and shall be payable in such number of years as the legislative authority determines, not to exceed twenty, together with interest on any notes which may be issued in anticipation of the collection of such assessments.

The legislative authority may at any time levy additional assessments according to benefits or to tax valuation or partly by one method and partly by the other as the legislative authority determines for such purposes upon such properties to complete the payment of such costs or to pay the cost of any additional plans, specifications, estimates of cost, tentative assessments, and the cost of financing and legal services incident to the preparation of such plans and such plan of financing, which additional assessments shall be payable in such number of years as the legislative authority determines, not to exceed twenty years, together with interest on any notes and bonds which may be issued in anticipation of the collection thereof.

Upon completion of the tentative assessments or any additional assessments, they shall be filed with the clerk of the legislative authority and shall be and remain open to public inspection, and thereupon, the legislative authority shall give at least ten days’ notice of the filing thereof in one newspaper of general circulation in the municipal corporation, or shall give notice as provided in section 7.16 of the Revised Code, which notice shall state the time and place when and where such tentative assessments shall be taken up for consideration. At such time and place or at any adjournment thereof, of which no further published notice need be given, the legislative authority shall hear all persons whose properties are proposed to be assessed, shall correct any errors and make any revisions that appear to be necessary or just, and may then pass an ordinance levying upon the properties determined to be benefited such assessments as so corrected and revised.

The assessments levied by such ordinance shall be certified to the county auditor for collection as other taxes in the year or years in which they are payable; provided any such assessment in the amount of five dollars or less, or any unpaid balance of any such assessment which is five dollars or less, shall be paid in full, and not in installments, at the time the first or next installment would otherwise become due and payable.

Upon the adoption of such ordinance levying assessments the legislative authority may authorize contracts to carry out the purposes for which such assessments have been levied without the prior issuance of notes and bonds; provided that the payments due by the municipal corporation do not fall due prior to the times in which such assessments shall be collected. The municipal corporation may also issue and sell its bonds with a maximum maturity of twenty years in anticipation of the collection of such assessments and may issue its notes in anticipation of the issuance of such bonds, which notes and bonds shall be issued and sold as provided in Chapter 133. of the Revised Code.

**729.12 New curbs to have ramped curbing for handicapped.**

All new curbs that are authorized by any municipal corporation or township, and all existing curbs which are part of any reconstruction, shall have a ramp with nonslip surface built into the
curb at each pedestrian crosswalk so that the sidewalk and street blend to a common level. Such ramps shall be not less than forty inches wide and shall insofar as feasible be constructed in accordance with the standard drawings and specifications for curb ramps of the department of transportation.

729.42 Two or more municipal corporations may construct joint sewers.

The legislative authorities of two or more municipal corporations may provide for the construction of a main sewer and branches jointly by such municipal corporations for the sewering and draining of such municipal corporations or any part thereof, and agree upon the plan and location of such main sewer, the terms on which it shall be constructed and maintained for common use, and the portion of the cost thereof to be paid by each municipal corporation. For this purpose such municipal corporations may jointly appropriate land either within or without their respective limits.

729.43 Payment of cost of joint sewers.

The legislative authority of each municipal corporation shall provide for assessing such portion of the cost and expenses of constructing any main sewer or drain under section 729.42 of the Revised Code as it determines to be a proper charge upon the lots and lands within the respective municipal corporations benefited thereby. Any excess over such assessment shall be paid from the sewer funds of the municipal corporations respectively, or if they or either of them are divided into sewer districts, from the sewer fund of the district directly or indirectly sewered in whole or in part thereby. If more than one district is so sewered thereby, the legislative authority shall apportion the amount to be paid by each district or assessed against the property therein, or such legislative authorities, or either, may determine to place the whole cost, or any part thereof, upon the general tax duplicate.

729.44 Advertisement for bids.

The advertisement for bids for the construction of a sewer under section 729.42 of the Revised Code shall be joint, and shall be filed with the clerk of the legislative authority of the municipal corporation, and reported to the legislative authority of each such municipal corporation. Any contract made for the construction of such sewer shall be in the names of the municipal corporations jointly, but each shall be liable only for such portion of the cost as is specified in the ordinances providing therefor.

729.45 Joint management of sewerage system.

Upon completion, the main sewer or drain, branches, and appurtenances constructed under section 729.42 of the Revised Code shall be the property of the municipal corporations jointly, and they may take all necessary steps to keep them in proper repair and condition and to protect them from damage and improper use. Such municipal corporations may, by ordinance jointly passed, prescribe the terms, including the price to be paid therefor, upon which other municipal corporations, public institutions, or individuals may connect with and use such main sewer or drain, and the disposition of the fund arising therefrom.
729.46 Repairs of sewers and ditches.

The legislative authority of a municipal corporation may provide for the repair or reconstruction of any sewer, ditch, or drain and the proceedings for that purpose shall be the same, so far as applicable, as are required for the original construction thereof.

729.47 Construction and maintenance of sewer pumping stations.

The legislative authority of a municipal corporation, in accordance with Title VII [7] of the Revised Code, may provide for the construction and maintenance of sewer pumping stations, equip them with necessary machinery and apparatus, and provide the necessary buildings therefor.

729.48 Sewerage farm.

A municipal corporation may purchase and hold land outside its limits, to be used as a sewerage farm, and may construct and maintain thereon all the necessary appliances for the proper disposal of the sewage of such municipal corporation, under such rules and regulations as are prescribed by the legislative authority thereof and approved by the department of health.

729.49 Sewerage rates or charges of rent.

The legislative authority of a municipal corporation which has installed or is installing sewerage, a system of sewerage, sewage pumping works, or sewage treatment or disposal works for public use, may, by ordinance, establish just and equitable rates or charges of rents to be paid to the municipal corporation for the use of such services, by every person, firm, or corporation whose premises are served by a connection thereto. Such charges shall constitute a lien upon the property served by such connection and if not paid when due shall be collected in the same manner as other municipal corporation taxes. The legislative authority may change such rates or charges from time to time as is deemed advisable. The legislative authority of a municipal corporation operating under a charter may establish such schedule of rates and provide for its administration by designating the department or officer to be charged with the enforcement of sections 729.49 to 729.52, inclusive, of the Revised Code.

729.50 Management and control of sewerage system.

In a city the director of public service shall manage, conduct, and control the sewerage system and sewage pumping, treatment, and disposal works mentioned in section 729.49 of the Revised Code, and, when the legislative authority thereof has established a schedule of rates or charges of rents therefor, the director shall collect sewer rentals, and shall appoint the necessary officers and agents for such purposes.

When the legislative authority of a village has established a schedule of rates or charges of rents for such use, such duties shall be performed by the board of trustees of public affairs. The board shall assume all duties, in relation to sewers, imposed upon the street commissioner by section 735.32 of the Revised Code, whereupon the street commissioner shall be relieved of such duties.
729.51 Bylaws and regulations.

The director of public service and the board of trustees of public affairs may make such bylaws and regulations as are necessary for the safe, economical, and efficient management and protection of the sewerage system and sewage pumping, treatment, and disposal works mentioned in section 729.49 of the Revised Code, and for the construction and use of house sewers and their connections to the sewerage system. Such bylaws and regulations shall have the same effect as ordinances, when not repugnant thereto, or to the constitution or laws of the state.

729.52 Funds from sewer rentals deposited into sewer fund.

The funds received from the collection of sewer rentals under section 729.49 of the Revised Code shall be deposited weekly with the treasurer of the municipal corporation. Money so deposited shall be kept as a separate and distinct fund and shall be known as the sewer fund. When appropriated by the legislative authority of the municipal corporation, the fund shall be subject to the order of the director of public service of a city or of the board of trustees of public affairs of a village. The director or board shall sign all orders drawn on the treasurer of the municipal corporation against such fund, which fund shall be used for the payment of the cost of the management, maintenance, operation, and repair of the sewerage system and sewage pumping, treatment, and disposal works. Any surplus in such fund may be used for the enlargement or replacement of the system and works, for construction and reconstruction of main and interceptor storm sewers, for the payment of the interest on any debt incurred for the construction thereof, and for the creation of a sinking fund for the payment of such debt, but shall not be used for the extension of a sewerage system to serve unsewered areas or for any other purpose; provided, where such municipal corporation does not operate or maintain a sewage pumping, treatment, and disposal works, any or all of such surplus may be transferred to the general fund of the municipal corporation in the manner provided in sections 5705.15 and 5705.16 of the Revised Code.

AGRICULTURAL DISTRICT EXEMPTION

929.03 Agricultural district land exempt from assessments.

(A)

(1) No public entity with authority to levy special assessments on real property shall collect an assessment for purposes of sewer, water, or electrical service on real property that is within an agricultural district as described in division (A)(2) of this section without the permission of the owner, except that any assessment may be collected on a lot surrounding a dwelling or other structure not used in agricultural production that does not exceed one acre or the minimum area required by local zoning or subdivision rules, whichever is the greater area.

(2) For purposes of division (A)(1) of this section, an agricultural district is such a district that is established:
(a) In the case of counties, prior to the adoption of a resolution of necessity by a board of county commissioners, pursuant to section 6103.05 or 6117.06 of the Revised Code;

(b) In the case of municipal corporations, prior to whichever of the following occurs first:

(i) The adoption of the resolution of necessity by the municipal legislative authority, pursuant to section 727.12 or 729.02 of the Revised Code;

(ii) The service of notice on all or some of the owners to be assessed pursuant to section 729.06 of the Revised Code;

(iii) The adoption of the resolution or ordinance by the municipal legislative authority declaring the necessity for the improvement, the costs of which are to be assessed under procedures authorized by a municipal charter adopted pursuant to Section 7 of Article XVIII, Ohio Constitution, or, if no such ordinance or resolution is required under the charter, the service of the first notice on all or some of the owners of lands to be assessed, or the adoption of the first ordinance or resolution by the municipal legislative authority pertaining to the assessment proceedings under the charter.

(c) In the case of a regional water and sewer district established pursuant to Chapter 6119. of the Revised Code, prior to the adoption of a resolution of necessity by the board of trustees of the district under section 6119.25 of the Revised Code.

(B) For each special assessment levied by a public entity on real property within an agricultural district for purposes of sewer, water, or electrical service, the county auditor shall make and maintain a list showing:

(1) The name of the owner of each lot, tract, or parcel of land that is exempt from the collection of the special assessment under this section;

(2) A description of the exempt land;

(3) The purpose of the special assessment;

(4) The amount of the uncollected assessment on the exempt land.

In the case of a county project constructed under Chapter 6103. or 6117. of the Revised Code, the county auditor may use a list provided for in those chapters in lieu of the list required by division (B) of this section. The auditor shall also record in the water works record required by section 6103.16 of the Revised Code or the sewer improvement record required by section 6117.33 of the Revised Code those assessments not collected under this section. The recording of the assessments does not permit the collection of the assessments until such time as exempt lands are withdrawn from agricultural districts or converted to nonagricultural use.

(C) If at any time any of the owner’s exempt land, other than a lot sold or transferred to a son, daughter, brother, sister, mother, or father for the purpose of constructing a dwelling in which the
relative will reside for at least three years, is withdrawn from an agricultural district or if the owner of the exempt land uses on that land the service for which the special assessment was assessed, the public entity may collect the entire uncollected assessment, except as otherwise provided in this division, in addition to an amount equal to the rate of interest that any bonds or notes issued for the project for which the assessment was made did bear for the number of years the land was exempted, not to exceed twenty-five or the number of years for which the bonds or notes were issued, whichever is the lesser number. The owner shall notify the county auditor of any withdrawal from a district or use of the service within ninety days following the withdrawal or use of the service. The charge shall constitute a lien of the public entity upon the land and shall continue until discharged. All liens shall be recorded in the appropriate county recorder’s office. Moneys collected as a result of the charge shall be deposited in the appropriate fund of the public entity that levied the special assessment.

If the owner of exempt land sells or transfers a lot to the owner’s son, daughter, brother, sister, mother, or father for the purpose of constructing a dwelling in which the relative will reside for at least three years, and if the owner or the buyer of the lot uses the service for which the special assessment was assessed only to provide service to that lot, the owner of the lot shall pay only that portion of the uncollected assessment and interest that applies to the lot.

If at any time any part of an owner’s exempt land is appropriated, the owner shall pay only that portion of the uncollected assessment and interest that applies to the appropriated parcel of land.

In lieu of immediate payment of the uncollected assessment and interest, the board of county commissioners, legislative authority of a municipal corporation, or other governing board of any other public entity may, upon the request of the owner, establish an extended repayment schedule for the owner. If the board, legislative authority, or other governing board establishes such a schedule, it shall notify the county auditor of the schedule.

**SPECIAL IMPROVEMENT DISTRICTS**

**1710.01 Special improvement district definitions.**

As used in this chapter:

(A) “Special improvement district” means a special improvement district organized under this chapter.

(B) “Church” means a fellowship of believers, congregation, society, corporation, convention, or association that is formed primarily or exclusively for religious purposes and that is not formed for the private profit of any person.

(C) “Church property” means property that is described as being exempt from taxation under division (A)(2) of section 5709.07 of the Revised Code and that the county auditor has entered on the exempt list compiled under section 5713.07 of the Revised Code.
(D) “Municipal executive” means the mayor, city manager, or other chief executive officer of the municipal corporation in which a special improvement district is located.

(E) “Participating political subdivision” means the municipal corporation or township, or each of the municipal corporations or townships, that has territory within the boundaries of a special improvement district created under this chapter.

(F) “Legislative authority of a participating political subdivision” means, with reference to a township, the board of township trustees.

(G) “Public improvement” means the planning, design, construction, reconstruction, enlargement, or alteration of any facility or improvement, including the acquisition of land, for which a special assessment may be levied under Chapter 727. of the Revised Code, and includes any special energy improvement project.

(H) “Public service” means any service that can be provided by a municipal corporation or any service for which a special assessment may be levied under Chapter 727. of the Revised Code.

(I) “Special energy improvement project” means any property, device, structure, or equipment necessary for the acquisition, installation, equipping, and improvement of any real or personal property used for the purpose of creating a solar photovoltaic project, a solar thermal energy project, a geothermal energy project, a customer-generated energy project, or an energy efficiency improvement, whether such real or personal property is publicly or privately owned.

(J) “Existing qualified nonprofit corporation” means a nonprofit corporation that existed before the creation of the corresponding district under this chapter, that is composed of members located within or adjacent to the district, that has established a police department under section 1702.80 of the Revised Code, and that is organized for purposes that include acquisition of real property within an area specified by its articles for the subsequent transfer of such property to its members exclusively for charitable, scientific, literary, or educational purposes, or holding and maintaining and leasing such property; planning for and assisting in the development of its members; providing for the relief of the poor and distressed or underprivileged in the area and adjacent areas; combating community deterioration and lessening the burdens of government; providing or assisting others in providing housing for low- or moderate-income persons; and assisting its members by the provision of public safety and security services, parking facilities, transit service, landscaping, and parks.

(K) “Energy efficiency improvement” means energy efficiency technologies, products, and activities that reduce or support the reduction of energy consumption, allow for the reduction in demand, or support the production of clean, renewable energy and that are or will be permanently fixed to real property. (L) “Customer-generated energy project” means a wind, biomass, or gasification facility for the production of electricity that meets either of the following requirements: (1) The facility is designed to have a generating capacity of two hundred fifty kilowatts of electricity or less. (2) The facility is: (a) Designed to have a generating capacity of more than two hundred fifty kilowatts of electricity; (b) Operated in parallel with electric transmission and distribution facilities serving the real property at the site of the customer-
generated energy project; (c) Intended primarily to offset part or all of the facility owner’s requirements for electricity at the site of the customer-generated energy project and is located on the facility owner’s real property; and (d) Not producing energy for direct sale by the facility owner to the public. (M) “Reduction in demand” means a change in customer behavior or a change in customer-owned or operated assets that reduces or has the capability to reduce the demand for electricity as a result of price signals or other incentives. (N) “Electric distribution utility” and “mercantile customer” have the same meanings as in section 4928.01 of the Revised Code.

1710.02 Creation and organization.

(A) A special improvement district may be created within the boundaries of any one municipal corporation, any one township, or any combination of contiguous municipal corporations and townships for the purpose of developing and implementing plans for public improvements and public services that benefit the district. A district may be created by petition of the owners of real property within the proposed district, or by an existing qualified nonprofit corporation. If the district is created by an existing qualified nonprofit corporation, the purposes for which the district is created may be supplemental to the other purposes for which the corporation is organized. All territory in a special improvement district shall be contiguous; except that the territory in a special improvement district may be noncontiguous if at least one special energy improvement project is designated for each parcel of real property included within the special improvement district. Additional territory may be added to a special improvement district created under this chapter for the purpose of developing and implementing plans for special energy improvement projects if at least one special energy improvement project is designated for each parcel of real property included within such additional territory and the addition of territory is authorized by the initial plan proposed under division (F) of this section or a plan adopted by the board of directors of the special improvement district under section 1710.06 of the Revised Code.

The district shall be governed by the board of trustees of a nonprofit corporation. This board shall be known as the board of directors of the special improvement district. No special improvement district shall include any church property, or property of the federal or state government or a county, township, or municipal corporation, unless the church or the county, township, or municipal corporation specifically requests in writing that the property be included within the district, or unless the church is a member of the existing qualified nonprofit corporation creating the district at the time the district is created. More than one district may be created within a participating political subdivision, but no real property may be included within more than one district unless the owner of the property files a written consent with the clerk of the legislative authority, the township fiscal officer, or the village clerk, as appropriate. The area of each district shall be contiguous; except that the area of a special improvement district may be noncontiguous if all parcels of real property included within such area contain at least one special energy improvement thereon.

(B) Except as provided in division (C) of this section, a district created under this chapter is not a political subdivision. A district created under this chapter shall be considered a public agency under section 102.01 and a public authority under section 4115.03 of the Revised Code. Each
member of the board of directors of a district, each member’s designee or proxy, and each officer
and employee of a district shall be considered a public official or employee under section 102.01
of the Revised Code and a public official and public servant under section 2921.42 of the
Revised Code. Districts created under this chapter are not subject to sections 121.81 to 121.83 of
the Revised Code. Districts created under this chapter are subject to sections 121.22 and 121.23
of the Revised Code.

(C) Each district created under this chapter shall be considered a political subdivision for
purposes of section 4905.34 of the Revised Code.

Membership on the board of directors of the district shall not be considered as holding a public
office. Directors and their designees shall be entitled to the immunities provided by Chapter
1702. and to the same immunity as an employee under division (A)(6) of section 2744.03 of the
Revised Code, except that directors and their designees shall not be entitled to the
indemnification provided in section 2744.07 of the Revised Code unless the director or designee
is an employee or official of a participating political subdivision of the district and is acting
within the scope of the director’s or designee’s employment or official responsibilities.

District officers and district members and directors and their designees or proxies shall not be
required to file a statement with the Ohio ethics commission under section 102.02 of the Revised
Code. All records of the district shall be treated as public records under section 149.43 of the
Revised Code, except that records of organizations contracting with a district shall not be
considered to be public records under sections 149.43 or section 149.431 of the Revised Code
solely by reason of any contract with a district.

(D) Except as otherwise provided in this section, the nonprofit corporation that governs a district
shall be organized in the manner described in Chapter 1702. of the Revised Code. Except in the
case of a district created by an existing qualified nonprofit corporation, the corporation’s articles
of incorporation are required to be approved, as provided in division (E) of this section, by
resolution of the legislative authority of each participating political subdivision of the district. A
copy of that resolution shall be filed along with the articles of incorporation in the secretary of
state’s office.

In addition to meeting the requirements for articles of incorporation set forth in Chapter 1702. of
the Revised Code, the articles of incorporation for the nonprofit corporation governing a district
formed under this chapter shall provide all the following:

(1) The name for the district, which shall include the name of each participating political
subdivision of the district;

(2) A description of the territory within the district, which may be all or part of each participating
political subdivision. The description shall be specific enough to enable real property owners to
determine if their property is located within the district.

(3) A description of the procedure by which the articles of incorporation may be amended. The
procedure shall include receiving approval of the amendment, by resolution, from the legislative
authority of each participating political subdivision and filing the approved amendment and resolution with the secretary of state.

(4) The reasons for creating the district, plus an explanation of how the district will be conducive to the public health, safety, peace, convenience, and welfare of the district.

(E) The articles of incorporation for a nonprofit corporation governing a district created under this chapter and amendments to them shall be submitted to the municipal executive, if any, and the legislative authority of each municipal corporation or township in which the proposed district is to be located. Except in the case of a district created by an existing qualified nonprofit corporation, the articles or amendments shall be accompanied by a petition signed either by the owners of at least sixty per cent of the front footage of all real property located in the proposed district that abuts upon any street, alley, public road, place, boulevard, parkway, park entrance, easement, or other existing public improvement within the proposed district, excluding church property or property owned by the state, county, township, municipal, or federal government, unless a church, county, township, or municipal corporation has specifically requested in writing that the property be included in the district, or by the owners of at least seventy-five per cent of the area of all real property located within the proposed district, excluding church property or property owned by the state, county, township, municipal, or federal government, unless a church, county, township, or municipal corporation has specifically requested in writing that the property be included in the district. Pursuant to Section 2o of Article VIII, Ohio Constitution, the petition required under this division may be for the purpose of developing and implementing plans for special energy improvement projects, and, in such case, is determined to be in furtherance of the purposes set forth in Section 2o of Article VIII, Ohio Constitution. If a special improvement district is being created under this chapter for the purpose of developing and implementing plans for special energy improvement projects, the petition required under this division shall be signed by one hundred per cent of the owners of the area of all real property located within the proposed special improvement district, at least one special energy improvement project shall be designated for each parcel of real property within the special improvement district, and the special improvement district may include any number of parcels of real property as determined by the legislative authority of each participating political subdivision in which the proposed special improvement district is to be located. For purposes of determining compliance with these requirements, the area of the district, or the front footage and ownership of property, shall be as shown in the most current records available at the county recorder’s office and the county engineer’s office sixty days prior to the date on which the petition is filed.

Each municipal corporation or township with which the petition is filed has sixty days to approve or disapprove, by resolution, the petition, including the articles of incorporation. In the case of a district created by an existing qualified nonprofit corporation, each municipal corporation or township has sixty days to approve or disapprove the creation of the district after the corporation submits the articles of incorporation or amendments thereto. This chapter does not prohibit or restrict the rights of municipal corporations under Article XVIII of the Ohio Constitution or the right of the municipal legislative authority to impose reasonable conditions in a resolution of approval. The acquisition, installation, equipping, and improvement of a special energy improvement project under this chapter shall not supersede any local zoning, environmental, or similar law or regulation.
(F) Persons proposing creation and operation of the district may propose an initial plan for public services or public improvements that benefit all or any part of the district. Any initial plan shall be submitted as part of the petition proposing creation of the district or, in the case of a district created by an existing qualified nonprofit corporation, shall be submitted with the articles of incorporation or amendments thereto.

An initial plan may include provisions for the following:

(1) Creation and operation of the district and of the nonprofit corporation to govern the district under this chapter;

(2) Hiring employees and professional services;

(3) Contracting for insurance;

(4) Purchasing or leasing office space and office equipment;

(5) Other actions necessary initially to form, operate, or organize the district and the nonprofit corporation to govern the district;

(6) A plan for public improvements or public services that benefit all or part of the district, which plan shall comply with the requirements of division (A) of section 1710.06 of the Revised Code and may include, but is not limited to, any of the permissive provisions described in the fourth sentence of that division or listed in divisions (A)(1) to (7) of that section;

(7) If the special improvement district is being created under this chapter for the purpose of developing and implementing plans for special energy improvement projects, provision for the addition of territory to the special improvement district.

After the initial plan is approved by all municipal corporations and townships to which it is submitted for approval and the district is created, each participating subdivision shall levy a special assessment within its boundaries to pay for the costs of the initial plan. The levy shall be for no more than ten years from the date of the approval of the initial plan; except that if the proceeds of the levy are to be used to pay the costs of a special energy improvement project, the levy of a special assessment shall be for no more than thirty years from the date of approval of the initial plan. In the event that additional territory is added to a special improvement district, the special assessment to be levied with respect to such additional territory shall commence not earlier than the date such territory is added and shall be for no more than thirty years from such date. For purposes of levying an assessment for this initial plan, the services or improvements included in the initial plan shall be deemed a special benefit to property owners within the district.

(G) Each nonprofit corporation governing a district under this chapter may do the following:

(1) Exercise all powers of nonprofit corporations granted under Chapter 1702. of the Revised Code that do not conflict with this chapter;
(2) Develop, adopt, revise, implement, and repeal plans for public improvements and public services for all or any part of the district;

(3) Contract with any person, political subdivision as defined in section 2744.01 of the Revised Code, or state agency as defined in section 1.60 of the Revised Code to develop and implement plans for public improvements or public services within the district;

(4) Contract and pay for insurance for the district and for directors, officers, agents, contractors, employees, or members of the district for any consequences of the implementation of any plan adopted by the district or any actions of the district.

The board of directors of a special improvement district may, acting as agent and on behalf of a participating political subdivision, sell, transfer, lease, or convey any special energy improvement project owned by the participating political subdivision upon a determination by the legislative authority thereof that the project is not required to be owned exclusively by the participating political subdivision for its purposes, for uses determined by the legislative authority thereof as those that will promote the welfare of the people of such participating political subdivision; to improve the quality of life and the general and economic well-being of the people of the participating political subdivision; better ensure the public health, safety, and welfare; protect water and other natural resources; provide for the conservation and preservation of natural and open areas and farmlands, including by making urban areas more desirable or suitable for development and revitalization; control, prevent, minimize, clean up, or mediate certain contamination of or pollution from lands in the state and water contamination or pollution; or provide for safe and natural areas and resources. The legislative authority of each participating political subdivision shall specify the consideration for such sale, transfer, lease, or conveyance and any other terms thereof. Any determinations made by a legislative authority of a participating political subdivision under this division shall be conclusive.

Any sale, transfer, lease, or conveyance of a special energy improvement project by a participating political subdivision or the board of directors of the special improvement district may be made without advertising, receipt of bids, or other competitive bidding procedures applicable to the participating political subdivision or the special improvement district under Chapter 153. or 735. or section 1710.11 of the Revised Code or other representative provisions of the Revised Code.

1710.021 Time period for transfer of property.

Any owner of an interest in real property that is located within a proposed or existing special improvement district who enters into a contract to transfer the interest shall give to the transferee of the interest within the specified period of time both of the following:

(A) Within five days after entering into the contract, each notice that the owner received under this chapter within ninety days prior to entering into the contract;

(B) Within five days after its receipt, each notice that the owner receives under this chapter after entering into the contract until the contract is completely performed or terminated.
1710.03 Members of district.

(A) Except as otherwise provided in this division, each owner of real property within a special improvement district other than the state or federal government is a member of the district, and the real property of each member of the district is subject to special assessment under division (C) of section 1710.06 of the Revised Code. A church is not a member of the district unless the church specifically requested in writing that its property be included in the district or unless, in the case of a district created by an existing qualified nonprofit corporation, the church is a member of the corporation at the time the district is created. A county, township, or municipal corporation owning real property in the district is not a member of the district unless such entity specifically requested in writing that its property be included in the district.

The identity and address of the owners shall be determined for any particular action of the nonprofit corporation that governs the district, including notice of meetings of the district, no more than sixty days prior to the date of the action, from the most current records available at the county auditor’s office. For purposes of this chapter, the persons shown on such records as having common or joint ownership interests in a parcel of real property collectively shall constitute the owner of the real property.

(B) A member may file a written statement with the district’s secretary at least three days prior to any meeting of the entire membership of the district to appoint a proxy to carry out the member’s rights and responsibilities under this chapter at that meeting.

(C) A member also may appoint a designee to carry out the member’s rights and responsibilities under this chapter by filing a written designation form with the district’s secretary. This form shall include the name and address of the member, the name and address of the designee, and the expiration date, if any, of the designation and may authorize the designee to vote at any meeting of the district.

(D) A proxy or designee need not be an elector or resident of any participating political subdivision of the district or a member of the district. The appointment of a proxy or a designee may be changed by filing a new form with the district’s secretary. The most current form filed with the secretary is the valid appointment. Service of any notice upon a proxy or designee at the proxy’s or designee’s address as shown on that form satisfies any requirements for notification of the member.

1710.04 Board of directors duties.

(A) A special improvement district created under this chapter shall be governed by the board of directors of the special improvement district. The board shall consist of at least five directors. The board shall include a person appointed by the legislative authority of each participating political subdivision and the municipal executive of each municipal corporation with territory within the boundaries of the special improvement district. The remainder of the board’s members shall be members of the district. Except for the municipal executives and the appointees of the legislative authorities, and except as otherwise provided in this division, members of the board of directors shall be elected at a meeting of the entire membership of the district. The initial election
of directors may occur at the first meeting of the entire membership of the district after its creation. All subsequent elections shall be held at a November meeting of the membership.

Each municipal executive may designate one person who is an employee of the municipal corporation involved with its planning or economic development functions to serve in the municipal executive’s stead. This designee shall serve at the pleasure of the municipal executive.

In the case of a district created by an existing qualified nonprofit corporation, the corporation’s board of trustees or other governing board, however denominated, shall be the board of directors of the special improvement district for the purposes of this chapter. The election of directors otherwise required by this division shall not be required, and the requirement that municipal executives and appointees of the legislative authorities be members of the district’s board of directors may be satisfied by the membership on the corporation’s governing board of representatives of such participating political subdivisions, or may be waived if approved by resolution of the legislative authorities of the participating political subdivisions.

(B) A director may file a written statement with the district’s secretary at least three days prior to any meeting of the board to have a person act as proxy to carry out the director’s rights and responsibilities under this chapter at that meeting.

A director may also appoint a designee to carry out the director’s rights and responsibilities under this chapter by filing a written designation form with the district’s secretary. This form shall include the name and address of the director, the name and address of the designee, and the expiration date, if any, of the designation.

A proxy or designee need not be an elector or resident of a participating political subdivision of the district or a member of the district. The appointment of a proxy or designee may be changed by filing a new form with the district’s secretary. The most current form filed with the secretary is the valid appointment. Service of any notice upon a proxy or designee at the proxy’s or designee’s address as shown on that form satisfies any requirements for notification of the director.

(C) Notice of the time, date, place, and agenda for any meeting of the board of directors shall be by written notice to each director, transmitted by certified mail, personal service, or electronic device prior to the meeting. If possible, the notice shall be served at least one week prior to the meeting.

The board shall act by a majority vote of those present and authorized to vote at any meeting where proper notice has been served.

(D) The board shall elect a chairperson, vice-chairperson, secretary, and treasurer of the board. These officers shall serve at the board’s pleasure. A director may be elected to more than one office, except that the director elected as treasurer shall not be elected to any other office of the board.
By the first day of March of each year, the treasurer shall submit to each member of the district and to the municipal executive, chief fiscal officer, and legislative authority of each municipal corporation with territory within the boundaries of the special improvement district and the board of township trustees of each township with territory within the boundaries of the special improvement district, a report of the district’s activities and financial condition for the previous year.

(E) Divisions (B), (C), and (D) of this section do not apply to a district created by an existing qualified nonprofit corporation to the extent those divisions are not consistent with the regulations of the corporation, in which case the regulations of the corporation shall govern.

1710.05 Notice for meetings -method for voting.

Except as otherwise provided in this chapter, the articles of incorporation or the code of regulations governing the nonprofit corporation shall provide for the method by which notice for meetings of the membership of the special improvement district is to be given and the method for voting by the membership of the district.

1710.06 Plans for public improvements or public services.

(A) The board of directors of a special improvement district may develop and adopt one or more written plans for public improvements or public services that benefit all or any part of the district. Each plan shall set forth the specific public improvements or public services that are to be provided, identify the area in which they will be provided, and specify the method of assessment to be used. Each plan for public improvements or public services shall indicate the period of time the assessments are to be levied for the improvements and services and, if public services are included in the plan, the period of time the services are to remain in effect. Plans for public improvements may include the planning, design, construction, reconstruction, enlargement, or alteration of any public improvements and the acquisition of land for the improvements. Plans for public improvements or public services may also include, but are not limited to, provisions for the following:

(1) Creating and operating the district and the nonprofit corporation under this chapter, including hiring employees and professional services, contracting for insurance, and purchasing or leasing office space and office equipment and other requirements of the district;

(2) Planning, designing, and implementing a public improvements or public services plan, including hiring architectural, engineering, legal, appraisal, insurance, consulting, energy auditing, and planning services, and, for public services, managing, protecting, and maintaining public and private facilities, including public improvements;

(3) Conducting court proceedings to carry out this chapter;

(4) Paying damages resulting from the provision of public improvements or public services and implementing the plans;
(5) Paying the costs of issuing, paying interest on, and redeeming notes and bonds issued for funding public improvements and public services plans;

(6) Sale, lease, lease with an option to purchase, conveyance of other interests in, or other contracts for the acquisition, construction, maintenance, repair, furnishing, equipping, operation, or improvement of any special energy improvement project by the special improvement district, between a participating political subdivision and the special improvement district, and between the special improvement district and any owner of real property in the special improvement district on which a special energy improvement project has been acquired, installed, equipped, or improved; and

(7) Aggregating the renewable energy credits generated by one or more special energy improvement projects within a special improvement district, upon the consent of the owners of the credits and for the purpose of negotiating and completing the sale of such credits.

(B) Once the board of directors of the special improvement district adopts a plan, it shall submit the plan to the legislative authority of each participating political subdivision and the municipal executive of each municipal corporation in which the district is located, if any. The legislative authorities and municipal executives shall review the plan and, within sixty days after receiving it, may submit their comments and recommendations about it to the district. After reviewing these comments and recommendations, the board of directors may amend the plan. It may then submit the plan, amended or otherwise, in the form of a petition to members of the district whose property may be assessed for the plan. Once the petition is signed by those members who own at least sixty per cent of the front footage of property that is to be assessed and that abuts upon a street, alley, public road, place, boulevard, parkway, park entrance, easement, or other public improvement, or those members who own at least seventy-five per cent of the area to be assessed for the improvement or service, the petition may be submitted to each legislative authority for approval. If the special improvement district was created for the purpose of developing and implementing plans for special energy improvement projects, the petition required under this division shall be signed by one hundred per cent of the owners of the area of all real property located within the area to be assessed for the special energy improvement project.

Each legislative authority shall, by resolution, approve or reject the petition within sixty days after receiving it. If the petition is approved by the legislative authority of each participating political subdivision, the plan contained in the petition shall be effective at the earliest date on which a nonemergency resolution of the legislative authority with the latest effective date may become effective. A plan may not be resubmitted to the legislative authorities and municipal executives more than three times in any twelve-month period.

(C) Each participating political subdivision shall levy, by special assessment upon specially benefited property located within the district, the costs of any public improvements or public services plan contained in a petition approved by the participating political subdivisions under this section or division (F) of section 1710.02 of the Revised Code. The levy shall be made in accordance with the procedures set forth in Chapter 727. of the Revised Code, except that:
(1) The assessment for each improvements or services plan may be levied by any one or any combination of the methods of assessment listed in section 727.01 of the Revised Code, provided that the assessment is uniformly applied.

(2) For the purpose of levying an assessment, the board of directors may combine one or more improvements or services plans or parts of plans and levy a single assessment against specially benefited property.

(3) For purposes of special assessments levied by a township pursuant to this chapter, references in Chapter 727 of the Revised Code to the municipal corporation shall be deemed to refer to the township, and references to the legislative authority of the municipal corporation shall be deemed to refer to the board of township trustees.

Church property or property owned by a political subdivision, including any participating political subdivision in which a special improvement district is located, shall be included in and be subject to special assessments made pursuant to a plan adopted under this section or division (F) of section 1710.02 of the Revised Code, if the church or political subdivision has specifically requested in writing that its property be included within the special improvement district and the church or political subdivision is a member of the district or, in the case of a district created by an existing qualified nonprofit corporation, if the church is a member of the corporation.

(D) All rights and privileges of property owners who are assessed under Chapter 727 of the Revised Code shall be granted to property owners assessed under this chapter, including those rights and privileges specified in sections 727.15 to 727.17 and 727.18 to 727.22 of the Revised Code and the right to notice of the resolution of necessity and the filing of the estimated assessment under section 727.13 of the Revised Code. Property owners assessed for public services under this chapter shall have the same rights and privileges as property owners assessed for public improvements under this chapter.

1710.061 Application of savings or reductions in demand by a special energy improvement project.

(A) Except as provided in division (B) of this section, an electric distribution utility may count toward its compliance with the energy efficiency and peak demand reduction requirements of section 4928.66 of the Revised Code any efficiency savings or reduction in demand produced by a special energy improvement project located in its certified territory. (B) A mercantile customer that realizes energy efficiency savings or reduction in demand produced by a special energy improvement project that it owns may elect to commit the savings or reduction to the electric distribution utility in exchange for an exemption from an energy efficiency cost recovery mechanism permitted under section 4928.66 of the Revised Code, approved by the public utilities commission. (C) The board of directors of a special improvement district shall submit a quarterly report to the electric distribution utility that includes, but is not limited to, both of the following: (1) The total number and a description of each new and ongoing special energy improvement project located within the special improvement district that produces energy efficiency savings or reduction in demand; (2) Any additional information that the electric
distribution utility needs in order to obtain credit under section 4928.66 of the Revised Code for energy efficiency savings or reduction in demand from such projects.

1710.07 Permitted costs of plan.

The cost of any public improvements or public services plan of a special improvement district may include, but is not limited to, the following:

(A) The cost of creating and operating the district under this chapter, including creating and operating a nonprofit organization organized under this chapter, hiring employees and professional services, contracting for insurance, and purchasing or leasing office space or office equipment;

(B) The cost of planning, designing, and implementing the public improvements or public services plan, including payment of architectural, engineering, legal, appraisal, insurance, consulting, energy auditing, and planning fees and expenses, and, for public services, the management, protection, and maintenance costs of public or private facilities;

(C) Any court costs incurred by the district in implementing the public improvements or public services plan;

(D) Any damages resulting from implementing the public improvements or public services plan;

(E) The costs of issuing, paying interest on, and redeeming notes and bonds issued for funding the public improvements or public services plan; and

(F) The costs associated with the sale, lease, lease with an option to purchase, conveyance of other interests in, or other contracts for the acquisition, construction, maintenance, repair, furnishing, equipping, operation, or improvement of any special energy improvement project by the district, between a participating political subdivision and the special improvement district, or between the special improvement district and any owner of real property in the special improvement district on which a special energy improvement project has been acquired, installed, equipped, or improved.

1710.08 Improvements or services in addition to subdivision improvements or services.

Any public improvements or public services provided to a special improvement district through a public improvements or public services plan shall be in addition to, and not in lieu of, any public improvements or public services provided by any participating political subdivision. A participating political subdivision may not substitute or rely in any manner upon the public improvements or public services provided to a special improvements district under a public improvements or public services plan to reduce or not increase any public improvement or public service provided or to be provided by the participating political subdivision to the area specified in any such plan.
1710.09 Contracts to develop, manage, or implement part or all of any plan.

Except as otherwise provided in section 1710.10 of the Revised Code, a special improvement district may contract with any person, community improvement corporation, political subdivision as defined in division (F) of section 2744.01, or state agency as defined in section 1.60 of the Revised Code to develop, manage, or implement part or all of any plan adopted under section 1710.06 or division (F) of section 1710.02 of the Revised Code. Before contracting to implement the plan, the district shall permit any member of the district whose property may be assessed for the costs of any improvements or services under the plan to provide for that portion of the improvement or service that is on that member’s property at a cost to the district no greater than what the district determines to be the lowest cost allocable to the improvement or service to be performed on that property. However, the board of directors may reject a member’s proposed provision of the improvement or service if it would increase the plan’s total cost to the district. Members that choose to provide for that portion of the improvement or service that is performed on their property under this division are subject to the same minimum performance specifications required by the district for the rest of the improvement or service, and their property remains subject to the assessment for the plan.

1710.10 Participating political subdivision contracts to provide improvements or services.

(A) When a participating political subdivision contracts to provide improvements or services to a special improvement district, the participating political subdivision shall charge only its additional cost of providing the improvement or service, without any allocation of overhead costs, fixed costs, or assignment of costs at rates higher than those at which the participating political subdivision assigns costs for similar improvements or services for political subdivision purposes.

(B) Except in the case of a district created by an existing qualified nonprofit corporation, any law enforcement or fire protection service to be provided under a district’s public service plan shall be provided only by contract with a participating political subdivision of the district. In the case of a district created by an existing qualified nonprofit corporation, the corporation may provide law enforcement service as provided under section 1702.80 of the Revised Code. The district shall reimburse the participating political subdivision for any additional cost incurred in providing that law enforcement or fire protection service. This additional cost shall not include any overhead, fixed costs, or assignment of costs at rates higher than those at which the political subdivision assigns costs for these services for political subdivision purposes. (C) Any liability for providing fire or police services under this section by a participating political subdivision shall remain with the participating political subdivision and shall not be assumed by the district.

1710.11 Adopting written rules prescribing competitive bidding procedures for contracts.

The board of directors of a special improvement district shall adopt written rules prescribing competitive bidding procedures for contracts awarded under this chapter. The procedures may differ from competitive bidding procedures applicable to the participating political subdivisions of the district or those provided in Chapter 735. of the Revised Code. The rules shall provide for
advertising for bids and specify the bidding procedures to be followed, and may specify conditions under which competitive bidding is not required and other conditions such as establishing a dollar limit per contract or specifying particular parties to a contract.

1710.12 Issuing bonds and notes in anticipation of collection of any special assessments.

Any participating political subdivision of a special improvement district may issue bonds and notes in anticipation of collection of any special assessments authorized by this chapter. All proceeds of any assessments, bonds, or notes issued to fund any public improvements or public services plan under this chapter shall first be applied by the political subdivision to payment of those bonds or notes and any interest on them, as required by section 133.17 of the Revised Code. Any remaining proceeds shall be turned over to the treasurer of the district and deposited in a district account to be used for the purposes for which the assessment was made or for which the bonds or notes were issued.

1710.13 Dissolving a special improvement district.

This section does not apply to a special improvement district created by an existing qualified nonprofit corporation. The process for dissolving a special improvement district or repealing an improvements or services plan may be initiated by a petition signed by members of the district who own at least twenty per cent of the appraised value of the real property located in the district, excluding church property or real property owned by the federal government, the state, or a county, township, or municipal corporation, unless the church, county, township, or municipal corporation has specifically requested in writing that the property be included in the district, and filed with the municipal executive, if any, and the legislative authorities of all the participating political subdivisions of the district. As used in this section, “appraised value” means the taxable value established by the county auditor for purposes of real estate taxation.

No later than forty-five days after such a petition is filed, the members of the district shall meet to consider it. Notice of the meeting shall be given as provided in section 1710.05 of the Revised Code. Upon the affirmative vote of members who collectively own more than fifty per cent of the appraised value of the real property in the district that may be subject to assessment under division (C) of section 1710.06 of the Revised Code, the district shall be dissolved, or the plan shall be repealed, as applicable.

No rights or obligations of any person under any contract, or in relation to any bonds, notes, or assessments made under this chapter, shall be affected by the dissolution of the district or the repeal of a plan, except with the consent of that person or by order of a court with jurisdiction over the matter. Upon dissolution of a district, any assets or rights of the district, after payment of all bonds, notes, or other obligations of the district, shall be deposited in a special account in the treasury of each participating political subdivision, prorated among all participating political subdivisions to reflect the percentage of the district’s territory within that political subdivision, to be used for the benefit of the territory that made up the district.

Once the members have approved the repeal of a plan, all bonds, notes, and other obligations of the district associated with the plan shall be paid. Thereafter, the plan shall be repealed. Upon
receipt of proof that all bonds, notes, and other obligations have been paid and that the plan has been repealed, the participating political subdivisions shall terminate any levies imposed to pay for costs of the plan.

TRANSPORTATION IMPROVEMENT DISTRICTS

5540.01 Transportation improvement district definitions.

As used in this chapter:

(A) “Transportation improvement district” or “district” means a transportation improvement district designated pursuant to section 5540.02 of the Revised Code.

(B) “Governmental agency” means a department, division, or other unit of state government; a county, township, or municipal corporation or other political subdivision; a regional transit authority or regional transit commission created pursuant to Chapter 306. of the Revised Code; a port authority created pursuant to Chapter 4582. of the Revised Code; and the United States or any agency thereof.

(C) “Project” means a street, highway, parking facility, freight rail tracks and necessarily related freight rail facilities, or other transportation project constructed or improved under this chapter and includes all bridges, tunnels, overpasses, underpasses, interchanges, approaches, those portions of connecting streets or highways that serve interchanges and are determined by the district to be necessary for the safe merging of traffic between the project and those streets or highways, service facilities, and administration, storage, and other buildings, property, and facilities, that the district considers necessary for the operation of the project, together with all property and rights that must be acquired by the district for the construction, maintenance, or operation of the project.

(D) “Cost,” as applied to the construction of a project, includes the cost of construction, including bridges over or under existing highways and railroads, acquisition of all property acquired by the district for such construction, demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved, site clearance, improvement, and preparation, diverting streets or highways, interchanges with streets or highways, access roads to private property, including the cost of land or easements therefor, all machinery, furnishings, and equipment, communications facilities, financing expenses, interest prior to and during construction and for one year after completion of construction, traffic estimates, indemnity and surety bonds and premiums on insurance, and guarantees, engineering, feasibility studies, and legal expenses, plans, specifications, surveys, estimates of cost and revenues, other expenses necessary or incidental to determining the feasibility or practicability of constructing a project, and such other expense as may be necessary or incident to the construction of the project and the financing of such construction. Any obligation or expense incurred by any governmental agency or person for surveys, borings, preparation of plans and specifications, and other engineering services, or any other cost described above, in connection with the construction of a project may be regarded as part of the cost of the project and reimbursed from revenues, taxes, or the proceeds of bonds as authorized by this chapter.
(E) “Owner” includes any person having any title or interest in any property authorized to be acquired by a district under this chapter.

(F) “Revenues” means all moneys received by a district with respect to the lease, sublease, or sale, including installment sale, conditional sale, or sale under a lease-purchase agreement, of a project, all moneys received by a district under an agreement pursuant to Section 515.03 of H.B. 66 of the 126th General Assembly, Section 555.10 of H.B. 67 of the 127th general assembly, or Section 755.20 of H.B. 153 of the 129th general assembly, any gift or grant received with respect to a project, tolls, special assessments levied by the district, proceeds of bonds to the extent the use thereof for payment of principal or of premium, if any, or interest on the bonds is authorized by the district, proceeds from any insurance, condemnation, or guaranty pertaining to a project or property mortgaged to secure bonds or pertaining to the financing of a project, and income and profit from the investment of the proceeds of bonds or of any revenues.

(G) “Street or highway” has the same meaning as in section 4511.01 of the Revised Code.

(H) “Financing expenses” means all costs and expenses relating to the authorization, issuance, sale, delivery, authentication, deposit, custody, clearing, registration, transfer, exchange, fractionalization, replacement, payment, and servicing of bonds including, without limitation, costs and expenses for or relating to publication and printing, postage, delivery, preliminary and final official statements, offering circulars, and informational statements, travel and transportation, underwriters, placement agents, investment bankers, paying agents, registrars, authenticating agents, remarketing agents, custodians, clearing agencies or corporations, securities depositories, financial advisory services, certifications, audits, federal or state regulatory agencies, accounting and computation services, legal services and obtaining approving legal opinions and other legal opinions, credit ratings, redemption premiums, and credit enhancement facilities.

(I) “Bond proceedings” means the resolutions, trust agreements, certifications, notices, sale proceedings, leases, lease-purchase agreements, assignments, credit enhancement facility agreements, and other agreements, instruments, and documents, as amended and supplemented, or any one or more of combination thereof, authorizing, or authorizing or providing for the terms and conditions applicable to, or providing for the security or sale or award or liquidity of, bonds, and includes the provisions set forth or incorporated in those bonds and bond proceedings.

(J) “Bond service charges” means principal, including any mandatory sinking fund or mandatory redemption requirements for retirement of bonds, and interest and any redemption premium payable on bonds, as those payments come due and are payable to the bondholder or to a person making payment under a credit enhancement facility of those bond service charges to a bondholder.

(K) “Bond service fund” means the applicable fund created by the bond proceedings for and pledged to the payment of bond service charges on bonds provided for by those proceedings, including all moneys and investments, and earnings from investments, credited and to be credited to that fund as provided in the bond proceedings.
(L) “Bonds” means bonds, notes, including notes anticipating bonds or other notes, commercial paper, certificates of participation, or other evidences of obligation, including any interest coupons pertaining thereto, issued pursuant to this chapter.

(M) “Net revenues” means revenues lawfully available to pay both current operating expenses of a district and bond service charges in any fiscal year or other specified period, less current operating expenses of the district and any amount necessary to maintain a working capital reserve for that period.

(N) “Pledged revenues” means net revenues, moneys and investments, and earnings on those investments, in the applicable bond service fund and any other special funds, and the proceeds of any bonds issued for the purpose of refunding prior bonds, all as lawfully available and by resolution of the district committed for application as pledged revenues to the payment of bond service charges on particular issues of bonds.

(O) “Special funds” means the applicable bond service fund and any accounts and subaccounts in that fund, any other funds or accounts permitted by and established under, and identified as a special fund or special account in, the bond proceedings, including any special fund or account established for purposes of rebate or other requirements under federal income tax laws.

(P) “Credit enhancement facilities” means letters of credit, lines of credit, standby, contingent, or firm securities purchase agreements, insurance, or surety arrangements, guarantees, and other arrangements that provide for direct or contingent payment of bond service charges, for security or additional security in the event of nonpayment or default in respect of bonds, or for making payment of bond service charges and at the option and on demand of bondholders or at the option of the district or upon certain conditions occurring under put or similar arrangements, or for otherwise supporting the credit or liquidity of the bonds, and includes credit, reimbursement, marketing, remarketing, indexing, carrying, interest rate hedge, and subrogation agreements, and other agreements and arrangements for payment and reimbursement of the person providing the credit enhancement facility and the security for that payment and reimbursement.

(Q) “Refund” means to fund and retire outstanding bonds, including advance refunding with or without payment or redemption prior to stated maturity.

(R) “Property” includes interests in property.

(S) “Administrative agent,” “agent,” “commercial paper,” “floating rate interest structure,” “indexing agent,” “interest rate hedge,” “interest rate period,” “put arrangement,” and “remarketing agent” have the same meanings as in section 9.98 of the Revised Code.

(T) “Outstanding” as applied to bonds means outstanding in accordance with the terms of the bonds and the applicable bond proceedings.

(U) “Interstate system” has the same meaning as in section 5516.01 of the Revised Code.
5540.02 Creation of transportation improvement district.

(A) A transportation improvement district may be created by the board of county commissioners of a county. The board, by resolution, shall determine the structure of the board of trustees of the transportation improvement district it creates by adopting the structure contained either in division (C)(1) or (2) of this section.

(B) A transportation improvement district is a body both corporate and politic, and the exercise by it of the powers conferred by this chapter in the financing, construction, maintenance, repair, and operation of a project are and shall be held to be essential governmental functions.

(C)

(1) If the board of county commissioners so elects, a transportation improvement district shall be governed by a board of trustees consisting of the following members:

(a) Two members appointed by the board of county commissioners;

(b) Three members appointed by the legislative authority of the most populous municipal corporation in the district;

(c) Two members appointed by the legislative authority of the second most populous municipal corporation in the district;

(d) Two members appointed by the board of township trustees of the township in the county that is most populous in its unincorporated area;

(e) The county engineer;

(f) One member appointed by the legislative authority of any township or municipal corporation that cannot otherwise appoint a member to the board pursuant to this section, and that is wholly or partially within the area of the transportation improvement district as the district was originally designated by the board of county commissioners;

(g) If the area of a transportation improvement district is expanded by the board of county commissioners, the legislative authority of any township or municipal corporation that is wholly or partially within the area of expansion and that cannot otherwise appoint a member to the board pursuant to this section, with the consent of the board of trustees of the district, may appoint one member to the board;

(h) The members of the general assembly in whose legislative districts any part of the transportation improvement district is located, who shall be ex officio, nonvoting members of the board;

(i) One member appointed by the regional planning commission for the county, who shall be a nonvoting member of the board.
One of each of the appointments made by the board of county commissioners, the legislative authority of a municipal corporation, and the board of township trustees under divisions (C)(1)(a), (b), (c), and (d) of this section, shall be members of the chamber of commerce for the respective political subdivision.

Whenever the addition of members to the board of trustees of a transportation improvement district pursuant to division (C)(1)(f) or (g) of this section results in an even number of total voting members on the board, the board of trustees of the district may appoint an additional person to its membership to maintain an odd number of voting members.

(2) As an alternative to the structure prescribed in division (C)(1) of this section, a board of county commissioners, by resolution, may elect that the transportation improvement district it creates be governed by a board of trustees consisting of the following members:

(a) Five members appointed by the board of county commissioners;

(b) One nonvoting member appointed by the speaker of the house of representatives of the general assembly;

(c) One nonvoting member appointed by the president of the senate of the general assembly.

(D) Each appointed member of the board shall hold office for a term of two years but subject to removal at the pleasure of the authority that appointed the member. Members may be reappointed. Except as otherwise provided in this division, any vacancy on the board shall be filled in the same manner as the original appointment. Any vacancy on a board appointed under division (C)(1) of this section lasting longer than thirty days due to the failure of the legislative authority of a municipal corporation or a board of township trustees to make an appointment shall be filled by the board of trustees of the transportation improvement district.

(E) The voting members of the board shall elect from the entire board membership a chairperson, vice-chairperson, and secretary-treasurer. A majority of the voting members of the board constitutes a quorum, the affirmative vote of which is necessary for any action of the district. No vacancy in the membership of the board impairs the right of a quorum to exercise all the rights and perform all duties of the district.

(F) The board of county commissioners of the county, the legislative authority of any municipal corporation, and the board of township trustees of any township that is part of the district, may make appropriations from moneys available to them and not otherwise appropriated, to pay costs incurred by the district in the exercise of its functions under this chapter.

(G) An organizational meeting of the board of trustees of a transportation improvement district created under this section shall be held at the time and place designated by the board member who has served the most years as a member of the general assembly.
5540.03 Powers of transportation improvement district.

(A) A transportation improvement district may:

(1) Adopt bylaws for the regulation of its affairs and the conduct of its business;

(2) Adopt an official seal;

(3) Sue and be sued in its own name, plead and be impleaded, provided any actions against the district shall be brought in the court of common pleas of the county in which the principal office of the district is located, or in the court of common pleas of the county in which the cause of action arose, and all summonses, exceptions, and notices of every kind shall be served on the district by leaving a copy thereof at its principal office with the secretary-treasurer;

(4) Purchase, construct, maintain, repair, sell, exchange, police, operate, or lease projects;

(5) Issue either or both of the following for the purpose of providing funds to pay the costs of any project or part thereof:

(a) Transportation improvement district revenue bonds;

(b) Bonds pursuant to Section 13 of Article VIII, Ohio Constitution;

(6) Maintain such funds as it considers necessary;

(7) Direct its agents or employees, when properly identified in writing and after at least five days’ written notice, to enter upon lands within its jurisdiction to make surveys and examinations preliminary to the location and construction of projects for the district, without liability of the district or its agents or employees except for actual damage done;

(8) Make and enter into all contracts and agreements necessary or incidental to the performance of its functions and the execution of its powers under this chapter;

(9) Employ or retain or contract for the services of consulting engineers, superintendents, managers, and such other engineers, construction and accounting experts, financial advisers, trustees, marketing, remarketing, and administrative agents, attorneys, and other employees, independent contractors, or agents as are necessary in its judgment and fix their compensation, provided all such expenses shall be payable solely from the proceeds of bonds or from revenues;

(10) Receive and accept from the federal or any state or local government, including, but not limited to, any agency, entity, or instrumentality of any of the foregoing, loans and grants for or in aid of the construction, maintenance, or repair of any project, and receive and accept aid or contributions from any source or person of money, property, labor, or other things of value, to be held, used, and applied only for the purposes for which such loans, grants, and contributions are made. Nothing in division (A)(10) of this section shall be construed as imposing any liability on
this state for any loan received by a transportation improvement district from a third party unless this state has entered into an agreement to accept such liability.

(11) Acquire, hold, and dispose of property in the exercise of its powers and the performance of its duties under this chapter;

(12) Establish and collect tolls or user charges for its projects;

(13) Do all acts necessary and proper to carry out the powers expressly granted in this chapter.

(B) Chapters 123., 124., 125., 153., and 4115., and sections 9.331 to 9.335 and 307.86 of the Revised Code do not apply to contracts or projects of a transportation improvement district.

5540.031 Special assessments for improvements.

(A) The board of trustees of a transportation improvement district may provide for the construction, reconstruction, improvement, alteration, or repair of any road, highway, public place, building, or other infrastructure and levy special assessments, if the board determines that the public improvement will benefit the area where it will be constructed, reconstructed, improved, altered, or repaired. However, if the improvement is proposed for territory in a political subdivision located outside the district’s territory, the legislative authority of that political subdivision shall approve the undertaking of the improvement within the political subdivision.

(B) If any improvements are made under this section, contracts for the improvement may provide that the improvement may be owned by the district or by the person or corporation supplying it to the district under a lease.

(C) If the board of trustees of a district proposes an improvement described in division (A) of this section, the board shall conduct a hearing on the proposed improvement. The board shall indicate by metes and bounds the area in which the public improvement will be made and the area that will benefit from the improvement.

(D) The board of trustees shall fix a day for a hearing on the proposed improvement. The secretary-treasurer of the board shall deliver, to each owner of a parcel of land or a lot that the board identifies as benefiting from the proposed improvement, a notice that sets forth the substance of the proposed improvement and the time and place of the hearing on it. At least fifteen days before the date set for the hearing, a copy of the notice shall be served upon the owner or left at the owner’s usual place of residence, or, if the owner is a corporation, upon an officer or agent of the corporation. On or before the day of the hearing, the person serving notice of the hearing shall make return thereon, under oath, of the time and manner of service, and shall file the notice with the secretary-treasurer of the board.

At least fifteen days before the day set for the hearing on the proposed improvement, the secretary-treasurer shall give notice to each nonresident owner of a lot or parcel of land in the area to be benefited by the improvement, by publication once in a newspaper of general
circulation in the one or more counties in which this area is located. The publication of the notice shall be verified by affidavit of the printer or other person having knowledge of the publication and shall be filed with the secretary-treasurer of the district on or before the date of the hearing.

(E) At the time and place specified in the notice for a hearing on the proposed improvement, the board of trustees of the district shall meet and hear any and all testimony provided by any of the parties affected by the proposed improvement and by any other persons competent to testify. The board or its representatives shall inspect, by an actual viewing, the area to be benefited by the proposed improvement. The board shall determine the necessity of the proposed improvement and may find that the proposed improvement will result in general as well as special benefits. The board may adjourn from time to time and to such places as it considers necessary.

(F)

(1) The board may award contracts or enter into a lease agreement for the construction, reconstruction, improvement, alteration, or repair of any improvement described in division (A) of this section and may issue notes, bonds, revenue anticipatory instruments, or other obligations, as authorized by this chapter, to finance the improvements.

(2) All or a part of the costs and expenses of providing for the construction, reconstruction, improvement, alteration, or repair of any improvement described in division (F)(1) of this section may be paid from a fund into which may be paid special assessments levied under this section against the lots and parcels of land in the area to be benefited by the improvement, if the board finds that the improvement will result in general or special benefits to the benefited area. These special assessments shall be levied not more than one time on the same lot or parcel of land. Such costs and expenses may also be paid from the treasury of the district or from other available sources in amounts the board finds appropriate.

(3) The board shall levy special assessments at an amount not to exceed ten per cent of the assessable value of the lot or parcel of land being assessed. The board shall determine the assessable value of a lot or parcel of land in the following manner: the board shall first determine the fair market value of the lot or parcel being assessed in the calendar year in which the area to be benefited by the public improvement is first designated and then multiply this amount by the average rate of appreciation in value of the lot or parcel since that calendar year. The assessable value of the lot or parcel is the current fair market value of the lot or parcel minus the amount calculated in the manner described in the immediately preceding sentence. The board may adjust the assessable value of a lot or parcel of land to reflect a sale of the lot or parcel that indicates an appreciation in its value that exceeds its average rate of appreciation in value.

(4) Special assessments levied by the board may be paid in full in a lump sum or may be paid and collected in equal semiannual installments, equal in number to twice the number of years for which the lease of the improvement is made or twice the number of years that the note, bond, instrument, or obligation that the assessments are pledged to pay requires. The assessments shall be paid and collected in the same manner and at the same time as real property taxes are paid and collected, and assessments in the amount of fifty dollars or less shall be paid in full, and not in installments, at the time the first or next installment would otherwise become due and payable.
Complaints regarding assessments may be made to the county board of revision in the same manner as complaints relating to the valuation and assessment of real property.

Credits against assessments shall be granted equal to the value of any construction, reconstruction, improvement, alteration, or repair that an owner of a parcel of land or lot makes to an improvement pursuant to an agreement between the owner and the district.

(5) After the levy of a special assessment, the board, at any time during any year in which an installment of the assessment becomes due, may pay out of other available funds of the district, including any state or federal funds available to the district, the full amount of the price of the contract that the special assessments are pledged to pay for that year or any other portion of the remaining obligation. The board shall be the sole determiner of the definition, extent, and allocation of the benefit resulting from an improvement that the board authorizes under this section.

(G)

(1) The board shall certify to the appropriate county auditor the boundaries of the area that is benefited by any public improvement the board authorizes under this section and, when the board so requests, the auditor shall apportion the valuation of any lot or parcel of land lying partly within and partly outside the area so benefited.

(2) The board by resolution shall assess against the lots and parcels of land located in the area that is benefited by a public improvement such portion of the costs of completing the public improvement as the board determines, for the period that may be necessary to pay the note, bond, instrument, or obligation issued to pay for the improvement and the proceedings in relation to it, and shall certify these costs to the appropriate county auditor.

(3) Except for assessments that have been paid in full in a lump sum, the county auditor shall annually place upon the tax duplicate, for collection in semiannual installments, the two installments of the assessment for that year, which shall be paid and collected at the same time and in the same manner as real property taxes. The collected assessments shall be paid to the treasury of the district and the board of the district shall use the assessments for any purpose authorized by this chapter.

5540.04 Acquiring and disposing of property.

(A) A transportation improvement district may acquire by purchase, lease, lease-purchase, lease with option to purchase, appropriation, or otherwise and in such manner and for such consideration as it considers proper, any public or private property necessary, convenient, or proper for the construction, maintenance, repair, or operation of a project. The district may pledge net revenues, to the extent permitted by this chapter with respect to bonds, to secure payments to be paid by the district under such a lease, lease-purchase agreement, or lease with option to purchase. Title to real and personal property shall be held in the name of the district. In any proceedings for appropriation under this section, the procedure to be followed shall be in
accordance with that provided in sections 163.01 to 163.22 of the Revised Code. Except as otherwise agreed to by the owner, full compensation shall be paid for public property so taken.

(B) This section does not authorize a district to take or disturb property or facilities belonging to any public utility or to a common carrier engaged in interstate commerce, which property or facilities are required for the proper and convenient operation of the public utility or common carrier, unless provision is made for the restoration, relocation, replication, or duplication of the property or facilities elsewhere at the sole cost of the district.

(C) Except as otherwise provided in this chapter, disposition of real property shall be by sale, lease-purchase agreement, lease with option to purchase, or otherwise in such manner and for such consideration as the district determines if to a governmental agency, and otherwise in the manner provided in section 5501.45 of the Revised Code for the disposition of property by the director of transportation. Disposition of personal property shall be in such manner and for such consideration as the district determines.

5540.05 Acquiring excess real property in connection with project.

The board of trustees of a district may acquire real property in fee simple in the name of the district in connection with, but in excess of that needed for, a project by any method other than appropriation and hold the property for such period of time as the board determines. All right, title, and interest of the district in the property may be sold at public auction or otherwise, as the board considers in the best interests of the district; but in no event shall the property be sold for less than two-thirds of its appraised value. Sale at public auction shall be undertaken only after the board advertises the sale in a newspaper of general circulation in the district for two weeks or as provided in section 7.16 of the Revised Code, prior to the date set for the sale.

5540.06 Issuing bonds.

(A) The board of trustees of a transportation improvement district may provide by resolution for the issuance, at one time or from time to time, of bonds of the district for the purpose of paying all or any part of the cost of any one or more projects. The bond service charges shall be payable solely from pledged revenues pledged for such payment pursuant to the applicable bond proceedings. The bonds of each issue shall be dated, shall bear interest at a rate or rates or at variable rates, and shall mature or be payable at such time or times, with a final maturity not to exceed thirty years from their date or dates, all as determined by the board in the bond proceedings. The board shall determine the form of the bonds, including any interest coupons to be attached thereto, and shall fix the denomination or denominations of the bonds and the place or places of payment of bond service charges.

(B) The bonds shall be signed by the chairperson or vice-chairperson of the board or by the facsimile signature of that officer, the official seal of the district or a facsimile thereof may be affixed thereto or printed thereon and attested by the secretary-treasurer of the district, which may be by facsimile signature, and any coupons attached thereto shall bear the facsimile signature of the chairperson or vice-chairperson of the board. In case any officer whose signature, or a facsimile of whose signature, appears on any bonds or coupons ceases to be such
officer before delivery of the bonds, such signature or facsimile shall nevertheless be valid and sufficient for all purposes the same as if the officer had remained in office until such delivery.

(C) Subject to the bond proceedings and provisions for registration, the bonds shall have all the qualities and incidents of negotiable instruments under Title XIII [13] of the Revised Code. The bonds may be issued in such form or forms as the board determines, including without limitation coupon, book entry, and fully registered form, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the exchange of bonds between forms. The board may sell such bonds by competitive bid on the best bid after advertisement or request for bids or by private sale in the manner, and for the price, it determines to be for the best interest of the district.

(D) The proceeds of the bonds of each issue shall be used solely for the payment of the costs of the project or projects for which the bonds were issued, and shall be disbursed in such manner and under such restrictions as the board provides in the bond proceedings.

(E) Prior to the preparation of definitive bonds, the board may, under like restrictions, issue interim receipts or temporary bonds or bond anticipation notes, with or without coupons, exchangeable for definitive bonds when such bonds have been executed and are available for delivery. The board may provide for the replacement of any mutilated, stolen, destroyed, or lost bonds.

(F) Sections 9.98 to 9.983 of the Revised Code apply to the bonds.

(G) The bond proceedings shall provide, subject to the provisions of any other applicable bond proceedings, for the pledge to the payment of bond service charges and of any costs of or relating to credit enhancement facilities of all, or such part as the board may determine, of the pledged revenues and the applicable special fund or funds, which pledges may be made to secure the bonds on a parity with bonds theretofore or thereafter issued if and to the extent provided in the bond proceedings. Every pledge, and every covenant and agreement with respect thereto, made in the bond proceedings may in the bond proceedings be extended to the benefit of the owners and holders of bonds and to any trustee and any person providing a credit enhancement facility for those bonds, for the further security for the payment of the bond service charges and credit enhancement facility costs.

(H) The bond proceedings may contain additional provisions as to:

1. The redemption of bonds prior to maturity at the option of the board or of the bondholders or upon the occurrence of certain stated conditions, and at such price or prices and under such terms and conditions as are provided in the bond proceedings;

2. Other terms of the bonds;

3. Limitations on the issuance of additional bonds;

4. The terms of any trust agreement securing the bonds or under which the same may be issued;
(5) Any or every provision of the bond proceedings being binding upon the board and state agencies, or other person as may from time to time have the authority under law to take such actions as may be necessary to perform all or any part of the duty required by such provision;

(6) Any provision that may be made in a trust agreement;

(7) Any other or additional agreements with the holders of the bonds, or the trustee therefor, relating to the bonds or the security for the bonds, including agreements for credit enhancement facilities.

(I) Any holder of bonds or a trustee under the bond proceedings, except to the extent that the holder’s or trustee’s rights are restricted by the bond proceedings, may by any suitable form of legal proceedings, protect and enforce any rights under the laws of this state or granted by the bond proceedings. Those rights include the right to compel the performance of all duties of the board required by this chapter or the bond proceedings; to enjoin unlawful activities; and in the event of default with respect to the payment of any bond service charges on any bonds or in the performance of any covenant or agreement on the part of the board contained in the bond proceedings, to apply to a court having jurisdiction of the cause to appoint a receiver to receive and administer the revenues and the pledged revenues which are pledged to the payment of the bond service charges on such bonds or that are the subject of the covenant or agreement, with full power to pay, and to provide for payment of, bond service charges on such bonds, and with such powers, subject to the direction of the court, as are accorded receivers in general equity cases, excluding any power to pledge additional revenue or receipts or other income, funds, or moneys of the board to the payment of such bond service charges and excluding the power to take possession of, mortgage, or cause the sale or otherwise dispose of any project or other property of the board.

(J) Each duty of the board and the board’s officers and employees, undertaken pursuant to the bond proceedings, is hereby established as a duty of the board, and of each such officer, member, or employee having authority to perform the duty, specifically enjoined by law resulting from an office, trust, or station within the meaning of section 2731.01 of the Revised Code.

(K) The board’s officers or employees are not liable in their personal capacities on any bonds issued by the board or any agreements of or with the board relating to those bonds.

(L) The bonds are lawful investments for banks, savings and loan associations, credit union share guaranty corporations, trust companies, trustees, fiduciaries, insurance companies, including domestic for life and domestic not for life, trustees or other officers having charge of sinking and bond retirement or other funds of the state or its political subdivisions and taxing districts, the commissioners of the sinking fund of the state, the administrator of workers’ compensation, the state teachers retirement system, the public employees retirement system, the school employees retirement system, and the Ohio police and fire pension fund, notwithstanding any other provisions of the Revised Code or rules adopted pursuant thereto by any state agency with respect to investments by them, and also are acceptable as security for the repayment of the deposit of public moneys.
(M) Provision may be made in the applicable bond proceedings for the establishment of separate accounts in the bond service fund and for the application of such accounts only to the specified bond service charges pertinent to such accounts and bond service fund, and for other accounts therein within the general purposes of such fund.

(N) The board may pledge all, or such portion as it determines, of the pledged revenues to the payment of bond service charges, and for the establishment and maintenance of any reserves and special funds, as provided in the bond proceedings, and make other provisions therein with respect to pledged revenues, revenues, and net revenues as authorized by this chapter, which provisions shall be controlling notwithstanding any other provisions of law pertaining thereto.

5540.07 Refunding outstanding bonds.

The board of trustees of a transportation improvement district may provide by resolution for the issuance of bonds of the district, payable solely from pledged revenues, for the purpose of refunding any bonds then outstanding, including the payment of related financing expenses and, if considered advisable by the board, for the additional purpose of paying costs of improvements, extensions, renovations, or enlargements of any project. The issuance of refunding bonds, the maturities and other details thereof, the rights of the holders thereof, and the rights, duties, and obligations of the board in respect to such bonds shall be governed by the provisions of this chapter insofar as they are applicable and by the applicable bond proceedings.

5540.08 Additional alternative methods.

This chapter provides an additional and alternative method for doing the things and taking the actions authorized by this chapter. This chapter shall be regarded as supplemental and additional to powers conferred by other laws. The issuance of bonds under this chapter need not comply with any other law applicable to the issuance of bonds.

5540.09 Bonds not a debt of state.

(A) The bonds do not constitute a debt, or a pledge of the faith and credit, of the state or of any political subdivision of the state. Bond service charges on outstanding bonds are payable solely from the pledged revenues pledged for their payment as authorized by this chapter and as provided in the bond proceedings. All bonds shall contain on their face a statement to that effect.

(B) All expenses incurred in carrying out this chapter shall be payable solely from revenues provided under this chapter. Except as provided in Section 515.03 of H.B. 66 of the 126th General Assembly, this chapter does not authorize the board of trustees of a district to incur indebtedness or liability on behalf of or payable by the state or any political subdivision of the state.

5540.10 Securing bonds by trust agreement.

(A) In the discretion of the board of trustees of a transportation improvement district any bonds may be secured by a trust agreement between the board and a corporate trustee, which may be
any trust company or bank having the powers of a trust company within or without the state but authorized to exercise trust powers within this state.

(B) Any trust agreement may pledge or assign the revenues to be received, but shall not convey or mortgage any project or any part thereof. Any such trust agreement or other bond proceedings may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as are reasonable and proper and not in violation of law, including covenants setting forth the duties of the board in relation to the acquisition of property, and the construction, maintenance, and repair of the project or projects in connection with which such bonds are authorized and the custody, safeguarding, and application of all moneys, and provisions for the employment or retention of the services of consulting engineers in connection with the construction, maintenance, or repair of the project or projects. Any bank or trust company incorporated under the laws of this state which may act as depository of the proceeds of bonds or of revenues may furnish such indemnifying bonds or may pledge such securities as are required by the board. Any such trust agreement may set forth the rights and remedies of the bondholders and of the trustee, may restrict the individual right of action by bondholders as is customary in revenue bond trust agreements of public bodies, and may contain such other provisions as the board considers reasonable and proper for the security of the bondholders. All expenses incurred in entering into or carrying out the provisions of any such trust agreement may be treated as a part of the cost of the project or projects. Chapter 135. of the Revised Code shall not apply to investments made pursuant to any such trust agreement.

5540.11 Applying revenue from project.

Revenues derived from each project of a transportation improvement district in connection with which any bonds are outstanding shall be first applied to pay the cost of the construction, maintenance, and repair of the project and to provide such reserves therefor as are provided for in the bond proceedings authorizing the issuance of those outstanding bonds, and otherwise as provided by the board of trustees of the district, and the balance of the pledged revenues shall be set aside, at such regular intervals as are provided in the bond proceedings in a bond service fund which is hereby pledged to and charged with the payment of the bond service charges on any such outstanding bonds as provided in the applicable bond proceedings. Such pledge shall be valid and binding from the time the pledge is made; the revenues and the pledged revenues thereafter received by the board shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the board, whether or not such parties have notice thereof. The bond proceedings by which a pledge is created need not be filed or recorded except in the records of the board. The use and disposition of moneys to the credit of a bond service fund shall be subject to the applicable bond proceedings. Except as is otherwise provided in such bond proceedings, such a bond service fund shall be a fund for all such bonds, without distinction or priority of one over another.

5540.12 Deposit and use of moneys.

All moneys received by the board of trustees of a transportation improvement district under this chapter, whether as proceeds from the sale of bonds, as revenues, or otherwise are to be held and
applied solely as provided in this chapter and in any applicable bond proceedings. Such moneys shall be kept in depositories as selected by the board in the manner provided in sections 135.01 to 135.21 of the Revised Code, insofar as such sections are applicable, and the deposits shall be secured as provided in sections 135.01 to 135.21 of the Revised Code. The bond proceedings shall provide that any officer to whom, or any bank or trust company to which, revenues or pledged revenues are paid shall act as trustee of such moneys and hold and apply them for the purposes thereof, subject to applicable provisions of this chapter and the bond proceedings.

5540.13 Protection and enforcement of rights of bondholder and trustees.

Any holder of bonds issued and outstanding under this chapter, or any of the coupons appertaining thereto, and the trustee under any trust agreement, except to the extent the rights given by this chapter may be restricted or modified by the bond proceedings, may by suit, action, mandamus, or other proceedings, protect and enforce any rights under the laws of the state or granted under this chapter or the bond proceedings, and may enforce and compel the performance of all duties required by this chapter or the bond proceedings, to be performed by the board of trustees of a transportation improvement district or any officer of the board.

5540.14 Enforcing rights of bondholder.

The exercise of the powers granted by this chapter is in all respects for the benefit of the people of the state, for the increase of their commerce and prosperity, and for the improvement of their health and living conditions, and as the construction, maintenance, and repair of projects by a transportation improvement district constitute the performance of essential governmental functions, the district shall not be required to pay any state or local taxes or assessments upon any project, or upon revenues or any property acquired or used by the district under this chapter, or upon the income therefrom. The bonds issued under this chapter, their transfer, and the income therefrom, including any profit made on the sale thereof, shall at all times be free from taxation within the state.

5540.15 Demonstrating ways to facilitate public-private cooperation and flexibility in financing, constructing, maintaining, or operating transportation projects.

The department of transportation shall undertake a demonstration project to study, develop, and demonstrate ways to facilitate public-private cooperation and flexibility in financing, constructing, maintaining, or operating transportation projects. In so doing it shall take all steps necessary and appropriate to facilitate the efforts of a transportation improvement district established in accordance with this Chapter for the expeditious completion of the Butler county regional highway, the Allen road interchange, and the State Route 747 expansion in Butler county. Such steps may include advising and providing technical assistance to the district, and may also include designating the county engineer to serve as the department’s agent to review project designs and determine if they meet state and federal specifications.
5540.151 Use of appropriated funds.

No funds appropriated to the department of transportation shall be used to provide funds to more than five transportation improvement districts created under section 5540.02 of the Revised Code.

5540.16 Findings as to surface transportation projects undertaken under chapter.

It is hereby found and determined that surface transportation projects undertaken pursuant to this chapter are essential and will contribute to the improvement of the prosperity, health, safety, and welfare of the people of a transportation improvement district and to all of the state, and that it is in the public interest and a proper public purpose for a transportation improvement district to acquire, construct, enlarge, improve, equip, sell, lease, lease-purchase, exchange, or otherwise dispose of property, structures, and other facilities for such transportation projects. It is further found and determined that exercise of the authority granted by sections 5540.01 to 5540.17 of the Revised Code is consistent with and will promote industry, commerce, distribution, and research activity in the state. Sections 5540.01 to 5540.17 of the Revised Code, being necessary for the prosperity, health, safety, and welfare of the state and its people, shall be liberally construed to effect their purposes.

5540.17 Political subdivision need not consent or approve.

Notwithstanding any other section of the Revised Code to the contrary, the approval, consent, or cooperation of a political subdivision is not required for a transportation improvement district project that involves constructing or improving a street or highway that runs through the territory of the political subdivision, connects to a highway that is part of the interstate system, and has been journalized by the director of transportation prior to the effective date of this section.

COUNTY SIDEWALK, CURB AND GUTTER ASSESSMENTS

5543.10 Constructing sidewalks, curbs, or gutters.

(A) The county engineer, upon the order of the board of county commissioners or board of township trustees, shall construct sidewalks, curbs, or gutters of suitable materials, along or connecting the public highways, outside any municipal corporation, upon the petition of a majority of the abutting property owners. The expense of the construction of these improvements may be paid by the county or township, or by the county or township and abutting property owners in such proportion as determined by the board of county commissioners or board of township trustees. The board of county commissioners or board of township trustees may assess part or all of the cost of these improvements against the abutting property owners, in proportion to benefits accruing to their property.

The board of county commissioners or board of township trustees, by unanimous vote, may order the construction, repair, or maintenance of sidewalks, curbs, and gutters along or connecting the public highways, outside a municipal corporation, without a petition for that construction, repair, or maintenance, and may assess none, all, or any part of the cost against abutting property
owners, provided that notice is given by publication for three successive weeks in a newspaper of
general circulation within the county or as provided in section 7.16 of the Revised Code, stating
the intention of the board of county commissioners or board of township trustees to construct,
repair, or maintain the specified improvements and fixing a date for a hearing on them. As part
of a sidewalk improvement, the board may include the repair or reconstruction of a driveway
within the sidewalk easement. As part of a curb improvement, the board may include
construction or repair of a driveway apron.

Notice to all abutting property owners shall be given by two publications in a newspaper of
general circulation in the county or as provided in section 7.16 of the Revised Code, at least ten
days prior to the date fixed in the notice for the making of assessments. The notice shall state the
time and place when abutting property owners will be given an opportunity to be heard with
reference to assessments. The board of county commissioners or board of township trustees shall
determine whether assessments shall be paid in one or more installments.

(B) The county engineer may trim or remove any and all trees, shrubs, and other vegetation
growing in or encroaching onto the right-of-way of the easement of a public sidewalk along or
connecting the public highways and maintained by the county, and the board of township
trustees may trim or remove any and all trees, shrubs, and other vegetation growing in or
encroaching onto the right-of-way of the easement of a public sidewalk along or connecting the
public highways and maintained by the township, as is necessary in the engineer’s or board’s
judgment to facilitate the right of the public to improvement and maintenance of, and
uninterrupted travel on, public sidewalks in the county or township.

TOWNSHIP ROAD IMPROVEMENTS

5571.01 Road improvements.

(A) A board of township trustees may construct, reconstruct, resurface, or improve any public
road or part thereof under its jurisdiction, or any county road, intercounty highway, or state
highway within its township. In the case of a county road, the plans and specifications for the
proposed improvement first shall be submitted to the board of county commissioners of the
county and receive its approval. In the case of an intercounty or state highway, the plans and
specifications first shall be submitted to the director of transportation and receive the director’s
approval. The board of township trustees may widen, straighten, or change the direction of any
part of a road in connection with the proceedings for its improvement.

(B) The board of township trustees may construct, improve, maintain, or repair the berm of any
road under its jurisdiction, in order to provide a hard surface or other improved approach to rural
mail boxes located on public highways.

(C) A board of township trustees, in conformity with the manual and uniform system of traffic
control devices adopted under section 4511.09 of the Revised Code, may erect and maintain at
intersecting roads, at least one of which is a township road, suitable signposts showing the names
and numbers of the roads. The cost of the signs shall be paid from the township road fund.
(D) Subject to division (F) of this section, a board of township trustees, in conformity with the manual and uniform system of traffic control devices adopted under section 4511.09 of the Revised Code, may erect and maintain at intersecting roads, at least one of which is a township road, suitable signposts showing the direction and distance to any nearby municipal corporation. The costs of the signs shall be paid from the township road fund.

(E) Subject to divisions (F) and (G) of this section, a board of township trustees may purchase or lease and erect and maintain at intersecting roads, at least one of which is a township road, suitable traffic control devices and traffic control signals. The traffic control devices and traffic control signals and their placement and maintenance shall conform with the manual and specifications adopted under section 4511.09 of the Revised Code. In purchasing or leasing and erecting and maintaining the traffic control devices and traffic control signals, the board may expend any moneys that are available to it that legally may be expended for that purpose.

(F) If one of the intersecting highways as provided in divisions (D) and (E) of this section is a state highway, both of the following apply:

(1) No signpost showing the direction and distance to any nearby municipal corporation shall be placed at or near the intersection, and no traffic control device or traffic control signal shall be erected at the intersection, without prior permission of the director as required by section 4511.10 of the Revised Code.

(2) The department of transportation shall maintain any traffic control signal erected by the board of township trustees at that intersection.

(G) If one of the intersecting roads as provided in division (E) of this section is a county road, a board of township trustees shall not erect a traffic control device or traffic control signal at the intersection without prior permission of the county engineer of the county in which the intersection is located.

(H) No contract for the construction or repair of a bridge, the entire cost of which construction or repair exceeds fifty thousand dollars, shall be entered into by the township unless the plans are first approved by the director.

5571.011 Relocating roads.

If a person through whose land a public road has been established which is under the jurisdiction of a board of township trustees, desires to turn or change or relocate such road or any part thereof through any part of the person’s land, the person may file a petition with such board of township trustees setting forth briefly the particular change desired. Upon receipt of such petition, the board of township trustees shall give notice by publication once, not later than two weeks prior to the date which such board shall fix for a hearing on such petition, in a newspaper of general circulation in said township, stating that such petition has been filed and setting forth the change desired in such road and the date and place of such hearing.
Upon receipt of such a petition the board of township trustees shall cause a competent engineer to make a survey of the ground over which the road is proposed to be changed, and to make a report in writing, together with a plat and survey of the proposed change and the engineer’s opinion as to its advantage or disadvantage. The report of such engineer shall be filed with the board prior to the hearing of such petition.

At the hearing had on the petition the board of township trustees may hear evidence for or against changing the road, and if the board is satisfied that the proposed change will not cause serious injury or disadvantage to the public, it may make a finding of such fact in its journal and authorize the petitioner to change such road in conformity with the prayer of the petition. The board may grant the change as prayed for in the petition, or it may order such change of the route of such road as will, in its judgment, be for the best interest of the public.

Upon receiving satisfactory evidence that the road has been changed as authorized by it, and opened to the legal width and improved as required by it, the board of township trustees shall declare such new road a public highway and cause a record thereof to be made and at the same time vacate so much of the old road as is rendered unnecessary by the new road. The person petitioning for such change shall in all cases pay all costs and expenses in connection with the proceeding, as found and determined by the board, and the expense of making such change, including the cost of relocation of any conduits, cables, wires, towers, poles or other equipment or appliances of any public utility, located on, over or under such road. The petitioner shall, on the filing of the petition for such change, give bond to the satisfaction of the board in such amount as it determines to secure payment of the costs of the proceeding and to cover the expense of making the change asked for by the petition.

5571.02 Control and maintenance of township roads.

The board of township trustees shall have control of the township roads of its township and, except for those township roads the board places on nonmaintained status pursuant to section 5571.20 of the Revised Code, shall keep them in good repair. The board of township trustees, with the approval of the board of county commissioners or the director of transportation, may maintain or repair a county road, or intercounty highway, or state highway within the limits of its township.

In the maintenance and repair of roads, the board of township trustees may proceed in any of the following methods:

(A) It may designate one of its number to have charge of the maintenance and repair of roads within the township.

(B) It may divide the township into three road districts, in which event each trustee shall have charge of the maintenance and repair of roads within one of those districts.

(C) It may appoint some competent person, not a member of the board of township trustees, to have charge of maintenance and repair of roads within the township, who shall be known as “township highway superintendent” and shall serve at the pleasure of the board.
The method to be followed in each township shall be determined by the board of township trustees by resolution entered on its records.

5571.03 Compensation of trustees.

When the board of township trustees determines to proceed in the method provided by division (A) or (B) of section 5571.02 of the Revised Code, the trustee designated to have charge of the maintenance and repair of roads and culverts within the township, or within a road district thereof, shall receive the compensation provided by section 505.24 of the Revised Code for each day of service in the discharge of such duties, but the total compensation of any trustee to be paid from the treasury under this section and all other sections of the Revised Code shall not exceed the maximum provided by such section in any year.

5571.04 Compensation of superintendent.

When the board of township trustees determines to proceed as provided in division (C) of section 5571.02 of the Revised Code and appoints a highway superintendent, the superintendent shall, before entering upon the discharge of the official duties of superintendent, give bond to the state, for the use of the township, in the sum of two thousand dollars, conditioned upon the faithful performance of the official duties of superintendent. The bond shall be approved by the board of township trustees and filed with the township fiscal officer. The board of township trustees shall fix the compensation of the superintendent, which compensation shall be paid from the township road fund. The compensation and all proper and necessary expenses, when approved by the board of township trustees, shall be paid by the township fiscal officer upon the fiscal officer’s warrant.

5571.05 Supervision of maintenance and repair of township roads.

In the maintenance and repair of roads, the board of township trustees and any township highway superintendent appointed by it, shall be subject to the general supervision and direction of the county engineer. Such board of township trustees shall follow the direction of the engineer as to methods to be followed in making repairs.

5571.06 Persons not to be counted either for or against the improvement.

In determining whether the required number of persons, necessary to give the board of township trustees jurisdiction, have signed the petition asking for a road improvement, the following persons shall not be counted either for or against the improvement:

(A) Resident landowners whose only real estate within the legal assessment distance of such road is located in a municipal corporation;

(B) Owners of life and leasehold estates;

(C) Minors and other persons under legal disability, unless represented by legal guardians, in which case the action of the guardian shall be binding upon such persons;
(D) Lot or landowners who are not otherwise taxed than to raise the proportion of the costs of such improvement, to be paid by the township as a whole.

All tenants in common of any undivided estate, resident within the county, shall be counted as a unit, and if all not united, either for or against the improvement, none shall be counted in determining whether the requisite number of persons have signed such petition.

No person signing a petition shall be permitted to withdraw therefrom unless the board finds that there was fraud or misrepresentation in obtaining his signature.

5571.07 Petition by landowners - duties of board of township trustees.

When a petition, signed by at least fifty-one per cent of the land owners or lot owners, residents of the county, who are to be specifically taxed or assessed for such improvement as provided in this section, or signed by the owner of the right to mine coal lying under or adjacent to the proposed improvement, is presented to the board of township trustees asking for the construction, reconstruction, resurfacing, or improvement of any public road or part thereof, the board shall, within thirty days after such petition is presented, go upon the line of the proposed improvement and, after viewing it, determine whether the public convenience and welfare require that such improvement be made. If the board determines to proceed with the improvement, it shall so declare by appropriate resolution, which resolution shall set forth the general route and termini of the improvement and the general manner in which such road is to be improved and such other information as the board deems necessary. Such resolution may also provide for the establishment of an appropriate detour route or for the temporary closing of the road to be improved. The petition shall state the method of paying the compensation, damages, and costs of the improvement desired by the petitioners, who may request that the same be apportioned and paid in any one of the methods provided by section 5573.07 of the Revised Code, provided, that if a petition signed by the owner of the right to mine coal lying under or adjacent to the proposed improvement, is filed with a board of township trustees as provided in this section, such petitioner shall pay the costs and expenses incurred by such board in connection with the proceedings initiated by such petition, and the costs and expenses of making such improvement including compensation and damages, and including the cost of relocation of any conduits, cables, wires, towers, poles, or other equipment or appliances of any public utility, located on, over, or under the portion of the road affected by such improvement, and, on demand by the board, shall give bond to the satisfaction of the board in such amount as the board determines, to secure the payment of all such costs and expenses.

5571.08 Removal of obstructions.

Except as provided in section 5571.20 of the Revised Code, the board of township trustees shall cause all the township roads within the township to be kept free from obstruction by snow. The cost and expense thereof shall be paid from the road funds of the township or from the funds allocated to the township by section 5735.27 of the Revised Code.
5571.09 Suits by board of township trustees.

The board of township trustees may bring and maintain all suits involving an injury to any township road, ditch, drain, or watercourse under the jurisdiction of such board and for the prevention of injury thereto. In case such road, ditch, drain, or watercourse is under the jurisdiction of two or more boards of township trustees, such joint board may bring and maintain such action. Such board or joint board may recover, by suit or otherwise, any real estate or interest therein, legal or equitable, belonging to the township, or any money or other property due the township.

5571.10 Landscape and beautification projects.

As part of improving or maintaining any road, upon petition or otherwise, the board of township trustees may provide for landscape and beautification projects along the road. Such projects may include planting trees or other plants and installing and maintaining decorative pathways, walls, signage, fencing, banners, fountains, and other similar features.

In providing for the projects, the board shall proceed in accordance with Chapter 5575. of the Revised Code.

The cost of the projects may be paid by any of the methods provided in section 5573.07 of the Revised Code, as determined by the board by resolution. If the board finds that the projects will result in general as well as special benefits, the portion of the cost that is found to represent the value of the general benefit may be paid from the general fund of the township treasury.

5571.11 Watering places on public highways.

The board of township trustees may provide and, when provided, shall maintain suitable watering places for procuring water for persons and animals on the public highways in its township, and the boards of two or more townships may join in providing and maintaining such watering place, where it is located on or near the township line, or on a road leading from one township into another. The board may, by resolution, abandon any such watering places when the necessity therefor ceases to exist.

5571.12 Dragging graveled and unimproved roads semiannually.

Except as provided in section 5571.20 of the Revised Code, the board of township trustees shall cause the graveled and unimproved public roads of the township to be dragged. At the beginning of each fiscal half year, the board, before making any other appropriations from the township road fund, shall appropriate and set aside a sum sufficient to meet the expense of dragging the graveled and unimproved public roads of the township during the ensuing six months. That sum shall not be used for any purpose other than that for which it was appropriated.

The board from time to time shall designate the roads to be dragged and furnish suitable road drags, hones, scrapers, or other tools, which shall be paid for out of the road fund. The work of dragging the graveled and unimproved public roads of the township, or of any road district of the
township, shall be done under the supervision of one of the township trustees or the township highway superintendent designated to have charge of the maintenance and repair of roads as provided in section 5571.02 of the Revised Code. That trustee or superintendent shall employ the necessary labor and teams at a price to be fixed by the board. Bills for dragging shall be paid from the dragging fund upon the order of the board.

5571.14 **Object bounding township road may be declared public nuisance.**

(A) A board of township trustees or township highway superintendent may determine that an object bounding any township road and located wholly or in part on the land belonging to the road interferes with snow or ice removal from, the maintenance of, or the proper grading, draining, or dragging of the road, causes the drifting of snow on the road, or in any other manner obstructs or endangers the public travel of the road. The board or superintendent then may declare the object to be a public nuisance and order the owner, agent, or occupant of the land on or bordering upon which the object is maintained to remove it within thirty days. If that person refuses or neglects to comply with the order, the board or superintendent shall have the object removed. The expense incurred in that removal shall be certified to the county auditor and entered on the tax duplicate against that land, to be collected in the same manner as other taxes.

(B)

(1) The authority granted in this section is in addition to the authority granted in section 5543.14 of the Revised Code to remove vegetation and the authority granted in section 5547.03 of the Revised Code to remove objects or structures constituting obstructions.

(2) The authority granted in this section applies to land belonging to a township road whether owned in fee simple or by easement.

(3) Objects that may be declared to be a public nuisance under this section include a fence, post, pole, athletic or recreational apparatus, rock, or berm, any vegetation, or any other object identified by the board or superintendent as interfering with or obstructing the township road under division (A) of this section.

(C) The authority granted in this section does not apply to an object that is lawfully entitled to be maintained on land belonging to a township road pursuant to a franchise or other grant of public authority.

5571.15 **Board of township trustees may improve roads without petition.**

(A) Except as provided in division (B) of this section, the board of township trustees, without the presentation of a petition, may take the necessary steps to construct, reconstruct, resurface, or improve a public road or part thereof, upon the passage of a resolution by unanimous vote declaring the necessity for the construction, reconstruction, resurfacing, or improvement. The cost thereof may be paid by any of the methods provided in section 5573.07 of the Revised Code, as determined by the board in the resolution.
(B) If the primary reason for the reconstruction, resurfacing, or improvement of a public road or part thereof is to improve the drainage of water from the surface of the road, as declared by the resolution, and there is no presentation of a petition, the board may proceed upon the passage of the resolution by majority vote. The cost in such case may be paid by either of the methods provided in division (B) of section 5573.07 of the Revised Code.

5571.16 Obtaining permit before installing driveway culvert or making excavation in township highway or highway right-of-way.

The board of township trustees, by resolution, may require any person to obtain a permit before installing a driveway culvert or making any excavation in a township highway or highway right-of-way within its jurisdiction, except an excavation to repair, rehabilitate, or replace a pole already installed for the purpose of providing electric or telecommunications service. The board, as a condition to the granting of the permit, may do any of the following:

(A) Require the applicant to submit plans indicating the location, size, type, and duration of the culvert or excavation contemplated;

(B) Specify methods of excavation, refilling, and resurfacing to be followed;

(C) Require the use of warning devices it considers necessary to protect travelers on the highway;

(D) Require the applicant to indemnify the township against liability or damage as the result of the installation of the culvert or as a result of the excavation;

(E) Require the applicant to post a deposit or bond, with sureties to the satisfaction of the board, conditioned upon the performance of all conditions in the permit.

Applications for permits under this section shall be made to the township fiscal officer upon forms to be furnished by the board. Applications, including, but not limited to, a single application for an excavation project to install six or more poles for the purpose of providing electric or telecommunications service or to install a pole associated with underground electric or telecommunications service, shall be accompanied by a fee of fifty dollars per application, which fee shall be returned to the applicant if the application is denied. Except as otherwise provided in this section, no application or fee shall be required for an excavation project to install five or fewer poles for the purpose of providing electric or telecommunications service, but the person making that excavation shall provide verifiable notice of the excavation to the township clerk at least three business days prior to the date of the excavation.

No person shall install a driveway culvert or make an excavation in any township highway or highway right-of-way in violation of any resolution adopted pursuant to this section, except that, in the case of an emergency requiring immediate action to protect the public health, safety, and welfare, an excavation may be made without first obtaining a permit, if an application is made at the earliest possible opportunity.
As used in this section, “person” has the same meaning as in section 1.59 of the Revised Code, and “right-of-way” has the same meaning as in division (UU)(2) of section 4511.01 of the Revised Code.

5571.20 Township trustees may place graveled or unimproved road in nonmaintained status.

(A) Except as otherwise provided in division (D) of this section, a board of township trustees by resolution may place a graveled or unimproved township road under its jurisdiction that is not passable year-round or any portion of such a road on nonmaintained status. Prior to adopting a resolution that places a road on nonmaintained status, the board shall hold at least two public hearings to allow for public comment on the proposed resolution. The board, at special or regular meetings, shall publicize the times and places of the hearings by causing a notice to be published in a newspaper of general circulation in the county in which the road is located at least ten days prior to the date of the first meeting. If the township maintains a web site on the internet, the same notice also shall be posted on the web site at least ten days prior to the date of the first meeting. Upon adoption of such a resolution, the board is not required to cause the road to be dragged at any time, or to cut, destroy, or remove any brush, weeds, briers, bushes, or thistles upon or along the road, or to remove snow from the road, or to maintain or repair the road in any manner. The board, in its discretion, may cause any of these actions to be performed on or to a road that it has placed on nonmaintained status.

(B) Prior to adopting a resolution under division (A) of this section, the board shall request the county engineer to issue an advisory opinion regarding the consequences of placing the road on nonmaintained status, including any impact such action would have on adjoining property owners. A board may adopt a resolution under division (A) of this section only after the county engineer issues the advisory opinion and the county engineer, in the advisory opinion, finds that placing the road on nonmaintained status will not unduly adversely affect the flow of motor vehicle traffic on that road or on any adjacent road.

(C)

(1) A board may terminate the nonmaintained status of a township road by adopting a resolution to that effect. If the owner of land adjoining a road that has been placed on nonmaintained status requests the board to terminate the nonmaintained status of the road, the board, in its resolution that terminates that nonmaintained status, may require the owner to pay the costs of upgrading the road to locally adopted township standards.

(2) If the owner of land adjoining a road that has been placed on nonmaintained status upgrades the road to the standards most recently certified by the county engineer for the road, the board shall terminate the nonmaintained status of the road and then shall maintain and repair the road according to such standards. However, division (C)(2) of this section does not apply to a road or portion of a road that, prior to being placed on nonmaintained status, was not certified by the board of township trustees to the director of transportation in accordance with division (E) of section 4501.04 of the Revised Code as mileage in the township used by and maintained for the public.
(3) The owner of land adjoining a road that was placed on nonmaintained status prior to April 7, 2009, or land owner of land whose only access to such a road is by easement may petition the board for review of the nonmaintained status of the road if the road provides the exclusive means for obtaining access to the land. Upon receipt of a petition, the board shall review the status of the road and shall terminate the nonmaintained status if the board finds that the road provides such exclusive means for obtaining access to the land. After completing the review, the board shall adopt a resolution either retaining or terminating the nonmaintained status of the road. If the board terminates the nonmaintained status of a road under division (C)(3) of this section, the board shall not require the owner to pay the costs of upgrading, maintaining, or repairing the road. However, division (C)(3) of this section does not apply to a road or portion of a road that, prior to being placed on nonmaintained status, was not certified by the board of township trustees to the director in accordance with division (E) of section 4501.04 of the Revised Code as mileage in the township used by and maintained for the public.

(D) A graveled or unimproved road may not be placed on nonmaintained status if the road is the exclusive means for obtaining access to land that adjoins that road and the road is passable year-round.

(E) For purposes of this section, a road is passable year-round if a four-wheeled, two-wheel drive passenger motor vehicle can be driven on the road year-round, apart from seasonal conditions caused by weather-related events.

5571.99 Penalty.

Whoever violates section 5571.16 of the Revised Code shall be fined not more than two hundred dollars or imprisoned not more than thirty days, or both.

TOWNSHIP ROAD ASSESSMENTS

5573.01 Resolution for road improvement.

When the board of township trustees has determined that any road shall be constructed, reconstructed, resurfaced, or improved, the board shall determine by resolution, by unanimous vote if acting without a petition, and by a majority vote if acting upon a petition, the route and termini of the road, and the kind and extent of the improvement, and at the same time shall order the county engineer or, if the township has adopted a limited home rule government under Chapter 504. of the Revised Code, hire an independent professional engineer, after notifying the county engineer, to make surveys, plans, profiles, cross sections, estimates, and specifications as are required for the improvement. If an independent professional engineer is hired, the county engineer shall review all of the independent professional engineer’s plans for improvements and provide the board of township trustees with comments on those plans within ten working days after receiving them. The county engineer shall monitor all of the independent professional engineer’s plans for improvements in order to maintain compliance with existing construction standards and thoroughfare plans, and coordinate construction timelines within the county.
If the board orders the county engineer to act under this section, the board may order the county engineer to make alternate surveys, plans, profiles, cross sections, estimates, and specifications, providing in them for different widths of roadway, or different materials, and approve all or any number of these alternate surveys, plans, profiles, cross sections, estimates, and specifications. The county engineer may, without instructions from the board, prepare alternate surveys, plans, profiles, cross sections, estimates, and specifications, providing in them for different widths of roadways or different materials. When alternate surveys, plans, profiles, cross sections, estimates, and specifications are approved by the board, or submitted by the county engineer on the county engineer’s own motion, the board and county engineer shall, after the opening of bids, agree which of the surveys, plans, profiles, cross sections, estimates, and specifications shall be finally adopted for construction of the improvement.

5573.02 Transmission of surveys, plans, and specifications to board - notice.

Upon the completion of the surveys, plans, profiles, cross sections, estimates, and specifications for a road improvement by the county engineer, the engineer shall transmit to the board of township trustees copies of the same. Except in cases of reconstruction or repair of roads, where no land or property is taken, the board shall then cause to be published in a newspaper of general circulation within the township, once a week for two consecutive weeks or as provided in section 7.16 of the Revised Code, a notice that such improvement is to be made and that copies of the surveys, plans, profiles, cross sections, estimates, and specifications for it are on file with the board for the inspection and examination of all persons interested.

In the event that land or property is to be taken for such improvement, proceedings shall be had in accordance with sections 163.01 to 163.22 of the Revised Code.

5573.06 Order to proceed with improvement.

If, after determination of all claims for compensation and damages on account of land or property taken for any road improvement, the board of township trustees is satisfied that the public convenience and welfare require that such improvement be made, and that the costs of such improvement will not be excessive in view of its public utility, such board shall order, by resolution, that such improvement be proceeded with, and shall adopt the surveys, plans, profiles, cross sections, estimates, and specifications therefor, as reported by the county engineer, or with such modifications as the board and engineer agree upon. If, in view of the amount of compensation and damages allowed, the board is of the opinion that such improvement should not be made, it shall so order.

5573.07 Apportionment of compensation, damages, and costs - payment.

The compensation, damages, and costs of township road improvements shall be apportioned and paid in any of the following methods, as set forth in the petition:

(A) Any part thereof shall be assessed against:

(1) The real estate abutting upon said improvement;
(2) The real estate situated within one-half mile of either side thereof;

(3) The real estate situated within one mile of either side thereof, according to the benefits accruing to such real estate;

(B) Any balance shall be paid:

(1) From the proceeds of any levy for road purposes upon the grand duplicate of all the taxable property in the township;

(2) From any funds in the township treasury available therefor.

When the board of township trustees acts by unanimous vote without the filing of a petition, as permitted by division (A) of section 5571.15 of the Revised Code, the board shall set forth in its resolution that declares the necessity for the improvement the method of apportioning and paying the compensation, damages, and costs of the improvement, which may be any one of the methods provided in this section.

When the board acts by majority vote as permitted by division (B) of section 5571.15 of the Revised Code, the board shall set forth in its resolution the method of paying the compensation, damages, and costs of the improvement, which may be by either of the methods provided in division (B) of this section.

5573.08 Assessment of property separated from improvement.

When property is separated from a road improvement by a canal, street or interurban railway, steam railroad, or in any similar manner, such property shall be regarded, for the purpose of assessment under the township road improvement laws as property abutting upon the improvement. The land owned or occupied by such street or interurban railway or steam railroad and the land lying back thereof shall be assessed, on account of such improvement.

5573.09 All costs may be paid from proceeds of tax levy.

The board of township trustees, upon a unanimous vote, may, without a petition therefor, order that all the compensation, damages, and costs of constructing any road improvement be paid out of the proceeds of any levy for road purposes on the grand duplicate of the township, or out of any road improvement fund available therefor.

5573.10 Estimated assessment on real estate.

As soon as all questions of compensation and damages have been determined for any road improvement, the county engineer shall make, upon actual view, an estimated assessment, upon the real estate to be charged, of such part of the compensation, damages, and costs of such improvement as is to be specially assessed. Such assessment shall be according to the benefits which will result to the real estate. In making such assessment the engineer may take into
consideration any previous special assessment made upon such real estate for road improvements.

The schedule for such assessments shall be filed with the board of township trustees for the inspection of the persons interested. Before adopting the estimated assessment, the board shall publish once each week for two consecutive weeks, in a newspaper of general circulation within such township or as provided in section 7.16 of the Revised Code, notice that such assessment has been made and is on file with the board, and the date when objections will be heard to such assessment.

If any owner of property affected desires to make objections, the owner may file objections to such assessments, in writing, with the board, before the time of such hearing. If any objections are filed the board shall hear them and act as an equalizing board, and may change assessments if, in its opinion, any changes are necessary to make them just and equitable. The board shall approve and confirm assessments as reported by the engineer or modified by the board. Such assessments, when approved and confirmed, shall be a lien on the land chargeable therewith.

5573.11 Assessments certified to county auditor for collection - installments.

All assessments, with interest accrued thereon, made as provided by sections 5573.07 to 5573.10, inclusive, of the Revised Code, shall be certified to the county auditor and by him placed upon a special duplicate, to be collected as other taxes. The principal shall be payable in not more than twenty semiannual installments, extending over a period of not more than ten years, as determined by the board of township trustees. Any assessment in the amount of twenty-five dollars or less, or of which the unpaid balance is twenty-five dollars or less, shall be paid in full and not in installments, at the time the first or next installment would otherwise become due. In the event that bonds are issued to pay the compensation, damages, and costs incident to such improvement, the principal sum of such assessment shall be payable in such number of equal semiannual installments as will provide a fund for the redemption of the bonds and shall bear interest from the date of and at the same rate as the bonds. The interest shall be collected in like manner as the principal of such assessments.

5573.12 Apportionment between owners of life estate and fee - hearing - appeal.

If any lands to be assessed for road improvement are subject to a life estate, the assessments shall, upon application of the life tenant to the board of township trustees, be apportioned between the owner of the life estate and the owner of the fee, in proportion to the value of their respective estates. Upon filing of the application the board shall fix a date for hearing the same and cause notice to such hearing to be served on the owner of the fee as provided by section 5573.02 of the Revised Code. Either party to such apportionment may appeal to the probate court of the county, from the decision of the board relating to the apportionment of such assessment, by giving the notice and filing the bond provided for in section 5563.02 of the Revised Code. Such proceedings shall be thereafter had upon such appeal as are provided for appeals in road cases.
5573.13 Township's proportion of costs - payment.

The proportion of the compensation, damages, and costs of any road improvement to be paid by the township shall be paid out of any road improvement fund available for it. For the purpose of providing by taxation a fund for the payment of the township’s proportion of the compensation, damages, and costs of constructing, reconstructing, resurfacing, or improving roads under sections 5571.01, 5571.06, 5571.07, 5571.15, 5573.01 to 5573.15, and 5575.02 to 5575.09 of the Revised Code, and for the purpose of maintaining, repairing, or dragging any public road or part of any public road under their jurisdiction, in the manner provided in sections 5571.02 to 5571.05, 5571.08, 5571.12, and 5573.01 of the Revised Code, the board of trustees may levy, annually, a tax not exceeding three mills upon each dollar of the taxable property of the township. The levy shall be in addition to all other levies authorized for township purposes, and subject only to the limitation on the combined maximum rate for all taxes now in force. The taxes so authorized shall be placed by the county auditor upon the tax duplicate against the taxable property of the township, and collected by the county treasurer as other taxes. When collected, the taxes shall be paid to the fiscal officer of the township from which they are collected, and the money so received shall be under the control of the board of township trustees for the purposes for which the taxes were levied.

5573.14 Trustees may issue bonds in anticipation of tax.

The board of township trustees, in anticipation of the collection, for road improvements, of taxes and assessments or any part thereof, may, whenever in its judgment it is necessary, sell the bonds of the township in any amount not greater than the aggregate sum necessary to pay the estimated compensation, damages, and costs of such improvement.

5573.15 Joint improvement by townships - procedure.

The boards of township trustees of two or more townships may construct, reconstruct, resurface, or improve a township road or part thereof, along the line between such townships, extending into or through all such townships, or wholly within the township but within less than the legal assessment distance of the township line. In such case the several boards, when acting as a joint board and when acting separately, in the making of assessments and issuing bonds, shall be governed by sections 5555.21 to 5555.34, inclusive, of the Revised Code, in so far as the same are applicable. They shall also have the same power with respect to county roads located as provided in this section, subject to the limitation expressed in section 5571.01 of the Revised Code.

5573.21 Erection of road district outside municipal corporation.

The board of township trustees of a township in which there is located a municipal corporation or a part thereof, may, by resolution, erect that portion of the township not included within the corporate limits of the municipal corporation into a road district, whenever in its opinion it is expedient and necessary and for the public convenience and welfare, for the purpose of constructing, reconstructing, resurfacing, or improving the public roads within such district. The district so created shall be given an appropriate name by which it shall be designated.
After such district has been created, the board shall have all the powers and duties that it has under sections 5571.01, 5571.06, 5571.07, 5571.10, 5571.15, 5573.01 to 5573.12, 5573.14, and 5575.02 to 5575.09 of the Revised Code, and it shall proceed in like manner in the constructing, reconstructing, resurfacing, improving, maintaining, repairing, and dragging of township roads, or part thereof, in such cases as provided for the board in township road construction.

5573.211 Payment of township road district's proportion of compensation, damages, and costs.

The proportion of the compensation, damages, and costs of any road improvement to be paid by a township road district shall be paid out of any road improvement fund available for it. For the purpose of providing by taxation a fund for the payment of a township road district’s proportion of the compensation, damages, and costs of constructing, reconstructing, resurfacing, improving, maintaining, repairing, and dragging township road district roads or parts of those roads, the board of trustees of a township in which a township road district has been erected as provided in section 5573.21 of the Revised Code may levy, annually, a tax not exceeding three mills upon each dollar of the taxable property of the township road district. The levy shall be in addition to all other levies authorized for township or township road district purposes, and subject only to the limitation on the combined maximum rate for all taxes in force. The taxes so authorized shall be placed by the county auditor upon the tax duplicate against the taxable property of the township road district, and collected by the county treasurer as other taxes. When collected, the taxes shall be paid to the fiscal officer of the township in which the township road district has been erected, and the money so received shall be under the control of the board of township trustees for the purposes for which the taxes were levied.

5573.22 Construction and repair in township road districts outside municipal corporations.

The board of township trustees of a township in which there is located a municipal corporation or a part of a municipal corporation, and in which that portion of the township not included within the limits of such municipal corporation has been erected into a road district, may enter into an agreement with the board of county commissioners of the county within which such township is situated, providing for the construction, improvement, maintenance, or repair by the board of county commissioners of a road within such district.

The board of township trustees may assume, on behalf of such district, the proportion of the compensation, damages, and expenses of such improvement as is proper.

The remainder of the compensation, damages, and costs of such improvement shall be paid in part by the county and shall in part be assessed against the real estate abutting upon the improvement, or situated within one-half mile of either side thereof, or situated within one mile of either side thereof, or situated within two miles of either side thereof, as may be fixed by the terms of the agreement between the board of county commissioners and the board of township trustees.

For the payment of that part of the compensation, damages, and costs assumed by the board of township trustees on behalf of such district, the board of township trustees may levy taxes
against such district and issue the bonds of the district. The district shall pay the county treasurer its agreed proportion of the estimated compensation, damages, and costs of such improvement, as fixed in the agreement between the board of county commissioners and the board of township trustees, out of the proceeds of any such tax levies or bond issues. All proceedings relating to the letting of the contract, supervision of the work, making of assessments, and all other proceedings in connection with such improvement, except as provided for by this section, shall be conducted by the board of county commissioners as in the construction, improvement, maintenance, and repair of county roads.

The board of township trustees may enter into an agreement with the board of county commissioners providing for construction by the department of transportation, upon the application of such board of county commissioners, of a road improvement within such district, and may assume on behalf of the district such proportion of the compensation, damages, and costs of the improvement as to it seems proper. In the event of its making such an agreement, the board may levy taxes upon and issue the bonds of the district and pay to the board of county commissioners, out of the proceeds of such tax levies and bond issues, their agreed proportion of such compensation, damages, and costs.

**CONSERVANCY DISTRICT ASSESSMENTS**

**6101.48 Directors to levy assessments.**

After the conservancy appraisal record as approved by the court, or that part of it from which no appeal is pending, has been filed with the secretary of the conservancy district as provided in section 6101.37 of the Revised Code, from time to time, as the affairs of the district demand it, the board of directors of the conservancy district shall levy on all real property and on all public corporations, upon which benefits have been appraised, an assessment of the portion of the benefits that is found necessary by the board to pay the cost of the execution of the official plan, including superintendence of construction and administration, plus one-ninth of that total to be added for contingencies, but not to exceed in the total of principal the appraised benefits so adjudicated.

The assessment shall be apportioned to and levied on each tract of land or other property and each public corporation in the district in proportion to the benefits appraised, and not in excess of the benefits appraised. Interest at a rate not to exceed the rate provided in section 9.95 of the Revised Code, payable semiannually, shall be included in and added to the assessment, but the interest shall not be considered as a part of the cost in determining whether or not the expenses and costs of making the improvement are equal to or in excess of the benefits appraised.

After the assessment is levied, the board shall report it to the court for confirmation. Upon the entry of the order of the court confirming the assessment, the clerk of the court shall transmit a certified copy of the order to the governing or taxing body of each political subdivision assessed, and the governing or taxing body shall receive and file the order. Thereafter, the board may order the issuance of notes in an amount not exceeding ninety per cent of the assessment in anticipation of the collection of the assessment.
After the court has confirmed the assessment, the secretary of the conservancy district, at the expense of the district, shall prepare an assessment record named “Conservancy Assessment Record of . . . . . . District.” It shall contain a notation of the items of property appraised and the public corporations to which benefits have been appraised, the total amount of benefits appraised against each item or public corporation, and the total assessment levied against each item or public corporation. If successive levies of assessment are made for the execution of the official plan and the acquisition or construction of improvements, the conservancy assessment record shall contain suitable notations to show the number of levies and the amount of each, to the end that the conservancy assessment record may disclose the aggregate of all such levies made up to that time.

Upon the completion of the conservancy assessment record, it shall be signed and certified by the president of the board and by the secretary of the conservancy district and placed on file and shall become a permanent record in the office of the district. After the expiration of the thirty-day period for the payment of assessments as provided by section 6101.49 of the Revised Code, a copy of that part of the conservancy assessment record affecting lands or public corporations in any county shall be filed with the county auditor of the county.

If it is found at any time that the total amount of assessments levied is insufficient to pay the cost of works set out in the official plan or of additional work done, the board may make an additional levy to provide funds to complete the work, provided the total of all levies of the assessment exclusive of interest does not exceed the total of benefits appraised.

6101.49 Paying assessments.

When the conservancy assessment record is placed on file in the office of the conservancy district, notice by publication shall be given to property owners and public corporations assessed that they may pay their assessments. Any owner of real property or public corporation assessed for the execution of the official plan under this chapter may pay the assessment to the treasurer of the conservancy district within thirty days from the time the assessment is placed on file in the office of the district, and the amount to be so paid shall be ninety per cent of the full principal amount of the assessment exclusive of any amount added to it to meet interest. When the assessment has been paid, the secretary of the conservancy district shall enter upon the assessment record opposite each item for which payment is made, the amount paid and the words “paid in full,” and the assessment shall be deemed satisfied. The payment of the assessment does not relieve the landowner or public corporation from the necessity for the payment of a maintenance assessment or from payment of any further assessment that may be necessary as provided in this chapter. Any property owner or public corporation failing to pay assessments in full as provided for in this section shall be deemed to have consented to the issuance of bonds as provided for under this chapter and to payment of interest on them. If any assessment is twenty-five dollars or less, or whenever the unpaid balance of any assessment is twenty-five dollars or less, the assessment or balance shall be paid in full, and not in installments, at the time the first or next installment would otherwise become due and payable.

After the expiration of the period of thirty days within which the property owners and public corporations may pay their respective assessments, as limited in this section, the treasurer of the
conservancy district shall certify to the board of directors of the conservancy district the aggregate of the amount so paid, and the board then shall pass and spread upon its records a resolution in which shall be stated the total amount of the assessment and the amount of it paid. The board shall, in the same resolution, apportion the total of the unpaid assessments into annual installments and provide for the collection of interest upon the unpaid installments. Thereafter, it may order the issuance of bonds in an amount not exceeding ninety per cent of the unpaid assessment in anticipation of the collection of the installments. The residue of the assessment so levied, not less than ten per cent, shall constitute a contingent account to protect the bonds from casual default, and any part of it in excess of the sum of the next two installments of semiannual interest and ten per cent of the next installment of maturing bond principal, if not needed for this purpose, may be used for the purchase and retirement of bonds of the district at not to exceed par and accrued interest or for the reduction of the rate of assessment in succeeding years.

**COUNTY WATER SUPPLY**

**6103.01 County water supply system definitions.**

As used in this chapter:

(A) “Public water supply facilities,” “water supply facilities,” “water supply improvement,” or “improvement” means, without limiting the generality of those terms, water wells and well fields, springs, lakes, rivers, streams, or other sources of water supply, intakes, pumping stations and equipment, treatment, filtration, or purification plants, force and distribution lines or mains, cisterns, reservoirs, storage facilities, necessary equipment for fire protection, other related structures, equipment, and furnishings, and real estate and interests in real estate, necessary or useful in the proper development of a water supply for domestic or other purposes and its proper distribution.

(B) “Current operating expenses,” “debt charges,” “permanent improvement,” “public obligations,” and “subdivision” have the same meanings as in section 133.01 of the Revised Code.

(C) “Construct,” “construction,” or “constructing” means construction, reconstruction, enlargement, extension, improvement, renovation, repair, and replacement of water supply facilities, but does not include repairs, replacements, or similar actions that do not constitute and qualify as permanent improvements.

(D) “Maintain,” “maintaining,” or “maintenance” means repairs, replacements, and similar actions that constitute and are payable as current operating expenses and that are required to restore water supply facilities to, or to continue water supply facilities in, good order and working condition, but does not include construction of permanent improvements.

(E) “Public agency” means a state and any agency or subdivision of a state, including a county, a municipal corporation, or other subdivision.

(F) “County sanitary engineer” means either of the following:
(1) The registered professional engineer employed or appointed by the board of county commissioners to be the county sanitary engineer as provided in section 6117.01 of the Revised Code;

(2) The county engineer, if, for as long as and to the extent that engineer by agreement entered into under section 315.14 of the Revised Code is retained to discharge the duties of a county sanitary engineer under this chapter.

(G) “Homestead exemption” means the reduction of taxes allowed under division (A) of section 323.152 of the Revised Code.

(H) “Low- and moderate-income persons” has the same meaning as in section 175.01 of the Revised Code.

6103.05 General plan of water supply.

(A) After the establishment of any county sewer district, the board of county commissioners, if a water supply improvement is to be undertaken, may have the county sanitary engineer prepare, or otherwise cause to be prepared, for the district, or revise as needed, a general plan of water supply that is as complete as can be developed at the time. After the general plan, in original or revised form, has been approved by the board, it may adopt a resolution generally describing the water supply improvement that is necessary to be acquired or constructed in accordance with the plan, declaring that the improvement is necessary for the preservation and promotion of the public health and welfare, and determining whether or not special assessments are to be levied and collected to pay any part of the cost of the improvement.

(B) If special assessments are not to be levied and collected to pay any part of the cost of the improvement, the board, in the resolution provided for in division (A) of this section or in a subsequent resolution, including a resolution authorizing the issuance or incurrence of public obligations for the improvement, may authorize the improvement and the expenditure of the funds required for its acquisition or construction and may proceed with the improvement without regard to the procedures otherwise required by divisions (C), (D), and (E) of this section and by sections 6103.06, 6103.07, and 6117.09 to 6117.24 of the Revised Code. Those procedures shall be required only for improvements for which special assessments are to be levied and collected.

(C) If special assessments are to be levied and collected pursuant to a determination made in the resolution provided for in division (A) of this section or in a subsequent resolution, the procedures referred to in division (B) of this section as being required for that purpose shall apply, and the board may have the county sanitary engineer prepare, or otherwise cause to be prepared, detailed plans, specifications, and an estimate of cost for the improvement, together with a tentative assessment of the cost based on the estimate. The tentative assessment shall be for the information of property owners and shall not be levied or certified to the county auditor for collection. The detailed plans, specifications, estimate of cost, and tentative assessment, if approved by the board, shall be carefully preserved in the office of the board or the county sanitary engineer and shall be open to the inspection of all persons interested in the improvement.
(D) After the board’s approval of the detailed plans, specifications, estimate of cost, and tentative assessment, and at least twenty-four days before adopting a resolution pursuant to division (E) of this section, the board, except to the extent that appropriate waivers of notice are obtained from affected owners, shall cause to be sent a notice of its intent to adopt a resolution to each owner of property proposed to be assessed that is listed on the records of the county auditor for current agricultural use value taxation pursuant to section 5713.31 of the Revised Code and that is not located in an agricultural district established under section 929.02 of the Revised Code. The notice shall satisfy all of the following:

(1) Be sent by first class or certified mail;

(2) Specify the proposed date of the adoption of the resolution;

(3) Contain a statement that the improvement will be financed in whole or in part by special assessments and that all properties not located in an agricultural district established pursuant to section 929.02 of the Revised Code may be subject to a special assessment;

(4) Contain a statement that an agricultural district may be established by filing an application with the county auditor.

If it appears, by the return of the mailed notices or by other means, that one or more of the affected owners cannot be found or are not served by the mailed notice, the board shall cause the notice to be published once in a newspaper of general circulation in the county not later than ten days before the adoption of the resolution.

(E) After complying with divisions (A), (C), and (D) of this section, the board may adopt a resolution declaring that the improvement, which shall be described as to its nature and its location, route, and termini, is necessary for the preservation and promotion of the public health and welfare, referring to the plans, specifications, estimate of cost, and tentative assessment, stating the place where they are on file and may be examined, and providing that the entire cost or a lesser designated part of the cost will be specially assessed against the benefited properties within the district and that any balance will be paid by the county at large from other available funds. The resolution also shall contain a description of the boundaries of that part of the district to be assessed and shall designate a time and place for objections to the improvement, to the tentative assessment, or to the boundaries of the assessment district to be heard by the board. The date of that hearing shall be not less than twenty-four days after the date of the first publication of the notice of the hearing required by this division.

The board shall cause a notice of the hearing to be published once a week for two consecutive weeks in a newspaper of general circulation in the county or as provided in section 7.16 of the Revised Code, and on or before the date of the second publication, it shall cause to be sent by first class or certified mail a copy of the notice to every owner of property to be assessed for the improvement whose address is known.

The notice shall set forth the time and place of the hearing, a summary description of the proposed improvement, including its general route and termini, a summary description of the
area constituting the assessment district, and the place where the plans, specifications, estimate of cost, and tentative assessment are on file and may be examined. Each mailed notice also shall include a statement that the property of the addressee will be assessed for the improvement. The notice also shall be sent by first class or certified mail, on or before the date of the second publication, to the clerk, or the official discharging the duties of a clerk, of any municipal corporation any part of which lies within the assessment district and shall state whether or not any property belonging to the municipal corporation is to be assessed and, if so, shall identify that property.

At the hearing, or at any adjournment of the hearing, of which no further published or mailed notice need be given, the board shall hear all parties whose properties are proposed to be assessed. Written objections to or endorsements of the proposed improvement, its character and termini, the boundaries of the assessment district, or the tentative assessment shall be received by the board for a period of five days after the completion of the hearing, and no action shall be taken by the board in the matter until after that period has elapsed. The minutes of the hearing shall be entered on the journal of the board showing the persons who appear in person or by attorney, and all written objections shall be preserved and filed in the office of the board.

6103.051 Deferment of collection of assessment.

At any time prior to the expiration of the five-day period provided by section 6103.05 of the Revised Code for the filing of written objections, any owner of property to be assessed for an improvement under sections 6103.02 to 6103.30, inclusive, of the Revised Code may file with the board of county commissioners a request in writing for deferment of the collection of his assessment. Such request shall identify the property in connection with which the request for deferment is made, shall describe its present use, shall state its estimated market value, showing separately the value of the land and the value of the buildings thereon, shall state the reasons why a portion of the assessment should be deferred, and the amount to be deferred. The board shall promptly consider such request and, if it finds that it will be inequitable to certify the entire amount of such assessment upon completion of the improvement to the county auditor for collection, the board may order that the collection of a portion of such assessment, not exceeding seventy-five per cent thereof, shall be deferred as provided in section 6103.16 of the Revised Code. In determining whether it is inequitable to certify an assessment for immediate collection upon completion of the improvement, the board shall consider as significant the following factors: whether or not the property is presently unimproved; whether or not it is being used for farming or agricultural purposes; the extent to which it is in immediate need of water service; whether the tentative assessment is a disproportionately high percentage of the estimated market value of the property after the improvement will have been completed. All requests for the deferment of the collection of assessments shall be considered by the board before it adopts the improvement resolution provided for by section 6103.06 of the Revised Code, and, if the board orders any part of any assessment to be deferred for collection, the sanitary engineer shall forthwith revise the list of tentative assessments to accord with the order of the board thereby showing the amount of each assessment to be collected upon the completion of the improvement and the amount of each assessment to be deferred for collection. The decision of the board on any request for deferment shall be final and no appeal therefrom may be taken.
The board may, for good cause shown and notwithstanding the failure of a property owner to file such request within the period provided in this section, consider a request for the deferment of an assessment at any time prior to the adoption of the resolution confirming the revised assessment provided for by section 6103.15 of the Revised Code.

6103.052 Deferment of collection of assessments for certain lines providing water to industrial or residential developments.

(A) At any time prior to the expiration of the five-day period provided by section 6103.05 of the Revised Code for the filing of written objections, any owner of property which is classified on the general tax list of the county auditor as agricultural land and has been assessed for the extension of a main water line over or along such property under sections 6103.02 to 6103.30 of the Revised Code may file with the board of county commissioners a request in writing for deferment of the collection of the owner’s assessment if the main water line provides water facilities to aid in the establishment of new industrial plants, the expansion of existing industrial plants, or such other industrial development, or provides water facilities to aid in the establishment of commercial and residential developments. Such request shall identify the property in connection with which the request for deferment is made, shall describe its present use and present classification on the general tax list of the county auditor, shall state its estimated market value, showing separately the value of the land and the value of the buildings thereon, shall state the reasons, if any, why a portion of the benefit of the improvement will not be realized until the use of the land is changed, and shall state the amount to be deferred. The board shall promptly consider such request and may order the deferment of the collection of that portion of the assessment representing a benefit from the improvement that will not be realized until the use of the land is changed. The board may, upon request of an owner whose property has been assessed for the extension of a main water line over or along such property under sections 6103.02 to 6103.31 of the Revised Code, defer all or any part of the assessment on property which is classified on the general tax list of the county auditor as agricultural land, by attributing the amount of such assessment or part thereof as tap-in charges, if the main water line provides water facilities to aid in the establishment of new industrial plants, the expansion of existing industrial plants, or such other industrial development, or provides water facilities to aid in the establishment of commercial and residential developments. Upon determination and approval of final assessments, the board of county commissioners shall certify all deferred assessments and a fee equal to two per cent of the amount of the deferred assessments to the county auditor. For purposes of this section, “assessment,” “deferred assessment,” or “assessment deferred under this section” mean the fee and the deferred assessment certified to the county auditor. The county auditor shall record an assessment deferred under this section in the water works record. Such record shall be kept until such time as the assessments are paid in full or certified for collection in installments as provided in this section. During the time when the assessment is deferred there shall be a lien on the property assessed, which lien shall arise at the time of recordation by the county auditor and shall be in force until the assessments are paid in full or certified for collection in installments.

(B) The board of county commissioners shall defer the collection of an assessment, except the amount of such assessment or part thereof attributable to tap-in charges, which has been deferred pursuant to division (A) of this section on or before January 1, 1987, beyond the expiration of the
maximum time for the original deferment if the property owner requests in writing, no later than six months prior to the expiration of the original deferment, that the assessment be further deferred and as long as the property owner’s land could qualify for placement in an agricultural district pursuant to section 929.02 of the Revised Code.

The board shall regularly review the use and ownership of the property for which the collection of assessments has been deferred pursuant to this division, and upon finding that the land could no longer qualify for placement in an agricultural district pursuant to section 929.02 of the Revised Code, the board shall immediately collect, without interest, the full amount of the assessment deferred.

(C) The board of county commissioners shall send a notice by regular or certified mail to all owners of property on which assessments have been deferred pursuant to division (A) of this section, which lists the expiration of the deferment, not later than two hundred ten days prior to the expiration of the deferment of those assessments.

(D) The board shall collect the assessments, without interest, which have been deferred pursuant to division (A) of this section upon expiration of the maximum time for which deferments were made; provided, that for a property owner who requests in writing, no later than six months prior to the expiration of the deferment period, that payment of the owner’s deferred assessments be in installments, the board of county commissioners upon expiration of the deferment period may by resolution further certify for collection pursuant to section 6103.16 of the Revised Code, such deferred assessments in installments over not more than twenty years, as determined by the board, together with interest thereon each year on the unpaid balance at the same rate borne by bonds of the county which shall be issued in anticipation thereof as provided in Chapter 133. of the Revised Code.

Assessments which have been deferred by attribution as tap-in charges under division (A) of this section shall be collected as deferred assessments at that time. An owner of property for which assessments have been deferred under division (A) of this section, in requesting a tap-in may, subject to the approval of the board, designate a part of an entire assessed tract as the part which the tap-in is to serve, and the board shall collect the deferred assessment on that tract in the proportion that the part bears to the entire tract, on a front foot or other basis approved by the commission, but if in the judgment of the board the tap-in is reasonably intended to serve the entire tract or substantially all of the tract, it shall collect the deferred assessment for the entire tract.

Prior to the expiration of the maximum time of deferment, the board shall regularly review the use of the property for which the collection of assessments has been deferred and upon finding that the use of the land has changed from the use at the time of the deferment so that the benefit of the improvement can then be realized, the board shall immediately collect the full amount of the assessment for the portion of the property for which the use has so changed, without interest.
6103.06 Proceedings for water supply improvements.

After the expiration of the period of five days provided in section 6103.05 of the Revised Code for the filing of written objections, the board of county commissioners shall determine whether it will proceed with the construction of the proposed improvement. If it decides to proceed therewith, the board shall ratify or amend the plans for the improvement, the character and termini thereof, the boundaries of the assessment district, and the tentative assessment, and may cause such revision of plans, boundaries, or assessments as is necessary to be made by the county sanitary engineer. If the boundaries of the assessment district are amended so as to include any property not included within the boundaries as established by the resolution of necessity, provided for in section 6103.05 of the Revised Code, the owners of all such property shall be notified by mail if their addresses are known, and notice shall be published once a week for two consecutive weeks in a newspaper of general circulation within the county or as provided in section 7.16 of the Revised Code, that such amendments have been adopted and that a hearing will be given by the board at a time and place stated in such notice at which all persons interested will be heard by the board. The date of such hearing shall be not less than twenty-four days after the first publication of such notice, and the hearing shall be conducted and records kept in the same manner as the first hearing. Five days shall be allowed for the filing of written objections as provided in section 6103.05 of the Revised Code for the first hearing and after the expiration of such five day period the board shall ratify the plans for the improvement, the character and termini thereof, the boundaries of the assessment district, and the tentative assessment, or shall further amend the same. If the boundaries of the assessment district are amended so as to include any property not included in the assessment district as originally established or previously amended, further notice and hearing shall be given to the owners of such property in the same manner as for the first amendment of such boundaries, and the same procedure shall be repeated until all property owners affected have been given an opportunity to be heard. If the owners of all property added to an assessment district by amendment of the original boundaries thereof waive objection to such amendment in writing, no further notice or hearing shall be given. After the board has ratified the plans for the improvement, the character and termini thereof, the boundaries of the assessment district, and the tentative assessment, either as originally presented or as amended, and if it decides to proceed therewith, the board shall adopt a resolution, to be known as the improvement resolution. Said improvement resolution shall declare the determination of such board to proceed with the construction of the improvement provided for in the resolution of necessity, in accordance with the plans and specification provided for such improvement, as ratified or amended, and whether bonds or certificates of indebtedness shall be issued in anticipation of the collection of special assessments, or that money in the county treasury unappropriated for any other purpose shall be appropriated to pay for said improvement.

6103.07 Beginning construction of water supply improvement.

After the adoption of a resolution to proceed with an improvement as provided in section 6103.06 of the Revised Code, the construction of the improvement shall be deferred until ten days have elapsed. If, at the expiration of that period, no appeal has been effected by any property owner as provided in sections 6117.09 to 6117.24 of the Revised Code, the action of the board of county commissioners shall be final, and the board may proceed to issue or incur public obligations and construct the improvement. If, at the end of that ten days, any owner of property
to be assessed for the improvement has effectuated an appeal, the construction of the improvement shall be deferred until the matters appealed from have been disposed of in court.

6103.08 Funding construction, maintenance, repairing, or operating water supply improvements.

The board of county commissioners may pay a part or the whole of the cost of construction, maintenance, repairing, or operating any improvements provided for in this chapter, including the payment of the county sanitary engineer and his assistants and other necessary expenses. Such expenses, insofar as they relate to the construction of any permanent improvement, may be considered as a part of the cost of such improvement, and bonds may be issued therefor. Bonds and notes in anticipation thereof, including bonds issued in anticipation of the collection of assessments deferred pursuant to section 6103.051 and 6103.16 of the Revised Code, may be issued by the board pursuant to Chapter 133. of the Revised Code, to finance any such improvement; provided that where a separate issue of bonds is issued in anticipation of the collection of deferred assessments, the first principal maturity of such bonds may be not later than five years from the date of such bonds. Bonds issued in anticipation of the collection of assessments deferred pursuant to sections 6103.051 and 6103.16 of the Revised Code and notes issued in anticipation of such bonds shall be considered for all purposes under this chapter and Chapter 133. of the Revised Code as being bonds or notes issued in anticipation of the levy or collection of special assessments.

6103.081 Construction of water and sewer improvements.

(A) After the establishment of any county sewer district, the board of county commissioners may determine by resolution that it is necessary to provide water supply improvements and to maintain and operate the improvements within the district or a designated portion of the district, that the improvements, which shall be generally described in the resolution, shall be constructed, that funds are required to pay the preliminary costs of the improvements to be incurred prior to the commencement of the proceedings for their construction, and that those funds shall be provided in accordance with this section.

(B) Prior to the adoption of the resolution, the board shall give notice of its pendency and of the proposed determination of the necessity of the improvements generally described in the resolution. The notice shall set forth a description of the properties to be benefited by the improvements and the time and place of a hearing of objections to and endorsements of the improvements. The notice shall be given either by publication in a newspaper of general circulation in the county once a week for two consecutive weeks, by publication as provided in section 7.16 of the Revised Code, or by mailing a copy of the notice by first class or certified mail to the owners of the properties proposed to be assessed at their respective tax mailing addresses, or by a combination of these manners, the first publication to be made or the mailing to occur at least two weeks prior to the date set for the hearing. At the hearing, or at any adjournment of the hearing, of which no further published or mailed notice need be given, the board shall hear all persons whose properties are proposed to be assessed and the evidence it considers to be necessary. The board then shall determine the necessity of the proposed improvements and whether the improvements shall be made by the board and, if they are to be
made, shall direct the preparation of tentative assessments upon the benefited properties and by whom they shall be prepared.

(C) In order to obtain funds for the preparation of a general or revised general plan of water supply for the district or part of the district, for the preparation of the detailed plans, specifications, estimate of cost, and tentative assessment for the proposed improvements, and for the cost of financing and legal services incident to the preparation of all of those plans and a plan of financing the proposed improvements, the board may levy upon the properties to be benefited in the district a preliminary assessment apportioned according to benefits or to tax valuation or partly by one method and partly by the other method as the board may determine. The assessments shall be in the amount determined to be necessary to obtain funds for the general and detailed plans and the cost of financing and legal services and shall be payable in the number of years that the board shall determine, not to exceed twenty years, together with interest on any public obligations that may be issued or incurred in anticipation of the collection of the assessments.

(D) The board shall have power at any time to levy additional assessments according to benefits or to tax valuation or partly by one method and partly by the other method as the board may determine for the purposes described in division (C) of this section upon the benefited properties to complete the payment of the costs described in division (C) of this section or to pay the cost of any additional plans, specifications, estimate of cost, or tentative assessment and the cost of financing and legal services incident to the preparation of those plans and the plan of financing, which additional assessments shall be payable in the number of years that the board shall determine, not to exceed twenty years, together with interest on any public obligations that may be issued or incurred in anticipation of the collection of the additional assessments.

(E) Prior to the adoption of a resolution levying assessments under this section, the board shall give notice either by one publication in a newspaper of general circulation in the county, or by mailing a copy of the notice by first class or certified mail to the owners of the properties proposed to be assessed at their respective tax mailing addresses, or by both manners, the publication to be made or the mailing to occur at least ten days prior to the date of the meeting at which the resolution shall be taken up for consideration; that notice shall state the time and place of the meeting at which the resolution is to be considered. At the time and place of the meeting, or at any adjournment of the meeting, of which no further published or mailed notice need be given, the board shall hear all persons whose properties are proposed to be assessed, shall correct any errors and make any revisions that appear to be necessary or just, and then may adopt a resolution levying upon the properties determined to be benefited the assessments as so corrected and revised.

The assessments levied by the resolution shall be certified to the county auditor for collection in the same manner as taxes in the year or years in which they are payable.

(F) Upon the adoption of the resolution described in division (E) of this section, no further action shall be taken or work done until ten days have elapsed. If, at the expiration of that period, no appeal has been effected by any property owner as provided in this division, the action of the board shall be final. If, at the end of that ten days, any owner of property to be assessed for the
improvements has effected an appeal, no further action shall be taken and no work done in connection with the improvements under the resolution until the matters appealed from have been disposed of in court.

Any owner of property to be assessed may appeal as provided and upon the grounds stated in sections 6117.09 to 6117.24 of the Revised Code.

If no appeal has been perfected or if on appeal the resolution of the board is sustained, the board may authorize and enter into contracts to carry out the purpose for which the assessments have been levied without the prior issuance of notes, provided that the payments under those contracts do not fall due prior to the time by which the assessments are to be collected. The board may issue and sell bonds with a maximum maturity of twenty years in anticipation of the collection of the assessments and may issue notes in anticipation of the issuance of the bonds, which notes and bonds, as public obligations, shall be issued and sold as provided in Chapter 133. of the Revised Code.

6103.10 Contract for construction of improvements.

After the issuance and sale of bonds or certificates of indebtedness, as provided in sections 6103.02 to 6103.30, inclusive, of the Revised Code, the board of county commissioners shall enter into a written contract in accordance with sections 307.86 to 307.92, inclusive, of the Revised Code.

The contract shall be between the board and the bidder, and the board shall pay the contract price in cash. Such payment may be made in proper installments as the work progresses. When there is reason to believe that there is collusion or combination among the bidders, the bids of those concerned therein shall be rejected. Whenever it becomes necessary in the opinion of such board, in the prosecution of any such work or improvements, to make alterations or modifications in such contract, such alterations or modifications shall only be made by such board by resolution. Such resolution shall be of no effect until the prices to be paid for work or material, or both, caused by such alterations or modifications, have been agreed upon in writing and signed by the contractor and said board. No contractor for any such work may recover anything for additional work or materials required by any alterations or modifications nor for any other cause due to such alterations or modifications unless such contract is made as provided in this section, nor shall he in any event recover for such work or materials, or other cause, more than the agreed price. The money derived from the lawfully authorized bonds or certificates sold as provided in section 6103.08 of the Revised Code shall not thereafter be considered unappropriated until the county is fully discharged from such contract.

6103.11 Petition by landowners for improvement of water supply system.

Whenever the owners of all the lots and lands to be assessed for any water supply improvement provided for in this chapter, by petition in writing, request the board of county commissioners to provide for the acquisition or construction, maintenance, and operation of the improvement, describing the improvement and the lots and lands owned by them respectively to be assessed to pay the cost of acquisition or construction, maintenance, and operation of the improvement and
consenting that their lots and lands may be assessed to pay the cost of the acquisition or construction of the improvement and of its maintenance and operation as provided in this chapter, and waive all legal notices otherwise required, the board may have the county sanitary engineer prepare, or otherwise cause to be prepared, the necessary plans, specifications, and estimate of cost of the acquisition or construction, maintenance, and operation of the improvement and a tentative assessment. When the owners state, in writing, that they have examined the estimate of cost and tentative assessment, that they have no objections to them, and that, in case bonds are proposed to be issued prior to the acquisition or construction of the improvement, they waive their right or option to pay the assessments in cash, the board may proceed as provided in this chapter to cause the improvement to be acquired or constructed and to cause provision to be made for the payment of the cost of its acquisition or construction, maintenance, and operation, except that none of the notices otherwise required by law need be given and no opportunity need be provided for the filing of objections to the improvement, its character and termini, the boundaries of the assessment district, or the tentative assessment or, if bonds are issued prior to the acquisition or construction of the improvement, for paying the assessments in cash. The board may proceed to issue or incur public obligations in the required amount, complete the acquisition or construction of the improvement, and levy and collect the assessments authorized by this chapter. No person or public agency shall have the right to appeal from any decision or action of the board in the matter except refusal by the board to proceed with the improvement.

The tentative assessment provided for in this section shall be for the information of property owners and shall not be levied or certified to the county auditor for collection. On completion of the improvement, its cost shall be determined, and the county sanitary engineer shall prepare, or otherwise cause to be prepared, a revised assessment based on the actual cost and in substantially the same proportion as the tentative assessment. The board shall confirm and levy the revised assessment and certify it to the county auditor for collection.

6103.12 Cost incident to improvement.

The cost of any improvement provided for in this chapter and the cost of its maintenance and operation shall include, in addition to the cost of its acquisition or construction, the cost of engineering, necessary publications, inspection, interest on public obligations, and all other items of cost incident to the improvement as described in division (B) of section 133.15 of the Revised Code. The county may pay from available county funds any part of the cost of the improvement and any part of the cost of its maintenance and operation if the board of county commissioners considers the payment to be just.

6103.13 Cost assessment.

The cost of the acquisition or construction of water supply facilities to be paid by assessments shall be assessed, as an assessment district assessment, upon all the property within the county sewer district found to be benefited in accordance with the special benefits conferred, less any part of the cost that is paid by the county at large from other available funds. State land so benefited shall bear its portion of the assessed cost.
6103.14 Cost ascertainment.

Upon the completion of any improvement under sections 6103.02 to 6103.30, inclusive, of the Revised Code, the actual cost thereof shall be ascertained and to such actual cost shall be added an amount equal to the interest accrued and to accrue upon certificates of indebtedness and upon bonds authorized by such sections before the first installment of such assessment is collected and the sum so arising, less the portion thereof to be paid by the county at large, shall be assessed against the lots and parcels of land within such district found to be benefited by such improvement. The amount assessed against any lot or parcel of land may be paid within thirty days from the confirmation of the assessments as provided in such sections. If such assessment is five dollars or less, or whenever the unpaid balance of any such assessment is five dollars or less, the same shall be paid in full and not in installments at the time the first or next installment would otherwise become due. For the purpose of paying the sanitary engineer and for paying his assistants and all of his other necessary expenses and for the purpose of paying that part of the cost of the improvement to be paid by the county or of the interest to accrue thereon, the board of county commissioners may levy taxes, in addition to all other taxes authorized by law. Such levy shall be subject to all the limitations provided by law upon the aggregate amount, rate, maximum rate, and combined maximum rate of taxation.

6103.15 Revised assessment - additional assessment.

The county sanitary engineer, upon the completion of any improvement in accordance with this chapter, shall prepare, or otherwise cause to be prepared, and shall present to the board of county commissioners a revised assessment based on the tentative assessment previously ratified by the board for the improvement or, if the tentative assessment has been revised by order of court, based on the revised tentative assessment, the assessment levied on each piece of property being modified in substantially the same proportion as the actual cost of the improvement, including incidental costs, bears to the estimated cost on which the tentative assessment was based. No notice of the revised assessment shall be given unless the actual cost exceeds the estimated cost. If the actual cost exceeds the estimated cost, notice shall be given to all property owners within the assessment district and shall be published as provided by section 6103.06 of the Revised Code for amendments of the tentative assessment, and any property owner may appeal as provided for in the case of a tentative assessment. The board shall confirm the revised assessment, and, when so confirmed, it shall be final and conclusive. If an appeal has been made, that confirmation shall be subject to the finding of the court.

The board, at intervals it considers expedient, may levy an additional assessment on the lots and parcels of land assessed for the improvement, including state land, in order to pay the cost of the maintenance, repair, and operation of the improvement after its completion. No further notice of that additional assessment shall be necessary unless the amount of it exceeds ten per cent of the original cost of acquiring or constructing the improvement. If that additional assessment exceeds ten per cent of the original cost of acquiring or constructing the improvement, the method and manner of making that additional assessment, together with the notice of it, shall be the same as provided in this chapter for the original assessment. That additional assessment shall be subject to any applicable provisions of section 6103.16 of the Revised Code, provided that the assessment may bear interest at a rate that the board determines to be appropriate.
6103.16 Assessments certified.

On or before the second Monday in September, annually, the board of county commissioners shall certify to the county auditor all of the assessments provided for in sections 6103.06 to 6103.15 of the Revised Code, including all assessments deferred pursuant to section 6103.051 of the Revised Code, stating the amounts and time of payment thereof, and in accordance therewith the auditor shall record the same in a book to be known as the “water-works record” of said county, showing separately the assessments to be collected forthwith and the assessments whose collection has been deferred by the board pursuant to section 6103.051 of the Revised Code. Such assessments, including the assessments deferred by the board pursuant to section 6103.051 of the Revised Code, shall bear interest at the same rate that the bonds authorized by such sections bear, and are a lien upon the lots and lands so assessed from the date of such record until such assessment is paid, and shall be collected in annual or semiannual installments within a period of not more than twenty years, provided that interest on deferred assessments shall terminate when all of the bonds issued by the board in anticipation of the collection of such deferred assessments have been paid in full. The several installments of such assessments which have not been deferred for collection pursuant to section 6103.051 of the Revised Code and interest on deferred assessments shall be placed upon the tax duplicate of the county for collection as they become due commencing with the first duplicate prepared after the assessments have been so certified, and shall be collected the same as other taxes, and shall be subject to the same penalties and interest. In case bonds have not been sold to pay the cost of the improvement, the amount assessed against any lot or parcel of land may be paid within thirty days from the confirmation of the revised assessment. The board shall, annually, during the month of August, review all assessments which have been deferred for collection pursuant to section 6103.051 of the Revised Code as shown upon the auditor’s “water-works record” and shall determine whether, in view of changed circumstances concerning the property since the date of the original deferment, it is no longer inequitable to certify such assessment or any portion thereof to the county auditor for collection. On or before the second Monday in September, annually, the board shall direct the county auditor to place on the tax duplicate for collection such deferred assessments or portions thereof as the board determines should no longer be deferred, or which the property owner has requested to be collected, and thereupon the county auditor shall place the same upon the first duplicate prepared by him thereafter and shall collect the same as other taxes in such number of annual or semiannual installments within a period of not more than twenty years as directed by the board, provided that the number of installments shall not be less than that required to coincide with the remaining principal payments on the bonds issued in anticipation of the collection of such assessments and in no event shall the payment period be less than five years. On or before the second Monday of September of the twentieth year following the adoption of the resolution confirming the revised assessment, the board shall direct the county auditor to place on the tax duplicate for collection all deferred assessments or parts thereof confirmed by such resolution which the board has not theretofore directed the auditor to collect, and thereupon the auditor shall place the same upon the first tax duplicate prepared by him thereafter and shall collect the same as other taxes in such number of annual or semiannual installments within a period of not more than twenty and not less than five years as directed by the board. All assessments when collected, together with all interest thereon, shall be applied respectively to the purposes for which such assessments have been made and to no other purpose, provided that any installments of deferred assessments
collected by the treasurer subsequent to the retirement of the bonds issued in anticipation of the collection of such deferred assessments, shall be allocated by him to the several county funds, including the special fund provided for by section 6103.02 of the Revised Code, in proportion to their respective contributions to the retirement and discharge of such bonds.

SANITARY DISTRICTS

6115.01 Sanitary district definitions.

As used in sections 6115.01 to 6115.79 of the Revised Code:

(A) “Publication” means once a week for three consecutive weeks in a newspaper of general circulation in the counties wherein publication is to be made or as provided in section 7.16 of the Revised Code. Publication need not be made on the same day of the week in each of the weeks; but not less than fourteen days, excluding the day of first publication, shall intervene between the first publication and the last publication. Publication shall be complete on the date of the last publication.

(B) “Person” means person, firm, partnership, association, or corporation, other than county, township, municipal corporation, or other political subdivision.

(C) “Public corporation” means counties, townships, municipal corporations, school districts, road districts, ditch districts, park districts, levee districts, and all other governmental agencies clothed with the power of levying general or special taxes.

(D) “Court” means the court of common pleas in which the petition for the organization of a sanitary district was filed and granted. In the case of a district lying in more than one county, “court” means the court comprised of one judge of the court of common pleas from each county as provided in section 6115.04 of the Revised Code.

(E) “Land” or “property,” unless otherwise specified, means real property, as “real property” is used in and defined by the laws of this state, and embraces all railroads, tramroads, roads, electric railroads, street and interurban railroads, streets and street improvements, telephones, telegraph, and transmission lines, gas, sewerage, and water systems, pipelines and rights-of-way of public service corporations, and all other real property whether public or private.

(F) “Board of directors” applies to the duties of one director appointed in accordance with section 6115.10 of the Revised Code in a district lying wholly within one county.

(G) “Biting arthropods” include mosquitoes, ticks, biting flies, or other biting arthropods capable of transmitting disease to humans.

(H) “Bond” or “bonds” means bonds, notes, certificates of indebtedness, certificates of participation, commercial paper, and other instruments in writing, including, unless the context does not admit, bonds or notes issued in anticipation of the issuance of other bonds, issued by a
sanitary district to evidence its obligation to repay money borrowed, or to pay interest, by, or to pay at any future time other money obligations of, the sanitary district.

(I) “Financing costs” has the same meaning as in division (K) of section 133.01 of the Revised Code.

6115.04 Establishment and purpose of sanitary districts.

The court of common pleas of any county in this state, when the conditions stated in section 6115.05 of the Revised Code are found to exist, may establish sanitary districts within the county in which the court is located. Districts partly within and partly without such county may also be established by a court comprised of one judge of the court of common pleas from each county having area within the district, as provided in section 6115.08 of the Revised Code.

If there are but two judges who sit as a court under this section, and the judges are unable to agree as to the establishment of such district or upon any other question left for their decision, then a third judge from a disinterested county shall be appointed by the chief justice of the supreme court, which judge shall sit with the other two judges, and the decisions of a majority of the judges shall be final. Compensation for such judge shall be fixed by the chief justice.

Sanitary districts may be established for any of the following purposes:

(A) To prevent and correct the pollution of streams;

(B) To clean and improve stream channels for sanitary purposes;

(C) To regulate the flow of streams for sanitary purposes;

(D) To provide for the collection and disposal of sewage and other liquid wastes produced within the district;

(E) To provide a water supply for domestic, municipal, and public use within the district, and incident to those purposes and to enable their accomplishment to construct reservoirs, trunk sewers, intercepting sewers, siphons, pumping stations, wells, intakes, pipe lines, purification works, treatment and disposal works, to maintain, operate, and repair the same, to acquire additional water supplies by purchase, and to do all other things necessary for the fulfillment of the purposes of sections 6115.01 to 6115.79 of the Revised Code;

(F) To reduce populations of biting arthropods and abate their breeding places, and incident to those purposes to purchase supplies, materials, and equipment, to employ technicians and laborers, to build, construct, maintain, and repair such structures, devices, and improvements, to conduct studies and surveys of the populations of biting arthropods and of the incidence or spread within or among human or animal populations of diseases transmitted by biting arthropods, and to do such other things as are necessary or desirable to accomplish those purposes;
(G) To collect and dispose of garbage;

(H) To collect and dispose of any other refuse that may become a menace to health.

6115.05 Petition for establishment of sanitary district.

Before any court establishes a sanitary district as outlined in section 6115.04 of the Revised Code, a petition shall be filed in the office of the clerk of said court, signed by five hundred freeholders, or by a majority of the freeholders, or by the owners of more than half of the property, in either acreage or value, within the limits of the territory proposed to be organized into a district. Such a petition may be signed by the governing body of any public corporation lying wholly or partly within the proposed district, in such manner as it prescribes, and when so signed by such governing body such a petition on the part of said governing body shall fill all the requirements of representation upon such petition of the freeholders of such public corporation, as they appear upon the tax duplicate; and thereafter it is not necessary for individuals within said public corporation to sign such a petition. Such a petition may also be signed by railroads and other corporations owning lands.

Such petition may be filed by any city interested in some degree in the improvement, upon proper action by its governing body. Property in each political subdivision wholly or partly included in the proposed district shall be represented by the signers of the petition provided for by this section.

The petition for the establishment of a district to provide a water supply for domestic, municipal, and public use shall be signed by the governing body of each municipal corporation, or part thereof included in the proposed district, or by a majority of the freeholders of political subdivisions or parts thereof included in the proposed district and lying outside municipal corporations, and shall also be signed by the public service corporation which may be supplying water to the inhabitants of such political subdivisions under franchise granted by the governing bodies thereof.

The petition shall set forth the proposed name of said district, the necessity for the proposed work and that it will be conducive to the public health, safety, comfort, convenience, or welfare, and a general description of the purpose of the contemplated improvement, and of the territory to be included in the proposed district. Said description need not be given by metes and bounds or by legal subdivisions, but it is sufficient if a generally accurate description is given of the territory to be organized as a district. Said territory shall include two or more political subdivisions or portions thereof, and, except as a subdistrict provided for by section 6115.69 of the Revised Code, shall not be included wholly within the limits of a single municipal corporation. Said territory need not be contiguous, provided it is so situated that the public health, safety, comfort, convenience, or welfare will be promoted by the organization as a single district of the territory described.

Said petition shall pray for the organization of the district by the name proposed.
No petition with the requisite signatures shall be declared void because of alleged defects, but the court may at any time permit the petition to be amended in form and substance to conform to the facts by correcting any errors in the description of the territory, or in any other particular. Several similar petitions or duplicate copies of the same petition for the organization of the same district may be filed and shall together be regarded as one petition. All such petitions filed prior to the hearing on said petition shall be considered by the court as though they had been filed with the first petition placed on file.

In determining when a majority of landowners has signed the petition, the court shall be governed by the names as they appear upon the tax duplicate, which shall be prima-facie evidence of such ownership.

6115.15 Plans for sewage or other liquid waste or treatment or disposal works submitted to board.

If a sanitary district is established for purposes other than the provision of a water supply for domestic, municipal, and public use, or for the reduction of populations of biting arthropods, after the establishment of the district and the organization of the board of directors of the district no public corporation or person shall install within the district any outlet for discharge of sewage or other liquid waste or any treatment or disposal works until the plans therefor have been submitted to and have received the approval of the board.

6115.16 Improvement plan approval and execution.

Upon its qualification, the board of directors of a sanitary district shall prepare a plan for the improvement for which the district was created. The plan shall include such maps, profiles, plans, and other data and descriptions as are necessary to set forth properly the location and character of the work, and of the property benefited or taken or damaged, with estimates of cost. In the case of a district organized wholly or partly for the reduction of populations of biting arthropods, the plan is sufficient if it includes a description, in general terms, of the methods of reducing such populations to be utilized, and it shall not be necessary to indicate in the plan the particular parcels of land in the district where the physical structures, devices, or improvements incident to the reduction of such populations are to be constructed or where the labor incident to the reduction of biting arthropod populations will be employed.

In the preparation of the plan, the board may recognize the necessity of future extensions and enlargements that may result from enlargements of the area of the district, in order that the district improvements may be designed to meet properly the increased demands. The plan for a water supply for domestic, municipal, and public use shall be prepared with recognition of an equitable apportionment of the available supply to each political subdivision within the district. If the purposes for which the district was established include both improved sanitation and improved water supply a plan shall be prepared for each purpose.

If the board finds that any former survey made by any other district or in any other manner is useful for the purposes of the district, the board may take over the data secured by such survey,
or such other proceedings as is useful to it, and may pay therefor an amount equal to the value of such data to the district.

Upon the completion of the plan, the board shall submit it to the environmental protection agency for approval. In deciding whether to approve or reject the plan, the agency shall consider, among other factors, the protection of the public health, and compliance with air and water quality standards and regulations and solid waste disposal requirements. If the agency rejects the plan, the board shall proceed as in the first instance under this section to prepare another plan. If the agency refers the plan to the board for amendment, the board shall prepare and submit an amended plan to the agency. If the agency approves the plan, a copy of the action of the agency shall be filed with the secretary of the district and by him incorporated into the records of the district.

Upon the approval of the plan by the agency, the board shall cause notice by publication to be given in each county of the district of the completion of the plan, and shall permit the inspection of the plan at its office by all persons interested. The notice shall fix the time and place for the hearing of all objections to the plan which shall be not less than twenty nor more than thirty days after the last publication of the notice. All objections to the plan shall be in writing and filed with the secretary at his office not more than ten days after the last publication of the notice. After the hearing before the board, the board shall adopt the plan as the official plan of the district. If any persons object to the official plan, so adopted, then those persons may, within ten days from the adoption of the official plan, file their objections in writing, specifying the features of the plan to which they object, in the original case establishing the district in the office of the clerk of the court, who shall fix a day for the hearing of the objections before the court which shall be not less than twenty nor more than thirty days after the time fixed for filing objections, at which time the judges, sitting as a court as provided in section 6115.08 of the Revised Code for the organization of the district, shall meet at the courthouse of the county where the original case is pending and hear the objections and adopt, reject, or refer back the plan to the board. A majority of the judges shall control. If the court rejects the plan, the board shall proceed as in the first instance under this section to prepare another plan. If the court refers the plan to the board for amendment, then the court shall continue the hearing to a day certain without publication of notice. If the court approves the plan as the official plan of the district, a certified copy of the journal of the court shall be filed with the secretary, and by him incorporated into the records of the district.

The official plan may be altered in detail until the assessment roll is filed, and of all the alterations the board of appraisers of the sanitary district shall take notice. After the assessment roll has been filed in court, no alterations of the official plan shall be made except as provided in section 6115.40 of the Revised Code.

The board of directors of a sanitary district shall have full power and authority to devise, prepare for, execute, maintain, and operate all works or improvements necessary or desirable to complete, maintain, operate, and protect the official plan. It may secure and use men and equipment under the supervision of the chief engineer or other agents, or it may let contracts for such works, either as a whole or in parts.
6115.18 Powers and duties of board of directors.

The powers of the board of directors of a sanitary district do not include construction and maintenance of lateral sewers, sewerage systems, water mains, and distributing systems or other related improvements for local service within the political subdivisions forming the district, and such improvements shall in every case be provided by the public corporations or persons served by the works of the district. The powers of the board are limited to the construction and maintenance of such works as are necessary to carry out the purposes of the district in improvement of sanitation and water supply as set forth in section 6115.04 of the Revised Code. Sections 6115.01 to 6115.79, inclusive, of the Revised Code, do not limit or interfere with the right of public corporations to install, maintain, and operate sewerage systems and water-works systems as otherwise permitted by law. Such sections do give to the board full power and authority in the construction and maintenance of improvements for the purposes of the district to serve the area included within the district, and the board may require the use of the improvements of the district by public corporations and persons included within the district and for which such improvements were installed.

In order to effect the proper collection and disposal of sewage and other liquid wastes produced within the district, to provide a water supply for domestic, municipal, and public use within the district, to promote the public health, comfort, convenience, and welfare, and to accomplish all other purposes of the district, the board may:

(A) Clean out, straighten, alter, deepen, or otherwise improve any stream, watercourse, or body of water receiving sewage or other liquid wastes and located in or out of said district;

(B) Fill up any abandoned or altered stream, watercourse, or body of water located in or out of said district;

(C) Construct, preserve, operate, and maintain, in or out of said district, trunk sewers, intercepting sewers, siphons, pumping stations, wells, intakes, pipe lines, purification works, treatment and disposal works, reservoirs, and any other works and improvements deemed necessary to accomplish the purposes of the district;

(D) Construct connections to the works of the district for the delivery thereto of sewage and other liquid wastes;

(E) Construct connections for the delivery of a water supply from the works of the district to public corporations and persons within the district;

(F) Incorporate with the works of the district or otherwise utilize any public sewers, drains, or other sewerage and water supply improvements either without modification or with such repairs, modifications, or changes as are deemed necessary;

(G) Construct any of said works and improvements across or through any public or private property in or out of said district;
(H) Hold, encumber, control, acquire by donation, purchase, or condemnation, construct, own, lease, use, and sell any real or personal property or easement necessary for right of way or location for the works and improvements of the district, or for any necessary purpose, or for obtaining or storing material to be used in constructing and maintaining said works and improvements.

6115.46 Preliminary costs and expenses to be repaid.

After the filing of a petition for the organization of a sanitary district, and before the district is organized, the costs of publication and other official costs of the proceedings shall be paid out of the general funds of the county in which the petition is pending. Such payment shall be made on the warrant of the county auditor on the order of the court. If the district is organized, such cost shall be repaid to the county out of the first funds received by the district through levying of taxes or assessments or selling of bonds, or the borrowing of money. If the district is not organized, the cost shall be collected from the petitioners or their bondsmen. Upon the organization of the district, the court shall make an order indicating a preliminary division of the preliminary expenses between the counties included in the district in approximately the proportions of interest of the various counties as estimated by the court. The court shall issue an order to the auditor of each county to issue his warrant upon the county treasurer of his county to reimburse the county having paid the total cost.

Expenses incurred after the organization of the district and prior to the receipt of money by the district from taxes or assessments, bond sales, or otherwise, shall be paid from the general funds of the counties upon the order of the court and upon certification of the clerk of the court of such order specifying the amount and purpose of the levy to the auditor of each county, who shall thereupon at once issue his warrant to the treasurer of his county, said payments to be made in proportion to the order outlined by the court. Upon receipt of funds by the district from the sale of bonds or by taxation or assessment the funds so advanced by the counties shall be repaid.

As soon as any district has been organized, and a board of directors of the sanitary district has been appointed and qualified, such board may levy upon the property of the district not to exceed three-tenths of a mill on the assessed valuation thereof as a level rate to be used for the purpose of paying expenses of organization, for surveys and plans, and for other incidental expenses which may be necessary up to the time money is received from the sale of bonds or otherwise. This tax shall be certified to the auditors of the various counties and by them to the respective treasurers of their counties. If such items of expense have already been paid in whole or in part from other sources, they may be repaid although the work proposed may have been found impracticable or for other reasons is abandoned. The collection of such tax levy and the procedure relating to the nonpayment of taxes shall conform in all matters to the collection of taxes and assessments for the district. The board may borrow money in any manner provided for in sections 6115.47 and 6115.50 of the Revised Code, and may pledge the receipts from such taxes or, in the case of a sanitary district organized for the purpose of providing a water supply, the proceeds of the sale of water pursuant to section 6115.62 of the Revised Code for its repayment, the information collected by the necessary surveys, the appraisal of benefits and damages, and other information and data being of real value and constituting benefits for which the tax may be levied. In case a district is disbanded for any cause before the work is constructed,
the data, plans, and estimates which have been secured shall be filed with the clerk of the court before which the district was organized and shall be matters of public record available to any person interested.

6115.48 Sanitary district assessment record.

(A) After the list of real property, with the appraised benefits as approved by the court, or that part thereof from which no appeal is pending, has been filed with the secretary of the sanitary district as provided in section 6115.39 of the Revised Code, then from time to time, as the affairs of the district demand it, the board of directors of the sanitary district may levy on all real property, upon which benefits have been appraised, an assessment of such portion of the benefits as is found necessary by the board to pay the cost of the execution of the official plan, including superintendence of construction, administration, and financing costs, plus ten per cent of the total to be added for contingencies, but not to exceed in the total of principal the appraised benefits so adjudicated.

(B) Such assessment shall be apportioned to and levied on each tract of land or other property in the district in proportion to the benefits appraised, and not in excess thereof. If bonds are issued as provided in section 6115.50 of the Revised Code, then the amount of interest which will accrue on such bonds, as estimated by the board, shall be included in and added to the the assessment, but the interest to accrue on account of the issuing of the bonds shall not be construed as a part of the cost of construction in determining whether or not the expenses and costs of making the improvement are equal to or in excess of the benefits appraised.

(C) As soon as the assessment is levied, the secretary of the sanitary district, at the expense of the district, shall prepare in duplicate an assessment record of the district. It shall be indorsed and named “Sanitary District Assessment Record of . . . . . . District.”

(D) A separate record shall be preserved in case the purposes of the district include both improved sanitation and improved water supply. It shall contain a notation of the items of property appraised, the total amount of benefits appraised against each item, and the total assessment levied against each item. Where successive levies of assessments are made for the bond fund, the sanitary district assessment record shall contain suitable notations to show the number of levies and the amount of each, to the end that the sanitary district assessment record may disclose the aggregate of all levies for the bond fund up to that time.

(E) Upon the completion of such record it shall be signed and certified by the president of the board and by the secretary of the sanitary district, and shall thereafter become a permanent record in the office of the district. A copy of that part of the sanitary district assessment record affecting lands in any county shall be filed with the county auditor of such county.

(F) If it is found at any time that the total amount of assessment levied is insufficient to pay the cost of works set out in the official plan or of additional work done, the board may make an additional levy to provide funds to complete the work, provided the total of all levies of such assessment exclusive of interest does not exceed the total benefits appraised.
(G) The board of directors of a sanitary district shall not levy an assessment pursuant to this section unless both of the following apply:

(1) The total of all such assessments, exclusive of any amount added or to be added to such assessments representing interest that will accrue on bonds issued or to be issued, during the ten-year period that includes the year in which such assessment under this section is levied and the immediately preceding nine years does not exceed three per cent of the assessed valuation of the property within the district as listed and assessed for taxation in the year in which such assessment is levied;

(2) The largest annual installment of such assessment, exclusive of any amount to be added to such installment representing interest that will accrue on bonds to be issued and assuming no payment of any part of such assessment will be made pursuant to section 6115.49 of the Revised Code, does not exceed five-tenths of one per cent of such assessed valuation.

6115.49 Assessment payments.

When the assessment roll is placed on file in the office of the sanitary district, notice by publication shall be given to property owners that they may pay their assessments. Any owner of real property assessed for the execution of the official plan under section 6115.48 of the Revised Code may pay such assessment to the treasurer of the sanitary district within thirty days from the time such assessment is placed on file in the office of the district, and the amount to be paid shall be the full amount of the assessment less any amount added thereto to meet interest. When such assessment has been paid, the secretary of the sanitary district shall enter upon the assessment record opposite each tract for which payment is made the words “paid in full,” and such assessment shall be deemed satisfied. The payment of such assessment does not relieve the landowner from the necessity for the payment of a maintenance assessment pursuant to section 6115.53 of the Revised Code, nor for payment of any further assessment which may be necessary as provided in sections 6115.46, 6115.48, and 6115.53 of the Revised Code. Any person or public corporation failing to pay assessments in full as provided for in this section shall be deemed to have consented to the issuance of bonds as provided for under section 6115.50 of the Revised Code, and to payment of interest thereon. If any assessment is twenty-five dollars or less, or whenever the unpaid balance of any such assessment is twenty-five dollars or less, the same shall be paid in full, and not in installments, at the time the first or next installment would otherwise become due and payable.

After the expiration of the period of thirty days within which the property owners may pay their respective assessments, the treasurer of the sanitary district shall certify to the board of directors of the sanitary district the aggregate of the amount so paid, and thereupon the board shall pass and spread upon its records a resolution in which shall be stated the amount of the assessment, and the amount thereof paid. Thereupon the board shall in the same resolution apportion the uncollected assessment into installments or levies and provide for the collection of interest upon the unpaid installments. Thereafter it may order the issuance of bonds in anticipation of the collection of the installments in an amount not exceeding ninety per cent of the assessment pursuant to section 6115.50 of the Revised Code. The residue of the assessment so levied, not less than ten per cent, shall constitute a contingent account to protect the bonds from casual
default, and any part thereof in excess of ten per cent of the next installment of maturing bond principal, together with the next two installments of semiannual interest, if not needed for this purpose, may be transferred from time to time to the maintenance fund.

6115.50 Bonds in anticipation of the levy and collection of special assessments.

(A) For the purpose of acquiring, constructing, rehabilitating, furnishing, and equipping real and personal property necessary or appropriate for the execution of the official plan, as such plan is amended from time to time, the board of directors of a sanitary district may issue bonds in anticipation of the levy and collection of special assessments in an amount not to exceed ninety per cent of the total amount of the assessments, exclusive of interest, levied under section 6115.48 of the Revised Code, in denominations of not less than one thousand dollars, bearing interest from date of issue at a rate determined as authorized in section 9.95 of the Revised Code, payable at such intervals as may be determined by the board of directors as provided in section 133.21 of the Revised Code, but in no event shall the maturity be greater than thirty years from the date of issue. Anticipatory securities issued under this section shall be governed as to maturity by section 133.17 of the Revised Code. Such bonds shall be signed by the president of the board, attested by the signature of the secretary of the district, and may be issued in accordance with section 9.96 of the Revised Code. In case any of the officers whose signatures, countersignatures, or certificates appearing upon bonds issued pursuant to such sections ceases to be such officer before the delivery of such bonds to the purchaser, such signatures, countersignatures, or certificates shall nevertheless be valid and sufficient for all purposes, as if such officer had remained in office until the delivery of the bonds. All of the bonds issued under this section and section 6115.52 of the Revised Code may be sold at a public or private sale in the manner provided in section 133.30 of the Revised Code, as determined by the board of directors of the sanitary district; except that, with respect to such bonds, the minimum price stated in section 133.30 of the Revised Code shall be exclusive of original issue discount, if any, applicable to such bonds. They shall show on their face the purpose for which they are issued and, in the case of anticipatory securities, that they are issued in anticipation of the issuance of bonds, and shall be payable out of money deposited in the bond fund. A sufficient amount of the assessment shall be appropriated by the board to pay the principal and interest of bonds and such assessment shall, when collected, be set apart in a separate fund for that purpose only. All bonds and coupons not paid at maturity shall bear interest at the rate provided in section 9.95 of the Revised Code from maturity until paid, or until sufficient funds have been deposited at the place of payment.

(B) Upon the determination of the board of directors that such issuance will be in the sanitary district’s best interest, the sanitary district may:

(1) Issue bonds pursuant to this section to fund or refund any outstanding revenue or other special obligation securities previously issued by it for permanent improvements pursuant to authorization by law or the Ohio Constitution. Any bonds issued pursuant to division (B)(1) of this section shall be payable as to principal at such times and in such installments as determined by the sanitary district consistent with section 133.21 of the Revised Code, but their last maturity shall not be later than thirty years from the date of issuance of the original bonds issued for the original purpose.
(2) Issue revenue bonds, if authorized by other law or the Ohio Constitution to issue such bonds for the original purpose, to fund or refund any outstanding bonds previously issued by it pursuant to authorization by law. The sanitary district shall establish the maturity date or dates, the interest payable, and other terms of such securities as it considers necessary or appropriate for their issuance.

(3) Issue bonds pursuant to this section to fund or refund outstanding bonds issued in one or more issues for any purpose or purposes. Bonds issued pursuant to division (B)(3) of this section shall be payable as to principal at such times and in such installments as determined by the sanitary district. Section 133.21 of the Revised Code is not applicable to these refunding securities, but the last maturity of these refunding securities shall not be later than the year of last maturity permitted by law for the bonds refunded. Assessments levied for debt charges on the refunding bonds shall be considered to have the same status with respect to the provisions of the applicable limitation as the levies for debt charges on bonds that are refunded.

(C) Bonds issued pursuant to this section shall be considered to be issued for the same purpose or purposes as the securities that they are issued to fund or refund, and their proceeds shall be used as determined by the sanitary district consistent with their purpose. That use may include the payment of the outstanding principal amount of, any redemption premium on, and any interest to redemption or maturity on, the bonds being funded or refunded, and any expenses relating to the funding or refunding or the issuance of the refunding bonds, including financing costs, all as determined by the sanitary district. Proceeds of bonds issued pursuant to this section may also be used to provide additional money for the purpose or purposes for which the bonds being funded or refunded, or which they funded or refunded, were issued.

(D) Bonds may be issued pursuant to this section to fund or refund all or any portion of the outstanding bonds, and whether or not the bonds to be funded or refunded were issued subject to call or redemption prior to maturity, or are the original bonds, or are themselves refunding bonds.

(E) The proceeds of bonds issued pursuant to this section to fund or refund bonds and required for the purpose shall, under an escrow agreement or otherwise, to the extent required by the legislation to be placed in an escrow fund, which may be in the bond fund in the case of the funded or refunded bonds being payable within ninety days of issuance of the refunding bonds, and are pledged for the purpose of funding or refunding the refunded bonds and shall be used, together with any other available funds as provided in this section, for that purpose. Pending that use, the moneys in escrow shall be invested in direct obligations of or obligations guaranteed as to both principal and interest by the United States that mature or are subject to redemption by and at the option of the holder not later than the date or dates when the moneys, together with interest or other investment income accrued on those moneys, will be required for that use. Any moneys in the escrow fund derived from the issuance of revenue bonds that will not be needed to pay debt charges on the funded or refunded bonds may be used for and pledged to the payment of debt charges on the refunding securities and on any bonds issued on a parity with the refunding bonds. Any moneys in the escrow fund derived from the proceeds of refunding bonds and that will not be needed to pay debt charges on the refunded bonds shall be transferred to the bond fund. When the district has placed in escrow moneys, derived from proceeds of refunding obligations or otherwise, or those direct or guaranteed obligations of the United States, or a
combination of both, determined by an independent public accounting firm to be sufficient, with
the interest or other investment income accruing on those direct obligations, for the payment of
debt charges on the refunded bonds, the refunded bonds shall no longer be considered to be
outstanding, and the levy of taxes or other charges for the payment of debt charges on the bonds
under this chapter, Chapter 5705., or other provisions of the Revised Code, shall not be required.
For purposes of this division, “direct obligations of or obligations guaranteed as to both principal
and interest by the United States” includes rights to receive payment or portions of payments of
the principal of or interest or other investment income on those obligations and on other
obligations fully secured as to principal and interest by those direct obligations and the interest or
other investment income on those direct obligations.

(F) The authority granted by this section is in addition to and not a limitation on any other
authorizations granted by or pursuant to law or the Ohio Constitution for the same or similar
purposes.

The board in making the annual assessment levy shall take into account the principal of,
including mandatory sinking fund payments, and interest on all bonds, and shall make ample
provision in advance for the payment thereof.

In case the proceeds of the original assessment made under section 6115.48 of the Revised Code
are not sufficient to pay the principal and interest of all bonds issued, then the board shall make
such additional levies as are necessary for this purpose, subject to the limitation of section
6115.48 of the Revised Code regarding the total of all assessments, and under no circumstances
shall any assessment levies be made that will in any manner or to any extent impair the security
of the bonds or the fund available for the payment of the principal and interest of the bonds.

6115.56 Collection of assessments.

The county treasurer of each county in which lands of a sanitary district lie shall make due report
to the county auditor of the sums collected by him. The auditor shall issue his warrant payable to
the treasurer of the sanitary district for all sums of money in the hands of the county treasurer
according to his report. Said auditor shall, as soon as the books for collection are closed by the
county treasurer according to law, make report to the treasurer of the district of the sums
collected, and of the assessments not collected, as returned to him by the county treasurer.

The secretary of the sanitary district shall thereupon provide a certified delinquent tax or
assessment list, and forward it in duplicate to the auditor, who shall add the penalty fixed by law
and transmit one copy to the county treasurer, who shall forthwith proceed to collect said tax,
levy, or assessment, and penalty according to law. All assessments or taxes provided for in
sections 6115.01 to 6115.79, inclusive, of the Revised Code, remaining unpaid after they become
due and collectible, shall be delinquent and bear a penalty of two per cent a month from the date
of closing the county treasurer’s books until paid. The return of the auditor shall be verified by
affidavit.
6115.58 Sanitary district assessments and taxes constitute a lien.

All sanitary district assessments and taxes provided for in this chapter, together with all penalties for default in payment of the same, and all costs in collecting the same, including reasonable attorney’s fees, to be fixed by the court and taxed as costs in the action brought to enforce payment, from the date of filing the certificate described in this section in the office of the county auditor for the county wherein the lands and properties are located, until paid, shall constitute a lien, to which only the lien of the state for general state, county, municipal corporation, school, and road taxes shall be paramount, upon all the lands and other property against which such taxes are levied as is provided in this chapter. Such lien may be evidenced by a certificate substantially in the form set forth in division (F) of section 6115.79 of the Revised Code. The certificate and tables shall be prepared by the secretary of the sanitary district at the expense of the district.

Unless expressly declared to the contrary, no warranty in any warranty deed or in any deed made pursuant to a judicial sale shall warrant against any portion of any assessment levied under this chapter, except past and current installments payable in the year which such deed bears date.

6115.59 Suits for the collection of delinquent taxes or assessments.

The “delinquent assessment book” of a sanitary district is prima-facie evidence in all courts of all matters therein contained. The liens established and declared in section 6115.58 of the Revised Code may be enforced at the option of the board of directors of the sanitary district by an action on delinquent tax bills or assessment bills, made and certified by the county auditor, which action shall be instituted in the court of common pleas, without regard to the amount of the claim, within six months after the thirty-first day of December of the year for which said assessments were levied. The suit shall be brought in the corporate name of the district by its attorney against the land or property on which such tax or assessment has not been paid.

In the event of any default in the payment of the interest or principal of any bonds issued pursuant to section 6115.50 of the Revised Code, and if the district or its proper officers fail to enforce the payment of any unpaid tax or assessment, the holder of such bonds may, for himself and for the benefit of all others similarly situated, enforce the liens by suit or action against the land or property on which such tax or assessment has not been paid, and against the district. The court shall have full power, jurisdiction, and authority to apply such tax or assessment when collected in the payment of the interest or principal upon said bonds as justice and equity require. The suit shall be brought in the county in which the property is located, except when the tract of property sued upon is in more than one county, in which event the suit may be brought on the whole tract, parcel, or property, in any county in which any portion thereof is located. The pleadings, process, proceedings, practice, and sales, in cases arising under such sections, except as provided in such sections, shall be the same as in an action for the enforcement of the state’s lien for delinquent general taxes upon real estate.

All sales of lands made under this section shall be by the sheriff as provided by law. All sheriff’s deeds executed and delivered pursuant to this section shall have the same probative force as other deeds executed by a sheriff. Abbreviations shall not defeat the action. The title acquired
through any sale of lands or other property under such proceedings shall be subject to the lien of all subsequent annual installments of the district tax or assessment.

In all suits for the collection of delinquent taxes or assessments, the judgment for the delinquent taxes or assessments and penalty and interest shall also include all costs of suit and reasonable attorney’s fees to be fixed by the court, recoverable the same as the delinquent tax or assessment and in the same suit.

The proceeds of sales made under and by virtue of this section shall be paid at once to the county treasurer and shall be properly credited and accounted for by him the same as other district taxes and assessments.

If any assessments made pursuant to such sections are invalid, the board shall by subsequent or amended acts or proceedings promptly remedy all defects or irregularities as the case requires by making and providing for the collection of new assessments or otherwise.

6115.60 Procedures for levying, collection, and distribution of assessments.

Whenever, under this chapter, an assessment is made against a county, municipal corporation, or township, the governing or taxing body of such political subdivision, upon receipt of the order of the court accepting the report of the board of appraisers, and upon receipt of a copy, certified by the secretary of the sanitary district, of the resolution of the board of directors levying the assessment, shall receive and file the order, and immediately take all the legal and necessary steps to collect the same.

The governing or taxing body shall levy an assessment, by a uniform rate upon all the taxable property within the political subdivision, make out the proper duplicate, and certify such duplicate to the county auditor of the county in which such subdivision is located. Such auditor shall receive such duplicate and certify it for collection to the county treasurer of the county. Such treasurer shall collect the same for the benefit of the district. Said officers shall take all the necessary steps for the levying, collection, and distribution of such an assessment.

This section does not prevent the assessment of the real estate of other corporations or persons situated within such political subdivision which may be subject to assessment for special benefits to be received.

In the event of any dissolution or disincorporation of any sanitary district organized pursuant to this chapter, such dissolution or disincorporation shall not affect the lien of any assessment for benefits imposed pursuant to such sections, or the liability of any land in such district to the levy of any future assessments for the purpose of paying the principal and interest of any bonds issued under such sections. In the event of any such dissolution or disincorporation, or in the event of any failure on the part of the officers of any district to qualify and act, or in the event of any resignations or vacancies in the office, which prevent action by the district or by its proper officers, the county auditor and all other officers charged in any manner with the duty of assessing, levying, and collecting taxes for public purposes in any county, municipal corporation, or political subdivision in which such lands are situated shall perform all acts which are
necessary to the collection of any such assessment which has been imposed and to the levying, imposing, and collecting of any assessment which it is necessary to make for the purpose of paying the principal and interest of such bonds. Any holder of any bonds issued pursuant to this chapter, or any person or officer who is a party in interest may either by suit, action, or mandamus enforce and compel performance of the duties required by such sections of any of the officers or persons mentioned in such sections.

6115.61 Appropriation of fund of water department for payment of assessments or water charges.

To pay a portion of the amount of an assessment or annual levy of a sanitary district organized for the purpose of water supply, against any political subdivision, or to pay charges for water, which charges are to be deposited into the bond fund, the legislative or other taxing authority of such political subdivision may appropriate any unappropriated funds of the water department of such political subdivision. When funds of the water department are appropriated under this section, they shall be set aside and shall be disbursed for such purpose exclusively in the same manner as other funds of the water department are disbursed. Such use of funds of the water works of a municipal corporation shall be in addition to the use permitted by sections 715.08, 743.04, 743.05, and 735.29 of the Revised Code. For the purpose of producing sufficient revenue to provide for such payment of assessments or annual levies of a district, in addition to the other expenses and obligations of the water department, or to pay charges for water, which charges are to be deposited into the bond fund, the officers of such political subdivision having authority to establish rates for water furnished by such political subdivision may establish such rates as are necessary, and when so established sections 743.04 and 735.29 of the Revised Code shall apply in the assessment and collection of such rates. After an annual levy upon a political subdivision has been certified to the county auditor by the board of directors of the sanitary district, the auditor shall thereupon give written notification thereof to the fiscal officer of such political subdivision. Following such notification and prior to the certification by the county budget commission of its action upon the budget of such political subdivision for the ensuing year, the fiscal officer of such political subdivision shall pay to the county treasurer the amount previously so appropriated for payment of all or a portion of such annual levy. Any treasurer shall receive such payment, shall properly credit it against the amount due on such annual levy, and shall report such payment to the auditor who shall report it to the county budget commission for its guidance in acting upon the budget of the political subdivision. Any remaining portion of such annual levy not so paid shall become due from such political subdivision and shall be collected by the treasurer at the same time that the state and county taxes are due and collected.

SEWER DISTRICTS; COUNTY SEWERS

6117.01 Power to establish sewer districts - sanitary engineering department.

(A) As used in this chapter:

(1) “Sanitary facilities” means sanitary sewers, force mains, lift or pumping stations, and facilities for the treatment, disposal, impoundment, or storage of wastes; equipment and furnishings; and all required appurtenances and necessary real estate and interests in real estate.
“Drainage” or “waters” means flows from rainfall or otherwise produced by, or resulting from, the elements, storm water discharges and releases or migrations of waters from properties, accumulations, flows, and overflows of water, including accelerated flows and runoffs, flooding and threats of flooding of properties and structures, and other surface and subsurface drainage.

“Drainage facilities” means storm sewers, force mains, pumping stations, and facilities for the treatment, disposal, impoundment, retention, control, or storage of waters; improvements of or for any channel, ditch, drain, floodway, or watercourse, including location, construction, reconstruction, reconditioning, widening, deepening, cleaning, removal of obstructions, straightening, boxing, culverting, tiling, filling, walling, arching, or change in course, location, or terminus; improvements of or for a river, creek, or run, including reinforcement of banks, enclosing, deepening, widening, straightening, removal of obstructions, or change in course, location, or terminus; facilities for the protection of lands from the overflow of water, including a levee, wall, embankment, jetty, dike, dam, sluice, revetment, reservoir, retention or holding basin, control gate, or breakwater; facilities for controlled drainage, regulation of stream flow, and protection of an outlet; the vacation of a ditch or drain; equipment and furnishings; and all required appurtenances and necessary real estate and interests in real estate.

“County sanitary engineer” means either of the following:

(a) The registered professional engineer employed or appointed by the board of county commissioners to be the county sanitary engineer as provided in this section;

(b) The county engineer, if, for as long as and to the extent that engineer by agreement entered into under section 315.14 of the Revised Code is retained to discharge duties of a county sanitary engineer under this chapter.

“Current operating expenses,” “debt charges,” “permanent improvement,” “public obligations,” and “subdivision” have the same meanings as in section 133.01 of the Revised Code.

“Construct,” “construction,” or “constructing” means construction, reconstruction, enlargement, extension, improvement, renovation, repair, and replacement of sanitary or drainage facilities or of prevention or replacement facilities, but does not include any repairs, replacements, or similar actions that do not constitute and qualify as permanent improvements.

“Maintain,” “maintaining,” or “maintenance” means repairs, replacements, and similar actions that constitute and are payable as current operating expenses and that are required to restore sanitary or drainage facilities or prevention or replacement facilities to, or to continue sanitary or drainage facilities or prevention or replacement facilities in, good order and working condition, but does not include construction of permanent improvements.

“Public agency” means a state and any agency or subdivision of a state, including a county, a municipal corporation, or other subdivision.
(9) "Combined sewer" means a sewer system that is designed to collect and convey sewage, including domestic, commercial, and industrial wastewater, and storm water through a single-pipe system to a treatment works or combined sewer overflow outfall approved by the director of environmental protection.

(10) “Prevention or replacement facilities” means vegetated swales or median strips, permeable pavement, trees and tree boxes, rain barrels and cisterns, rain gardens and filtration planters, vegetated roofs, wetlands, riparian buffers, and practices and structures that use or mimic natural processes to filter or reuse storm water.

(11) "Homestead exemption” means the reduction of taxes allowed under division (A) of section 323.152 of the Revised Code.

(12) "Low- and moderate-income person” has the same meaning as in section 175.01 of the Revised Code.

(B)

(1) For the purpose of preserving and promoting the public health and welfare, a board of county commissioners may lay out, establish, consolidate, or otherwise modify the boundaries of, and maintain, one or more sewer districts within the county and outside municipal corporations and may have a registered professional engineer make the surveys necessary for the determination of the proper boundaries of each district, which shall be designated by an appropriate name or number. The board may acquire, construct, maintain, and operate within any district sanitary or drainage facilities that it determines to be necessary or appropriate for the collection of sewage and other wastes originating in or entering the district, to comply with the provisions of a contract entered into for the purposes described in sections 6117.41 to 6117.44 of the Revised Code and pursuant to those sections or other applicable provisions of law, or for the collection, control, or abatement of waters originating or accumulating in, or flowing in, into, or through, the district, and other sanitary or drainage facilities, within or outside of the district, that it determines to be necessary or appropriate to conduct the wastes and waters to a proper outlet and to provide for their proper treatment, disposal, and disposition. The board may provide for the protection of the sanitary and drainage facilities and may negotiate and enter into a contract with any public agency or person for the management, maintenance, operation, and repair of any of the facilities on behalf of the county upon the terms and conditions that may be determined by the board to be in the best interests of the county. By contract with any public agency or person operating sanitary or drainage facilities within or outside of the county, the board may provide a proper outlet for any of the wastes and waters and for their proper treatment, disposal, and disposition.

(2) For purposes of preventing storm water from entering a combined sewer and causing an overflow or an inflow to a sanitary sewer, the board may acquire, design, construct, operate, repair, maintain, and provide for a project or program that separates storm water from a combined sewer or for a prevention or replacement facility that prevents or minimizes storm water from entering a combined sewer or a sanitary sewer.
(C) The board of county commissioners may employ a registered professional engineer to be the county sanitary engineer for the time and on the terms it considers best and may authorize the county sanitary engineer to employ necessary assistants upon the terms fixed by the board. Prior to the initial assignment of drainage facilities duties to the county sanitary engineer, if the county sanitary engineer is not the county engineer, the board first shall offer to enter into an agreement with the county engineer pursuant to section 315.14 of the Revised Code for assistance in the performance of those duties of the board pertaining to drainage facilities, and the county engineer shall accept or reject the offer within thirty days after the date the offer is made.

The board may create and maintain a sanitary engineering department, which shall be under its supervision and which shall be headed by the county sanitary engineer, for the purpose of aiding it in the performance of its duties under this chapter and Chapter 6103. of the Revised Code or its other duties regarding sanitation, drainage, and water supply provided by law. The board shall provide suitable facilities for the use of the department and shall provide for and pay the compensation of the county sanitary engineer and all authorized necessary expenses of the county sanitary engineer and the sanitary engineering department. The county sanitary engineer, with the approval of the board, may appoint necessary assistants and clerks, and the compensation of those assistants and clerks shall be provided for and paid by the board.

(D) The board of county commissioners may adopt, publish, administer, and enforce rules for the construction, maintenance, protection, and use of county-owned or county-operated sanitary and drainage facilities and prevention or replacement facilities outside municipal corporations, and of sanitary and drainage facilities and prevention or replacement facilities within municipal corporations that are owned or operated by the county or that discharge into sanitary or drainage facilities or prevention or replacement facilities owned or operated by the county, including, but not limited to, rules for the establishment and use of any connections, the termination in accordance with reasonable procedures of sanitary service for the nonpayment of county sanitary rates and charges and, if so determined, the concurrent termination of any county water service for the nonpayment of those rates and charges, the termination in accordance with reasonable procedures of drainage service for the nonpayment of county drainage rates and charges, and the establishment and use of security deposits to the extent considered necessary to ensure the payment of county sanitary or drainage rates and charges. The rules shall not be inconsistent with the laws of this state or any applicable rules of the director of environmental protection.

(E) No sanitary or drainage facilities or prevention or replacement facilities shall be constructed in any county outside municipal corporations by any person until the plans and specifications have been approved by the board of county commissioners, and any construction shall be done under the supervision of the county sanitary engineer. Not less than thirty days before the date drainage plans are submitted to the board for its approval, the plans shall be submitted to the county engineer. If the county engineer is of the opinion after review that the facilities will have a significant adverse effect on roads, culverts, bridges, or existing maintenance within the county, the county engineer may submit a written opinion to the board not later than thirty days after the date the plans are submitted to the county engineer. The board may take action relative to the drainage plans only after the earliest of receiving the written opinion of the county engineer, receiving a written waiver of submission of an opinion from the county engineer, or passage of thirty days from the date the plans are submitted to the county engineer. Any person
constructing the facilities shall pay to the county all expenses incurred by the board in connection with the construction.

(F) The county sanitary engineer or the county sanitary engineer’s authorized assistants or agents, when properly identified in writing or otherwise and after written notice is delivered to the owner at least five days in advance or is mailed at least five days in advance by first class or certified mail to the owner’s tax mailing address, may enter upon any public or private property for the purpose of making, and may make, surveys or inspections necessary for the laying out of sewer districts or the design or evaluation of county sanitary or drainage facilities or prevention or replacement facilities. This entry is not a trespass and is not to be considered an entry in connection with any appropriation of property proceedings under sections 163.01 to 163.22 of the Revised Code that may be pending. No person or public agency shall forbid the county sanitary engineer or the county sanitary engineer’s authorized assistants or agents to enter, or interfere with their entry, upon the property for that purpose or forbid or interfere with their making of surveys or inspections. If actual damage is done to property by the making of the surveys and inspections, the board shall pay the reasonable value of the damage to the property owner, and the cost shall be included in the cost of the facilities and may be included in any special assessments to be levied and collected to pay that cost.

6117.011 Surveys of water supply, sanitary, or drainage facilities.

A board of county commissioners in the manner provided in this section may make surveys of water supply, sanitary facilities, drainage facilities, or prevention or replacement facilities for any sewer district, the acquisition or construction of which is contemplated.

Any board desiring to make a survey shall adopt a resolution declaring its purpose and necessity. In making the surveys, the board may call upon engineering officers or employees regularly employed by the board or may authorize and enter into contracts for the services of registered professional engineers to make the surveys.

The surveys authorized by this section may include drawings, plans, specifications, estimates of cost of labor and materials, other items of cost, assessment rolls, and other facts, material, data, reports, and information and recommendations that the board considers advisable or necessary for the purpose.

Contracts entered into for the surveys shall be considered contracts for professional services and may provide for preliminary surveys or the making of detailed plans, or both, and also may provide for engineering supervision of the work. No contract shall be valid unless one or more of the services to be performed are by its terms to be commenced within one year after the contract date.

The contracts shall be signed by at least two members of the board and by the engineer agreeing to perform the service, and one signed copy of the contract shall be filed with the fiscal officer of the county, whose certificate, otherwise required by section 5705.41 of the Revised Code, need not be provided. Payment for the contracts may be made from the general fund or any other fund legally available for that use at the times that are agreed upon or as determined by the board. The
proceeds of any public obligations issued pursuant to section 6119.36 of the Revised Code or any other public obligations issued or incurred to pay the cost of facilities to which a survey relates may be used to pay any part of the cost under the contracts or to reimburse the fund from which payment was made.

6117.012 Rules for disconnection and reconnection or relocation of improper inflows into sewers.

(A) A board of county commissioners may adopt rules requiring owners of property within the district whose property is served by a connection to sewers maintained and operated by the board or to sewers that are connected to interceptor sewers maintained and operated by the board to do any of the following:

(1) Disconnect storm water inflows to sanitary sewers maintained and operated by the board and not operated as a combined sewer, or to connections with those sewers;

(2) Disconnect non-storm water inflows to storm water sewers maintained and operated by the board and not operated as a combined sewer, or to connections with those storm water sewers;

(3) Reconnect or relocate any such disconnected inflows in compliance with board rules and applicable building codes, health codes, or other relevant codes;

(4) Prevent sewer back-ups into properties that have experienced one or more back-ups of sanitary or combined sewers maintained and operated by the board;

(5) Prevent storm water from entering a combined sewer and causing an overflow or an inflow to a sanitary sewer, which prevention may include projects or programs that separate the storm water from a combined sewer or that utilize a prevention or replacement facility to prevent or minimize storm water from entering a combined sewer or a sanitary sewer.

(B) Any inflow required to be disconnected or any sewer back-up required to be prevented under a rule adopted pursuant to divisions (A)(1) to (4) of this section constitutes a nuisance subject to injunctive relief and abatement pursuant to Chapter 3767. of the Revised Code or as otherwise permitted by law.

(C) A board of county commissioners may use sewer district funds; county general fund moneys; the proceeds of bonds issued under Chapter 133. or 165. of the Revised Code; and, to the extent permitted by their terms, loans, grants, or other moneys from appropriate state or federal funds, for either of the following:

(1) The cost of disconnections, reconnections, relocations, combined sewer overflow prevention, or sewer back-up prevention required by rules adopted pursuant to division (A) of this section, performed by the county or under contract with the county;

(2) Payments to the property owner or a contractor hired by the property owner pursuant to a competitive process established by district rules, for the cost of disconnections, reconnections,
relocations, combined sewer overflow prevention, or sewer back-up prevention required by rules adopted pursuant to division (A) of this section after the board, pursuant to its rules, has approved the work to be performed and after the county has received from the property owner a statement releasing the county from all liability in connection with the disconnections, reconnections, relocations, combined sewer overflow prevention, or sewer back-up prevention.

(D) Except as provided in division (E) of this section, the board of county commissioners shall require in its rules regarding disconnections, reconnections, relocations of sewers, combined sewer overflow prevention, or sewer back-up prevention the reimbursement of moneys expended pursuant to division (C) of this section by either of the following methods:

(1) A charge to the property owner in the amount of the payment made pursuant to division (C) of this section for immediate payment or payment in installments with interest as determined by the board not to exceed ten per cent, which payments may be billed as a separate item with the rents charged to that owner for use of the sewers. The board may approve installment payments for a period of not more than fifteen years. If charges are to be paid in installments, the board shall certify to the county auditor information sufficient to identify each subject parcel of property, the total of the charges to be paid in installments, and the total number of installments to be paid. The auditor shall record the information in the sewer improvement record until these charges are paid in full. Charges not paid when due shall be certified to the county auditor, who shall place the charges upon the real property tax list and duplicate against that property. Those charges shall be a lien on the property from the date they are placed on the tax list and duplicate and shall be collected in the same manner as other taxes.

(2) A special assessment levied against the property, payable in the number of years the board determines, not to exceed fifteen years, with interest as determined by the board not to exceed ten per cent. The board shall certify the assessments to the county auditor, stating the amount and time of payment. The auditor shall record the information in the county sewer improvement record, showing separately the assessments to be collected, and shall place the assessments upon the real property tax list and duplicate for collection. The assessments shall be a lien on the property from the date they are placed on the tax list and duplicate and shall be collected in the same manner as other taxes.

(E) The county may adopt a resolution specifying a maximum amount of the cost of any disconnection, reconnection, relocation, combined sewer overflow prevention, or sewer back-up prevention required pursuant to division (A) of this section that may be paid by the county for each affected parcel of property without requiring reimbursement. That amount may be allowed only if there is a building code, health code, or other relevant code, or a federally imposed or state-imposed consent decree that is filed or otherwise recorded in a court of competent jurisdiction, applicable to the affected parcel that prohibits in the future any inflows, combined sewer overflows, or sewer back-ups not allowed under rules adopted pursuant to division (A)(1), (4), or (5) of this section. The board, by rule, shall establish criteria for determining how much of the maximum amount for each qualifying parcel need not be reimbursed.

(F) Disconnections, reconnections, relocations, combined sewer overflow prevention, or sewer back-up prevention required under this section and performed by a contractor under contract
with the property owner shall not be considered a public improvement, and those performed by
the county shall be considered a public improvement as defined in section 4115.03 of the
Revised Code.

Disconnections, reconnections, relocations, combined sewer overflow prevention, or sewer back-
up prevention required under this section performed by a contractor under contract with the
property owner shall not be subject to competitive bidding or public bond laws.

(G) Property owners shall be responsible for maintaining any improvements made or facilities
constructed on private property to reconnect or relocate disconnected inflows, for combined
sewer overflow prevention, or for sewer back-up prevention pursuant to this section unless a
public easement or other agreement exists for the county to maintain that improvement or
facility.

(H) A board of county commissioners may provide rate reductions of and credits against charges
for the use of sewers to a property owner that implements a project or program that prevents
storm water from entering a combined sewer and causing an overflow. Such a project or program
may include the use of a prevention or replacement facility to handle storm water that has been
separated from a combined sewer. The revised rates or charges shall be collected and paid to the
county treasurer in accordance with section 6117.02 of the Revised Code.

6117.02 Sanitary rates, charges, or penalties fixed or established.

(A) The board of county commissioners shall fix reasonable rates, including penalties for late
payments, for the use, or the availability for use, of the sanitary facilities of a sewer district to be
paid by every person and public agency whose premises are served, or capable of being served,
by a connection directly or indirectly to those facilities when those facilities are owned or
operated by the county and may change the rates from time to time as it considers advisable.
When the sanitary facilities to be used by the county are owned by another public agency or
person, the schedule of rates to be charged by the public agency or person for the use of the
facilities by the county, or the formula or other procedure for their determination, shall be
approved by the board at the time it enters into a contract for that use.

(B) The board also shall establish reasonable charges to be collected for the privilege of
connecting to the sanitary facilities of the district, with the requirement that, prior to the
connection, the charges shall be paid in full, or, if determined by the board to be equitable in a
resolution relating to the payment of the charges, provision considered adequate by the board
shall be made for their payment in installments at the times, in the amounts, and with the
security, carrying charges, and penalties as may be found by the board in that resolution to be
fair and appropriate. No public agency or person shall be permitted to connect to those facilities
until the charges have been paid in full or provision for their payment in installments has been
made. If the connection charges are to be paid in installments, the board shall certify to the
county auditor information sufficient to identify each parcel of property served by a connection
and, with respect to each parcel, the total of the charges to be paid in installments, the amount of
each installment, and the total number of installments to be paid. The auditor shall record and
maintain the information supplied in the sewer improvement record provided for in section
6117.33 of the Revised Code until the connection charges are paid in full. The board may include amounts attributable to connection charges being paid in installments in its billings of rates and charges for the use of sanitary facilities.

(C) When any of the sanitary rates or charges are not paid when due, the board may do any or all of the following as it considers appropriate:

(1) Certify the unpaid rates or charges, together with any penalties, to the county auditor, who shall place them upon the real property tax list and duplicate against the property served by the connection. The certified amount shall be a lien on the property from the date placed on the real property tax list and duplicate and shall be collected in the same manner as taxes, except that, notwithstanding section 323.15 of the Revised Code, a county treasurer shall accept a payment in that amount when separately tendered as payment for the full amount of the unpaid sanitary rates or charges and associated penalties. The lien shall be released immediately upon payment in full of the certified amount.

(2) Collect the unpaid rates or charges, together with any penalties, by actions at law in the name of the county from an owner, tenant, or other person or public agency that is liable for the payment of the rates or charges;

(3) Terminate, in accordance with established rules, the sanitary service to the particular property and, if so determined, any county water service to that property, unless and until the unpaid sanitary rates or charges, together with any penalties, are paid in full;

(4) Apply, to the extent required, any security deposit made in accordance with established rules to the payment of sanitary rates and charges for service to the particular property.

All moneys collected as sanitary rates, charges, or penalties fixed or established in accordance with divisions (A) and (B) of this section for any sewer district shall be paid to the county treasurer and kept in a separate and distinct sanitary fund established by the board to the credit of the district. Except as otherwise provided in any proceedings authorizing or providing for the security for and payment of any public obligations, or in any indenture or trust or other agreement securing public obligations, moneys in the sanitary fund shall be applied first to the payment of the cost of the management, maintenance, and operation of the sanitary facilities of, or used or operated for, the district, which cost may include the county’s share of management, maintenance, and operation costs under cooperative contracts for the acquisition, construction, or use of sanitary facilities and, in accordance with a cost allocation plan adopted under division (E) of this section, payment of all allowable direct and indirect costs of the district, the county sanitary engineer or sanitary engineering department, or a federal or state grant program, incurred for sanitary purposes under this chapter, and shall be applied second to the payment of debt charges payable on any outstanding public obligations issued or incurred for the acquisition or construction of sanitary facilities for or serving the district, or for the funding of a bond retirement or other fund established for the payment of or security for the obligations. Any surplus remaining may be applied to the acquisition or construction of those facilities or for the payment of contributions to be made, or costs incurred, for the acquisition or construction of
those facilities under cooperative contracts. Moneys in the sanitary fund shall not be expended other than for the use and benefit of the district.

(D) The board may fix reasonable rates and charges, including connection charges and penalties for late payments, to be paid by any person or public agency owning or having possession or control of any properties that are connected with, capable of being served by, or otherwise served directly or indirectly by, drainage facilities owned or operated by or under the jurisdiction of the county, including, but not limited to, properties requiring, or lying within an area of the district requiring, in the judgment of the board, the collection, control, or abatement of waters originating or accumulating in, or flowing into, into, or through, the district, and may change those rates and charges from time to time as it considers advisable. In addition, the board may fix the rates and charges in order to pay the costs of complying with the requirements of phase II of the storm water program of the national pollutant discharge elimination system established in 40 C.F.R. part 122.

The rates and charges shall be payable periodically as determined by the board, except that any connection charges shall be paid in full in one payment, or, if determined by the board to be equitable in a resolution relating to the payment of those charges, provision considered adequate by the board shall be made for their payment in installments at the times, in the amounts, and with the security, carrying charges, and penalties as may be found by the board in that resolution to be fair and appropriate. The board may include amounts attributable to connection charges being paid in installments in its billings of rates and charges for the services provided by the drainage facilities. In the case of rates and charges that are fixed in order to pay the costs of complying with the requirements of phase II of the storm water program of the national pollutant discharge elimination system established in 40 C.F.R. part 122, the rates and charges may be paid annually or semiannually with real property taxes, provided that the board certifies to the county auditor information that is sufficient for the auditor to identify each parcel of property for which a rate or charge is levied and the amount of the rate or charge.

When any of the drainage rates or charges are not paid when due, the board may do any or all of the following as it considers appropriate:

(1) Certify the unpaid rates or charges, together with any penalties, to the county auditor, who shall place them upon the real property tax list and duplicate against the property to which the rates or charges apply. The certified amount shall be a lien on the property from the date placed on the real property tax list and duplicate and shall be collected in the same manner as taxes, except that notwithstanding section 323.15 of the Revised Code, a county treasurer shall accept a payment in that amount when separately tendered as payment for the full amount of the unpaid drainage rates or charges and associated penalties. The lien shall be released immediately upon payment in full of the certified amount.

(2) Collect the unpaid rates or charges, together with any penalties, by actions at law in the name of the county from an owner, tenant, or other person or public agency that is liable for the payment of the rates or charges;
(3) Terminate, in accordance with established rules, the drainage service for the particular property until the unpaid rates or charges, together with any penalties, are paid in full;

(4) Apply, to the extent required, any security deposit made in accordance with established rules to the payment of drainage rates and charges applicable to the particular property.

All moneys collected as drainage rates, charges, or penalties in or for any sewer district shall be paid to the county treasurer and kept in a separate and distinct drainage fund established by the board to the credit of the district. Except as otherwise provided in any proceedings authorizing or providing for the security for and payment of any public obligations, or in any indenture or trust or other agreement securing public obligations, moneys in the drainage fund shall be applied first to the payment of the cost of the management, maintenance, and operation of the drainage facilities of, or used or operated for, the district, which cost may include the county’s share of management, maintenance, and operation costs under cooperative contracts for the acquisition, construction, or use of drainage facilities and, in accordance with a cost allocation plan adopted under division (E) of this section, payment of all allowable direct and indirect costs of the district, the county sanitary engineer or sanitary engineering department, or a federal or state grant program, incurred for drainage purposes under this chapter, and shall be applied second to the payment of debt charges payable on any outstanding public obligations issued or incurred for the acquisition or construction of drainage facilities for or serving the district, or for the funding of a bond retirement or other fund established for the payment of or security for the obligations. Any surplus remaining may be applied to the acquisition or construction of those facilities or for the payment of contributions to be made, or costs incurred, for the acquisition or construction of those facilities under cooperative contracts. Moneys in the drainage fund shall not be expended other than for the use and benefit of the district.

(E) A board of county commissioners may adopt a cost allocation plan that identifies, accumulates, and distributes allowable direct and indirect costs that may be paid from each of the funds of the district created pursuant to divisions (C) and (D) of this section, and that prescribes methods for allocating those costs. The plan shall authorize payment from each of those funds of only those costs incurred by the district, the county sanitary engineer or sanitary engineering department, or a federal or state grant program, and those costs incurred by the general and other funds of the county for a common or joint purpose, that are necessary and reasonable for the proper and efficient administration of the district under this chapter and properly attributable to the particular fund of the district. The plan shall not authorize payment from either of the funds of any general government expense required to carry out the overall governmental responsibilities of a county. The plan shall conform to United States office of management and budget Circular A-87, “Cost Principles for State, Local, and Indian Tribal Governments,” published May 17, 1995.

(F) A board of county commissioners may establish discounted rates or charges or may establish another mechanism for providing a reduction in rates or charges for persons who are sixty-five years of age or older. The board shall establish eligibility requirements for such discounted or reduced rates or charges, including a requirement that a person be eligible for the homestead exemption or qualify as a low- and moderate-income person.
6117.03 Resolution to lay out, establish, and maintain one or more sewer districts within county.

Whenever authorized by the legislative authority of any municipal corporation, the board of county commissioners may by resolution lay out, establish, and maintain one or more sewer districts within its county to include a part or all of the territory within such municipal corporation as the whole or a part of such district. Such authority shall be evidenced by an ordinance or resolution of the legislative authority of such municipal corporation, entered upon its records.

6117.04 Authority of board of county commissioners to acquire, construct, maintain, and operate sanitary or drainage facilities.

The authority of a board of county commissioners to acquire, construct, maintain, and operate sanitary or drainage facilities or prevention or replacement facilities for a county sewer district in the territory of a municipal corporation, or a regional district established under Chapter 6119. of the Revised Code, that is in whole or in part within the county sewer district is the same as provided by law with respect to territory within a county sewer district that is wholly outside a municipal corporation or a regional district, subject to the following in the case of facilities within a municipal corporation:

(A) The acquisition, construction, maintenance, and operation of the facilities shall first be authorized by an ordinance or resolution of the legislative authority of the municipal corporation.

(B) All road surfaces, curbs, sidewalks, sewers, water supply facilities, or other public improvements or property that may be disturbed or damaged by the construction of the facilities shall be replaced or restored within a reasonable time by the county, and the cost shall be treated as a part of the cost of the facilities.

(C) The municipal corporation, with the prior approval of or by agreement with the board, may make use of the facilities in accordance with rules established by the board and subject to any applicable requirements of the director of environmental protection.

6117.05 Continuing jurisdiction where area is incorporated into or annexed to municipal corporation.

(A) Whenever any portion of a sewer district is incorporated as, or annexed to, a municipal corporation, the area so incorporated or annexed shall remain under the jurisdiction of the board of county commissioners for purposes of the acquisition and construction of sanitary and drainage facility and prevention or replacement facility improvements until all of those improvements for the area for which a resolution described in division (A) or (E) of section 6117.06 of the Revised Code has been adopted by the board have been acquired or completed or until the board has abandoned the improvements. The board, unless and until a conveyance is made to a municipal corporation in accordance with division (B) of this section, shall continue to have jurisdiction in the area so incorporated or annexed with respect to the management, maintenance, and operation of all sanitary and drainage facilities and prevention or replacement
facilities so acquired or completed, or previously acquired or completed, including the right to establish rules and rates and charges for the use of, and connections to, the facilities. The incorporation or annexation of any part of a district shall not affect the legality or enforceability of any public obligations issued or incurred by the county for purposes of this chapter to provide for the payment of the cost of acquisition, construction, maintenance, or operation of any sanitary or drainage facilities or prevention or replacement facilities within the area, or the validity of any assessments levied or to be levied upon properties within the area to provide for the payment of the cost of acquisition, construction, maintenance, or operation of the facilities.

(B) A board may convey, by mutual agreement, to a municipal corporation any completed sanitary or drainage facilities or prevention or replacement facilities acquired or constructed by a county under this chapter for the use of, or service of property located in, any county sewer district, or any part of those facilities to which any of the following applies:

(1) The facilities are located within the municipal corporation or within any area that is incorporated as, or annexed to, the municipal corporation.

(2) The facilities serve the municipal corporation or any area that is located within or that is incorporated as, or annexed to, the municipal corporation.

(3) The facilities are connected to facilities of the municipal corporation.

The conveyance shall be completed with terms and for consideration as may be negotiated. Upon and after the conveyance, the municipal corporation shall manage, maintain, and operate the facilities in accordance with the agreement. The board may retain the right to joint use of all or part of any facilities so conveyed for the benefit of the district. Neither the validity of any assessment levied or to be levied, nor the legality or enforceability of any public obligations issued or incurred, to provide for the payment of the cost of the acquisition, construction, maintenance, or operation of the facilities or any part of them, shall be affected by the conveyance.

6117.06 General plan of sewerage or drainage.

(A) After the establishment of any sewer district, the board of county commissioners, if a sanitary or drainage facility or prevention or replacement facility improvement is to be undertaken, may have the county sanitary engineer prepare, or otherwise cause to be prepared, for the district, or revise as needed, a general plan of sewerage or drainage that is as complete in each case as can be developed at the time and that is devised with regard to any existing sanitary or drainage facilities or prevention or replacement facilities in the district and present as well as prospective needs for additional sanitary or drainage facilities or prevention or replacement facilities in the district. After the general plan, in original or revised form, has been approved by the board, it may adopt a resolution generally describing the improvement that is necessary to be acquired or constructed in accordance with the particular plan, declaring that the improvement is necessary for the preservation and promotion of the public health and welfare, and determining whether or not special assessments are to be levied and collected to pay any part of the cost of the improvement.
(B) If special assessments are not to be levied and collected to pay any part of the cost of the improvement, the board, in the resolution provided for in division (A) of this section or in a subsequent resolution, including a resolution authorizing the issuance or incurrence of public obligations for the improvement, may authorize the improvement and the expenditure of the funds required for its acquisition or construction and may proceed with the improvement without regard to the procedures otherwise required by divisions (C), (D), and (E) of this section and by sections 6117.07 to 6117.24 of the Revised Code. Those procedures are required only for improvements for which special assessments are to be levied and collected.

(C) If special assessments are to be levied and collected pursuant to a determination made in the resolution provided for in division (A) of this section or in a subsequent resolution, the procedures referred to in division (B) of this section as being required for that purpose shall apply, and the board may have the county sanitary engineer prepare, or otherwise cause to be prepared, detailed plans, specifications, and an estimate of cost for the improvement, together with a tentative assessment of the cost based on the estimate. The tentative assessment shall be for the information of property owners and shall not be levied or certified to the county auditor for collection. The detailed plans, specifications, estimate of cost, and tentative assessment, if approved by the board, shall be carefully preserved in the office of the board or the county sanitary engineer and shall be open to the inspection of all persons interested in the improvement.

(D) After the board’s approval of the detailed plans, specifications, estimate of cost, and tentative assessment, and at least twenty-four days before adopting a resolution pursuant to division (E) of this section, the board, except to the extent that appropriate waivers of notice are obtained from affected owners, shall cause to be sent a notice of its intent to adopt the resolution to each owner of property proposed to be assessed that is listed on the records of the county auditor for current agricultural use value taxation pursuant to section 5713.31 of the Revised Code and that is not located in an agricultural district established under section 929.02 of the Revised Code. The notice shall satisfy all of the following:

1. Be sent by first class or certified mail;

2. Specify the proposed date of the adoption of the resolution;

3. Contain a statement that the improvement will be financed in whole or in part by special assessments and that all properties not located in an agricultural district established pursuant to section 929.02 of the Revised Code may be subject to a special assessment;

4. Contain a statement that an agricultural district may be established by filing an application with the county auditor.

If it appears, by the return of the mailed notices or by other means, that one or more of the affected owners cannot be found or are not served by the mailed notice, the board shall cause the notice to be published once in a newspaper of general circulation in the county not later than ten days before the adoption of the resolution.
(E) After complying with divisions (A), (C), and (D) of this section, the board may adopt a resolution declaring that the improvement, which shall be described as to its nature and its location, route, and termini, is necessary for the preservation and promotion of the public health and welfare, referring to the plans, specifications, estimate of cost, and tentative assessment, stating the place where they are on file and may be examined, and providing that the entire cost or a lesser designated part of the cost will be specially assessed against the benefited properties within the district and that any balance will be paid by the county at large from other available funds. The resolution also shall contain a description of the boundaries of that part of the district to be assessed and shall designate a time and place for objections to the improvement, to the tentative assessment, or to the boundaries of the assessment district to be heard by the board. The date of that hearing shall be not less than twenty-four days after the date of the first publication of the notice of the hearing required by this division.

The board shall cause a notice of the hearing to be published once a week for two consecutive weeks in a newspaper of general circulation in the county or as provided in section 7.16 of the Revised Code. On or before the date of the second publication, the board shall cause to be sent by first class or certified mail a copy of the notice to every owner of property to be assessed for the improvement whose address is known.

The notice shall set forth the time and place of the hearing, a summary description of the proposed improvement, including its general route and termini, a summary description of the area constituting the assessment district, and the place where the plans, specifications, estimate of cost, and tentative assessment are on file and may be examined. Each mailed notice also shall include a statement that the property of the addressee will be assessed for the improvement. The notice also shall be sent by first class or certified mail, on or before the date of the second publication, to the clerk, or to the official discharging the duties of a clerk, of any municipal corporation any part of which lies within the assessment district and shall state whether or not any property belonging to the municipal corporation is to be assessed and, if so, shall identify that property.

At the hearing, or at any adjournment of the hearing, of which no further published or mailed notice need be given, the board shall hear all parties whose properties are proposed to be assessed. Written objections to or endorsements of the proposed improvement, its character and termini, the boundaries of the assessment district, or the tentative assessment shall be received by the board for a period of five days after the completion of the hearing, and no action shall be taken by the board in the matter until after that period has elapsed. The minutes of the hearing shall be entered on the journal of the board, showing the persons who appear in person or by attorney, and all written objections shall be preserved and filed in the office of the board.

6117.061 Deferment of collection of assessment.

At any time prior to the expiration of the five-day period provided by section 6117.06 of the Revised Code for the filing of written objections, any owner of property to be assessed for an improvement under sections 6117.01 to 6117.45, inclusive, of the Revised Code may file with the board of county commissioners a request in writing for deferment of the collection of his assessment. Such request shall identify the property in connection with which the request for
deferment is made, shall describe its present use, shall state its estimated market value, showing separately the value of the land and the value of the buildings thereon, shall state the reasons why a portion of the assessment should be deferred, and the amount to be deferred. The board shall promptly consider such request and, if it finds that it will be inequitable to certify the entire amount of such assessment upon completion of the improvement to the county auditor for collection, the board may order that the collection of a portion of such assessment, not exceeding seventy-five per cent thereof, shall be deferred as provided in section 6117.33 of the Revised Code. In determining whether it is inequitable to certify an assessment for immediate collection upon completion of the improvement, the board shall consider as significant the following factors: whether or not the property is presently unimproved; whether or not it is being used for farming or agricultural purposes; the extent to which it is in immediate need of sewer service; whether the tentative assessment is a disproportionately high percentage of the estimated market value of the property after the improvement will have been completed. All requests for the deferment of the collection of assessments shall be considered by the board before it adopts the improvement resolution provided for by section 6117.07 of the Revised Code, and, if the board orders any part of any assessment to be deferred for collection, the sanitary engineer shall forthwith revise the list of tentative assessments to accord with the order of the board thereby showing the amount of each assessment to be collected upon the completion of the improvement and the amount of each assessment to be deferred for collection. The decision of the board on any request for deferment shall be final and no appeal therefrom may be taken.

The board may, for good cause shown and notwithstanding the failure of a property owner to file such request within the period provided in this section, consider a request for the deferment of an assessment at any time prior to the adoption of the resolution confirming the revised assessment provided for by section 6117.32 of the Revised Code.

6117.062 Deferment of collection of assessments for certain lines providing sewer facilities to industrial or residential developments.

(A) At any time prior to the expiration of the five-day period provided by section 6117.06 of the Revised Code for the filing of written objections, any owner of property which is classified on the general tax list of the county auditor as agricultural land and has been assessed for the extension of a trunk sewer line over or along such property under sections 6117.01 to 6117.45 of the Revised Code may file with the board of county commissioners a request in writing for deferment of the collection of the assessment if the trunk sewer line provides sewer facilities to aid in the establishment of new industrial plants, the expansion of existing industrial plants, or such other industrial development, or provides sewer facilities to aid in the establishment of commercial and residential developments. Such request shall identify the property in connection with which the request for deferment is made, shall describe its present use and present classification on the general tax list of the county auditor, shall state its estimated market value, showing separately the value of the land and the value of the buildings thereon, shall state the reasons, if any, why a portion of the benefit of the improvement will not be realized until the use of the land is changed, and shall state the amount to be deferred. The board shall promptly consider such request and may order the deferment of the collection of that portion of the assessment representing a benefit from the improvement which will not be realized until the use of the land is changed. The board may, upon request of an owner whose property has been
assessed for the extension of a trunk sewer line over or along such property under sections 6117.01 to 6117.45 of the Revised Code, defer all or any part of the assessment on property which is classified on the general tax list as agricultural land, by attributing the amount of such assessment or part thereof as tap-in charges, if the trunk sewer line provides sewer facilities to aid in the establishment of new industrial plants, the expansion of existing industrial plants, or such other industrial development, or provides sewer facilities to aid in the establishment of commercial and residential developments. Upon determination and approval of final assessments, the board of county commissioners shall certify all deferred assessments and a fee equal to two per cent of the amount of the deferred assessments to the county auditor. For purposes of this section, “assessment,” “deferred assessment,” or “assessment deferred under this section” mean the fee and the deferred assessment certified to the county auditor. The county auditor shall record an assessment deferred under this section in the sewer improvement record. Such record shall be kept until such time as the assessments are paid in full or certified for collection in installments as provided in this section. During the time when the assessment is deferred there shall be a lien on the property assessed, which lien shall arise at the time of recordation by the county auditor and which shall be in force until the assessments are paid in full or certified for collection in installments.

(B) The board of county commissioners shall defer the collection of an assessment, except the amount of such assessment or part thereof attributable as tap-in charges, which has been deferred pursuant to division (A) of this section on or before January 1, 1987, beyond the expiration of the maximum time for the original deferment if the property owner requests in writing, no later than six months prior to the expiration of the original deferment, that the assessment be further deferred and as long as the property owner’s land could qualify for placement in an agricultural district pursuant to section 929.02 of the Revised Code.

The board shall regularly review the use and ownership of the property for which the collection of assessments has been deferred pursuant to this division, and upon finding that the land could no longer qualify for placement in an agricultural district pursuant to section 929.02 of the Revised Code, the board shall immediately collect, without interest, the full amount of the assessment deferred.

(C) The board of county commissioners shall send a notice by regular or certified mail to all owners of property on which assessments have been deferred pursuant to division (A) of this section, which lists the expiration of the deferment, not later than two hundred ten days prior to the expiration of the deferment of those assessments.

(D) The board shall collect assessments, without interest, which have been deferred pursuant to division (A) of this section upon expiration of the maximum time for which deferments were made; provided that for a property owner who requests in writing, no later than six months prior to the expiration of the deferment period, that payment of the deferred assessments be in installments, the board of county commissioners upon expiration of the deferment period may by resolution further certify for collection pursuant to section 6117.33 of the Revised Code, such deferred assessments in installments over not more than twenty years, as determined by the board, together with interest thereon each year on the unpaid balance at the same rate borne by bonds of the county which shall be issued in anticipation thereof as provided in Chapter 133. of
the Revised Code. Prior to the expiration of the maximum time of deferment, the board shall regularly review the use of the property for which the collection of assessments has been deferred and upon finding that the use of the land has changed from the use at the time of the deferment so that the benefit of the improvement can then be realized, the board shall immediately collect the full amount of the assessment for the portion of the property for which the use has so changed, without interest.

6117.07 Determination to proceed with construction.

After the expiration of the period of five days provided for in section 6117.06 of the Revised Code for the filing of written objections, the board of county commissioners shall determine whether or not it will proceed with the construction of the improvement mentioned in such section. Notice of the time and place of each meeting of the board of county commissioners, at which the resolution to proceed with the construction of such improvement will be considered, shall be given in writing to all persons who filed written objections as provided in section 6117.06 of the Revised Code. Such notice shall contain the following language in addition to the time and place of the meeting of the board: “any person, firm, or corporation desiring to appeal from the final order or judgment of the board upon any of the questions mentioned in section 6117.09 of the Revised Code shall, on or before the date of the passage of the improvement resolution, give notice in writing of an intention to appeal, specifying therein the matters to be appealed from.” If it decides to proceed therewith, the board shall ratify or amend the plans for the improvement and the character and termini thereof, the boundaries of the assessment district, and the tentative assessment, and may cause such revision of plans, boundaries, or assessments as the board considers necessary to be made by the county sanitary engineer. If the boundaries of the assessment district are amended so as to include any property not included within the boundaries as established by the resolution of necessity provided for in section 6117.06 of the Revised Code, the owners of all such property shall be notified by mail if their addresses are known, and notice shall be published once a week for two consecutive weeks in a newspaper of general circulation within the county or as provided in section 7.16 of the Revised Code that such amendments have been adopted and that a hearing will be given by the board at a time and place stated in such notice, at which all persons interested will be heard by the board. The date of such hearing shall be not less than twenty-four days after the first publication of such notice, and the hearing shall be conducted and records kept in the same manner as the first hearing. Five days shall be allowed for the filing of written objections as provided in such section for the first hearing.

After the expiration of such five day period, the board shall ratify the plans for the improvement and the character and termini thereof, the boundaries of the assessment district, and the tentative assessment, or shall further amend the same. If the boundaries of the assessment district are amended so as to include any property not included in the assessment district as originally established or previously amended, further notice and hearing shall be given to the owners of such property in the same manner as for the first amendment of such boundaries, and the same procedure shall be repeated until all property owners affected have been given an opportunity to be heard. If the owners of all property added to an assessment district by amendment of the original boundaries thereof waive objection to such amendment in writing, no further notice or hearing shall be given.
After the board has ratified the plans for the improvement and the character and termini thereof, the boundaries of the assessment district, and the tentative assessment, either as originally presented or as amended, and if it decides to proceed therewith, the board shall adopt a resolution to be known as the improvement resolution. Said improvement resolution shall declare the determination of such board to proceed with the construction of the improvement provided for in the resolution of necessity, in accordance with the plans and specifications provided for such improvement as ratified or amended, and whether bonds or certificates of indebtedness shall be issued in anticipation of the collection of special assessments, as provided in section 6117.08 to 6117.45, inclusive, of the Revised Code, or that money in the county treasury unappropriated for any other purpose shall be appropriated to pay for said improvement.

6117.08 Proceed to issue or incur public obligations and construct the improvement.

After the adoption of a resolution to proceed with an improvement as provided for in section 6117.07 of the Revised Code, the construction of the improvement shall be deferred until ten days have elapsed. If, at the expiration of that period, no appeal has been effected by any property owner as provided in sections 6117.09 to 6117.24 of the Revised Code, the action of the board of county commissioners shall be final, and the board may proceed to issue or incur public obligations and construct the improvement. If, at the end of that ten days, any owner of property to be assessed for the improvement has effected an appeal, the construction of the improvement shall be deferred until the matters appealed from have been disposed of in court.

6117.09 Appeal to probate court.

Any owner of property to be assessed or taxed for an improvement under sections 6117.01 to 6117.45 or sections 6103.01 to 6103.30 of the Revised Code, may appeal to the probate court from the action of the board of county commissioners in determining to proceed with the improvement in regard to any of the following matters:

(A) The necessity of the improvement, including the question whether the cost of the improvement will exceed the benefits resulting therefrom;

(B) Boundaries of the assessment district;

(C) The tentative apportionment of the assessment.

Such appeal shall be effected within ten days after the passage of the resolution to proceed with the improvement. No appeal shall be allowed from said decision of the board except as to the tentative apportionment of the assessment if the owners of land tentatively assessed for at least eighty-five per cent of the cost of said improvement under sections 6117.01 to 6117.45 or sections 6103.01 to 6103.30 of the Revised Code, have consented in writing to the action of the board in determining to proceed with said improvement. If such an appeal to the probate court has been perfected by any property owner prior to procuring such consent in writing of the owners of land tentatively assessed for at least eighty-five per cent of the cost of said improvement, the probate court before whom such appeal is pending, on the motion of the board or any owner of land assessed for said improvements, shall dismiss so much of said appeal as
refers to the necessity of the improvement or the boundaries of said district upon the introduction of satisfactory proof of such written consent of the owners of land tentatively assessed for at least eighty-five per cent of the cost of the improvement as provided for in this section. Such property owner may also appeal from the decision of the board in refusing to grant the prayer of any petition for improvement under sections 6117.01 to 6117.40 of the Revised Code. If the director of environmental protection has made an order declaring that any improvement is necessary for the public health and welfare as provided in section 6117.34 or 6103.17 of the Revised Code, no property owner shall have the right to appeal from the action of the board declaring such improvement necessary.

6117.10 Appeal when improvement is located in two or more counties.

Any person, firm, or corporation desiring to appeal to the probate court as provided in section 6117.09 of the Revised Code, when the improvement is located in two or more counties, may appeal to the probate court of the county in which property of such appellant to be assessed for such improvement is located.

Any person, firm, or corporation desiring to appeal from the final order or judgment of the board upon any of the questions mentioned in such section, shall on or before the date of the passage of the improvement resolution give notice in writing of an intention to appeal, specifying therein the matters to be appealed from. The board shall fix the amount of the bond to be given by the appellant, which amount shall be reasonable, and shall make an entry thereof upon its journal. The appellant within ten days thereafter shall file with the county auditor a bond in the amount so fixed with sureties to be approved by the auditor, and such bond shall be conditioned to pay all costs made on the appeal if the appellant fails to sustain such appeal or the same is dismissed.

6117.11 Appeal when petition for improvement is dismissed.

In case the petition for an improvement is dismissed, or the prayer thereof is not granted, then a person, firm, or corporation desiring to appeal therefrom must give the notice provided for in section 6117.10 of the Revised Code, on the date when the order is made dismissing said petition, or refusing to grant the prayer thereof, and file the bond required within the time prescribed in such section.

6117.12 Appeal by guardian of minors or other persons under disability.

The guardian of minors or other persons under disability may appeal to the probate court as provided in sections 6117.09 to 6117.11, inclusive, of the Revised Code, without giving bond for the payments of costs. The taking of such appeal must first be authorized by the court which appointed such guardian. The probate court shall make an entry showing such disability on the journal. The estates of such persons shall be liable for all costs adjudged against them or their legal representatives.
6117.13 Transmission of original papers in proceedings and certified transcript of record.

Within ten days after the filing of an appeal bond provided for in section 6117.10 or 6117.11 of the Revised Code, or the making of the entry provided for in section 6117.12 of the Revised Code, the board of county commissioners shall transmit to the probate court the original papers in the proceedings, and a certified transcript of the record of said board of all proceedings in connection therewith. Upon receipt thereof, the probate judge shall forthwith docket the cause, and the appellants shall be designated as the plaintiffs, and the board shall be designated as the defendant.

6117.14 Hearing on appeal.

The probate judge shall designate a day not exceeding five days after the docketing of the cause as provided in section 6117.13 of the Revised Code for the hearing of all preliminary questions and motions on the appeal, and for the examination of the papers and proceedings. On the day so fixed, all preliminary motions and questions arising upon the appeal shall be heard and determined, and if the probate court finds that the proceedings are irregular, or that the appeal is not perfected according to law, it shall dismiss such appeal at the cost of the appellants, and certify such dismissal with its proceedings thereon to the board of county commissioners. The court may waive technical defects, errors, or omissions in such proceedings.

6117.15 Trial in probate court.

If the probate judge finds that an appeal under sections 6117.09 to 6117.21, inclusive, of the Revised Code, has been properly perfected, and that the proceedings are substantially regular, he shall fix a day not more than twenty days thereafter for the trial of the case, and shall publish at least twice in a newspaper of general circulation within the county a notice that such appeal has been made and stating the time and place of such trial. The first publication shall be at least fifteen days before such trial, and the second publication shall be at least eight days before such trial. At the time so fixed the parties shall offer their evidence to the court upon the matters appealed from. The rules of law and procedure governing civil cases in the court of common pleas shall apply to the trial of the cause in the probate court.

6117.16 Action when more than one party appeals.

If more than one party appeals in regard to the same improvement, the probate court shall order the cases to be consolidated and tried together, but the rights of each person, firm, or corporation as to the inclusion of their property in the assessment district or as to the apportionment of the tentative assessment shall be separately determined by the court in its verdict.

6117.17 Court findings.

At the conclusion of the trial provided for in section 6117.15 of the Revised Code, the probate court shall find separately upon each claim for adjustment of the apportionment of the tentative assessment, if the appeal is from the judgment of the board of county commissioners in reference to apportionment of such assessment. The court shall determine whether the improvement
petitioned for or granted will be necessary for the public health, convenience, or welfare, or whether the cost of it will exceed the benefit resulting from such improvement, or whether the boundaries of the assessment district should be modified, if the appeal is from an order establishing the proposed improvement or dismissing or refusing to grant the prayer of the petition or establishing the boundaries of the assessment district.

If the court finds that the cost of the improvement will exceed the benefit resulting from it, it shall declare that the improvement is not necessary for the public health, convenience, or welfare. No property shall be added to the assessment district until the owners of it have been given an opportunity to be heard by the court. A notice of such hearing shall be served on such property owners by the court in the manner provided for the service of summons in civil actions. If such owners are not residents of the county, or if in any case it appears by the return of the notice that such owner cannot be found, the notice shall be published at least twice in a newspaper of general circulation within the county, and the date of such hearing shall be at least one week after service of notice or of the second publication of such notice. If a new trial is not granted for cause shown, the court shall render a judgment ordering such modification of the tentative assessment, or of the boundaries of the assessment district as the court determines. The court shall also make a finding for or against the improvement.

6117.18 Record - costs.

The probate judge shall make a record of all proceedings before him, and tax the cost in favor of the prevailing party and against the losing party. If more than one matter is appealed from, and a party prevails as to one matter and loses as to another, the probate court shall determine how much of the costs each party shall pay. The costs on motions or continuance and the like shall be taxed and paid as the court directs. If there are several persons upon the side taxed with costs the court shall apportion the costs equitably among them, and in case several persons are interested on one side of the case and part of them fail, the court shall make such order as to costs as it deems equitable. In cases not specifically provided for, the court shall render such judgment in respect to costs as is equitable. The board of county commissioners shall pay any costs adjudged against it out of the county treasury.

6117.19 Appeal made in reference to necessity of improvement.

If an appeal has been made in reference to the necessity of the improvement as provided in section 6117.09 of the Revised Code, and it appears from the transcript certified to the board of county commissioners by the probate judge that the proposed improvement is not necessary for the public health, convenience, and welfare, or that the cost thereof will exceed the benefits resulting from such improvement, the board shall abandon the improvement. If it appears from such transcript that the improvement is necessary for the public health, convenience, and welfare and that the cost thereof will not exceed the benefits resulting therefrom, the board may proceed with the improvement.
6117.20 Appeal made in reference to boundaries of assessment district or to tentative assessment.

If an appeal has been made in reference to the boundaries of the assessment district or to the tentative assessment as provided in section 6117.09 of the Revised Code, and it appears from the transcript certified to the board of county commissioners by the probate judge that the boundaries of the assessment district should be changed or that the tentative assessment should be modified, the board may make such changes or modifications and proceed with the improvement, provided that the necessity of such improvement has not been denied by the probate court or the cost thereof found to exceed the benefits resulting from such improvement.

6117.21 Judgment establishing improvement.

If an appeal is taken from the order of the board of county commissioners dismissing or refusing to grant the prayer of the petition, and the probate court finds in favor of the improvement, it shall render judgment establishing such improvement, unless it grants a new trial, and the improvement shall henceforth be established unless the judgment of said court is reversed on appeal.

6117.22 Fees and compensation of officers.

For their services required on appeal the officers and other persons mentioned in sections 6117.01 to 6117.40, inclusive, of the Revised Code, are entitled to the fees and compensation which they are entitled to by law for like services in other cases.

6117.23 Appeal from probate court.

The final judgment of the probate court may be reviewed on appeal as in other cases. If an appeal is prosecuted from the judgment of the probate court as to the necessity of the improvement, the construction of the improvement shall be deferred until the appeal is finally disposed of. If an appeal is prosecuted from the judgment of the court as to the inclusion of any property in the assessment district or as to the apportionment of the tentative assessment, the board of county commissioners may proceed with the construction of the improvement in accordance with the transcript of the probate court and thereafter shall adjust those matters to the extent necessary in accordance with their final adjudication.

6117.24 Manifest error in proceedings.

Any court in which an action is brought to enjoin, reverse, or declare void the proceedings by which any improvement has been made or ordered to be made under sections 6117.01 to 6117.45, inclusive, or 6103.02 to 6103.30, inclusive, of the Revised Code, or to enjoin a collection of a tax or assessment levied for such purpose, or any part thereof, or to which appeal is taken under section 6117.09 of the Revised Code to declare the improvement unnecessary or to amend the boundaries of any assessment district, or to modify the tentative assessment prior to the construction of any improvement, if there is manifest error in such proceedings affecting the
right of the plaintiff in such action, may set such proceedings aside as to him without affecting the rights or liabilities of the other parties in interest.

The court shall allow parol testimony that said improvement will be conducive to the public health, convenience, and welfare and that any steps required by law for an improvement have been substantially complied with, notwithstanding any errors or defects in any record required to be kept by any board or officer, and without finding error the court may correct any gross injustice in the assessment made by the board of county commissioners. The court on the final hearing shall make such order as it deems equitable, and order any tax or assessment levied against the plaintiff to remain on the duplicate for collection, or order it to be levied in whole or in part, or perpetually enjoin it or any part thereof, or if it has been paid under protest, order the whole or such part thereof as it deems proper to be refunded. The cost of such action shall be apportioned among the parties or paid out of the county treasury as the court directs.

6117.25 Payment for costs of improvement.

(A) The board of county commissioners may pay the whole or any part of the cost of constructing, maintaining, repairing, or operating any improvement provided for in this chapter, including the payment of a county sanitary engineer and the sanitary engineer’s assistants and other necessary expenses. Insofar as such expenses relate to the construction of a permanent improvement, they may be considered as part of the cost of such improvement and bonds may be issued therefor.

(B) Bonds and notes in anticipation thereof, including bonds issued in anticipation of the collection of assessments deferred pursuant to sections 6117.061 and 6117.33 of the Revised Code, may be issued by the board pursuant to Chapter 133. of the Revised Code, to finance any such improvement, provided that where a separate issue of bonds is issued in anticipation of the collection of deferred assessments, the first principal maturity of such bonds may be not later than five years from the date of such bonds. Bonds issued in anticipation of the collection of assessments deferred pursuant to sections 6117.061 and 6117.33 of the Revised Code and notes issued in anticipation of such bonds shall be considered for all purposes under this chapter and Chapter 133. of the Revised Code as being bonds or notes issued in anticipation of the levy or collection of special assessments.

(C) Bonds may be issued by the board under Chapter 165. of the Revised Code to finance such improvements payable solely from revenues generated by the improvements.

6117.251 Sanitary or drainage facility improvements.

(A) After the establishment of any county sewer district, the board of county commissioners may determine by resolution that it is necessary to provide sanitary or drainage facility improvements or prevention or replacement facility improvements and to maintain and operate the improvements within the district or a designated portion of the district, that the improvements, which shall be generally described in the resolution, shall be constructed, that funds are required to pay the preliminary costs of the improvements to be incurred prior to the commencement of the proceedings for their construction, and that those funds shall be provided in accordance with this section.
(B) Prior to the adoption of the resolution, the board shall give notice of its pendency and of the proposed determination of the necessity of the improvements generally described in the resolution. The notice shall set forth a description of the properties to be benefited by the improvements and the time and place of a hearing of objections to and endorsements of the improvements. The notice shall be given by publication in a newspaper of general circulation in the county once a week for two consecutive weeks, by publication as provided in section 7.16 of the Revised Code, by mailing a copy of the notice by first class or certified mail to the owners of the properties proposed to be assessed at their respective tax mailing addresses, or by a combination of these manners, the first publication to be made or the mailing to occur at least two weeks prior to the date set for the hearing. At the hearing, or at any adjournment of the hearing, of which no further published or mailed notice need be given, the board shall hear all persons whose properties are proposed to be assessed and the evidence it considers to be necessary. The board then shall determine the necessity of the proposed improvements and whether the improvements shall be made by the board and, if they are to be made, shall direct the preparation of tentative assessments upon the benefited properties and by whom they shall be prepared.

(C) In order to obtain funds for the preparation of a general or revised general plan of sewerage or drainage for the district or part of the district, for the preparation of the detailed plans, specifications, estimate of cost, and tentative assessment for the proposed improvements, and for the cost of financing and legal services incident to the preparation of all of those plans and a plan of financing the proposed improvements, the board may levy upon the properties to be benefited in the district a preliminary assessment apportioned according to benefits or to tax valuation or partly by one method and partly by the other method as the board may determine. The assessments shall be in the amount determined to be necessary to obtain funds for the general and detailed plans and the cost of financing and legal services and shall be payable in the number of years that the board shall determine, not to exceed twenty years, together with interest on any public obligations that may be issued or incurred in anticipation of the collection of the assessments.

(D) The board shall have power at any time to levy additional assessments according to benefits or to tax valuation or partly by one method and partly by the other method as the board may determine for the purposes described in division (C) of this section upon the benefited properties to complete the payment of the costs described in division (C) of this section or to pay the cost of any additional plans, specifications, estimate of cost, or tentative assessment and the cost of financing and legal services incident to the preparation of those plans and the plan of financing, which additional assessments shall be payable in the number of years that the board shall determine, not to exceed twenty years, together with interest on any public obligations that may be issued or incurred in anticipation of the collection of the additional assessments.

(E) Prior to the adoption of a resolution levying assessments under this section, the board shall give notice either by one publication in a newspaper of general circulation in the county, or by mailing a copy of the notice by first class or certified mail to the owners of the properties proposed to be assessed at their respective tax mailing addresses, or by both manners, the publication to be made or the mailing to occur at least ten days prior to the date of the meeting at which the resolution shall be taken up for consideration; that notice shall state the time and place
of the meeting at which the resolution is to be considered. At the time and place of the meeting, or at any adjournment of the meeting, of which no further published or mailed notice need be given, the board shall hear all persons whose properties are proposed to be assessed, shall correct any errors and make any revisions that appear to be necessary or just, and then may adopt a resolution levying upon the properties determined to be benefited the assessments as so corrected and revised.

The assessments levied by the resolution shall be certified to the county auditor for collection in the same manner as taxes in the year or years in which they are payable.

(F) Upon the adoption of the resolution described in division (E) of this section, no further action shall be taken or work done until ten days have elapsed. If, at the expiration of that period, no appeal has been effected by any property owner as provided in this division, the action of the board shall be final. If, at the end of that ten days, any owner of property to be assessed for the improvements has effected an appeal, no further action shall be taken and no work done in connection with the improvements under the resolution until the matters appealed from have been disposed of in court.

Any owner of property to be assessed may appeal as provided and upon the grounds stated in sections 6117.09 to 6117.24 of the Revised Code.

If no appeal has been perfected or if on appeal the resolution of the board is sustained, the board may authorize and enter into contracts to carry out the purposes for which the assessments have been levied without the prior issuance of notes, provided that the payments under those contracts do not fall due prior to the time by which the assessments are to be collected. The board may issue and sell bonds with a maximum maturity of twenty years in anticipation of the collection of the assessments and may issue notes in anticipation of the issuance of the bonds, which notes and bonds, as public obligations, shall be issued and sold as provided in Chapter 133. of the Revised Code.

6117.27 Contracts for construction of improvements.

After the issuance and sale of bonds or certificates of indebtedness, as provided in sections 6117.01 to 6117.45, inclusive, of the Revised Code, the board of county commissioners shall enter into a written contract in accordance with sections 307.86 to 307.92, inclusive, of the Revised Code. The contract shall be between the board and the bidder, and the board shall pay the contract price in cash. Such payment may be made in proper installments as the work progresses. When there is reason to believe that there is collusion or combination among the bidders, the bids of those concerned therein shall be rejected. Whenever it becomes necessary, in the opinion of such board, in the prosecution of any such work or improvements, to make alterations or modifications in such contract, such alterations or modifications shall only be made by such board by resolution. Such resolution shall be of no effect until the prices to be paid for work or material, or both, caused by such alterations or modifications, have been agreed upon in writing and signed by the contractor and said board. No contractor for any such work shall recover anything for additional work or materials required by any alterations or modifications or for any other cause due to such alterations or modifications, unless such contract is made as
provided in this section, nor shall he in any event recover for such work or materials or other cause more than the agreed price. The money derived from the lawfully authorized bonds or certificates of indebtedness sold as provided in section 6117.25 of the Revised Code, shall not thereafter be considered unappropriated until the county is fully discharged from such contract.

6117.28 Petition by landowners for improvements.

Whenever the owners of all the lots and lands to be assessed for any sanitary or drainage facility improvement or any prevention or replacement facility improvement provided for in this chapter, by petition in writing, request the board of county commissioners to provide for the acquisition or construction, maintenance, and operation of the improvement, describing the improvement and the lots and lands owned by them respectively to be assessed to pay the cost of acquisition or construction, maintenance, and operation of the improvement and consenting that their lots and lands may be assessed to pay the cost of the acquisition or construction of the improvement and of its maintenance and operation as provided in this chapter, and waive all legal notices otherwise required, the board may have the county sanitary engineer prepare, or otherwise cause to be prepared, the necessary plans, specifications, and estimate of cost of the acquisition or construction, maintenance, and operation of the improvement and a tentative assessment. When the owners state, in writing, that they have examined the estimate of cost and tentative assessment, that they have no objections to them, and that, in case bonds are proposed to be issued prior to the acquisition or construction of the improvement, they waive their right or option to pay the assessments in cash, the board may proceed as provided in this chapter to cause the improvement to be acquired or constructed and to cause provision to be made for the payment of the cost of its acquisition or construction, maintenance, and operation, except that none of the notices otherwise required by law need be given and no opportunity need be provided for the filing of objections to the improvement, its character and termini, the boundaries of the assessment district, or the tentative assessment or, if bonds are issued prior to the acquisition or construction of the improvement, for paying the assessments in cash. The board may proceed to issue or incur public obligations in the required amount, complete the acquisition or construction of the improvement, and levy and collect the assessments authorized by this chapter. No person or public agency shall have the right to appeal from any decision or action of the board in the matter except refusal by the board to proceed with the improvement.

The tentative assessment provided for in this section shall be for the information of property owners and shall not be levied or certified to the county auditor for collection. On completion of the improvement, its cost shall be determined, and the county sanitary engineer shall prepare, or otherwise cause to be prepared, a revised assessment based on the actual cost and in substantially the same proportion as the tentative assessment. The board shall confirm and levy the revised assessment and certify it to the county auditor for collection.

6117.29 Cost of improvement to include engineering, necessary publications, inspection, interest on public obligations.

The cost of any improvement provided for in this chapter and the cost of its maintenance and operation shall include, in addition to the cost of its acquisition or construction, the cost of engineering, necessary publications, inspection, interest on public obligations, and all other items
of cost incident to the improvement as described in division (B) of section 133.15 of the Revised Code. The county may pay from available county funds any part of the cost of the improvement and any part of the cost of its maintenance and operation if the board of county commissioners considers the payment to be just.

6117.30 Assessment district assessments.

The cost of the acquisition or construction of sanitary or drainage facilities or prevention or replacement facilities to be paid by assessments shall be assessed, as an assessment district assessment, upon all the property within the county sewer district found to be benefited in accordance with the special benefits conferred, less any part of the cost that is paid by the county at large from other available funds. State land so benefited shall bear its portion of the assessed cost.

6117.32 Revised assessment.

The county sanitary engineer, upon the completion of any improvement in accordance with this chapter, shall prepare, or otherwise cause to be prepared, and shall present to the board of county commissioners a revised assessment based on the tentative assessment previously ratified by the board for the improvement or, if the tentative assessment has been revised by order of court, based on the revised tentative assessment, the assessment levied on each piece of property being modified in substantially the same proportion as the actual cost of the improvement, including incidental costs, bears to the estimated cost on which the tentative assessment was based. No notice of the revised assessment shall be given unless the actual cost exceeds the estimated cost. If the actual cost exceeds the estimated cost, notice shall be given to all property owners within the assessment district and shall be published as provided by section 6117.07 of the Revised Code for amendments of the tentative assessment, and any property owner may appeal as provided for in the case of a tentative assessment. The board shall confirm the revised assessment, and, when so confirmed, it shall be final and conclusive. If an appeal has been made, that confirmation shall be subject to the finding of the court.

The board, at intervals it considers expedient, may levy an additional assessment on the lots and parcels of land assessed for the improvement, including state land, in order to pay the cost of the maintenance, repair, and operation of the improvement after its completion. No further notice of that additional assessment shall be necessary unless the amount of it exceeds ten per cent of the original cost of acquiring or constructing the improvement. If that additional assessment exceeds ten per cent of the original cost of acquiring or constructing the improvement, the method and manner of making that additional assessment, together with the notice of it, shall be the same as provided in this chapter for the original assessment. That additional assessment shall be subject to any applicable provisions of section 6117.33 of the Revised Code, provided that the assessment may bear interest at a rate as the board determines to be appropriate.

6117.33 Annual certification of assessments.

On or before the second Monday in September, annually, the board of county commissioners shall certify all of the assessments provided for in section 6117.32 of the Revised Code to the
county auditor, including all assessments deferred pursuant to section 6117.061 of the Revised Code, stating the amount and the time of payment thereof, and in accordance therewith the auditor shall record the same in a book to be known as the “sewer improvement record” of said county, showing separately the assessments to be collected forthwith and the assessments whose collection has been deferred by the board pursuant to section 6117.061 of the Revised Code. Such assessment, including the assessments deferred by the board pursuant to section 6117.061 of the Revised Code, shall bear interest at the rate that the bonds authorized by section 6117.25 of the Revised Code bears, or at the rate that the contribution of the county to be paid from the assessment under an agreement pursuant to section 6121.13 of the Revised Code, between the county and the Ohio water development authority, bears, and shall be a lien upon the lots and lands so assessed from the date of such record until such assessments are paid, and shall be collected in annual or semiannual installments within a period of not more than forty years, provided that interest on deferred assessments shall terminate when all of the bonds issued by the board in anticipation of such deferred assessments have been paid in full. If any such assessment is twenty-five dollars or less, or whenever the unpaid balance of any such assessment is twenty-five dollars or less, the same shall be paid in full and not in installments at the time the first or next installment would otherwise become payable. The several installments of such assessments which have not been deferred for collection pursuant to section 6117.061 of the Revised Code and interest on deferred assessments shall be placed upon the tax duplicate of the county for collection as they become due commencing with the first duplicate prepared after the assessments have been so certified, and shall be collected the same as other taxes, and shall be subject to the same penalties and interest. In case bonds have not been sold or an agreement between the county and the Ohio water development authority has not been entered into to pay the cost of the improvement the amount assessed against any lot or parcel of land may be paid within thirty days from the confirmation of the revised assessment.

The board shall, annually, during the month of August, review all assessments which have been deferred for collection pursuant to section 6117.061 of the Revised Code as shown upon the auditor’s “sewer improvement record” and shall determine whether, in view of changed circumstances concerning the property since the date of the original deferment, it is no longer inequitable to certify such assessment or any portion thereof to the county auditor for collection. On or before the second Monday in September, annually, the board shall direct the county auditor to place on the tax duplicate for collection such deferred assessments or portions thereof as the board determines should no longer be deferred, or which the property owner has requested to be collected, and thereupon the county auditor shall place the same upon the first duplicate prepared by him thereafter and shall collect the same as other taxes in such number of annual or semiannual installments within a period ending not later than the thirty-ninth year after the year in which the nondeferred assessments for such improvement were first collected, as directed by the board, provided that the number of installments shall not be less than that required to coincide with the remaining principal payments on the bonds issued in anticipation of the collection of such assessments and in no event shall the payment period be less than five years. On or before the second Monday of September of the twentieth year following the adoption of the resolution confirming the revised assessment, the board shall direct the county auditor to place on the tax duplicate for collection all deferred assessments or parts thereof confirmed by such resolution which the board has heretofore directed the auditor to collect, and thereupon the auditor shall place the same upon the first tax duplicate prepared by him thereafter and shall
collect the same as other taxes in such number of annual or semiannual installments within a period of not more than twenty and not less than five years as directed by the board, provided that the final installment shall not be made payable earlier than the payment date of the final installment of the nondeferred assessments for such improvement. All assessments when collected, together with all interest thereon, shall be applied respectively to the purposes for which such assessments have been made and to no other purpose, provided that any installments of deferred assessments collected by the treasurer subsequent to the retirement of the bonds issued in anticipation of the collection of such deferred assessments, shall be allocated by him to the several county funds, including the special fund provided for by section 6117.02 of the Revised Code, in proportion to their respective contributions to the retirement and discharge of such bonds.

REGIONAL WATER AND SEWER DISTRICTS

6119.01 Regional water and sewer district organization.

Any area situated in any unincorporated part of one or more contiguous counties or in one or more municipal corporations, or both, may be organized as a regional water and sewer district in the manner and subject to the conditions provided in Chapter 6119. of the Revised Code, for either or both of the following purposes:

(A) To supply water to users within and without the district;

(B) To provide for the collection, treatment, and disposal of waste water within and without the district.

6119.011 Regional water and sewer district definitions.

As used in this chapter:

(A) “Court of common pleas” or “court” means, unless the context indicates a different meaning or intent, the court of common pleas in which the petition for the organization of a regional water and sewer district is filed.

(B)”Political subdivision” includes departments, divisions, authorities, or other units of state governments, watershed districts, soil and water conservation districts, park districts, municipal corporations, counties, townships, and other political subdivisions, special water districts, including county and regional water and sewer districts, conservancy districts, sanitary districts, sewer districts or any other public corporation or agency having the authority to acquire, construct, or operate waste water or water management facilities, and all other governmental agencies now or hereafter granted the power of levying taxes or special assessments, the United States or any agency thereof, and any agency, commission, or authority established pursuant to an interstate compact or agreement.

(C)“Person” means any natural person, firm, partnership, association, or corporation other than a political subdivision.
(D) “Beneficial use” means a use of water, including the method of diversion, storage, transportation, treatment, and application, that is reasonable and consistent with the public interest in the proper utilization of water resources, including, but not limited to, domestic, agricultural, industrial, power, municipal, navigational, fish and wildlife, and recreational uses.

(E)”Waters of the state” means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface and underground, natural or artificial, that are situated wholly or partly within, or border upon, this state, or are within its jurisdiction, except those private waters that do not combine or effect a junction with natural surface or underground waters.

(F) “Water resources” means all waters of the state occurring on the surface in natural or artificial channels, lakes, reservoirs, or impoundments, and in subsurface aquifers, that are available or may be made available to agricultural, commercial, recreational, public, and domestic users.

(G)”Project” or “water resource project” means any waste water facility or water management facility acquired, constructed, or operated by or leased to a regional water and sewer district or to be acquired, constructed, or operated by or leased to a regional water and sewer district under this chapter, or acquired or constructed or to be acquired or constructed by a political subdivision with a portion of the cost thereof being paid from a loan or grant from the district under this chapter, including all buildings and facilities that the district considers necessary for the operation of the project, together with all property, rights, easements, and interest that may be required for the operation of the project. Any water resource project shall be determined by the board of trustees of the district to be consistent with any applicable comprehensive plan of water management approved by the director of natural resources or in the process of preparation by the director and to be not inconsistent with the standards set for the waters of the state affected thereby by the environmental protection agency. Any resolution of the board of trustees of the district providing for acquiring, operating, leasing, or constructing such projects or for making a loan or grant for such projects shall include a finding by the board of trustees of the district that those determinations have been made.

(H) “Pollution” means the placing of any noxious or deleterious substances in any waters of the state or affecting the properties of any waters of the state in a manner that renders those waters harmful or inimical to the public health, or to animal or aquatic life, or to the use of the waters for domestic water supply, industrial or agricultural purposes, or recreation.

(I) “Sewage” means any substance that contains any of the waste products or excrementitious or other discharge from the bodies of human beings or animals that pollutes the waters of the state.

(J) “Industrial waste” means any liquid, gaseous, or solid waste substance resulting from any process of industry, manufacture, trade, or business, or from the development, processing, or recovery of any natural resource, together with such sewage as is present, that pollutes the waters of the state.
(K) “Waste water” means any storm water and any water containing sewage or industrial waste or other pollutants or contaminants derived from the prior use of the water.

(L) “Waste water facilities” means facilities for the purpose of treating, neutralizing, disposing of, stabilizing, cooling, segregating, or holding waste water, including, without limiting the generality of the foregoing, facilities for the treatment and disposal of sewage or industrial waste and the residue thereof, facilities for the temporary or permanent impoundment of waste water, both surface and underground, and storm and sanitary sewers and other systems, whether on the surface or underground, designed to transport waste water, together with the equipment and furnishings thereof and their appurtenances and systems, whether on the surface or underground, including force mains and pumping facilities therefor when necessary.

(M) “Water management facilities” means facilities for the purpose of the development, use, and protection of water resources, including, without limiting the generality of the foregoing, facilities for water supply, facilities for stream flow improvement, dams, reservoirs, and other impoundments, water transmission lines, water wells and well fields, pumping stations and works for underground water recharge, stream monitoring systems, facilities for the stabilization of stream and river banks, and facilities for the treatment of streams and rivers, including, without limiting the generality of the foregoing, facilities for the removal of oil, debris, and other solid waste from the waters of the state and stream and river aeration facilities.

(N) “Cost” as applied to water resource projects means the cost of acquisition and construction, the cost of acquisition of all land, rights-of-way, property rights, easements, franchise rights, and interests required by the district for such acquisition and construction, the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved, the cost of acquiring or constructing and equipping a principal office and sub-offices of the district, the cost of diverting highways, interchange of highways, and access roads to private property, including the cost of land or easements therefor, the cost of all machinery, furnishings, and equipment, financing charges, interest prior to and during construction and for no more than eighteen months after completion of acquisition or construction, engineering, expenses of research and development with respect to waste water or water management facilities, legal expenses, plans, specifications, surveys, estimates of cost and revenues, working capital, other expenses necessary or incident to determining the feasibility or practicability of acquiring or constructing any such project, administrative expense, and such other expense as may be necessary or incident to the acquisition or construction of the project, the financing of the acquisition or construction, including the amount authorized in the resolution of the district providing for the issuance of water resource revenue bonds to be paid into any special funds from the proceeds of those bonds and the financing of the placing of any such project in operation. Any obligation or expense incurred by any political subdivision, and approved by the district, for surveys, borings, preparation of plans and specifications, and other engineering services in connection with the acquisition or construction of a project shall be regarded as a part of the cost of the project and may be reimbursed by the district.
(O) “Owner” includes all individuals, partnerships, associations, corporations, or political subdivisions having any title or interest in any property rights, easements, and interests authorized to be acquired by this chapter.

(P) “Revenues” means all rentals and other charges received by a district for the use or services of any project, all special assessments levied by the district pursuant to this chapter, any gift or grant received with respect thereto, and moneys received in repayment of and for interest on any loan made by the district to a political subdivision, whether from the United States or a department, administration, or agency thereof, or otherwise.

(Q) “Public roads” includes all public highways, roads, and streets in the state, whether maintained by the state, county, city, township, or other political subdivision.

(R) “Public utility facilities” includes tracks, pipes, mains, conduits, cables, wires, towers, poles, and other equipment and appliances of any public utility.

(S) “Construction,” unless the context indicates a different meaning or intent, includes reconstruction, enlargement, improvement, or providing furnishings or equipment.

(T) “Water resources bonds,” unless the context indicates a different meaning or intent, includes water resource notes and water resource refunding bonds.

(U) “Regional water and sewer district” means a district organized or operating for one or both of the purposes described in section 6119.01 of the Revised Code and, if organized or operating for only one of those purposes, may be designated either a regional water district or a regional sewer district, as the case may be.

(V) “Homestead exemption” means the reduction of taxes allowed under division (A) of section 323.152 of the Revised Code.

(W) “Low- and moderate-income person” has the same meaning as in section 175.01 of the Revised Code.

6119.02 Procedure for organization.

(A) Proceedings for the organization of a regional water and sewer district shall be initiated only by a petition filed in the office of the clerk of the court of common pleas of one of the counties all or part of which lies within the proposed district. The petition shall be signed by one or more municipal corporations, one or more counties, or one or more townships, or by any combination of them, after having been authorized by the legislative authority of the political subdivision. The legislative authority of any municipal corporation, the board of county commissioners of any county, and the board of trustees of any township may act in behalf of any part of their respective political subdivisions. The petition shall specify all of the following:

(1) The proposed name of the district;
(2) The place in which its principal office is to be located;

(3) The necessity for the proposed district and that it will be conducive to the public health, safety, convenience, or welfare;

(4) A general description of the purpose of the proposed district;

(5) A general description of the territory to be included in the district, which need not be given by metes and bounds or by legal subdivisions, but is sufficient if an accurate description is given of the territory to be organized as a district. The territory need not be contiguous, provided that it is so situated that the public health, safety, convenience, or welfare will be promoted by the organization as a single district of the territory described.

(6) The manner of selection, the number, the term, and the compensation of the members of the governing body of the district, which shall be called a board of trustees. The petition may set forth procedures for subsequent changes in the composition of and other provisions relating to the board of trustees. The original or properly amended petition may prohibit elected officials from serving on the board and may permit one or more elected officials from any appointing authority to serve on the board. However, elected officials from the same political subdivision shall not comprise a majority of the members of the board. Notwithstanding the foregoing, a board appointed prior to the effective date of this amendment may continue as prescribed in the petition and rules and regulations of the district that were in effect prior to the effective date of this amendment, and, if not prohibited in the petition or rules and regulations, the board may include elected officials. As used in this division, “elected official” means an official elected to an office of municipal, township, or county government, or a person appointed to fill a vacancy in such an office.

(7) The plan for financing the cost of the operations of the district until it is in receipt of revenue from its operations or proceeds from the sale of bonds;

(8) A prayer for the organization of the district by the name proposed, either before or after a preliminary hearing as provided in section 6119.04 of the Revised Code.

(B) Prior to filing a petition under division (A) of this section, a municipal corporation, county, or township shall hold a public meeting for the purpose of receiving comments on the proposed establishment of a regional water and sewer district. If a combination of municipal corporations, counties, or townships signed the petition, the signers jointly shall hold the public meeting. At the meeting, a representative of the signer or signers of the petition shall present a preliminary study of the reasons for the proposed establishment of the district.

The signer or signers of the petition shall provide notice of the public meeting by publication once per week for two consecutive weeks in a newspaper of general circulation in each of the counties that will comprise the proposed district in whole or in part or as provided in section 7.16 of the Revised Code.
(C) Upon the filing of the petition, the judge of the court of common pleas of the county in which the petition is filed or, in the case of a county having more than one such judge, a judge of that court assigned by its presiding judge shall determine if the petition complies with the requirements of this section as to form and content. No petition shall be declared void by the judge on account of alleged defects. The court in subsequent proceedings at any time may permit the petition to be amended in form and substance to conform to the facts by correcting any errors in the description of the territory or in any other particular.

6119.03 Common pleas court assigned to district.

Upon the determination of the judge of the court of common pleas that a sufficient petition has been filed in such court in accordance with section 6119.02 of the Revised Code, he shall give notice to the court of common pleas of each county included in whole or in part within the proposed regional water and sewer district. Thereafter the judge of the court of common pleas of each such county or, in the case of any county having more than one such judge, the judge of such court assigned by order of its presiding judge shall sit as the court of common pleas of the county wherein the petition was filed to exercise the jurisdiction conferred on it by Chapter 6119. of the Revised Code. If the judge in any county having only one judge is unable to serve, the chief justice of the supreme court shall assign a judge from another county to serve as a judge for such county during the disability of its judge. Except as provided in Chapter 6119. of the Revised Code, such court shall have for all purposes of such sections original and exclusive jurisdiction coextensive with the boundaries of the district or proposed district and of the lands and property included in, or proposed to be included in, such district without regard to the usual limits of its jurisdiction. The judge of the county wherein the petition was filed, within a reasonable time after his determination of the sufficiency of the petition, shall issue a call to the other judges of the court created in this section, specifying the time and place of its first meeting. At this meeting the court shall elect one of its number presiding judge. Each judge when sitting as a member of the court shall receive such compensation and allowance for expenses as provided by law for a judge serving by assignment outside the county wherein he resides, which shall be paid as other expenses of the organization or operation of the district are paid. If such court is composed of an even number of judges and a majority is unable to agree, the chief justice of the supreme court shall designate a judge of the court of common pleas of some other county to sit and vote as a member of the court until a decision is reached. A majority of the court shall prevail.

6119.04 Hearing on petition for establishment.

(A) The court of common pleas constituted as provided in section 6119.03 of the Revised Code, at its first meeting, shall fix the time and place of a hearing on the petition for the establishment of the proposed regional water and sewer district. The hearing shall be either preliminary or final as the petition may request and shall be held not later than sixty days thereafter. The clerk of the court shall give notice of the hearing by publication once each week for four consecutive weeks in a newspaper having a general circulation in each of the counties, in whole or in part, within the district. The clerk shall send a notice of the hearing by certified mail to the director of environmental protection.
Any person or any political subdivision residing or lying within an area affected by the organization of the district, on or before the date set for the cause to be heard, may file an objection to the granting of the requests made in the prayer of the petition.

(B) Upon a preliminary hearing, if it appears that the proposed district probably is necessary and that it probably will be conducive to the public health, safety, convenience, or welfare, the court, after disposing of all objections as justice and equity require and by its findings, entered of record, shall issue a preliminary order declaring the district to be organized and an independent political subdivision of the state with a corporate name designated in the order for the purpose of all of the following:

(1) The election or appointment of the board of trustees in the manner provided in the petition;

(2) The election, appointment, or employment of officers, employees, accounting experts, engineers, attorneys, financial consultants, architects, other consultants, and independent contractors or other persons that may be necessary to prepare a plan for the operation of the district;

(3) The collection of the funds in the manner provided in the petition to be used and disbursed by the district;

(4) The preparation of a plan for the operation of the district.

The district shall possess powers that may be necessary to carry out those purposes.

The preliminary order shall direct the district to file a plan for the operation of the district within six months from the date of the preliminary order or within the further time or times that the court from time to time may order.

Upon the filing by the district of a plan for the operation of the district, the court shall fix the time and place for a final hearing on the petition for the establishment of the proposed district and the plan for the operation of the district as filed in the proceeding. The hearing shall be held not later than sixty days thereafter, and the clerk of the court of common pleas again shall give notice of the hearing as required in division (A) of this section.

Any person or any political subdivision residing or lying within the area affected by the organization of the district or by the plan for the operation of the district, on or before the date set for the cause to be heard, may file any objections to the final organization of the district or the plan for the operation of the district.

(C) If, prior to granting a final order, the court determines that additional study is needed of the feasibility of establishing the district, the court shall order the signers of the petition to conduct an additional feasibility study. If the court has ordered such a study, the court shall not grant a final order prior to receiving the results of the study. Nothing in division (C) of this section precludes the awarding of a contract for a project or improvement undertaken under this chapter to an entity that conducts a feasibility study pursuant to division (C) of this section.
The court, upon good cause shown at any time before the granting of a final order, may do any or all of the following:

(1) Grant a right to any municipal corporation or county acting in behalf of a sewer district within the county to become a party to the proceeding if the intervening party requests to have some part or all of its territory included within the district;

(2) Grant in part or in toto an intervening petition of a municipal corporation or a county acting in behalf of a sewer district within the county, which is not wholly included within territory described in the petition, to have some part or all of its territory included within the district;

(3) Grant a request filed by any party to the petition or intervening party to modify any request set forth in the petition, including any or all of the following:

(a) A reduction in the territory to be included within the district;

(b) Addition to or deletion of a purpose or purposes of the proposed district as set forth in the petition so long as the purposes that remain are those included within section 6119.01 of the Revised Code;

(c) The manner of selection, the number, the term, and the compensation of the members of the board of trustees.

After the filing of any intervening petition or request to modify, the court shall fix a time and place for a hearing thereof, which shall be held not less than sixty days after the filing thereof. The clerk of the court of common pleas shall give notice of the hearing as required in division (A) of this section.

(D) Upon final hearing, whether or not a preliminary hearing is requested in the petition, if it appears that the proposed district is necessary, that it and the plan for the operation of the district are conducive to the public health, safety, convenience, and welfare, and that the plan for the operation of the district is economical, feasible, fair, and reasonable, the court, after disposing of all objections as justice and equity require and by its findings, entered of record, shall declare the district finally and completely organized and to be, or to be empowered to continue as, a political subdivision. Thereupon the district shall have power to sue and be sued; to incur debts, liabilities, and obligations; to exercise the right of eminent domain and of taxation and assessment as provided in this chapter; to issue bonds; and to perform all acts authorized in this chapter and to execute and carry out the plan for the operation of the district and to amend, modify, change, or alter the plan for its operation as the board of trustees from time to time may determine necessary.

(E) If the court finds that the organization of the district is not necessary or will not be conducive to the public health, safety, convenience, or welfare, or that the plan for the operation of the district is not economical, feasible, fair, or reasonable, or if the district fails to file a plan for the operation of the district within the time prescribed by the court, it shall dismiss the proceedings and adjudge the costs against the petitioners. If a preliminary order has been made organizing the
district, the court shall declare the district dissolved and enter its order for the distribution of any and all assets that may be owned by the district after the payment of its liabilities.

(F) Any municipal corporation, board of county commissioners, or board of township trustees may advance to the district sums of money that the legislative authority of the municipal corporation, the board of county commissioners, or the board of township trustees determines will not be in excess of the benefits that can be anticipated to be derived by the municipal corporation, county, or township from the establishment of the district at times that are requested by the district and authorized by the legislative authority or board and pursuant to an agreement between the district and the municipal corporation, county, or township setting forth whether and when the sums shall be repaid. The sums when paid to the district at any time after the preliminary order of the court shall be used by the district for its purposes in the preparation of a plan for the operation of the district and for other purposes of the district. The district shall keep proper records showing the amount so advanced and disbursed. If the court orders the district dissolved as permitted in this section, the interest any municipal corporation, board of county commissioners, or board of township trustees has in the assets of the district shall be limited to those assets remaining after the payment of all other liabilities of the district.

6119.05 Application for inclusion of territory.

At any time after the creation of a regional water and sewer district, any county, township, or municipal corporation whose territory is not wholly included within such district may file an application with such district setting forth a general description of the territory it desires to have included within such district, the necessity for the inclusion of such territory within the district, that it will be conducive to the public health, safety, convenience, or welfare, and that it will be practical and feasible for such territory to be included within the district. If said application is approved by a majority of the board of trustees of said district, the territory described in said application shall thereupon become part of such district. If such application fails to receive the approval of a majority of the board within sixty days after the filing of said application with said district, the county, township, or municipal corporation filing such application may file a petition in the court of common pleas requesting the order of such court upon the board directing the board to include the territory described in said application within said district. Upon the filing of such petition the court shall set a date for hearing and notify the district by service of process on the secretary of the board of the filing of such petition and of the date set for the hearing. If at such hearing the court finds that it will be conducive to the public health, safety, convenience, or welfare of the district and to the territory described in the petition and that it will be practical and feasible for such territory to be included within such district, the court shall order that such territory be included within the district and the terms for its inclusion therein. If the court finds that it will not be conducive to the public health, safety, convenience, or welfare of the district or to the territory described in the petition, or that it will not be practical or feasible for such territory to be included within such district, it shall dismiss the petition and adjudge the costs against the petitioner.

Such inclusion shall become legally effective unless, prior to the ninetieth day following the approval of the board or the order of the court for inclusion, qualified electors residing in the area proposed to be included in such district equal in number to a majority of the qualified electors
voting at the last general election in such area file with the secretary of the board of trustees of the district in which inclusion is proposed a petition of remonstrance against such inclusion. The secretary shall cause the board of elections of the proper county or counties to check the sufficiency of the signatures on such petition.

6119.07 Board of trustees vested with power to run district.

All the capacity of a regional water and sewer district shall be vested in and its authority shall be exercised by a board of trustees which shall manage and conduct the affairs of the district.

The board shall by its rules and resolutions provide the procedure for its actions, the manner of selection of its president and secretary and other officers of the district, their titles, terms of office, compensation, duties, number, and qualifications, and any other lawful subject necessary to the operation of the district and the exercise of the powers granted.

6119.20 Division of district into sewer districts for securing efficient sewerage.

The plan devised in accordance with section 6119.19 of the Revised Code shall be formed with a view to the division of the regional water and sewer district into as many sewer districts as are necessary for securing efficient sewerage. Each of the districts shall be designated by name or number and shall consist of one or more main sewers with the necessary branch or connecting sewers, the main sewers having their outlets in a proper place. The districts shall be so arranged as to be independent of each other so far as practicable.

6119.21 Plan to show main sewers and all branch sewers.

The plan devised in accordance with section 6119.19 of the Revised Code shall be so prepared as to show the size, location, inclination, and depth below the surface of all main sewers and all branch sewers connected therewith.

6119.22 Notice of and examination of plan.

When a plan of sewerage devised in accordance with section 6119.19 of the Revised Code has been prepared, the board of trustees of the regional water and sewer district shall give at least ten days’ notice in one newspaper of general circulation in such area or give notice as provided in section 7.16 of the Revised Code, stating that such plans have been prepared and are filed in the office of the secretary of the board for examination and inspection by the parties interested.

Any objection to such plan shall then be made to the board and it may amend or correct such plan, and shall thereupon file it as amended, or if no amendments are made, it shall file the original plan in the office of the secretary.

6119.23 Plan amendment.

Before or after the construction of all or a part of the sewers provided for by a plan of sewerage devised in accordance with section 6119.19 of the Revised Code, the board of trustees of the
regional water and sewer district may amend such plan by providing for such intercepting sewers, without regard to sewer districts, as are necessary to furnish an additional outlet for the system so adopted, and to provide for the construction thereof as provided in sections 6119.01 to 6119.42, inclusive, of the Revised Code, and apportion the cost and expense thereof equitably among the districts directly or indirectly sewered, in whole or in part thereby, or assess and collect the amount apportioned to each district, or the board may apportion a part only of such cost and expense among the districts directly or indirectly sewered, in whole or in part thereby, and provide for the payment of the residue thereof by the district. The board may also amend such plan by making new sewer districts, by subdividing districts already established, giving a name and number thereto, or provide for the construction of the main and branch sewers therein, and may assess the cost and expense thereof upon the lots and lands within the area or district according to benefits.

6119.24 Designate portions of work required for immediate use.

After the plan of sewerage devised in accordance with section 6119.19 of the Revised Code has been adopted and approved, the board of trustees of the regional water and sewer district shall designate such portions of the work as are required for immediate use. The designation shall be by districts or areas and shall show what districts, areas, or parts thereof are to be improved. The board may order its officers to make an estimate of the cost and expense of constructing the work or such portions thereof as have been designated and report them to the board.

6119.25 Publication of resolution of necessity.

When the board of trustees of a regional water and sewer district deems it necessary to construct all or a part of the sewers provided for in the plan devised in accordance with section 6119.19 of the Revised Code, the board shall declare by resolution the necessity thereof. Such resolution shall contain a declaration of the necessity of such improvement, a statement of the districts, areas, or parts thereof proposed to be constructed, the character of the materials to be used, a reference to the plans and specifications, where they are on file, and the mode of payment therefor, and shall publish the resolution once a week for not less than two nor more than four consecutive weeks in one newspaper of general circulation in the area or as provided in section 7.16 of the Revised Code.

6119.27 Assessment and collection of assessment.

If it deems it expedient, the board of trustees of the regional water and sewer district may assess the real estate as provided in the resolution to improve and collect such assessments, or may issue bonds in anticipation of the collection of such assessments before the work is done or contracted for. The board may delay such assessment until the work is completed and upon the filing of a certificate showing the completion of the work assess the real estate as provided in the resolution to improve. Any person so assessed may pay his proportion of the assessment in cash within thirty days from the date of the levy thereof upon due notice being given. If any such assessment is twenty-five dollars or less or if any unpaid balance of an assessment is twenty-five dollars or less, it shall be paid in full and not in installments at the time the first or next installment would otherwise become payable.
6119.30 **Anticipation bonds and notes.**

The issuance of bonds and notes in anticipation of the collection of special assessments shall be accomplished as provided in Chapter 6119. of the Revised Code.

6119.42 **Levy and collection of special assessments.**

Any regional water and sewer district may levy and collect special assessments as provided in Chapter 6119. of the Revised Code. The board of trustees of such district may assess upon abutting, adjacent, contiguous, or other specially benefited lots or lands in the district all or any part of the cost connected with the improvement of any street, alley, or public road or place, or a property or easement of the district by constructing any water resource project or part thereof which the board declares conducive to the public health, safety, convenience, or welfare by any one or more of the following methods:

(A) By a percentage of the tax value of the property assessed;

(B) In proportion to the benefits which result from the project;

(C) By the foot front of the property bounding and abutting upon the project.

The proceedings looking to such assessment may include more than one street, alley, or public road or place, or parcel of property or easement of the district.

6119.43 **Purposes of special assessments.**

The cost of constructing a water resource project to be paid for directly or indirectly, in whole or in part, by funds derived from special assessments may include but need not be limited to:

(A) The purchase price of real estate or any interest therein when acquired by purchase, or when acquired by appropriation;

(B) The cost of preliminary and other surveys;

(C) The cost of preparing plans, specifications, profiles, and estimates;

(D) The cost of printing, serving, and publishing notices and any legislation required;

(E) The cost of all special proceedings;

(F) The cost of labor and material, whether furnished by contract or otherwise;

(G) Interest on bonds or notes issued in anticipation of the levy and collection of the special assessments;
(H) The total amount of damages resulting from the project which are assessed in favor of any owner of lands affected by the project, and interest thereon;

(I) The cost incurred in connection with the preparation, levy, and collection of the special assessments, including legal expenses incurred by reason of the project;

(J) Incidental costs connected with the project.

6119.44 Description of property to be assessed.

In all proceedings in which lots or lands are to be charged with special assessments to provide funds for the construction of a water resource project, such lots and lands bounding and abutting upon the project may be described as all the lots and lands bounding and abutting upon such project between and including the termini of the project and those lots and lands which do not so bound and abut may be described by their appropriate lot numbers or by metes and bounds.

6119.45 Payment of assessments by annual installments.

Special assessments for the construction of a water resource project under Chapter 6119. of the Revised Code shall be payable in such number of annual installments, not less than one, and at such times as the board of trustees prescribes.

6119.46 Filing of resolution of necessity for special assessments.

When it is considered necessary to construct a water resource project to be paid for in whole or in part by special assessments levied under Chapter 6119. of the Revised Code, plans, specifications, and profiles of the proposed project showing the anticipated grade of the project after completion with reference to any property abutting thereon, and an estimate of the cost of the project shall be prepared and filed in the office of the secretary of the board of trustees of the regional water and sewer district and shall be open to the inspection of all persons with interests therein. After such plans, specifications, profiles, and estimate of cost of the project have been filed in the office of the secretary, the board may declare the necessity of constructing such project by the passage of a resolution.

Such resolution shall:

(A) State the nature and location of the project and the lots or parcels of land to be assessed for the project;

(B) Approve the plans, specifications, profiles, and estimate of cost of the proposed project on file as provided in this section;

(C) State that the entire cost of the project is to be specially assessed or state what part of the cost is to be paid for by the district and what part is to be specially assessed;
(D) State the method or methods of levying the special assessments in accordance with section 6119.42 of the Revised Code;

(E) State the mode of payment and the number of annual installments of the special assessments to be levied;

(F) State whether or not bonds shall be issued in anticipation of the collection of the special assessments;

(G) Provide for the preparation of a list of estimated assessments in accordance with the method or methods of assessment set forth in the resolution, showing the amount of the assessment against each lot or parcel of land to be assessed. Such list of estimated assessments shall be filed in the office of the secretary of the board of trustees.

6119.47 Notice of estimates of special assessments.

Notice of the passage of a resolution of necessity and the filing of the estimated assessments under section 6119.46 of the Revised Code shall, after the estimated assessments have been prepared and filed as provided by such section, be served by the secretary of the board of trustees of the regional water and sewer district, or a person designated by such secretary, upon the owners of the lots or parcels of land to be assessed for the proposed project, in the same manner as service of summons in civil cases, or by certified mail addressed to such owners at their last known addresses or to the addresses to which tax bills are sent, or by a combination of the foregoing methods. If it appears by the return of service or the return of the certified mail notice that one or more of the owners cannot be found, such owners shall be served by publication of the notice once in at least one newspaper having a general circulation within the district. The notice shall also set forth the place where such estimated assessments are on file and are open for public inspection. The return of the person serving the notice or a certified copy thereof or a returned receipt for notice forwarded by certified mail accepted by the addressee or anyone purporting to act for him shall be prima-facie evidence of the service of notice under this section.

6119.48 Objection to special assessments.

The owner of any lot or parcel of land who objects to the assessment against such lot or parcel as set forth in the estimated assessments filed under section 6119.46 of the Revised Code shall file such objection, in writing, with the secretary of the board of trustees of the regional water and sewer district within twenty-eight days from the date of completion of the notice required under section 6119.47 of the Revised Code. Such objection shall include the address for mailing of the notice provided in section 6119.49 of the Revised Code. An owner who fails so to file such an objection shall be deemed to have waived any objection to his assessment.

6119.49 Assessment equalization board appointment and duties.

In the event that the owner of any lot or parcel of land to be assessed objects to the estimated assessments as provided in section 6119.48 of the Revised Code, the board of trustees of the regional water and sewer district shall appoint an assessment equalization board consisting of
three disinterested persons residing in the district, and shall fix the time and place for the hearing by such board of such objections, and the secretary of the board of trustees shall notify, by certified mail, the persons so objecting of the time and place of such hearing. Such notice shall be mailed at least five days before the date of such hearing. In the event that all lands within the district are to be subject to assessment, the assessment equalization board shall consist of three disinterested persons residing outside the district.

On the day appointed by the board of trustees for that purpose, the assessment equalization board shall meet and take an oath before a proper officer to honestly and impartially discharge its duties. It shall at such meeting, or at any adjournment thereof, hear and determine all objections to the estimated assessments which have been filed under section 6119.48 of the Revised Code, and shall equalize such estimated assessments as it thinks proper to conform to the standard or standards prescribed in the resolution adopted under section 6119.46 of the Revised Code.

If the assessment equalization board determines to increase the estimated assessment against any lot or parcel of land or to assess any lot or parcel of land not included in the estimated assessments, the assessment equalization board shall notify the owner of such lot or parcel by certified mail of such fact and set a time and place for a hearing on such increase or assessment. Such notice shall be mailed at least ten days before the date of such hearing.

After the completion of all hearings provided for in this section, the assessment equalization board shall report to the board of trustees its recommendations, including any changes which should be made in the estimated assessments.

The board of trustees may approve or disapprove the report, including any changes recommended by the assessment equalization board in the estimated assessments.

In the event the board of trustees disapproves the report of the assessment equalization board, it shall appoint a new equalization board and shall fix the time and place for the hearing by such new board of objections to the estimated assessments. Such new board shall have the same powers and duties and shall proceed in the same manner as the original board.

6119.50 Claims for damages.

An owner of a lot or parcel of land claiming that he will sustain damages by reason of a proposed project, to be paid for in whole or in part by special assessments, shall, within twenty-eight days from the date of completion of the notice required under section 6119.47 of the Revised Code, file a claim in writing with the secretary of the board of trustees of the regional water and sewer district, setting forth the amount of the damages claimed and a general description of the property with respect to which it is claimed that such damages will accrue. An owner who fails to file such claim shall be deemed to have waived damages and shall be barred from filing a claim or receiving damages. This section applies to all damages which will obviously result from the project, but shall not deprive the owner of his right to recover damages arising, without his fault, from the acts of the district or its agents. If, subsequent to the filing of such claim, the owner sells the property, or any part thereof, the assignee has the same right to damages which the owner would have had without the transfer.
When claims for damages are filed under this section and the board determines in the resolution adopted under section 6119.51 of the Revised Code that the damages shall be assessed before commencing such project, the board shall, within ten days after the passage of the resolution to proceed with the project under such section, make a written application to the court of common pleas for a jury. If the board determines that the damages shall be assessed after the completion of the project, the board shall make such written application within ten days after the completion of such project. The court shall direct the summoning of a jury in the manner provided by section 163.10 of the Revised Code, and shall fix the time and place for the inquiry and the assessment of such damages, which inquiry and assessment shall be confined to such claims.

The jury summoned under this section shall be sworn to inquire into and assess the actual damages in each case separately, under such rules and instructions as are given it by the court. When the jury cannot agree, it may be discharged, but the court may receive its verdict as to one or more of the claimants and discharge it with respect to the parties concerning whose claims it cannot agree. In case of the discharge of the jury because of such disagreement, a new jury shall be summoned and the same proceedings shall be had with respect to the claims concerning which there was no verdict.

If the jury summoned under this section finds no damages, the costs of the inquiry shall be taxed against the claimant or claimants and collected on execution. In other cases, the costs shall be paid by the district.

This section does not apply to an application for an injunction or other proceeding to which it may be necessary for such applicant to resort in case of urgent necessity.

6119.51 Resolution of intent to proceed with special assessment improvement.

The board of trustees of a regional water and sewer district which has adopted a resolution under section 6119.46 of the Revised Code declaring the necessity of constructing a water resource project shall, after the expiration of the time for filing claims for damages under section 6119.50 of the Revised Code, and, in the event that objections to the estimated assessments have been filed under section 6119.48 of the Revised Code, and the report of the assessment equalization board has been approved under section 6119.49 of the Revised Code, determine whether or not it will proceed with the proposed project.

In the event that the board determines to proceed with the construction of a project it shall pass a resolution which shall:

(A) State the intention of the board to proceed with the project in accordance with the resolution of necessity adopted under section 6119.46 of the Revised Code.

(B) Adopt the estimated assessments prepared and filed in accordance with the resolution of necessity passed under section 6119.46 of the Revised Code, or, in the event objections to such estimated assessments have been filed under section 6119.48 of the Revised Code, adopt the estimated assessments approved by the board under section 6119.49 of the Revised Code.
(C) State whether or not claims for damages filed in accordance with section 6119.50 of the Revised Code shall be judicially inquired into before commencing or after completing the proposed project.

6119.52 Revision and finalization of assessments.

A water resource project authorized under section 6119.51 of the Revised Code shall be constructed in accordance with section 6119.10 of the Revised Code and, after the actual cost of such project has been ascertained, the board of trustees of the regional water and sewer district shall by resolution assess, in the manner provided in the resolution of necessity adopted under section 6119.46 of the Revised Code, upon the lots and lands enumerated in the estimated assessments adopted under section 6119.51 of the Revised Code, the total cost of the project or such lesser portion thereof as is to be specially assessed and such assessment as to each lot or parcel of land shall be increased or decreased in the same proportion to the estimated assessment on each such lot or parcel of land as the actual cost of the project bears to the estimated cost of the project upon which the estimated assessment was based. All such assessments shall be payable as provided in the resolution of necessity adopted under section 6119.46 of the Revised Code, and shall be final upon the adoption of the resolution provided for in this section.

Assessments made under this section shall be filed with the secretary of the board of trustees of the regional water and sewer district and shall be open to public inspection.

Upon the passage of such resolution levying special assessments, the board shall publish notice of the passage of such resolution once in at least one newspaper having a general circulation in the district, stating that such assessment has been made and is on file in the office of the secretary for the inspection and examination of persons interested therein.

Such special assessments are payable by the time and in the manner stipulated in such resolution, except that any such assessment in the amount of twenty-five dollars or less, or any unpaid balance or any such assessment which is twenty-five dollars or less, shall be paid in full, and not in installments, at the time the first or next installment would otherwise become due and payable, and are a lien from the date of the passage of such resolution upon the respective lots or parcels of land assessed.

6119.53 Penalty and interest.

When special assessments levied but uncollected by a district pursuant to Chapter 6119. of the Revised Code are pledged to the repayment of water resource revenue bonds or notes issued by the district, the interest accrued or to accrue before the first installment of such assessments shall be collected on such bonds or notes and shall be treated as part of the cost of the project for which such assessments are made. The assessments levied and collected or to be collected in installments which are pledged to the repayment of water resource revenue bonds and notes shall bear interest at the same rate and for the same period as such bonds or notes. When the contribution of a regional water and sewer district, under an agreement between the district and the Ohio water development authority provided for in section 6121.13 of the Revised Code for the construction of a project for which the district can levy assessments as provided in Chapter 6119. of the Revised Code is to be made over a period of time from the proceeds of the
collection or assessments, the interest accrued and to accrue before the first installment of such assessment shall be collected that is payable by such district on such contribution under such agreement shall be treated as part of the cost of the project for which such assessments are made, and that portion of such assessments as is collected in installments shall bear interest at the same rate that the district is obligated to pay on its contribution under such agreement and for the same period of time as the contribution is to be made under such agreement. If the assessments or any installment thereof are not paid when due, they shall bear interest until the payment thereof at the same rate as such contribution or as the bonds or notes issued in anticipation thereof, and the county auditor shall annually place upon the tax list and duplicate the penalty and interest as provided in Chapter 6119. of the Revised Code.

6119.54 Collection of special assessments.

When any special assessment is levied under sections 6119.52 and 6119.58 of the Revised Code, and water resource revenue bonds or notes of the regional water and sewer district are issued pledging the same, the secretary of the board of trustees of the district shall on or before the second Monday in September of each year, certify such assessment to the county auditor, stating the amounts and the time of payment. The auditor shall place the assessment upon the tax list and duplicate in accordance therewith. The county treasurer shall collect the assessment in the same manner and at the time as other taxes are collected, and shall pay the amounts collected, together with interest and penalty, to the secretary, to be applied by him to the payment of such bonds or notes and interest thereon, and for no other purpose.

For the purpose of enforcing such collection, the county treasurer shall have the same power and authority as allowed by law for the collection of state and county taxes. Each installment of such assessments remaining unpaid after becoming due and collectible shall be delinquent and bear the same penalty and interest as delinquent taxes. The authorized legal representative of any such district may act as attorney for the county treasurer in actions brought for the enforcement of the lien of such delinquent assessments.

When a special assessment is made on real estate subject to a life estate, the assessment shall be payable by the tenant for life, but upon application by the life tenant to a court of competent jurisdiction, by action against the owner of the estate in fee, such court may apportion the cost of the assessment between the life tenant and the owner in fee in proportion to the relative value of the improvement to their estates, respectively, to be ascertained and determined by the court on principles of equity.

In placing any assessment on the tax list and duplicate the county auditor shall add to each assessment such per cent as he deems necessary to defray the expense of collecting it.

6119.55 Proceedings for recovery of assessment.

If the payment of a special assessment which has not been certified to the county auditor for collection is not made by the time stipulated in the resolution providing therefor, the amount assessed, with interest, and a forfeiture of ten per cent thereon, may be recovered by suit before a
court of competent jurisdiction, in the name of the regional water and sewer district, to enforce the lien against the lots and lands charged with such assessment.

Proceedings for the recovery of the assessment may be instituted by the district to enforce the lien against all the lots or lands, or any of them embraced in any one assessment, but the judgment or decree shall be rendered severally or separately for the amount assessed. Any proceeding may be severed, in the discretion of the court, for the purpose of trial, review, or appeal when an appeal is allowed.

In proceedings to enforce the lien, when the owner of any lot or land assessed is a nonresident of this state, or is unknown, notice shall be given by publication in the manner prescribed by law in similar cases.

If, in any action for the recovery of a special assessment, it appears that by reason of any technical irregularity or defect, whether in the proceedings of the board of trustees or of any officer of the district, or in the plans or estimates, or otherwise, the assessment has not been properly made upon any lot or parcel of land sought to be charged, the court may nevertheless, on satisfactory proof that expense has been incurred which is a proper charge against such lot or parcel of land in question, render judgment for the amount properly charged against it. The court shall make such order for the payment of the costs as is equitable and proper.

The board of trustees may order the secretary of such board, or any other proper officer of the district, to certify any unpaid assessment levied under sections 6119.52 and 6119.58 of the Revised Code to the county auditor, and the amount so certified shall be placed upon the tax list and duplicate by the auditor, and shall, with a ten per cent penalty to cover interest and cost of collection, be collected with and in the same manner as state and county taxes and credited to the district. Such ten per cent penalty shall in no case be added unless at least thirty days have intervened between the date of the passage of the resolution making the levy and the time of certifying it to the auditor for collection.

**6119.56 Lien of assessment or any installment.**

The lien of an assessment or any installment thereof shall continue for two years from date of passage of the resolution under section 6119.52 or 6119.58 of the Revised Code, and no longer, unless the regional water and sewer district, before the expiration of such time, causes it to be certified to the county auditor for entry upon the tax list and duplicate, for collection, or causes the proper action to be commenced in a court having jurisdiction thereof, to enforce the lien against such lots or lands, in which case the lien shall continue in force so long as the assessment or any installment thereof remains on the tax list uncollected, or so long as the action is pending, and any judgment obtained under and by virtue thereof remains in force and unsatisfied.

If an action for the recovery of an assessment is commenced within due time, and a judgment therein for the plaintiff is reversed, or if the plaintiff fails in such action otherwise than upon the merits and the time limited for the action has expired, a new action may be commenced within one year after such reversal or failure.
A court of common pleas shall have the jurisdiction authorized by Chapter 6119. of the Revised Code for the collection of any charge or debt or the enforcement of any lien, notwithstanding the amount involved is less than that to which the jurisdiction is limited in other cases. Such court may make such special rules concerning the class of cases authorized to be brought under such chapter as will tend to expedite the disposition and prevent unnecessary costs.

6119.57 Additional assessment to supply deficiencies.

If an assessment proves insufficient to pay the cost of a water resource project, the board of trustees of a regional water and sewer district may levy an additional assessment to supply the deficiency. Such additional assessment shall be levied against the same properties as were assessed for the cost of the project and shall be assessed among such properties in the same proportion as the assessment for the cost of the project was levied. In case a larger amount from an assessment than is necessary to pay the cost of the project or to retire the bonds or notes issued in anticipation thereof, the amount of such assessments collected in excess of that necessary to pay such cost or retire such bonds or notes shall be returned to the persons from whom it was collected in proportion to the amounts collected from each such person respectively.

When it appears to the board that a special assessment is invalid by reason of informality or irregularity in the proceedings, or when an assessment is adjudged to be illegal by a court of competent jurisdiction, the board may order a reassessment whether the project has been made or not.

Proceedings upon a reassessment, and for the collection thereof, shall be conducted in the same manner as is provided for the original assessment.

Proceedings with respect to projects to be paid for in whole or in part by special assessments shall be liberally construed by the board and by the courts in order to secure a speedy completion of the work at reasonable cost, and the speedy collection of the assessment after the time has elapsed for its payment. Merely formal objections shall be disregarded, but the proceedings shall be strictly construed in favor of the owner of the property assessed or injured as to any limitation on assessment of private property and compensation for damages sustained.

With respect to any assessment upon the abutting, adjacent, and contiguous, or other specially benefited lots or lands in a regional water and sewer district for any part of the cost connected with a project, the passage by the board of a resolution levying such assessment shall be construed a declaration by such board that the project for which it is levied is conducive to the public health, convenience, and welfare. No assessment shall be held invalid by any court because of the omission of the board to declare expressly in the proceedings and legislation for such project and assessment that the project is conducive to the public health, safety, convenience, or welfare.
6119.58 Assessments for preparation of plans, specifications, estimates of cost, tentative assessments, and plan of financing.

In order to obtain funds for the preparation of plans, specifications, estimates of cost, tentative assessments, and a plan of financing for any water resource project or part thereof, the board of trustees of a regional water and sewer district may levy upon the property in such district to be benefited by such project assessments apportioned in accordance with one or more of the methods set forth in section 6119.42 of the Revised Code. The aggregate of such assessments shall not exceed the amount determined by the board of trustees to be necessary for such purpose, including costs of financing, legal services, and other incidental costs, and shall be payable in such number of annual installments, not less than one, as the board of trustees prescribes, together with interest on any water resource revenue notes and bonds which may be issued in anticipation of the collection of such assessments.

If the board of trustees proposes to obtain funds in accordance with this section, it shall determine by resolution that it is necessary to construct the water resource project and to maintain and operate the same on behalf of the district.

Prior to the adoption of the resolution making such determination, the board of trustees shall give notice of the pendency thereof and of the proposed determination of the necessity of the construction of such project therein generally described, and such notice shall set forth a description of the properties to be benefited by such project and the time and place of a hearing of objections to, and endorsements of, such project. Such notice shall be given by publication in one newspaper of general circulation in the district once a week for two consecutive weeks or as provided in section 7.16 of the Revised Code, the first publication to be at least two weeks prior to the date set for the hearing, provided that the board of trustees may give, or cause to be given, such alternative or further notice of such hearing as it finds to be necessary or appropriate. At such hearing, or at any adjournment thereof, of which no further notice need be given, the board of trustees shall hear all owners whose properties are proposed to be assessed and such other evidence as is considered to be necessary, and may then adopt its resolution determining that the proposed project is necessary and should be undertaken by the district. In such resolution, the board of trustees shall direct the preparation of the estimated assessments upon the benefited properties and by whom they shall be prepared.

After such assessments have been prepared and filed in the office of the secretary of the board of trustees and prior to the adoption of the resolution levying such assessments, the board of trustees shall give notice of the pendency of such resolution and of the proposed determination to levy such assessments, and such notice shall set forth the time and place of a hearing of objections to such assessments. Such notice shall be given by publication once in one newspaper of general circulation in the district, such publication to be made at least ten days prior to the date set for the hearing, provided that the board of trustees may give or cause to be given, such alternative of further notice of such hearing as it finds to be necessary or appropriate. At such hearing, or at any adjournment thereof, of which no further notice need be given, the board of trustees shall hear all persons whose properties are proposed to be assessed, shall correct any errors and make any revisions in the estimated assessments that appear to be necessary or just,
and may then adopt a resolution levying upon the properties determined to be benefited the assessments as originally prepared or as so corrected and revised.

The board of trustees shall have the power at any time to levy additional assessments upon such properties to complete the payment of the costs for which the original assessments were levied or to provide funds for any additional plans, specifications, estimates of cost, tentative assessments, and other incidental costs, provided that the board shall first have held a hearing on objections to such additional assessments in the same manner as required by this section with respect to such original assessments. Such additional assessments shall be payable in such number of annual installments, not less than one, as the board of trustees prescribes, together with interest on any water resource revenue notes and bonds which may be issued in anticipation of the collection of such assessments.

The board of trustees may authorize contracts to carry out the purposes for which such assessments have been levied without the prior issuance of water resource revenue notes and bonds, provided that the payments to be made by the district do not fall due prior to the times when such assessments shall be collected.

COUNTY DITCHES

6131.01 Single county ditch definitions.

As used in sections 6131.01 to 6131.64 of the Revised Code:

(A) “Owner” means any owner of any right, title, estate, or interest in or to any real property and includes persons, partnerships, associations, private corporations, public corporations, boards of township trustees, boards of education of school districts, the mayor or legislative authority of a municipal corporation, the director of any department, office, or institution of the state, and the trustees of any state, county, or municipal public institution. “Owner” also includes any public corporation and the director of any department, office, or institution of the state affected by an improvement but not owning any right, title, estate, or interest in or to any real property.

(B) “Land” includes any estate or interest, of any nature or kind, in or to real property, or any easement in or to real property, or any right to the use of real property, and all structures or fixtures attached to real property, including but not restricted to all railroads, roads, electric railroads, street railroads, streets and street improvements, telephone, telegraph, and transmission lines, underground cables, gas, sewage, and water systems, pipe lines and rights of way of public service corporations, and all other real property whether public or private.

(C) “Improvement” includes:

1. The location, construction, reconstruction, reconditioning, widening, deepening, straightening, altering, boxing, tiling, filling, walling, arching, or any change in the course, location, or terminus of any ditch, drain, watercourse, or floodway;
(2) The deepening, widening, or straightening or any other change in the course, location, or terminus of a river, creek, or run;

(3) A levee or any wall, embankment, jetty, dike, dam, sluice, revetment, reservoir, holding basin, control gate, breakwater, or other structure for the protection of lands from the overflow from any stream, lake, or pond, or for the protection of any outlet, or for the storage or control of water;

(4) The removal of obstructions such as silt bars, log jams, debris, and drift from any ditch, drain, watercourse, floodway, river, creek, or run;

(5) The vacating of a ditch or drain.

(D) “Person” means natural person, firm, partnership, association, or corporation, other than public corporations.

(E) “Public corporation” or “political subdivision” means counties, townships, municipal corporations, school districts, park districts, turnpikes, toll bridges, conservancy districts, and all other governmental agencies clothed with the power of levying general or special taxes.

(F) “Benefit” or “benefits,” except as ordered in section 6131.31 of the Revised Code, means advantages to land and owners, to public corporations as entities, and to the state resulting from drainage, conservation, control and management of water, and environmental, wildlife, and recreational improvements. Factors relevant to whether such advantages result include:

(1) The watershed or entire land area drained or affected by the improvement;

(2) The total volume of water draining into or through the improvement and the amount of water contributed by each land owner;

(3) The use to be made of the improvement by any owner, public corporation, or the state.

“Benefit” or “benefits” includes any or all of the following factors:

Elimination or reduction of damage from flood;

Removal of water conditions that jeopardize public health, safety, or welfare;

Increased value of land resulting from the improvement;

Use of water for irrigation, storage, regulation of stream flow, soil conservation, water supply, or any other purpose incidental thereto;

Providing an outlet for the accelerated runoff from artificial drainage whenever the stream, watercourse, channel, or ditch under improvement is called upon to discharge functions for which it was not designed by nature; it being the legislative intent that uplands that have been
removed from their natural state by deforestation, cultivation, artificial drainage, urban
development, or other manmade causes shall be considered as benefited by an improvement
required to dispose of the accelerated flow of water from the uplands.

(G) “Environmentally significant areas” mean natural land or water areas that in some degree
retain or have reestablished their natural character or have other features of scientific or
educational interest such as rare or endangered plant and animal populations or geologic, scenic,
or other natural features and, because of their values and functions, contribute to the
community’s general welfare.

6131.04 Petition for construction of ditch improvement.

Any owner may file a petition with the clerk of the board of county commissioners of the county
in which is located a part of the land that is averred to be benefited by the construction of a
proposed improvement. The petition shall state that the construction of the improvement is
necessary, will benefit the petitioner, and will be conducive to the public welfare; shall state the
nature of the work petitioned for; and may ask to locate, clean, remove obstructions from,
construct, reconstruct, straighten, deepen, widen, alter, box, tile, fill, wall, or arch any ditch,
drain, watercourse, floodway, creek, run, or river or to change the course, location, or terminus
thereof, or may ask to construct a levee, wall, embankment, jetty, dike, dam, sluice, revetment,
reservoir, holding basin, control gate, breakwater, or other structure for control of water. The
petition shall state the course and termini of the proposed improvement and the branches, spurs,
or laterals, if any are petitioned for. Except as ordered under section 6131.31 of the Revised
Code, the petition shall state that all costs of engineering, construction, and future maintenance
will be assessed to the benefiting parcels of land. The petition shall contain a list of the names
and addresses, where known, of all the owners of the land that the petitioner or the county
engineer claims will be benefited or damaged by the construction of the proposed improvement.
The petition shall be signed by one or more owners as petitioners. If the petitioner is a public
corporation or the state, the petition shall be signed by its authorized representative. If the
petitioner is the county, the petition shall be filed with the clerk of the court of common pleas,
the matters in the petition shall be heard by the common pleas court as if the petition had come to
the court on appeal, and the clerk and the court shall do all things that sections 6131.01 to
6131.64 of the Revised Code provide that the county commissioners shall do. The court of
common pleas may appoint a board of arbitrators to assume the duties of the judge. The board
shall be comprised of three disinterested persons chosen by the judge, who shall designate one of
the persons to be chairman. A decision of the board shall require approval of a majority of the
members. Either party may appeal the board’s decision to the court of common pleas, which
shall decide the case on the record of arbitration.

6131.07 Notice and hearing on petition.

When the petition authorized by section 6131.04 of the Revised Code is filed with the clerk of
the board of county commissioners, the clerk shall give notice to the board of county
commissioners and to the county engineer. The board shall, by an order upon its journal, fix a
date and hour for the view of the proposed improvement, which shall be not fewer than twenty-
five nor more than ninety days after the date on which the petition was filed with the clerk. The
board shall designate a convenient place near the proposed improvement at which the view shall
start. The board shall also fix a date and hour, not fewer than ten nor more than ninety days after
the date set for the view, when it will hold its first hearing at a place designated by it. As soon as
the dates for the view and first hearing have been fixed by the board, the clerk shall prepare and
mail, at least twenty days prior to the date set for view, a written notice to the owners named in
the petition and of legal record on the date of its filing, setting forth the pendency, substance, and
prayer of the petition, that all costs of engineering, construction, and future maintenance will be
assessed to the benefiting parcels of land, and the date, hour, and starting place of the view and
the date, hour, and location of the first hearing. For each proposed improvement, all individual
notices shall be sent by the same type of mail, either certified mail, return receipt requested, or
first-class mail in a five-day return envelope. Whichever method the board chooses, the words
“Legal Notice” shall be printed in plain view on the face of the envelope. When the owner is not
a natural person, the notice shall be mailed to its chief officer or managing agent at the usual
place of business in the county. If such an owner is a foreign or domestic railroad company,
regardless of whether the charter thereof prescribes the manner or place of service of process
thereon, the notice shall be addressed to the property owner of record as listed by the county
auditor on the general tax list. If such an owner other than a railroad company does not maintain
a regular place of business in the county, then the notice shall be mailed to the nearest regular
place of business of such an owner. The clerk shall cause to be published a legal notice in at least
one newspaper of general circulation in the area affected by the proposed improvement, stating
the name and number, if any, of the proposed improvement, the location and nature of the work
proposed in the petition, and the date, time, and location of the view and first hearing. If the
individual notices are sent by certified mail, the publication shall be in one issue of such
newspaper, and shall not be less than thirteen days prior to the date of the view. If the individual
notices are sent by first-class mail in five-day return envelopes, the publication of this newspaper
notice shall be made in two issues of the newspaper, and the notice shall include a list of the
names of all addressees whose individual notices were undelivered. The first such publication
shall not be less than thirteen days prior to the date of the view, and the second publication shall
not be less than six days prior to the date of the view. The publication shall serve as public notice
to all owners of the pendency of the improvement whether or not they were individually named
and notified.

Proof of notice by publication shall be verified by affidavit of the printer or other person
knowing the fact, and the clerk of the board of county commissioners shall prepare a certificate
showing the service of the notices by mail, both of which shall be filed with the clerk of the
board of county commissioners on or before the day of the first hearing. Notices returned
undelivered and receipts shall be kept on file by the clerk as part of the permanent record of the
improvement.

6131.09 Preliminary report by county engineer.

When notified of the filing of a petition authorized by section 6131.04 of the Revised Code, the
county engineer shall prepare a preliminary estimate of the cost of the proposed improvement.
The engineer shall file at the first hearing, as a guide to the commissioners and the petitioners, a
preliminary report including his preliminary estimate of cost, his comment on feasibility of the
project, and a statement of his opinion as to whether benefits from the project are likely to
exceed the estimated cost. The preliminary report shall list all factors apparent to the engineer, both favorable and unfavorable to the proposed improvement, so that the petitioners may be informed as to what is involved. In addition to reporting on the improvement as petitioned, the engineer may submit alternate proposals to accomplish the prayer of the petition. The county commissioners may require the county engineer to file any additional preliminary reports, of whatever nature, that in the opinion of the board will serve as a guide to the board and the petitioners in deciding whether to proceed with the proposed improvement. The costs incurred by the engineer in making preliminary reports may be paid from the bond of the petitioners if the petition is dismissed at the first hearing, and any amount in excess of the bond shall be paid from county funds. If the engineer’s costs are not paid from the petitioners’ bond, they shall be paid from county funds.

6131.12 Grant of petition.

If the board of county commissioners finds that a proposed improvement is necessary and that it will be conducive to the public welfare, and if the board is reasonably certain that the cost thereof will be less than the benefits, it may grant the prayer of the petition. When deciding whether to grant the prayer of the petition, the board shall give consideration to the protection of environmentally significant areas when those areas could be adversely affected by the construction of the proposed improvement and, if necessary, to alternative plans providing for that protection as well as for construction of the proposed improvement. Upon granting the prayer of the petition, the board shall determine the route and termini of the proposed improvement and of the branches, spurs, and laterals thereof and the manner of constructing the same. On any petition for any improvement of a ditch, drain, watercourse, or levee, the board, without request or application, may by its order change either terminus of the proposed improvement or the route thereof if it finds that the change is necessary to accomplish the purposes of the improvement. An order issued by the board under this section granting the prayer of the petition is effective on the day of the hearing at which the board issued it.

Upon granting the petition, the board shall order the county auditor to transfer from the general revenue funds of the county, not otherwise appropriated, to the general drainage improvement fund an amount not more than twenty-five per cent of the engineer’s preliminary estimate after the twenty-one day period for appeal, as provided in section 6131.25 of the Revised Code, has expired and no appeal has been taken, and as soon as the transfer of funds has been authorized, the board shall order the county engineer to prepare the reports, plans, and schedules as provided in sections 6131.01 to 6131.64 of the Revised Code. It shall fix a date for the filing of the reports, plans, and schedules by the engineer, allowing such time as is necessary for the preparation of the reports, plans, and schedules by the engineer, and such time may be extended from time to time by the board.

The board shall adjourn the hearing on the improvement to the date that it has fixed for the filing of the reports, plans, and schedules by the engineer and adjourn the proceedings from time to time, if necessary, thereafter. No change in the route or termini of any proposed improvement shall be made, no branches, laterals, or spurs shall be granted, and no change shall be made in the nature of the work proposed after the first hearing is completed, except upon application of an interested owner affected by the proposed improvement and upon notice given to all owners
affected by the change, as provided in sections 6131.01 to 6131.64 of the Revised Code. All the findings and orders of the board shall be entered in its journal.

The route of an improvement shall so far as practicable be located so as to avoid running the improvement diagonally across property and shall where practicable follow property lines, section lines, and lines of public highways, but where the line of a public highway is followed, approval must be obtained from the agency owning the highway.

If the board finds for the improvement, and if the improvement is being undertaken through the joint efforts and cooperation of the board and any federal or state agency, and if the federal regulations, state agency rules, or other procedures of the cooperating agency are in conflict with Chapter 6131. of the Revised Code with respect to the procedures for the preparing of contracts, the issuing of bids, the making of awards, and generally the administering of the contracts, the board may adopt the federal regulations, state agency rules, or procedures in those areas where conflict exists and proceed with the improvement in accordance with the requirements of the federal regulations, state agency rules, or procedures.

6131.14 County engineer's duties.

The clerk of the board of county commissioners shall certify to the county engineer immediately, after the requirements of section 6131.12 of the Revised Code have been met, a copy of the findings and orders of the board of county commissioners in favor of an improvement. The engineer shall make the necessary survey for the proposed improvement. The engineer shall make plans for structures, maps showing the location of the land proposed to be assessed, and profiles showing the cuttings and gradient of the improvement and shall make an estimate of the cost of the construction of the improvement, which shall include actual construction cost, the cost of engineering, and the cost of notices, publication, and other incidental expenses. The engineer shall recommend the maintenance district in which the improvement shall be placed. The assessment of the improvement for maintenance for one year shall be added to the cost of construction in making the actual assessment and shall be credited to the maintenance fund of the district.

The county engineer shall set proper construction stakes and shall note the intersection of the line of the improvement with the apparent land boundaries of separate owners, township and county lines, natural landmarks, road crossings, or other lines or marks. The engineer shall take and note any necessary levels off the line of the improvement to determine the area of the land subject to drainage.

The engineer shall also establish, at intervals of not less than one in each mile, in the most practicable permanent form, and in locations where destruction or disturbance is improbable, bench marks from which the original levels of the improvement can be established. The bench marks and all levels of the improvement shall be based upon some established elevation of the geological survey of the United States, if any, in the county, and the relation of any assumed elevation used by the engineer in the work upon any improvement to the elevation established by the geological survey shall be accurately stated in the engineer’s report. The engineer shall make a plan of the work proposed to be done, which shall show the grade, the depth, the excavating to
be done, the location of the permanent bench marks and their actual elevation above or below the base elevation used, and such other data as in the judgment of the engineer will aid in retracing lines, levels, or other features of the improvement. The plan shall indicate the profile and the nature of the excavation.

As soon as the engineer has completed the maps, profiles, and plans for the improvement, the engineer shall transmit copies thereof to the director of natural resources, the director of transportation when a state highway is affected, and the board of directors of any conservancy district within which any part of the lands or streams affected by the proposed improvement may lie. The director of natural resources, the director of transportation, and the directors of the conservancy district shall review the plans submitted and within thirty days file with the county engineer a report indicating approval or, in case that approval cannot be given, a report with recommendations.

The approval or report with recommendations, which, where appropriate, shall include recommendations regarding the use of best management practices that are consistent with the prayer of the petition, shall be transmitted by the engineer to the board of county commissioners, who shall take notice of the approval or recommendations and shall authorize the engineer to make any changes or alterations that in the judgment of the board are necessary or desirable.

Upon receipt of approval of the plans by the director of natural resources, the director of transportation, and the directors of any conservancy districts affected, or upon completion of any changes authorized by the board of county commissioners, the engineer shall file with the clerk of the board of county commissioners all maps, profiles, and plans as provided by this section.

The engineer shall prepare specifications for the construction of the improvement. The engineer shall specify a width of temporary easement for construction purposes. The specifications shall provide for spreading and leveling of spoil banks and shall provide for erosion and sediment control through the establishment of a sod or seeded strip not fewer than four feet nor more than fifteen feet wide, measured at right angles to the top of the ditch bank, on both sides of the ditch, except where suitable vegetative cover exists. The strip or other such controls shall be considered a part of the permanent improvement. Sod or seeded strips established and maintained in excess of four feet shall be compensated for by their removal from the taxable valuation of the property of which they are a part. The engineer shall make estimates of the cost of excavating and of the cost of material and may divide the construction of the improvement into construction areas as considered expedient. The engineer shall make a note of all fences, floodgates, culverts, or bridges that will be removed in constructing the improvement and of all culverts or bridges that must be adjusted or the channel of which must be enlarged to construct the improvement.

In estimating the cost of an improvement, the engineer may include the cost of installing gates in fences on the reserved right-of-way where needed to provide access for maintenance. The gates shall be kept locked when requested by the owner and shall be considered a part of the original improvement and subject to maintenance as provided by sections 6137.01 to 6137.12 of the Revised Code. The engineer shall make an estimate of the cost of inspecting the work as it progresses and shall, with the assistance of the prosecuting attorney, prepare forms for contracts with bidders and forms of bid guaranties that meet the requirements of section 153.54 of the
Revised Code. Upon the acceptance of the contract work, the engineer shall file with the county recorder a property plat showing the general location of the improvement and a statement describing the width of permanent easement for maintenance as provided for in section 6137.12 of the Revised Code. The engineer shall make an itemized bill of the costs and expenses incurred in the proper discharge of duties set forth in this section and shall file the maps, profiles, plans, schedules, and reports with the clerk of the board of county commissioners upon completing them.

6131.15 Schedule of assessments and damages.

The county engineer shall estimate the benefits accruing to public corporations and any department, office, or institution of the state. The engineer shall determine the estimated cost of the improvement that each public corporation and any department, office, or institution of the state shall be assessed by reason of the benefit to public health, safety, convenience, the environment, wildlife, recreation, and welfare, or as the means of improving any street, road, or highway under the control or ownership of any public corporation or any department, office, or institution of the state, or for benefit to any land owned by any public corporation or any department, office, or institution of the state. The engineer shall prepare a schedule of assessments containing the name and address of each public corporation and each department, office, or institution of the state so benefited, the amount of the estimated assessment, and an explanation of the assessment if the assessment is for purposes other than drainage.

The county engineer shall also include in the schedule of assessments the name and address of each private owner of land and a description of the land believed to be benefited by the proposed improvement, which names and descriptions shall be taken from the tax duplicates of the county. The engineer shall enter in the schedule the amount of the estimated assessment, which in no case shall be less than ten dollars, to be assessed to each tract of land and an explanation of the assessment, if the assessment is for purposes other than drainage, by reason of the construction of the improvement upon which the assessment is based. The total of these estimated assessments including the total estimated assessments allocated to public corporations and the state shall equal the estimated cost of the proposed improvement.

In determining the estimated drainage assessments for a parcel, the county engineer shall give primary consideration to the potential increase in productivity that the parcel may experience as a result of the improvement and shall also give consideration to the quantity of drainage contributed, the relative location of the property to the project, the portion of the project through which the drainage from the parcel flows, the value of the project to the watershed, and benefits as defined in section 6131.01 of the Revised Code.

The county engineer shall also estimate the value of land or other property necessary to be taken and the damages to be sustained by any owner as a result of the construction of the proposed improvement and the subsequent maintenance of the improvement. The engineer shall prepare a schedule of damages containing the name and address of each owner alleged to be damaged, the amount of the estimated damages, and an explanation of the injury upon which the estimate is based. The engineer’s schedule of damages shall also contain the value of the land or other property necessary to be taken, the name and address of the owner, and a complete description of
the land or other property. The engineer shall include the total of the estimated damages and valuations as part of his estimate of the total cost of constructing the improvement.

The county engineer, in making his estimate of the amount to be assessed each tract of land, each public corporation, and the state in accordance with this section, and the board of county commissioners, in amending, correcting, confirming, and approving the assessments in accordance with section 6131.22 of the Revised Code, shall levy the assessments according to benefits. Each tract of land and public corporation affected by an improvement and the state shall be assessed in the proportion that each is benefited by the improvement, as “benefit” and “improvement” are defined in section 6131.01 of the Revised Code, and not otherwise.

6131.16 Notice of filing schedule of assessments and damages.

Upon the filing with the clerk of the board of county commissioners of the reports, plans, and schedules by the county engineer as provided in section 6131.14 of the Revised Code, the board of county commissioners shall fix a date not fewer than twenty-five nor more than ninety days thereafter when a final hearing on the report shall be held. Upon the fixing of the date, the clerk shall immediately give notice by certified mail, return receipt requested, or by first-class mail in a five-day return envelope. For each improvement, all individual notices shall be sent by the same type of mail. Whichever method the board chooses, the words “Legal Notice” shall be printed in plain view on the face of the envelope. Notice shall be sent to all the owners whose names appear in the engineer’s schedules of assessments and damages. The notice shall be mailed to each address as given in the petition or to such address as the clerk learns to be the correct address, as provided in section 6131.07 of the Revised Code. If the schedule of assessments or the schedule of damages filed by the engineer contains the names of owners other than those mentioned in the petition, notices shall also be mailed to those owners. The clerk shall cause to be published a legal notice in at least one newspaper of general circulation in the area affected by the improvement, stating the name and number, if any, of the proposed improvement, the location and nature of the work proposed in the petition, and the date, time, and location of the final hearing. The publication of this notice shall be made in one issue of the newspaper if the individual notices are sent by certified mail. If the individual notices are sent by first-class mail in five-day return envelopes, the publication of this newspaper notice shall be made in two issues of the newspaper, and the notice shall include a list of the names of all addressees whose individual notices were undelivered. The publication shall be not fewer than thirteen days prior to the date of the final hearing. The publication shall serve as public notice to all owners of the substance of the proposed improvement and of the pendency of the final hearing of the board of county commissioners in the proceedings to authorize the construction of the proposed improvement whether or not they were individually named and notified.

The mailed legal notice shall notify the owners of the assessment or the estimated damages, if any, and of compensation for any land or other property necessary to be taken on each tract of land owned by the owner, as estimated and described in the schedules, shall notify the owners of the date of the final hearing by the board on the report of the engineer and on the proceedings for the improvement, and shall notify all owners that all claims for compensation or damages must be filed with the clerk of the board of county commissioners before that date fixed for the final hearing. The notice shall further state that if bonds or notes are to be issued, the owner must give
written notice within twenty-one days after the final hearing of his intention to pay in cash. The clerk shall include with the legal notice to the owner a form prescribed by the board of county commissioners that the owner shall use to notify the board of his intention to pay in cash. If he does not give notice of his intention to pay in cash within twenty-one days, the installments will be payable with the interest added at the same rate that the bonds or notes bear interest.

Proof of notice by publication shall be verified by affidavit of the printer or other person knowing that fact, and the clerk of the board of county commissioners shall prepare a certificate showing the service of the notices by mail, both of which shall be filed with the clerk of the board of county commissioners on or before the day of the final hearing. Notices returned undelivered and receipts shall be kept on file as a permanent record of the improvement.

6131.17 Exceptions to engineer's schedules of assessments and damages.

Any owner may accept the estimated assessment as described in the engineer’s schedules or may accept the estimated damages or compensation as described in the engineer’s schedule of damages, or may acquiesce to the engineer’s failure to estimate damages or award compensation in his favor, and will be construed to have done so unless he files exception to the schedules or files claim for damages or compensation on or before the date of the final hearing in the proceedings to construct the improvement.

All exceptions to the engineer’s schedules of assessments and damages, and all claims for compensation for land or other property necessary to be taken, and all claims for damages by reason of a proposed improvement not listed in the engineer’s schedule of damages, shall be filed with the clerk of the board of county commissioners as provided in section 6131.16 of the Revised Code on or before the date of the final hearing in the proceedings to construct the improvement. All exceptions to the engineer’s schedules and all claims for compensation or damage shall describe the land, a part of which is claimed to be taken or damaged, and shall describe the nature of and the reasons for the claim asked to be paid to each claimant.

6131.20 Final hearing.

At the final hearing on a proposed improvement, the board of county commissioners shall hear any application that is filed for a change of the route or course of the proposed improvement, or of either terminus thereof, from that shown in the report of the county engineer. The board may hear any application to make any change in the nature, kind, or extent of the work proposed to be done, as shown in the report of the engineer. If the board finds that such changes will better accomplish the purpose and object of the proposed improvement, it may make such change. If a change is made in the plan, or if the damages and compensation allowed by the board exceeds the estimate of damages filed by the engineer, thereby increasing the cost of the improvement, the final hearing shall be continued until the engineer makes proper schedules, which will include such changes. Before proceeding to make such change, all owners who will be affected thereby shall be notified of such proposed change, in the manner provided in sections 6131.01 to 6131.64, inclusive, of the Revised Code.
6131.21 Factors to be considered by commissioners at final hearing.

At the final hearing on a proposed improvement, after hearing all the evidence offered in the proceedings and after receiving and considering all the schedules, plans, and reports filed by the county engineer, the board of county commissioners shall review and reconsider the former order made by it finding in favor of the improvement and shall either affirm its former order and proceed to confirm the assessments and order the letting of the contract or shall set aside its former order and dismiss the petition. At the final hearing, if the board finds that the cost of the improvement will be equal to or greater than the benefits that will be derived therefrom if constructed, or if the board finds that the improvement is not necessary, or if it finds that the improvement will not be conducive to the public welfare, the board shall set aside the former order finding in favor of the improvement made by it at the first hearing and shall dismiss the petition. In determining whether or not the improvement should be granted, the board shall consider the following factors:

(A) The cost of location and construction;

(B) The compensation for land or other property necessary to be taken;

(C) The effect on land along or in the vicinity of the route of the improvement;

(D) The effect on land below the lower terminus of the improvement that may be caused by constructing the improvement;

(E) The sufficiency or insufficiency of the outlet;

(F) The benefits to the public welfare;

(G) The benefits to land, public corporations, and the state needing the improvement;

(H) Any other proper matter that will assist it in finding for or against the improvement.

If the petition is dismissed at the final hearing, all costs for the proceedings, including the costs incurred by the engineer in making surveys, plans, reports, and schedules, may be distributed to the benefiting landowners in the same ratio as determined by the engineer in the final estimated assessments presented at the final hearing. The board shall confirm or alter the assessments as provided for in section 6131.22 of the Revised Code. The approved assessments shall then be certified to the county auditor to be administered pursuant to section 6131.49 of the Revised Code.

If the costs are not distributed to the benefiting landowners, they shall be paid from county funds.

The petitioner, or any owner in favor of the improvement, may appeal from the order of dismissal, as provided in section 6131.25 of the Revised Code.
An order issued by the board under this section is effective on the day of the hearing at which the board issued it.

6131.22 Approval and confirmation of assessments.

At the final hearing on a proposed improvement, if the petition is not dismissed, the board of county commissioners shall hear any evidence offered for or against the assessment proposed to be levied against any owner or on any land as shown by the schedule of assessments filed by the county engineer and shall hear any competent evidence on the question of benefits. The board, from the evidence offered and from an actual view of the premises, shall amend and correct the assessments, and the assessments so amended or corrected shall be approved by the board. That part of the assessment that is assessed for benefits to the general public because the improvement is conducive to the public welfare shall be paid by the public and shall be assessed against the county payable from the general fund. Such part of the assessment as is found to benefit state roads or highways shall be assessed against the state payable from motor vehicle revenues. Such part of the assessment as is found to benefit county roads or highways shall be assessed against the county payable from motor vehicle revenues. Such part of the assessment as is found to benefit any public corporation or political subdivision of the state shall be assessed against the public corporation or political subdivision and shall be paid out of the general funds or motor vehicle revenues of the public corporation or political subdivision of the state, except as otherwise provided by law. The board shall approve and confirm the assessments, shall order the engineer to receive bids for the construction of the proposed improvement, and shall fix the date, time, and place for the receiving of bids, which shall be not less than twenty-five days after the date of the order. The board shall determine when the assessments shall be paid and shall determine whether bonds or notes shall be issued in anticipation of and payable out of the installments of assessments. The board’s orders approving the assessments and ordering the engineer to receive bids, and other orders made at this hearing, shall be entered on its journal. The clerk of the board of county commissioners shall immediately transmit to the county auditor the schedules listing all assessments as approved by the board.

Any owner opposed to the granting of the petition, or any owner opposed to further proceedings in the improvement, or any owner who claims that the assessment levied against him is excessive or is not in proportion to benefits, may appeal from any order made pursuant to this section, as provided in section 6131.25 of the Revised Code.

An order issued by the board under this section is effective on the day of the hearing at which the board issued it.

6131.23 Semiannual installments for payment of assessments.

The assessments estimated in accordance with section 6131.14 of the Revised Code shall be payable in not less than two semiannual installments. At the time of the final hearing, in the order approving the levying of the assessments, the board of county commissioners shall determine how long a period of time, in semiannual installments, as taxes are paid, shall be given the owners of land benefited to pay the assessments that are made for an improvement and whether or not bonds or notes shall be issued and sold in anticipation of such payments. If bonds
or notes are to be issued, the interest shall be added to the assessments. If the estimated cost of
the improvement does not exceed five hundred dollars, not more than two semiannual
installments, as taxes are paid, shall be given to owners of lands benefited to pay the assessments
that are made for the improvement. If the estimated cost of the improvement exceeds five
hundred dollars, the board may determine the number of installments in which the assessments
are to be paid. If any such assessment is twenty-five dollars or less, or whenever the unpaid
balance of any such assessment is twenty-five dollars or less, the same shall be paid in full, and
not in installments, at the time the first or next installment would otherwise become due.

When assessments are payable in installments and county general funds are used to pay for the
improvement, the assessment shall not exceed thirty semiannual installments, as computed by the
county auditor pursuant to section 6131.49 of the Revised Code, and shall be payable upon
completion of the contract.

When assessments are made payable in installments and bonds or notes have been sold to pay for
the improvement, interest shall be added to the installments of assessments at the same rate as is
drawn by the bonds or notes issued to pay for the improvements. Any owner may pay the
estimated assessments on the owner’s land in cash within thirty days after the final hearing
without paying any interest thereon. If the legislative authority of a political subdivision chooses
to pay the assessments on all parcels within the subdivision, both public and private, in one
installment, it shall pass a resolution so stating and shall send the resolution, or a copy thereof, to
the board of county commissioners before making the payment. The legislative authority shall
pay all subsequent maintenance assessments levied under section 6137.03 of the Revised Code if
it chooses to pay the construction assessments on all parcels within the subdivision.

Bonds may be sold for any repayment period that the board of county commissioners may
determine proper, not to exceed thirty semiannual installments, except that for bonds sold by a
board of county commissioners for soil and water conservation district improvements pursuant to
section 1515.24 of the Revised Code, the repayment period shall not exceed thirty semiannual
installments.