

THIS IS THE LAW ON OBJECTIONS

In MCL 41.723 it says that “the township board may proceed to carry out an improvement as provided in this act unless written objections to the improvement are filed with the township board at or before the hearing provided in section 4 by property owners, ... constituting more than 20% of the total land area in the proposed special assessment district.”

In MCL 41.723 it also says that “If written objections are filed as provided in subsection (1)... the township board shall not proceed with the improvement until there is filed with the board a petition signed... by the record owners of land constituting more than 50% of the total land area in the special assessment district as finally established by the township board.”

Written objections filed in advance of the special assessment process are premature and of no legal effect.

The start of the process is determined by the township board as described in MCL 41.724(1): “If the township board desires to proceed with the improvement, the township board shall tentatively declare by resolution its intention to make the improvement and tentatively designate the special assessment district against which the cost of the improvement or a designated part of the improvement is to be assessed.”

Property owners will hear about the start of this process because in MCL 41.724(2) it says: “The township board shall fix a time and place to meet and hear any objections to the... improvement, 41.724(2) and to the special assessment district, and shall cause notice of the hearing to be given as provided in section 4a.”

Section 4a says: “Notice of hearings in special assessment proceedings shall be given to each record owner of, or party in interest in, property to be assessed whose name appears upon the last township tax assessment records by first class mail addressed to the record owner or party in interest at the address shown on the tax records.”

“Notice shall also be published twice before the hearing in a newspaper circulating in the township.”

Also in MCL 41.724(3) it says: “At the hearing... the township board shall hear any objections to the... improvement, and to the special assessment district.”

MCL 41.725 describes how the township board can “proceed with the improvement”.

MCL 41.725 (1) *If, after the hearing provided for in section 4, the township board desires to proceed with the improvement, the township board shall approve or determine by resolution all of the following:*

- (a) The completion of the improvement.*
- (b) The plans and estimate of cost as originally presented or as revised, corrected, amended, or changed.*
- (c) The sufficiency of the petition for the improvement if a petition is required. After this determination, the sufficiency of the petition is not subject to attack except in an action*

brought in a court of competent jurisdiction within 30 days after the adoption of the resolution determining the sufficiency of the petition.

(d) The special assessment district including the term of the special assessment district's existence. If the nature of the improvement to be made is such that a periodic redetermination of cost will be necessary without a change in the special assessment district boundaries, the township board shall state that in the resolution and shall set the dates when the redeterminations shall be made. After finally determining the special assessment district, the township board shall direct the supervisor to make a special assessment roll in which are entered and described all the parcels of land to be assessed, with the names of the respective record owners of each parcel, if known, and the total amount to be assessed against each parcel of land, which amount shall be the relative portion of the whole sum to be levied against all parcels of land in the special assessment district as the benefit to the parcel of land bears to the total benefit to all parcels of land in the special assessment district. When the supervisor completes the assessment roll, the supervisor shall affix to the roll his or her certificate stating that the roll was made pursuant to a resolution of the township board adopted on a specified date, and that in making the assessment roll the supervisor, according to his or her best judgment, has conformed in all respects to the directions contained in the resolution and the statutes of this state.

The second required public hearing will be held by the township board on confirmation of the special assessment roll after another public notice (mailing and publication) as required by Section 4a. "Before confirming the assessment roll, the township board shall appoint a time and place when it will meet, review, and hear any objections to the assessment roll." See MCL 41.726.

MCL 41.726(2) says: "A person objecting to the assessment roll shall file the objection in writing with the township clerk before the close of the hearing or within such further time as the township board may grant."

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PUBLIC IMPROVEMENTS (EXCERPT)
Act 188 of 1954

41.721 Public improvements by township board; bonds; special assessments to defray costs.

Sec. 1.

The township board has the power to make an improvement named in this act, to provide for the payment of an improvement by the issuance of bonds as provided in section 15, and to determine that the whole or any part of the cost of an improvement shall be defrayed by special assessments against the property especially benefited by the improvement. The cost of engineering services and all expenses incident to the proceedings for the making and financing of the improvement shall be deemed to be a part of the cost of the improvement.

History: 1954, Act 188, Imd. Eff. May 5, 1954 ;-- Am. 1974, Act 143, Imd. Eff. June 5, 1974 ;-- Am. 1986, Act 180, Imd. Eff. July 8, 1986

41.722 Types of improvements authorized; approval; conditions.

Sec. 2.

(1) The following improvements may be made under this act:

(a) The construction, improvement, and maintenance of storm or sanitary sewers or the improvement and maintenance of, but not the construction of new or expanded, combined storm and sanitary sewer systems.

(b) The construction, improvement, and maintenance of water systems.

(c) The construction, improvement, and maintenance of public roads.

(d) The acquisition, improvement, and maintenance of public parks.

(e) The construction, improvement, and maintenance of elevated structures for foot travel over roads in the township.

(f) The collection and disposal of garbage and rubbish.

(g) The construction, maintenance, and improvement of bicycle paths.

(h) The construction, maintenance, and improvement of erosion control structures or dikes.

(i) The planting, maintenance, and removal of trees.

(j) The installation, improvement, and maintenance of lighting systems.

(k) The construction, improvement, and maintenance of sidewalks.

(l) The eradication or control of aquatic weeds and plants.

(m) The construction, improvement, and maintenance of private roads.

(n) The construction, improvement, and maintenance of a lake, pond, river, stream, lagoon, or other body of water or of an improvement to the body of water. This subdivision includes, but is not limited to, dredging.

(o) The construction, improvement, and maintenance of dams and other structures that retain the waters of this state for recreational purposes.

(p) The construction, improvement, and maintenance of sound attenuation walls, pavement, or other sound mitigation treatments unless a written objection is filed in the same manner as provided under section 3 by the record owners of land constituting more than 20% of the total area in the proposed special assessment district. If a written objection is filed, then the township board shall not proceed with the improvement until a petition signed by the record owners of land constituting more than 50% of the total land area in the special assessment district as finally established is filed with the board.

(2) A road under the jurisdiction of either the state transportation department or the board of county road commissioners shall not be improved under this act without the written approval of the state transportation department or the board of county road commissioners. As a condition to the granting of approval, the state transportation department or the board of county road commissioners may require 1 or more of the following:

(a) That all engineering with respect to the improvement be performed by the state transportation department or the board of county road commissioners.

(b) That all construction, including the awarding of contracts for construction, in connection with the improvement be pursuant to the specifications of the state transportation department or the board of county road commissioners.

(c) That the cost of the engineering and supervision be paid to the state transportation department or the board of county road commissioners from the funds of the special assessment district.

(3) A lake, pond, river, stream, lagoon, or other body of water under the jurisdiction of a county drain commissioner shall not be improved under this act without the written approval of the county drain commissioner of the county in which the lake, pond, river, stream, lagoon, or other body of water is located.

History: 1954, Act 188, Imd. Eff. May 5, 1954 ;-- Am. 1958, Act 163, Eff. Sept. 13, 1958 ;-- Am. 1964, Act 30, Imd. Eff. May 1, 1964 ;-- Am. 1966, Act 116, Imd. Eff. June 22, 1966 ;-- Am. 1974, Act 143, Imd. Eff. June 5, 1974 ;-- Am. 1976, Act 148, Imd. Eff. June 16, 1976 ;-- Am. 1986, Act 180, Imd. Eff. July 8, 1986 ;-- Am. 1995, Act 139, Imd. Eff. July 10, 1995 ;-- Am. [2002, Act 585](#), Imd. Eff. Oct. 14, 2002

41.723 Written objections; petition; filing; signatures; determining record owners; determining sufficiency of petition; supplement to petition; validity of signatures.

Sec. 3.

(1) The township board may proceed to carry out an improvement as provided in this act unless written objections to the improvement are filed with the township board at or before the hearing provided in section 4 by property owners as follows:

(a) For an improvement under section 2(1)(a), (b), (d), (e), (f), (h), (i), (j), (l), (n), or (o) by the record owners of land constituting more than 20% of the total land area in the proposed special assessment district.

(b) For an improvement under section 2(1)(c), (g), (k), or (m), by the record owners of land constituting more than 20% of the total frontage upon the road, bicycle path, or sidewalk.

(2) A township board may require the filing of a petition meeting the requirements of subsection (3) before proceeding with an improvement under this act.

(3) If written objections are filed as provided in subsection (1), or if the township board requires a petition before proceeding, the township board shall not proceed with the improvement until there is filed with the board a petition signed as follows:

(a) For an improvement under section 2(1)(a), (b), (d), (e), (f), (h), (i), (j), (l), (n), or (o) by the record owners of land constituting more than 50% of the total land area in the special assessment district as finally established by the township board.

(b) For an improvement under section 2(1)(c), (g), (k), or (m), by the record owners of land constituting more than 50% of the total frontage upon the road, bicycle path, or sidewalk.

(4) Record owners shall be determined by the records in the register of deeds' office as of the day of the filing of a petition, or if written objections are filed as provided in subsection (1), then on the day of the hearing. In determining the sufficiency of the petition, lands not subject to special assessment and lands within a public highway or alley shall not be included in computing frontage or an assessment district area. A filed petition may be supplemented as to signatures by the filing of an additional signed copy or copies of the petition. The validity of the signatures on a supplemental petition shall be determined by the records as of the day of filing the supplemental petition.

41.724 Plans; cost estimate; resolution; designation of special assessment district; hearing; notice; periodic redeterminations of cost; objections; adding property to special assessment district; supplemental petition; filing by railroad companies; additional notice; affidavit of service.

Sec. 4.

(1) Upon receipt of a petition or upon determination of the township board if a petition is not required under section 3, the township board, if it desires to proceed on the improvement, shall cause to be prepared plans describing the improvement and the location of the improvement with an estimate of the cost of the improvement on a fixed or periodic basis, as appropriate. Upon receipt of the plans and estimate, the township board shall order the same to be filed with the township clerk. If the township board desires to proceed with the improvement, the township board shall tentatively declare by resolution its intention to make the improvement and tentatively designate the special assessment district against which the cost of the improvement or a designated part of the improvement is to be assessed.

(2) The township board shall fix a time and place to meet and hear any objections to the petition, if a petition is required, to the improvement, and to the special assessment district, and shall cause notice of the hearing to be given as provided in section 4a. The notice shall state that the plans and estimates are on file with the township clerk for public examination and shall contain a description of the proposed special assessment district. If periodic redeterminations of cost will be necessary without a change in the special assessment district, the notice shall state that such redeterminations may be made without further notice to record owners or parties in interest in the property.

(3) At the hearing, or any adjournment of the hearing which may be without further notice, the township board shall hear any objections to the petition, if a petition is required, to the improvement, and to the special assessment district. The township board may revise, correct, amend, or change the plans, estimate of cost, or special assessment district.

(4) Property shall not be added to the district unless notice is given as provided in section 4a, or by personal service upon the record owners of the property in the entire proposed special assessment district, and a hearing afforded to the record owners. If a petition is required because property is added to the special assessment district which makes the original petition insufficient, then a supplemental petition shall be filed containing sufficient additional signatures of record owners. If the nature of the improvement to be made is such that a periodic redetermination of costs will be necessary without a change in the special assessment district boundaries, the township board shall include in its estimate of costs any projected incremental

increases. If at any time during the term of the special assessment district an actual incremental cost increase exceeds the estimate therefor by 10% or more, notice shall be given as provided in section 4a and a hearing afforded to the record owners of property to be assessed.

(5) Railroad companies shall file in writing with the secretary of state the name and post office address of the person upon whom may be served notice of any proceedings under this act. After the name and address has been filed, notice in addition to the notice by publication shall be given to the person by registered mail, or personally, within 5 days after the first publication of the notice. An affidavit of the service shall be filed by the township board with the proof of publication of the notice.

41.725 Approval or determination by township board; levy of special assessment.

Sec. 5.

(1) If, after the hearing provided for in section 4, the township board desires to proceed with the improvement, the township board shall approve or determine by resolution all of the following:

(a) The completion of the improvement.

(b) The plans and estimate of cost as originally presented or as revised, corrected, amended, or changed.

(c) The sufficiency of the petition for the improvement if a petition is required. After this determination, the sufficiency of the petition is not subject to attack except in an action brought in a court of competent jurisdiction within 30 days after the adoption of the resolution determining the sufficiency of the petition.

(d) The special assessment district including the term of the special assessment district's existence. If the nature of the improvement to be made is such that a periodic redetermination of cost will be necessary without a change in the special assessment district boundaries, the township board shall state that in the resolution and shall set the dates when the redeterminations shall be made. After finally determining the special assessment district, the township board shall direct the supervisor to make a special assessment roll in which are entered and described all the parcels of land to be assessed, with the names of the respective record owners of each parcel, if known, and the total amount to be assessed against each parcel of land, which amount shall be the relative portion of the whole sum to be levied against all parcels of land in the special assessment district as the benefit to the parcel of land bears to the total benefit to all parcels of land in the special assessment district. When the supervisor completes the assessment roll, the supervisor shall affix to the roll his or her certificate stating that the roll was made pursuant to a resolution of the township board adopted on a specified date, and that in making the assessment roll the supervisor, according to his or her best judgment, has conformed in all respects to the directions contained in the resolution and the statutes of this state.

(2) After December 31, 1998, an ad valorem special assessment levied under this act shall be levied on the taxable value of the property assessed.

(3) If the levy of an ad valorem special assessment on the property's taxable value is found to be invalid by a court of competent jurisdiction, the levy of the ad valorem special assessment shall be levied on the property's state equalized value.

(4) As used in this section and section 15b, "taxable value" means that value determined under section 27a of the general property tax act, 1893 PA 206, MCL 211.27a.

41.726 Filing and review of special assessment roll; hearing; notice; adjournments; objections; confirmation, referral, or annulment; endorsement; finality; action contesting assessment.

Sec. 6.

(1) When a special assessment roll is reported by the supervisor to the township board, the assessment roll shall be filed in the office of the township clerk. Before confirming the assessment roll, the township board shall appoint a time and place when it will meet, review, and hear any objections to the assessment roll. The township board shall give notice of the hearing and the filing of the assessment roll as required by section 4a.

(2) A hearing under this section may be adjourned from time to time without further notice. A person objecting to the assessment roll shall file the objection in writing with the township clerk before the close of the hearing or within such further time as the township board may grant. After the hearing the township board, at the same or at a subsequent meeting, may confirm the special assessment roll as reported to the township board by the supervisor or as amended or corrected by the township board; may refer the assessment roll back to the supervisor for revision; or may annul it and direct a new roll to be made.

(3) If a special assessment roll is confirmed, the township clerk shall endorse on the assessment roll the date of the confirmation. After the confirmation of the special assessment roll, all assessments on that assessment roll shall be final and conclusive unless an action contesting an assessment is filed in a court of competent jurisdiction within 30 days after the date of confirmation.

History: 1954, Act 188, Imd. Eff. May 5, 1954 ;-- Am. 1974, Act 143, Imd. Eff. June 5, 1974 ;-- Am. 1986, Act 180, Imd. Eff. July 8, 1986