



Ohio Revised Code

Section 940.33 Procedure for assessments.

Effective: January 1, 2016

Legislation: House Bill 64 - 131st General Assembly

(A) Following receipt of a certification made by the supervisors of a soil and water conservation district pursuant to section 940.25 of the Revised Code together with receipt of all plans, specifications, and estimates submitted under that section and upon completion of a schedule of estimated assessments in accordance with section 940.30 of the Revised Code, the board of county commissioners may adopt a resolution levying upon the property within the project area an assessment at a uniform or varied rate based upon the benefit to the area certified by the supervisors, as necessary to pay the cost of construction of the improvement not otherwise funded and to repay advances made for purposes of the improvement from the fund created by section 940.16 of the Revised Code. The board of county commissioners shall direct the person or authority preparing assessments to give primary consideration, in determining a parcel's estimated assessments relating to the disposal of water, to the potential increase in productivity that the parcel may experience as a result of the improvement and also to give consideration to the amount of water disposed of, the location of the property relative to the project, the value of the project to the watershed, and benefits. The part of the assessment that is found to benefit state, county, or township roads or highways or municipal streets shall be assessed against the state, county, township, or municipal corporation, respectively, payable from motor vehicle revenues. The part of the assessment that is found to benefit property owned by any public corporation, any political subdivision of the state, or the state shall be assessed against the public corporation, the political subdivision, or the state and shall be paid out of the general funds or motor vehicle revenues of the public corporation, the political subdivision of the state, or the state, except as otherwise provided by law.

(B) The assessment shall be certified to the county auditor and by the county auditor to the county treasurer. The collection of the assessment shall conform in all matters to Chapter 323. of the Revised Code.

(C) Any land owned and managed by the department of natural resources for wildlife, recreation, nature preserve, or forestry purposes is exempt from assessments if the director of natural resources determines that the land derives no benefit from the improvement. In making such a determination,



the director shall consider the purposes for which the land is owned and managed and any relevant articles of dedication or existing management plans for the land. If the director determines that the land derives no benefit from the improvement, the director shall notify the board of county commissioners, within thirty days after receiving the assessment notification required by this section, indicating that the director has determined that the land is to be exempt and explaining the specific reason for making this determination. The board of county commissioners, within thirty days after receiving the director's exemption notification, may appeal the determination to the court of common pleas. If the court of common pleas finds in favor of the board of county commissioners, the department of natural resources shall pay all court costs and legal fees.

(D)(1) The board shall give notice by first class mail to every public and private property owner whose property is subject to assessment, at the tax mailing or other known address of the owner. The notice shall contain a statement of the amount to be assessed against the property of the addressee, a description of the method used to determine the necessity for and the amount of the proposed assessment, a description of any easement on the property that is necessary for purposes of the improvement, and a statement that the addressee may file an objection in writing at the office of the board of county commissioners within thirty days after the mailing of notice. If the residence of any owner cannot be ascertained, or if any mailed notice is returned undelivered, the board shall publish the notice to all such owners in a newspaper of general circulation within the project area, once each week for three weeks or as provided in section 7.16 of the Revised Code. The notice shall include the information contained in the mailed notice, but shall state that the owner may file an objection in writing at the office of the board of county commissioners within thirty days after the last publication of the notice.

(2) Upon receipt of objections as provided in this section, the board shall proceed within thirty days to hold a final hearing on the objections by fixing a date and giving notice by first class mail to the objectors at the address provided in filing the objection. If any mailed notice is returned undelivered, the board shall give due notice to the objectors in a newspaper of general circulation in the project area or as provided in section 7.16 of the Revised Code, stating the time, place, and purpose of the hearing. Upon hearing the objectors, the board may adopt a resolution amending and approving the final schedule of assessments and shall enter it in the journal.

(3) Any owner whose objection is not allowed may appeal within thirty days to the court of common



pleas of the county in which the property is located.

(4) The board of county commissioners shall make an order approving the levying of the assessment and shall proceed under section 6131.23 of the Revised Code after one of the following has occurred, as applicable:

(a) Final notice is provided by mail or publication.

(b) The imposition of assessments is upheld in the final disposition of an appeal that is filed pursuant to division (D)(3) of this section.

(c) The resolution levying the assessments is approved in a referendum that is held pursuant to section 305.31 of the Revised Code.

(5) The county treasurer shall deposit the proceeds of the assessment in the fund designated by the board and shall report to the county auditor the amount of money from the assessment that is collected by the treasurer. Moneys shall be expended from the fund for purposes of the improvement.

(E) Any moneys collected in excess of the amount needed for construction of the improvement and the subsequent first year's maintenance may be maintained in a fund to be used for maintenance of the improvement. In any year subsequent to a year in which an assessment for construction of an improvement levied under this section has been collected, and upon determination by the board of county commissioners that funds are not otherwise available for maintenance or repair of the improvement, the board shall levy on the property within the project area an assessment for maintenance at a uniform percentage of all construction costs based upon the assessment schedule used in determining the construction assessment. The assessment is not subject to the provisions concerning notice and petition contained in this section. An assessment for maintenance shall not be levied in any year in which the unencumbered balance of funds available for maintenance of the improvement exceeds twenty per cent of the cost of construction of the improvement, except that the board may adjust the level of assessment within the twenty per cent limitation, or suspend temporarily the levying of an assessment, for maintenance purposes as maintenance funds are needed.



For the purpose of levying an assessment for maintenance of an improvement, a board may use the procedures established in Chapter 6137. of the Revised Code regarding maintenance of improvements as defined in section 6131.01 of the Revised Code in lieu of using the procedures established under this section.

(F) The board of county commissioners may issue bonds and notes as authorized by section 131.23 or 133.17 of the Revised Code.