

68-701. Petition of resident landowners; publication of order; time for actions to restrain; supplemental petitions; state lands.

When a petition requesting the permanent improvement of one or more roads of benefit to the benefit district is filed in accordance with this section, the board of county commissioners may cause such roads to be improved as requested in the petition. Such petition shall be signed by (a) 51% of the resident landowners owning at least 35% of the land within the district, (b) 35% of the resident landowners owning 51% of the land within the district or (c) the owners of 60% of the land within the district. The petition shall be filed with the board of county commissioners of the county where such road or roads are located. Nothing in this act shall prevent completion of benefit district roads for which petitions have been approved or construction is under way at the time this act is passed. Before the improvements requested in the petition are ordered by the county commissioners, the commissioners shall, by order, find the improvements to be of public utility, and the county clerk shall publish such order once in the official county paper. No action shall be brought to restrain the making of such improvements, payment therefor or levy of taxes or special assessments or issuance of bonds therefor on the grounds of an illegality in the petition, in any proceedings prior to the order or in the order unless such action is commenced within 30 days after the date of the order. The board of county commissioners shall set a time and place to meet to consider the petition for road improvements and shall give notice of the time and place of such meeting by publication once in the official county paper and by certified mail to the owners of the property adjoining the road, at the address where the owner's tax statement is sent. Publication and mailing of the notice shall be not less than 10 days prior to the date of the meeting.

Thirty days after the filing of a petition with the board of commissioners no signer thereon shall be permitted to withdraw the signer's name therefrom. After any petition has been signed by the legal owner of any land in the benefit district the change of ownership of the lands does not affect the petition. Additional or supplemental petitions may be filed with the county clerk at any time before the contract is let for the improvements.

In any case where the owners of lands affected by the provisions of this act are tenants in common, each cotenant shall be a legal petitioner in an amount equal to the cotenant's undivided interest in the tract of land. The owner of a life estate shall be deemed a legal owner for the purposes of this act. Guardians of minors or of incapacitated persons may petition for their wards when authorized by the district court so to do. "Resident landowner," as used herein, means any landowner residing in the county, and owning land in the benefit district.

The governor may sign a petition on behalf of the state for any land owned by the state and located within the benefit district. Any land owned by the state shall be liable for its share of the cost of road improvements by a road improvement district and the state treasurer may pay all assessments against the land for such purposes from any funds in the state treasury not otherwise appropriated.

History: L. 1909, ch. 201, § 1; L. 1917, ch. 265, § 1; L. 1919, ch. 246, § 1; R.S. 1923, 68-701; L. 1933, ch. 242, § 1; L. 1976, ch. 145, § 230; L. 1981, ch. 173, § 71; July 1.