



Ohio Revised Code

Section 6131.63 Written agreement for construction of ditch improvement.

Effective: April 9, 1981

Legislation: House Bill 268 - 113th General Assembly

Except when an owner whose land is used for agricultural purposes desires to install tile by extending or adding to his own laterals or desires to expel water therefrom into an open ditch on his own land in the same watershed, when one or more owners desire to join in the construction of an improvement that will benefit the land of the owners, and when the owners are willing to construct the improvement and pay the cost thereof, they may enter into a written agreement for the construction of the improvement, or they may enter into an agreement to construct such part of the improvement as a person mutually agreed upon apportions to each of them respectively. In the agreement the owners shall provide that the agreement and the plan and schedules of the proposed improvement shall be filed with the clerk of the board of county commissioners of the county in which the improvement is to be constructed. When the agreement and schedules are so signed, the plan is approved by a professional engineer registered in this state, and the agreement, schedules, and plan are filed with the clerk of the board of county commissioners, the clerk shall immediately refer the agreement, plan, and schedules to the county engineer for examination and review. The county engineer shall determine the adequacy of the plan and schedules and the effect of the proposed improvement on any other improvements and on any highways in the area affected. The county engineer shall also prepare a schedule of proposed assessments for the maintenance of the improvement according to an estimate of benefits accruing to each owner and an estimate of maintenance costs including the engineer's costs in preparing the schedules. The board shall pay the engineer's costs out of the county general fund. The engineer shall file with the clerk of the board of county commissioners, within sixty days, a report of his review together with such recommendations for change, amendment, or alteration of the agreement, plan, and schedules as he may determine to be necessary in the public interest. When the agreement, plan, and schedules, as presented or as amended by the owners pursuant to the county engineer's recommendations, are approved by the county engineer, the engineer shall file, within sixty days, a certificate of approval with the clerk of the board of county commissioners. Failure to file a certificate of approval within sixty days constitutes a presumption of certification and the owners may proceed to construct.

Upon the filing with the clerk of the board of county commissioners of the schedule of maintenance



assessments prepared by the county engineer as provided by this section, together with his certificate of approval, the board shall proceed to set a hearing date on the proposed maintenance assessments not less than twenty-five nor more than ninety days thereafter and shall notify all persons whose names appear in the engineer's schedule of maintenance assessments in accordance with section 6131.16 of the Revised Code. At the hearing on the proposed assessments the board of county commissioners shall hear any evidence offered for or against the assessments proposed to be levied against any owner 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, may amend and correct the assessments, and the assessments so amended or corrected shall be approved by the board and the approval entered on its journal. Once the assessments have been approved, all further proceedings in connection with the maintenance of the improvement shall be in accordance with Chapter 6137. of the Revised Code. The clerk shall record the agreement, plan, and schedules in the drainage records of the county, and the agreement shall locate and establish the improvement as a public watercourse. The improvement shall then be constructed by the owner in accordance with the approved plans.

This section shall not be interpreted to include improvements or changes in stream channels that may be made by the department of transportation or other public agencies or railroads at their own expense for the purpose of providing a more adequate waterway along a highway or at the site of a bridge or culvert or to improve conditions of flow through them or for the purpose of protecting the highway or road bed and that do not limit future deepening of the channel.