

**68-117b. Same; benefit district; damages; abandonment of proceedings, when; assessment of benefits.** Every such petition for laying out, widening or altering a road, shall contain a description of the boundary lines of the benefit district, within the limits hereinafter prescribed; any such benefit district may be diminished, but not increased in size, by either the board of county commissioners or by the district court on appeal. Such benefit district shall extend back not less than one hundred feet and not more than twelve hundred feet from either side of the proposed road: *Provided, however,* That if the land on either side of said proposed road be platted into lots or blocks, then the benefit district as to such platted land shall not extend more than one-half block, with a maximum distance of three hundred feet on the side or sides of the road where such land is so platted, and as to unplatted land, the benefit district shall in no case extend back a distance of more than twelve hundred feet from the side of the proposed road. If either the commissioners or the court on appeal find that the total amount of damages awarded exceeds the total amount of the benefits, then they shall dismiss the entire proceeding without prejudice; if they find the benefits equal to or in excess of the amount of damages awarded, they shall fix the limits of the benefit district embracing such real estate as they find to be especially benefited, within the limits hereinbefore prescribed, and shall proceed to assess benefits equal to the amount of the damages in the following manner:

(a) Such an amount as they shall determine shall be paid by the county;

(b) the remainder of the benefits shall be assessed against the land in the benefit district as established in the manner provided by this section in such amount and in such proportion against the various tracts of land, exclusive of improvements, as they find such tracts of land are benefited by the opening, altering or widening of such road.

It shall be the duty of the commissioners or viewers at the same time they make their certificate of view, if favorable, to make also a separate certificate in writing, stating the amount of the damages, if any, by them awarded and to whom, and at the same time submit a certificate showing the manner in which the damages are to be paid by the levying of benefits against the various tracts of land within the benefit district, which has been established by them in connection with, and as a part of such proceedings, and the manner of payment of such benefits. Such certificates of the commissioners or viewers shall contain the correct description of each part or parcel of private property taken, if any, and the value thereof, and of each piece of property damaged, and the amount of damages for which compensation is to be paid as ascertained by the viewers or commissioners as above provided.

In case a part of a tract of land is taken, for which damages are allowed, and benefits assessed against the remaining portion of such tract, then such part of the damages as may be necessary shall be applied to pay off and have discharged of record any taxes or mortgages on such condemned land, and the owner of said land may have the remainder of the damages, including damages to the remaining property, if any, offset against the benefits assessed against his remaining land in the benefit district, or so much thereof as may be required to pay such benefits in full. Benefits assessed may be paid in full without interest within thirty days from date of final determination of the amount thereof. If not paid within such period of time, then they may be paid in the same manner as are general taxes: *Provided,* That they be due in equal amounts over not to exceed five years, and that the unpaid portions thereof bear interest at not to exceed six percent per annum, payable annually, which manner of payment and rate of interest shall be fixed by the board of county commissioners.

The net amount of the damages to be paid to acquire such land so condemned shall be advanced by the county from its general fund, and it shall thereafter receive and collect benefits in the manner provided for above, and place the same with interest thereon to the credit of its general fund.

**History:** L. 1947, ch. 352, § 2; April 15.