

TRANSPORTATION CODE

CHAPTER 286. ROAD LAWS RELATING TO SPECIFIC COUNTIES

SUBCHAPTER A. ROAD IMPROVEMENTS AND ASSESSMENTS BY GALVESTON OR CAMERON COUNTY COMMISSIONERS COURT

Sec. 286.001. APPLICABILITY. This subchapter applies only to Galveston County and Cameron County.  
Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 286.002. ROAD IMPROVEMENT AND ASSESSMENT. (a) The commissioners court of the county may improve a county road in the county by:

- (1) filling, grading, raising, paving, or repairing the road in a permanent manner;
- (2) constructing, repairing, or realigning a curb, gutter, or sidewalk;
- (3) constructing a drain or culvert; or
- (4) installing a streetlight.

(b) The commissioners court by order may assess against property abutting the portion of the county road to be improved and against the owners of that property:

- (1) all or part of the cost of:
  - (A) constructing, repairing, or realigning a curb, gutter, or sidewalk; or
  - (B) installing a streetlight; and
- (2) not more than nine-tenths of the cost of any other improvement.

(c) The commissioners court may:

- (1) determine the amount of the assessment and any other necessary matter;
- (2) provide the terms of payment and default of the assessment;
- (3) prescribe the interest rate on the assessment, not to exceed eight percent a year;
- (4) make the assessment before, during, or after the construction of the improvement;
- (5) make an assessment against several parcels of property in one assessment when the parcels are owned by the same person; and
- (6) jointly assess property owned jointly.

(d) An assessment authorized by this section:

- (1) does not mature before the county accepts the improvements for which the assessment is made;
- (2) is collectable with interest, cost of collection, and reasonable attorney's fees, if incurred;
- (3) is a personal liability and charge against the owner of the assessed property, regardless of whether the owner is named; and
- (4) is a first and prior lien on the assessed property and superior to any other lien or claim on the property except county, school district, or municipal ad valorem taxes from the date the commissioners court orders the improvement of the road abutting the property.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 847, Sec. 1, eff. June 14, 2001.

Sec. 286.003. ASSESSMENT LIMITED. (a) The commissioners court may not make an assessment against abutting property or the owners of the property in excess of the special benefit to the property and its owner in enhanced value caused by an improvement ordered under Section 286.002(a).

(b) A railroad right-of-way does not benefit from an improvement described by Section 286.002(a), and the commissioners court may not assess the cost of the improvement against a railroad right-of-way.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 286.004. ASSESSMENT OF EXEMPT PROPERTY. (a) This subchapter does not authorize the commissioners court to create a lien against an interest in property that is exempt from the lien of assessment at the time the commissioners court orders a county road to be improved.

(b) An owner of the exempt property is personally liable for an assessment related to the property, without regard to the exemption from the lien.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 286.005. APPORTIONMENT OF COSTS. (a) The commissioners court shall apportion the part of the cost of an improvement assessed against abutting property among the parcels of the

abutting property and the property's owners in accordance with the front foot rule.

(b) If, in the opinion of the commissioners court, application of the front foot rule would result in injustice or inequity in a particular case, the commissioners court may apportion and assess the cost in the proportion the commissioners court determines just and equitable to produce a substantial equality of benefits received and burdens imposed.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 286.006. CHANGES IN IMPROVEMENT PROCEEDINGS; ABANDONMENT. (a) The commissioners court may change a plan, method, or contract relating to an improvement.

(b) The commissioners court may not make a change that substantially affects the nature or quality of an improvement unless the commissioners court, by a four-fifths vote, determines that it is impractical to proceed with the improvement as proposed and, after the vote, the commissioners court:

(1) obtains the consent of the person with whom the commissioners court has contracted for the construction of the improvements;

(2) obtains a new estimate of the cost of the improvement; and

(3) holds a new hearing, with notice as required by this subchapter.

(c) The commissioners court at any time may abandon an improvement with the consent of a person who has contracted with the commissioners court for the construction of the improvement.

(d) The commissioners court by order shall cancel an assessment made for an abandoned improvement.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 286.007. NOTICE AND OTHER PREHEARING REQUIREMENTS. (a) A commissioners court may make an assessment under Section 286.002 only after notice and an opportunity for a hearing is provided in accordance with this subchapter.

(b) Notice of the hearing must be published at least three times in a newspaper of general circulation in the county in which the assessment is to be made. The first publication of the notice must appear not later than the 21st day before the date of the hearing.

(c) Notice of the hearing must be mailed with postage prepaid to the address of the owner of the property that abuts the county road to be improved, as determined from the current rendered and unrendered county tax rolls. The notice must be mailed 14 days before the date of the hearing.

(d) The mailed notice:

(1) is not required if the county tax rolls list the owners of the property as unknown; and

(2) may be addressed to the estate if the tax rolls show the owner of the property is an estate.

(e) To be sufficient and binding on a person who owns or claims the property or an interest in the property, the mailed notice must:

(1) generally describe the nature of the improvement for which the assessment is to be made;

(2) describe the county road to be improved or the portion of the county road to which the improvement is related;

(3) state the estimated cost per front foot proposed to be assessed against the property or the property's owners;

(4) state the estimated total cost of the improvement; and

(5) state the time and place of the hearing.

(f) The mailed notice may consist of a copy of the published notice if the notice contains the information required by Subsection (e).

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 286.008. HEARING. The commissioners court shall hold a hearing at which a person who owns an interest in property that abuts a county road that is to be improved under this subchapter may be heard on any matter relating to the improvement or a proposed assessment including:

(1) the amount of the assessment;

(2) the lien and liability created by the assessment;

(3) the special benefit to the property and the property owner because of the improvement; and

(4) the accuracy, sufficiency, regularity, and

validity of a proceeding or contract related to the improvement or assessment.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 286.009. APPEAL. (a) Not later than the 15th day after the date the commissioners court makes an assessment under Section 286.002, a person who owns or claims an interest in the assessed property may appeal the assessment in district court. The person may contest:

- (1) the amount of the assessment;
- (2) an inaccuracy, irregularity, invalidity, or insufficiency in a proceeding or contract related to the improvement or assessment; or
- (3) any other matter that is not in the discretion of the commissioners court.

(b) A person who does not bring a suit within the time provided by Subsection (a):

- (1) waives the right to contest a matter that might have been heard at the hearing; and
- (2) is barred and estopped from contesting the assessment or any matter related to the assessment.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 286.010. DEFENSES TO ACTIONS FOR ASSESSMENTS. The only defenses to an assessment in a suit to enforce the assessment are that:

- (1) the assessment exceeds the amount of the estimated assessment stated in the notice; or
- (2) notice of the hearing:
  - (A) was not mailed, delivered, or published as required by Section 286.007; or
  - (B) did not contain the information required by Section 286.007.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 286.011. WORD OR ACT OF OFFICER OR EMPLOYEE. Nothing said or done by a county officer or employee or a member of the commissioners court affects this subchapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 286.012. CERTIFICATE OF ASSESSMENT. (a) The commissioners court may issue an assignable certificate that:

- (1) is evidence of an assessment made under this subchapter; and
- (2) declares:
  - (A) the lien against the property assessed; or
  - (B) the liability of the true owner of the property assessed.

(b) The commissioners court may set the terms of the certificate.

(c) A recital in a certificate is prima facie evidence of the matter recited and further proof of the matter is not required if the certificate substantially states that:

- (1) the proceedings referred to in the certificate were in compliance with the law; and
- (2) the prerequisites to imposing the assessment lien against the property described in the certificate and the personal liability of the property owner have been performed.

(d) In a suit on an assessment or reassessment in evidence of which a certificate is issued under this subchapter, it is sufficient to allege the substance of the recitals in the certificate and that the recitals are true. Further allegations with reference to a proceeding relating to an original assessment or subsequent assessment are not necessary.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 286.013. VALIDITY OF ASSESSMENT. An assessment related to the cost of an improvement that is to be constructed is not valid unless the commissioners court:

- (1) makes or causes to be made an estimate of the cost of the improvement; and
- (2) includes the estimate in a published or mailed notice required by Section 286.007.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 286.014. CORRECTION OF ASSESSMENT; SUBSEQUENT ASSESSMENT. (a) If an assessment is held or determined to be invalid or unenforceable, the commissioners court may correct:

- (1) a deficiency in a proceeding relating to the assessment; or
- (2) an error, inaccuracy, irregularity, or invalidity

relating to the assessment.

(b) The commissioners court may make and impose a subsequent assessment after a notice and hearing that comply as nearly as possible with the requirements for the original notice and hearing.

(c) A recital in a certificate issued as evidence of a subsequent assessment has the same force as a recital in a certificate related to an original assessment.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER B. ROAD IMPROVEMENTS AND ASSESSMENTS BY LIVE OAK COUNTY  
COMMISSIONERS COURT

Sec. 286.041. APPLICABILITY. This subchapter applies only to Live Oak County.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 286.042. ASSESSMENT PROVISIONS. (a) The commissioners court of the county may finance all or part of the cost of improving a portion of the county road system located in a recorded subdivision and outside the limits of a municipality by imposing an assessment against real property that abuts the portion of the road that is to be improved and against the owners of the property.

(b) The commissioners court may:

(1) determine the terms of payment and default of the assessment;

(2) determine the rate of interest of the assessment, not to exceed 10 percent a year;

(3) make an assessment against several parcels of property in one assessment when the parcels are owned by the same person; and

(4) jointly assess property owned jointly.

(c) An assessment authorized by this section does not mature before the commissioners court accepts the improvement for which the assessment is made.

(d) An owner of an interest in property against which the commissioners court makes an assessment under this section is personally liable for the assessed amount. Each owner of property owned jointly is jointly and severally liable for the assessment.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 286.043. ASSESSMENT LIEN. (a) The county has a lien on assessed property under this subchapter that takes effect on the date the assessment is made.

(b) The lien has the same priority as a lien for county ad valorem taxes.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 286.044. ASSESSMENT LIENS ON CERTAIN EXEMPT PROPERTY. (a) The county may not assess a lien against property that on the date the commissioners court orders the assessment is exempt by law from execution on a judgment for debt.

(b) A property owner may waive an exemption to which the owner is entitled and voluntarily grant an assessment lien against the property in the same manner provided by law for granting a mechanic's lien for a homestead improvement.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 286.045. APPORTIONMENT OF COSTS. (a) The commissioners court shall apportion the assessed cost of improving a county road in accordance with the front foot rule which may vary among the assessed properties.

(b) To produce a substantial equality of burdens imposed in relation to benefits received, the commissioners court shall determine an assessment under this section in a just and equitable manner, keeping in mind the enhanced value to be gained by the abutting property and the property's owners because of the improvement.

(c) The commissioners court may not impose an assessment in excess of the enhanced value derived from the improvement by the property or the property owner.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 286.046. PLAN OF PROPOSED ROAD IMPROVEMENT. (a) The commissioners court shall prepare a plan of each proposed improvement that is to be financed by an assessment under Section 286.042.

(b) The plan must:

(1) specify the nature and location of the improvement;

(2) include an estimate of the total cost of the improvement;

(3) state the total amount of the costs to be financed

by the assessment; and

(4) include an estimate of the cost for each front foot to be assessed against the property abutting the road to be improved.

(c) The plan must specify each variation if the estimate of the cost for each front foot is not uniform.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 286.047. NOTICE AND ORDER FOR HEARING. (a) After preparing the plan required by Section 286.046, the commissioners court by order shall set a time, date, and place for a public hearing on the proposed improvement.

(b) The commissioners court shall publish notice of the hearing once a week for at least three consecutive weeks in a newspaper of general circulation in the area where the improvement is located. The first publication of the notice must appear not later than the 21st day before the date of the hearing.

(c) The commissioners court shall mail or personally deliver written notice of the hearing to the owner of each parcel of property subject to the proposed assessment. The commissioners court shall deliver or mail the notice not later than the 14th day before the date of the hearing. An owner is not entitled to notice under this subsection if the owner's name or address is not shown on the county tax roll.

(d) Notice provided under this section must contain:

(1) a general description of the proposed improvement that is to be financed by the assessment;

(2) an estimate of the proposed assessment for each front foot of abutting property;

(3) an estimate of the total cost of the proposed improvement to be made on each portion of road;

(4) the location of the proposed improvement; and

(5) the date, time, and place of the hearing.

(e) If the estimate of the proposed assessment for each front foot of abutting property is not uniform, the notice must specify each variation and identify the affected property.

(f) Notice required by this section is in addition to notice otherwise required by law.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 286.048. HEARING. (a) The commissioners court shall hold a public hearing at which an owner of an interest in property that abuts a proposed improvement may contest:

(1) the amount of the assessment; or

(2) the accuracy, sufficiency, or validity of a proceeding or determination of the commissioners court related to the improvement or assessment.

(b) After correcting a deficiency or error in its proceeding or determinations, the commissioners court by order may make an assessment against property that abuts the improvement.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 286.049. APPEAL. (a) Not later than the 15th day after the date the commissioners court makes an assessment under this subchapter, the owner of an interest in property against which the assessment has been made may file suit in district court to contest the:

(1) amount of the assessment; or

(2) accuracy or validity of a proceeding or determination related to the assessment or improvement.

(b) A property owner may file suit under this section not later than the 15th day after the date the property owner receives actual notice of the results of the public hearing if the owner shows by a preponderance of the evidence that notice of the hearing was not:

(1) mailed or delivered to the owner in the form or manner required by Section 286.047; or

(2) published in the form or manner required by Section 286.047.

(c) A person who does not file suit within the time stated in this section waives a complaint because of a determination or proceeding of the commissioners court related to an order for an improvement or an assessment.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 286.050. ENFORCEMENT OF ASSESSMENT OR LIABILITY. (a) A lien against assessed property and the personal liability of the owner may be enforced by suit in district court. An amount equal to the interest on the assessment and an amount equal to collection

expenses, including attorney's fees, are included in the lien and may be recovered.

(b) In a suit brought to enforce an assessment, it is a defense that:

(1) notice of the hearing was not delivered or published in the form or manner required by Section 286.047; or

(2) the amount of the assessment exceeds the estimate given in the notice provided under Section 286.047.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 286.051. CERTIFICATE OF ASSESSMENT. (a) The commissioners court of the county may issue an assignable certificate in the county's name that:

(1) certifies an assessment imposed under this subchapter; and

(2) declares:

(A) the existence of a lien against the assessed property; or

(B) the personal liability of the property owner.

(b) The commissioners court may determine the terms of the certificate.

(c) The certificate is prima facie evidence of a recital in the certificate that states:

(1) a proceeding ordering the improvements referred to in the certificate was conducted in compliance with the law; and

(2) the prerequisites to creating the assessment lien against the property described in the certificate and the personal liability of the property owner have been met.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 286.052. CORRECTION OF ASSESSMENT; SUBSEQUENT ASSESSMENT. (a) If an assessment is held invalid or unenforceable, the commissioners court may:

(1) correct an error related to the assessment; and

(2) after a notice and hearing, impose a subsequent assessment in the same manner provided for an original assessment.

(b) A person who owns or claims an interest in property against which a subsequent assessment has been imposed has the same right of appeal from the date the commissioners court orders the subsequent assessment as an original assessment.

(c) Sections 286.049(c) and 286.050(b) relating to waiver of appeal and limitation of defenses apply to a subsequent assessment.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 286.053. SUBSEQUENT ASSESSMENT CERTIFICATE. (a) The commissioners court may issue a subsequent assessment certificate that reflects each modification of the original assessment.

(b) A subsequent assessment certificate has the same attributes and effect of an original certificate from the date the commissioners court orders the subsequent assessment.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

#### SUBCHAPTER C. ROADS TO PUBLIC STREAMS AND LAKES AND OTHER PUBLIC WATER IN LEON AND MADISON COUNTIES

Sec. 286.061. APPLICABILITY. This subchapter applies only to Leon County and Madison County.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 286.062. DEFINITIONS. In this subchapter:

(1) "Public water" includes a public stream, river, bay, or lake.

(2) "Navigable stream" has the meaning assigned by Section 21.001, Natural Resources Code.

(3) "Public lake" means a lake in which the state owns the bed, or reserves for the state's residents the right of access to the lake for fishing, boating, hunting, or other recreation.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 286.063. PUBLIC NECESSITY FOR ADDITIONAL ROADS; PURPOSE. (a) A public necessity for additional roads is created by the lack of adequate roads for general public access to a navigable stream, public lake, or the shore of a lake.

(b) There is a public necessity for a road under this subchapter if a bank or shore of public water is inaccessible to the general public.

(c) The purpose of this subchapter is to establish a road to make accessible to the general public a bank or shore of public water that is fenced in and inaccessible.

(d) A bank or shore of public water is inaccessible to the general public under this section if:

(1) the bank or shore extends for more than five miles without a public road to furnish access to the bank or shore; or

(2) there is an area of five or more miles on the bank or shore without a road to furnish public access to the bank or shore.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 286.064. PUBLIC ROAD. The commissioners court may declare to be a public road to furnish access to public water a:

(1) line between parcels of real property having different owners;

(2) section line;

(3) survey line;

(4) survey subdivision line; or

(5) direct practicable route through an enclosure that contains 500 or more acres of land.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 286.065. APPLICATION FOR PUBLIC ROAD. (a) A person who lives within an enclosure described by Section 286.064(5), or 10 residents of the county, may file a sworn application with the commissioners court for an order to establish a public road for access to a bank or shore of public water in the county.

(b) The application must:

(1) state the facts that show the necessity for the highway;

(2) designate the line or route sought to be opened; and

(3) designate the name and residence of each person or owner of real property to be affected by the proposed road.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 286.066. NOTICE OF APPLICATION. (a) On the filing of an application under Section 286.065, the county clerk shall issue to the sheriff or a constable a notice that commands the sheriff or constable to summon the property owners named in the notice to:

(1) appear at the next regular term of the commissioners court; and

(2) show cause why the line or route designated in the application should not be declared a public road.

(b) Notice under this section:

(1) must contain the substance of the application filed under Section 286.065; and

(2) shall be served and returned in the same manner and for the same length of time as provided for the service of citation in a civil action in justice court.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 286.067. OPENING OF ROAD TO PUBLIC WATER. (a) The commissioners court by order shall declare each line designated in the application or designated by the commissioners court to be a public road if the commissioners court determines, at a regular term of court and after service of notice required by Section 286.066, that:

(1) this subchapter applies to the proposed road; and

(2) the proposed road is of public importance.

(b) The order must direct the owner of each designated line to open the road and leave the road open for a space of 15 feet on each side of the line. A marked tree or other object used to designate a line and the corners of a survey may not be removed or defaced.

(c) Notice of the order must be served on the owner of the line immediately. Service and return of the notice shall be made as provided by Section 286.066.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 286.068. ROADWORK. The commissioners court is not required to keep a road declared to be a public road under this subchapter worked by road hands.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 286.069. DAMAGES AND COSTS. (a) A jury of freeholders shall assess any damage to a property owner under this subchapter in the manner provided for other public roads.

(b) The county shall pay all costs of a proceeding to open a public road if the commissioners court of the county grants the application.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 286.070. OPENING ROAD PARALLEL TO NAVIGABLE STREAM. (a) On the filing of an application in accordance with Sections 286.064 through 286.069, the commissioners court may issue

an order that opens, in accordance with this subchapter, a public road that runs parallel and adjacent to the bank of a navigable stream for public access to the navigable stream and for camping purposes.

(b) The public road must be 60 feet wide and may extend any distance the commissioners court considers necessary.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER D. OPTIONAL COUNTY ROAD SYSTEM IN GREGG COUNTY

Sec. 286.081. ELECTION FOR COUNTY ROAD SYSTEM. (a) The commissioners court of Gregg County shall order an election on the question of the adoption of the optional county road system under Subchapter D, Chapter 252, if the commissioners court receives a petition signed by a number of registered voters residing in each commissioner precinct equal to at least 10 percent of the number of votes cast in the precinct for governor in the most recent general election at which that office was filled.

(b) The election shall be held on the first authorized uniform election date prescribed by Section 41.001, Election Code, that occurs at least 31 days after the date on which the petition is filed with the commissioners court.

(c) The ballot for the election shall be printed to permit voting for or against the proposition: "Adopting the Optional County Road System in Gregg County."

(d) If the majority of the votes cast in the election favor adoption, the optional county road system takes effect and Chapter 339, Acts of the 54th Legislature, Regular Session, 1955, has no effect.

(e) If a majority of the votes cast in the election do not favor adoption:

(1) Chapter 339, Acts of the 54th Legislature, Regular Session, 1955, remains in effect; and

(2) another election on the question of adopting the optional county road system may not be held before the first anniversary of the most recent election on the proposition.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.