

**54-8-23 Objection to amount of assessment -- Civil action -- Litigation to question or attack proceedings or legality of bonds.**

- (1) No special assessment levied under this chapter shall be declared void, nor shall any such assessment or part thereof be set aside in consequence of any error or irregularity permitted or appearing in any of the proceedings under this chapter, but any party feeling aggrieved by any such special assessment or proceeding may bring a civil action to cause such grievance to be adjudicated if such action is commenced prior to the expiration of the period specified in this section.
- (2) The burden of proof to show that such special assessment or part thereof is invalid, inequitable or unjust shall rest upon the party who brings such suit.
- (3) Any such litigation shall not be regarded as an appeal within the meaning of the prohibition contained in Section 54-8-18.
- (4) Every person whose property is subject to such special assessment and who fails to appear during the public hearings on said assessments to raise his objection to such tax shall be deemed to have waived all objections to such levy except the objection that the governing body lacks jurisdiction to levy such tax.
- (5) For a period of 20 days after the governing body has adopted the enactment authorizing the assessment, any taxpayer in the district shall have the right to institute litigation for the purpose of questioning or attacking the proceedings pursuant to which the assessments have been authorized subject to the provisions of the preceding paragraph.
- (6) Whenever any enactment authorizing the issuance of any bonds pursuant to the improvement contemplated shall have been adopted such resolution shall be published:
  - (a) once in a newspaper in which the original notice of hearing was published; and
  - (b) as required in Section 45-1-101.
- (7) For a period of 20 days thereafter, any person whose property shall have been assessed and any taxpayer in the district shall have the right to institute litigation for the purpose of questioning or attacking the legality of such bonds.
- (8) After the expiration of such 20-day period, all proceedings theretofore had by the governing body, the bonds to be issued pursuant thereto, and the special assessments from which such bonds are to be paid, shall become incontestable, and no suit attacking or questioning the legality thereof may be instituted in this state, and no court shall have the authority to inquire into such matters.

Amended by Chapter 388, 2009 General Session