

arbitration and these two arbitrators shall select a third, all of whom shall be neighboring freeholders; and the said arbitrators so elected shall meet not later than five days after the expiration of the said thirty days' notice on the boundary line of the proposed partition drain or line ditch, and determine the necessity therefor, and their decision therein shall be final and binding on the parties.

And further provided, that the two preceding sections (81AV and 81AW) are to apply only to private ditches which are partition or line ditches between adjoining proprietors and not to apply to public, assessed or tax ditches.

81AX. Whenever the drainage of roads may be deemed advisable, even though it does not materially benefit any swamp or low lands, the State Roads Commission may petition the County Commissioners to appoint, or the County Commissioners of any county, where it is proposed to improve a county road, may appoint without petition, a Board of Drain Commissioners in the same manner as a landowner's petition under Section 81AB of this Act. The said Drain Commissioners will view the land, without employing a surveyor or engineer, unless one is required to determine the extent of damages resulting from the construction of the ditch or drain, and will award damages to be paid by the party instituting the action. The laying out of the ditch, ditches, or drains shall be done by the party instituting the action at their own expense. The Drain Commissioners shall not pass on any of the details of engineering or costs of construction of the proposed ditch or drains, their sole functions being to award damages and exercise the right of eminent domain as provided in Section 81AC of this Act. The cost of construction or maintenance of any ditches or drains as provided in this section shall be paid by the party instituting the action. Any party feeling aggrieved by a decision of the Drain Commissioners may appeal to the Circuit Court of the county as provided in Section 81AT of this Act. This section shall not apply where the landowner adjacent to the road is benefitted more than the amount of damages awarded and the party instituting this action desires that the landowner pay his proportion of the costs. In the latter event the party instituting the action will be considered the same as any freeholder under the provisions of this Act.

81AY. The provisions of the preceding sections of this Act relating to draining lands shall apply to all lands requiring drainage in the State.