



**House  
Legislative  
Analysis  
Section**

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**DRAIN MAINTENANCE FUNDS**

100-921089

Mich. State Law Library

House Bill 4505

Sponsor: Rep. Carl Gnodtke

Committee: Towns and Counties

Complete to 4-24-89

**A SUMMARY OF HOUSE BILL 4505 AS INTRODUCED 3-22-89**

The bill would amend the Drain Code to provide funding for maintenance work under the code and to add provisions regarding the selection of county drain commissioners by certain charter counties.

House Bill 4505 would allow surplus drain construction funds to be deposited in a fund established for drain repair, inspection, and maintenance and would increase the annual amount that drain commissioners and drainage boards could, without petition, spend for maintaining a drain.

In addition, the bill would exempt Wayne County from the code's provisions governing the selection of a county drain commissioner, and instead require it to designate, in accordance with its charter, someone to perform the duties of drain commissioner.

Drain maintenance funds. The Drain Code currently requires that surplus funds from assessments for drain construction or maintenance be used for maintenance of the drain, but the funds so used cannot exceed the cost of maintaining the drain for one year. The bill would allow a drain commissioner or drainage board to establish a maintenance fund for each drainage district, using surplus funds remaining after completion of the construction of a drain, or of work performed for drain maintenance or improvements.

Drain maintenance costs. The maximum amount the drain commissioner or drainage board could spend annually for drain maintenance and repair without being requested by (or having to obtain the approval of) the affected municipalities would be increased from \$800 per mile to \$3,000 per mile.

Assessments. If at any time the maintenance fund of a drainage district contained less than \$3,000 per mile of drain or fraction of a mile of drain, the drain commissioner or drainage board could assess the drainage district up to \$1,500 a mile or fraction of a mile in any one year, with the money from this assessment being deposited in the drain fund for necessary inspection, repair, and maintenance of the drain.

Assessments--whether for the actual cost of inspection and maintenance of a drain or for deposit in the drain maintenance fund--would be made according to the benefits from the drain inspection, repair, or maintenance received by the property in a drainage district. Determination of the maximum assessment would be based on the number of miles of drain (and the areas of the drainage district) receiving the benefits, not on the actual number of miles (or the actual location) of inspection, repair or maintenance.

If an assessment were to total more than \$3,000 a mile (or fraction of a mile), all property owners subject to the assessment would have to be notified by first class mail and by notices published in local newspapers. The drain commissioner would make an "affidavit of mailing," which would be conclusive proof that the required notices were mailed. If an owner failed to receive a

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notice by mail, the drain tax would still be valid if notice also had been published in the newspaper as required.

Charter counties. A county organized under the charter county act (Public Act 293 of 1966), with an elected executive and a population of more than 2,000,000 when the charter was adopted, would be exempted from the Drain Code's requirements regarding the election of county drain commissioners. (This provision would apply to Wayne County only.) Instead of electing a drain commission, Wayne County would be required to designate someone, in accordance with the county's charter, to assume the powers and duties of the drain commissioner.

In addition, the county executive would be required to provide, by reorganization plan, for a method of administering projects petitioned for under the Drain Code. The code's requirements for "substantive actions and determinations" would have to be followed in administering each project, and the county executive (or designee) would be the only person who could execute, by signature, bonds (or other obligations of the drainage district) incurred under the code. Pending adoption of a reorganization plan, the method in effect for administering projects would have to continue.

MCL 280.4 3t al.