

HOUSE BILL No. 6095

September 17, 1998, Introduced by Reps. Willard, Harder, Bogardus, LaForge, Freeman, Gubow, Vaughn, Wallace, Scott, Jellema and Kaza and referred to the Committee on Agriculture.

A bill to amend 1956 PA 40, entitled
"The drain code of 1956,"
by amending the title and sections 1, 2, 3, 6, 8, 10, 12, 21, 23,
24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 51, 52, 53, 54, 151, 152,
154, 191, 192, 193, 221, 222, 223, 241, 242, 243, 244, 245, 247,
261, 262, 263, 265, 266, 267, 270, 273, 274, 275, 276, 277, 278,
279, 280, 282, 283, 301, 302, 303, 304, 306, 307, 322, 322b, 323,
324, 326, 327, 328, 391, 392, 393, 395, 421, 422, 423, 425, 429,
430, 431, 601, 602, 622, and 623 (MCL 280.1, 280.2, 280.3, 280.6,
280.8, 280.10, 280.12, 280.21, 280.23, 280.24, 280.25, 280.26,
280.27, 280.28, 280.29, 280.30, 280.31, 280.32, 280.33, 280.51,
280.52, 280.53, 280.54, 280.151, 280.152, 280.154, 280.191,
280.192, 280.193, 280.221, 280.222, 280.223, 280.241, 280.242,
280.243, 280.244, 280.245, 280.247, 280.261, 280.262, 280.263,
280.265, 280.266, 280.267, 280.270, 280.273, 280.274, 280.275,

280.276, 280.277, 280.278, 280.279, 280.280, 280.282, 280.283, 280.301, 280.302, 280.303, 280.304, 280.306, 280.307, 280.322, 280.322b, 280.323, 280.324, 280.326, 280.327, 280.328, 280.391, 280.392, 280.393, 280.395, 280.421, 280.422, 280.423, 280.425, 280.429, 280.430, 280.431, 280.601, 280.602, 280.622, and 280.623), the title as amended by 1982 PA 449, section 21 as amended by 1989 PA 134, section 33 as amended by 1982 PA 356, section 223 as amended by 1989 PA 61, section 280 as amended by 1983 PA 176, section 282 as amended by 1984 PA 80, section 283 as amended by 1989 PA 149, and section 423 as amended by 1996 PA 552, and by adding sections 7, 7a, 7b, 13, 14, 15, 34, 35, 41, 42, 44, 51a, 51b, 51c, 56, 57, 58, 163, 275a, 277a, 329, 330, and 603 and chapters 8A and 26; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1

TITLE

2 An act to codify the laws relating to the laying out of
 3 drainage districts, the consolidation of drainage districts, the
 4 construction and maintenance of drains, sewers, pumping equip-
 5 ment, bridges, culverts, fords, and the structures and mechanical
 6 devices to properly purify the flow of drains; to provide for
 7 flood control projects; to provide for water management, water
 8 management districts, and subdistricts, and for flood control and
 9 drainage projects within drainage districts; TO PROTECT WATER
 10 QUALITY; to provide for the assessment and collection of taxes
 11 AND SPECIAL ASSESSMENTS; TO REQUIRE THE PROMULGATION OF RULES; to
 12 provide for the investment of funds; to provide for the deposit

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1 of funds for future maintenance of drains; to authorize public
 2 corporations to impose taxes for the payment of assessments in
 3 anticipation of which bonds are issued; to provide for the issu-
 4 ance of bonds by drainage districts and for the pledge of the
 5 full faith and credit of counties for payment of the bonds; to
 6 authorize counties to impose taxes when necessary to pay princi-
 7 pal and interest on bonds for which full faith and credit is
 8 pledged; to validate certain acts and bonds; TO PROVIDE FOR THE
 9 POWERS AND DUTIES OF CERTAIN STATE AND LOCAL GOVERNMENTAL OFFI-
 10 CERS AND ENTITIES; and to prescribe penalties.

11 CHAPTER 1 —

12 ~~—DRAINS.—~~ GENERAL PROVISIONS

13 Sec. 1. This act shall be known and may be cited as ~~—~~ the
 14 "drain code". ~~of 1956".~~

15 Sec. 2. ~~Drains including branches may be located, estab-~~
 16 ~~lished, constructed and maintained, and existing drains, creeks,~~
 17 ~~rivers and watercourses and their branches, or tributaries~~
 18 ~~whether located, established and constructed by a county drain~~
 19 ~~commissioner or drainage board or by a city, village or township,~~
 20 ~~may be cleaned out, straightened, widened, deepened, extended,~~
 21 ~~consolidated, relocated, tiled, connected and relocated along a~~
 22 ~~highway, or there may be provided for the same structures or~~
 23 ~~mechanical devices that will properly purify or improve the flow~~
 24 ~~of the drain or pumping equipment necessary to assist or relieve~~
 25 ~~the flow of the drain, or 1 or more branches may be added there-~~
 26 ~~to, by petition under the provisions of this act, whenever the~~

1 ~~same shall be conducive to the public health, convenience and~~
2 ~~welfare.~~ AS USED IN THIS ACT:

3 (A) "APPORTION" MEANS TO ALLOCATE ON A PERCENTAGE BASIS THE
4 COST OF A PROJECT AMONG PERSONS ASSESSABLE FOR THAT COST.

5 (B) "BENEFIT" MEANS THE POSITIVE OR NEGATIVE CONSEQUENCES OF
6 A PROJECT FOR INDIVIDUAL PARCELS OF LAND INCLUDING:

7 (i) INCREASE OR DECREASE IN PROPERTY VALUE.

8 (ii) INCREASE OR DECREASE IN POTENTIAL AGRICULTURAL
9 PRODUCTION.

10 (iii) INCREASE OR DECREASE IN NATURAL RESOURCE VALUES.

11 (iv) INCREASE OR DECREASE IN VALUE OF THE PROPERTY AS THE
12 RESULT OF A DIFFERENT LAND USE.

13 (v) FAIR MARKET VALUE FOR THE LAND NEEDED FOR THE CHANNEL OF
14 A DRAIN AND A GRASS STRIP SURROUNDING THE CHANNEL.

15 (vi) DIMINISHED VALUE OF A FARM BECAUSE OF SEVERING A FIELD
16 WITH AN OPEN DITCH.

17 (vii) LOSS OF CROP PRODUCTION DUE TO DRAINAGE PROJECT WORK.

18 (viii) DIMINISHED PRODUCTIVITY OR LAND VALUE DUE TO OVERFLOW
19 ALONG THE BANKS OF A DRAIN.

20 (ix) THE AMOUNT OF RUNOFF FROM LAND ENTERING A DRAIN AS A
21 RESULT OF THE PROJECT AS DETERMINED BY FACTORS INCLUDING BUT NOT
22 LIMITED TO THE FOLLOWING:

23 (A) THE DEPTH, CHARACTER, AND QUALITY OF SURFACE AND SUBSUR-
24 FACE SOILS OF THE LAND.

25 (B) THE AMOUNT OF IMPERVIOUS SURFACE ON THE LAND.

26 (C) WHETHER THE ACT OR OMISSION OF A PERSON INCREASES OR
27 REDUCES THE NEED FOR THE PROJECT OR IMPROVES OR DEGRADES THE

1 WATER QUALITY. CONSEQUENTLY, TO THE EXTENT THAT EXISTING OR
2 PROPOSED DEVELOPMENT CONTRIBUTES TO THE NECESSITY OF A PROJECT,
3 BENEFITS OF THE PROJECT SHALL BE APPORTIONED TO THE LAND ON WHICH
4 THE DEVELOPMENT HAS OCCURRED OR WILL OCCUR.

5 (C) "COMMISSIONER", UNLESS THE CONTEXT CLEARLY INDICATES
6 OTHERWISE, OR "DRAIN COMMISSIONER" MEANS 1 OF THE FOLLOWING:

7 (i) THE ELECTED COUNTY DRAIN COMMISSIONER OR THE PERSON OR
8 PERSONS DESIGNATED TO PERFORM THE DUTIES OF THE ELECTED COUNTY
9 DRAIN COMMISSIONER AS PROVIDED BY THIS ACT.

10 (ii) A PUBLIC WORKS COMMISSIONER DESCRIBED IN SECTION 21.

11 (iii) THE OFFICIAL OR BODY LAWFULLY DESIGNATED BY CHARTER TO
12 EXERCISE THE POWERS AND PERFORM THE DUTIES OF A COUNTY DRAIN COM-
13 MISSIONER IN A COUNTY ORGANIZED UNDER 1966 PA 293, MCL 45.501 TO
14 45.521.

15 (D) "COUNTY DRAIN" MEANS A DRAIN THAT PROVIDES DRAINAGE OR
16 SERVES LANDS IN ONLY 1 COUNTY AND HAS LANDS IN ONLY 1 COUNTY THAT
17 MAY BE SUBJECT TO ASSESSMENT.

18 (E) "DIRECTOR OF AGRICULTURE" MEANS THE DIRECTOR OF THE
19 DEPARTMENT OF AGRICULTURE OR HIS OR HER DESIGNEE SUBJECT TO SEC-
20 TION 13.

21 (F) "DRAIN" MEANS ANY OF THE FOLLOWING IF ESTABLISHED PURSU-
22 ANT TO THIS ACT:

23 (i) A WATERCOURSE OR DITCH, EITHER OPEN OR CLOSED.

24 (ii) A COVERED DRAIN.

25 (iii) A SANITARY OR A COMBINED SANITARY AND STORM SEWER OR
26 STORM SEWER OR CONDUIT.

1 (iv) A STRUCTURE OR MECHANICAL DEVICE TO PURIFY THE FLOW OF
2 A DRAIN.

3 (v) PUMPING EQUIPMENT NECESSARY TO ASSIST OR RELIEVE THE
4 FLOW OF A DRAIN.

5 (vi) ANY LEVEE, DIKE, OR BARRIER FOR DRAINAGE OR TO PURIFY
6 THE FLOW OF A DRAIN.

7 (G) "DRAIN" DOES NOT INCLUDE ANY DAM AND CONNECTED FLOWAGE
8 RIGHTS USED FOR THE GENERATION OF POWER BY A PUBLIC UTILITY
9 SUBJECT TO REGULATION BY THE PUBLIC SERVICE COMMISSION.

10 (H) "DRAINAGE DISTRICT" MEANS THE AREA DESCRIBED IN THE
11 ORDER OF NECESSITY OR, FOR A PROPOSED DRAIN FOR WHICH AN ORDER OF
12 NECESSITY HAS NOT BEEN MADE, THE AREA THAT WOULD BE SERVED BY THE
13 PROPOSED DRAIN. ONCE ESTABLISHED, A DRAINAGE DISTRICT IS A BODY
14 CORPORATE WITH POWER TO CONTRACT, TO SUE AND TO BE SUED, AND TO
15 HOLD, MANAGE, AND DISPOSE OF REAL AND PERSONAL PROPERTY, IN ADDI-
16 TION TO ANY OTHER POWERS CONFERRED UPON IT BY LAW.

17 (I) "ENGINEER" MEANS A PROFESSIONAL ENGINEER LICENSED UNDER
18 ARTICLE 20 OF THE OCCUPATIONAL CODE, 1980 PA 299, MCL 339.2001 TO
19 339.2014.

20 (J) "IMPROVEMENT" MEANS 1 OR MORE OF THE FOLLOWING:

21 (i) RELOCATING, WIDENING, DEEPENING, STRAIGHTENING, TILING,
22 OR ENCLOSING A DRAIN.

23 (ii) PROVIDING OR ENHANCING STRUCTURES INCLUDING BRIDGES OR
24 MECHANICAL DEVICES THAT WILL PROPERLY CONTROL OR IMPROVE THE FLOW
25 OF THE DRAIN.

26 (iii) PROVIDING OR ENHANCING LEVEES, DIKES, OR RETENTION AND
27 DETENTION BASINS.

1 (iv) MAINTAINING, REPAIRING, OR ENHANCING EXISTING DAMS.

2 (v) EXTENDING AN EXISTING DRAIN DOWNSTREAM FOR THE PURPOSE
3 OF PROVIDING AN ADEQUATE OUTLET TO RESTORE OR IMPROVE DRAINAGE TO
4 LANDS WITHIN AN ESTABLISHED DRAINAGE DISTRICT. ACTIVITY UNDER
5 THIS SUBPARAGRAPH IS SUBJECT TO ANY PERMIT REQUIRED UNDER THE
6 NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT, 1994 PA 451,
7 MCL 324.101 TO 324.90106.

8 (vi) EXTENDING OR ADDING BRANCHES TO AN EXISTING DRAIN TO
9 RESTORE OR IMPROVE DRAINAGE FOR LANDS WITHIN AN ESTABLISHED
10 DRAINAGE DISTRICT. ACTIVITY UNDER THIS SUBPARAGRAPH IS SUBJECT
11 TO ANY PERMIT REQUIRED UNDER THE NATURAL RESOURCES AND ENVIRON-
12 MENTAL PROTECTION ACT, 1994 PA 451, MCL 324.101 TO 324.90106.

13 (vii) EXTENDING AN EXISTING DRAIN TO PROVIDE DRAINAGE FOR
14 LANDS NOT PREVIOUSLY WITHIN A DRAINAGE DISTRICT. ACTIVITY UNDER
15 THIS SUBPARAGRAPH IS SUBJECT TO ANY PERMIT REQUIRED UNDER THE
16 NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT, 1994 PA 451,
17 MCL 324.101 TO 324.90106.

18 (viii) ADDING LANDS TO THE DRAINAGE DISTRICT.

19 (ix) CONSOLIDATING DRAINAGE DISTRICTS.

20 (x) MEASURES THAT ARE INTENDED TO EITHER ENHANCE OR IMPROVE
21 NATURAL RESOURCE VALUES OF THE DRAIN.

22 (xi) REMOVAL AND DISPOSAL OF CONTAMINATED MATERIAL AFTER
23 OBTAINING ALL STATE AND FEDERAL PERMITS.

24 (xii) MEASURES THAT PROVIDE BENEFIT TO THE DESIGNED FUNC-
25 TION, LONGEVITY, OR HYDRAULIC CAPACITY OF THE DRAIN.

1 (xiii) MAINTENANCE THAT CANNOT BE PERFORMED UNDER CHAPTER 8
2 BECAUSE THE ESTIMATED COST OF THE MAINTENANCE EXCEEDS \$2,500.00
3 PER MILE OR FRACTION OF A MILE OF DRAIN IN 1 YEAR.

4 (K) "IMPROVEMENT" DOES NOT INCLUDE WORK ON A DRAIN IF THE
5 DRAIN WAS NOT CONSTRUCTED IN WHOLE OR PART, EVEN THOUGH A DRAIN-
6 AGE DISTRICT FOR THE DRAIN MAY HAVE BEEN LAID OUT AND DESIGNATED
7 AND THE DRAIN MAY HAVE BEEN ESTABLISHED IN AN ORDER OF
8 NECESSITY.

9 (l) "INTERCOUNTY DRAIN" MEANS A DRAIN THAT PROVIDES DRAINAGE
10 OR SERVES LANDS IN MORE THAN 1 COUNTY THAT MAY BE SUBJECT TO
11 ASSESSMENT.

12 (M) "LANDOWNER" MEANS A PERSON HOLDING THE MOST RECENT FEE
13 TITLE OR A LAND CONTRACT VENDEE'S INTEREST IN LAND AS SHOWN BY
14 THE RECORDS OF THE COUNTY REGISTER OF DEEDS. IF THERE IS MORE
15 THAN 1 PERSON WITH A FEE INTEREST OR LAND CONTRACT VENDEE'S
16 INTEREST IN LAND, EACH SUCH PERSON IS A SEPARATE LANDOWNER.

17 (N) "MAINTENANCE" MEANS 1 OR MORE OF THE FOLLOWING:

18 (i) REGULAR INSPECTION OF A DRAIN.

19 (ii) CLEANING OUT A DRAIN, INCLUDING KEEPING A DRAIN FREE
20 FROM RUBBISH, DEBRIS, SILTATION, OR OBSTRUCTIONS.

21 (iii) EROSION AND SEDIMENTATION REPAIR AND CONTROL.

22 (iv) MAINTENANCE, REPAIR, AND REPLACEMENT OF TILE, CULVERTS,
23 OR FORDS THAT HAVE DIMINISHED THE CAPACITY OF THE DRAIN OR THAT
24 HAVE BECOME UNSTABLE OR UNSAFE.

25 (v) MAINTENANCE AND REPAIR OF LEVEES, DIKES, DAMS, AND
26 RETENTION AND DETENTION BASINS.

1 (vi) MAINTENANCE, REPAIR, OR REPLACEMENT OF UTILITY SERVICE
2 FOR PUMPING STATIONS, SEWAGE TREATMENT FACILITIES, OR MECHANICAL
3 DEVICES.

4 (vii) REASONABLE REMOVAL OF OBSTRUCTIONS DOWNSTREAM FOR THE
5 PURPOSE OF RESTORING ADEQUATE OUTLET FOR LANDS WITHIN AN EXISTING
6 DRAINAGE DISTRICT, SUBJECT TO SECTION 422.

7 (O) "MAINTENANCE" DOES NOT MEAN ANY ACTIONS OR ANY CONSTRUC-
8 TION ACTIVITIES THAT EXCEED THE PRIOR ACTUALLY CONSTRUCTED
9 DEPTHS, GRADE, OR BOTTOM WIDTHS OF THE DRAIN OR ANY NEW PUMPING
10 STATIONS, DAMS, LEVEES, DIKES, RETENTION BASINS, OR ANY NEW
11 STRUCTURES.

12 (P) "MUNICIPALITY" MEANS A CITY, VILLAGE, OR TOWNSHIP.

13 (Q) "ORDER OF NECESSITY" MEANS AN ORDER UNDER SECTION 54.

14 (R) "PERSON" MEANS AN INDIVIDUAL, PARTNERSHIP, CORPORATION,
15 ASSOCIATION, GOVERNMENTAL ENTITY, OR OTHER LEGAL ENTITY.

16 (S) "PROJECT" MEANS WORK UNDERTAKEN AS A RESULT OF PETITION
17 AND AN ORDER OF NECESSITY OR UNDERTAKEN AS MAINTENANCE ON A
18 DRAIN.

19 (T) "ROADWAY" MEANS A STATE TRUNK LINE HIGHWAY, COUNTY ROAD,
20 CITY OR VILLAGE STREET, OR A ROAD UNDER THE JURISDICTION OF A
21 TOWNSHIP.

22 (U) "ROADWAY AUTHORITY" MEANS, WITH RESPECT TO A STATE TRUNK
23 LINE HIGHWAY, THE STATE TRANSPORTATION COMMISSION; WITH RESPECT
24 TO A COUNTY ROAD, THE BOARD OF COUNTY ROAD COMMISSIONERS; WITH
25 RESPECT TO A CITY OR VILLAGE STREET, THE CITY OR VILLAGE; AND
26 WITH RESPECT TO A ROAD UNDER TOWNSHIP JURISDICTION, THE
27 TOWNSHIP.

1 (V) "SURVEYOR" MEANS A PROFESSIONAL SURVEYOR LICENSED UNDER
2 ARTICLE 20 OF THE OCCUPATIONAL CODE, 1980 PA 299, MCL 339.2001 TO
3 339.2014.

4 Sec. 3. ~~The word "drain", whenever used in this act, shall~~
5 ~~include the main stream or trunk and all tributaries or branches~~
6 ~~of any creek or river, any watercourse or ditch, either open or~~
7 ~~closed, any covered drain, any sanitary or any combined sanitary~~
8 ~~and storm sewer or storm sewer or conduit composed of tile,~~
9 ~~brick, concrete, or other material, any structures or mechanical~~
10 ~~devices, that will properly purify the flow of such drains, any~~
11 ~~pumping equipment necessary to assist or relieve the flow of such~~
12 ~~drains and any levee, dike, barrier, or a combination of any or~~
13 ~~all of same constructed, or proposed to be constructed, for the~~
14 ~~purpose of drainage or for the purification of the flow of such~~
15 ~~drains, but shall not include any dam and flowage rights used in~~
16 ~~connection therewith which is used for the generation of power by~~
17 ~~a public utility subject to regulation by the public service~~
18 ~~commission.~~ A DRAIN MAY BE ESTABLISHED, CONSTRUCTED, MAINTAINED,
19 AND IMPROVED CONSISTENT WITH THE PROVISIONS OF THIS ACT.

20 Sec. 6. All ~~established~~ drains ~~regularly located and~~
21 ~~established in pursuance of~~ UNDER law ~~existing~~ IN EFFECT at
22 the time of ~~location and~~ establishment and visibly in exis-
23 tence, ~~which were established as drains, and~~ OR all drains vis-
24 ibly in existence in written drain easements or rights-of-way, on
25 file in the office of the commissioner, ~~shall be deemed~~ ARE
26 public drains. ~~located in public easements or rights-of-way~~
27 ~~which are valid and binding against any owners of any property~~

~~1 interest who became or hereafter become such owners after the
2 location and establishment of the drain or the existence of the
3 drain became visible or the written drain easement or
4 right-of-way was executed, and the THE commissioner or drainage
5 board may use, enter upon, and preserve ~~such~~ THE easement or
6 right-of-way for maintenance of the ~~visible~~ drain and any other
7 lawful activity with respect to the ~~same~~ DRAIN not requiring a
8 larger or different easement or right-of-way and may exercise any
9 rights granted in the written easement or right-of-way. ~~on file~~
10 ~~in the office of the commissioner.~~ Easements or rights-of-way
11 ~~,~~ or portions of easements or rights-of-way ~~,~~ no longer nec-
12 essary for drainage purposes may be conveyed or released to the
13 ~~fee owners~~ LANDOWNERS by the commissioner or drainage board on
14 behalf of the drainage district. ~~The drain commissioner or~~
15 ~~drainage board shall give at least 30 days' notice of the inten-~~
16 ~~tion to release the excess easements by publishing a notice in a~~
17 ~~newspaper of general circulation in the county or a newspaper of~~
18 ~~general circulation where the drainage district boundaries are~~
19 ~~located. This notice shall give a general description of the~~
20 ~~excess easements to be released and the date any taxpayers may~~
21 ~~appear to protest said release. After said date if no protests~~
22 ~~are received, the drain commissioner or drainage board may~~
23 ~~release said excess easements or portions thereof not necessary~~
24 ~~for drainage purposes.~~~~

25 SEC. 7. (1) FOR THE PURPOSES OF THIS ACT, A COMMISSIONER OR
26 DRAINAGE BOARD MAY ACQUIRE PROPERTY OR A PROPERTY INTEREST,
27 INCLUDING, BUT NOT LIMITED TO, LAND, EASEMENTS, AND RIGHTS OF

1 WAY. THE PROPERTY OR A PROPERTY INTEREST MAY BE ACQUIRED BY
2 GIFT, GRANT, DEDICATION, PURCHASE, OR CONDEMNATION UNDER THE UNI-
3 FORM CONDEMNATION PROCEDURES ACT, 1980 PA 287, MCL 213.51 TO
4 213.77.

5 (2) A RELEASE OF RIGHT-OF-WAY SHALL DESCRIBE THE LAND TO BE
6 CONVEYED AND THE PURPOSE FOR WHICH IT MAY BE USED. THE RELEASE
7 OF RIGHT-OF-WAY SHALL BE SIGNED AND DATED BY THE PERSON HAVING
8 THE RIGHT TO CONVEY AND SHALL COMPLY WITH THE FILING REQUIREMENTS
9 OF THE REGISTER OF DEEDS. IF A PORTION OF A DRAIN IS LOCATED
10 WITHIN A ROADWAY, OR PUBLIC PLACE, THEN A RESOLUTION OF THE ROAD-
11 WAY AUTHORITY OR THE GOVERNING BODY HAVING JURISDICTION OVER THE
12 PUBLIC PLACE, RESPECTIVELY, GRANTING LEAVE TO CONSTRUCT THE DRAIN
13 THEREIN AND DESIGNATING THE PLACE TO BE TRAVERSED BY THE DRAIN,
14 IS A SUFFICIENT RELEASE OF THE RIGHT-OF-WAY, UNDER THIS ACT.

15 (3) A COUNTY DRAIN OR INTERCOUNTY DRAIN MAY BE LAID WITHIN
16 OR ACROSS THE RIGHT-OF-WAY OF A ROADWAY IF THE COMMISSIONER OR
17 DRAINAGE BOARD, RESPECTIVELY, OBTAINS A PERMIT FROM THE ROADWAY
18 AUTHORITY.

19 (4) IF THE FEDERAL GOVERNMENT IS PARTICIPATING IN A PROJECT
20 UNDER THIS ACT, PROPERTY OR A PROPERTY INTEREST FOR THE PROJECT
21 MAY BE ACQUIRED BY THE FEDERAL GOVERNMENT UNDER APPLICABLE FED-
22 ERAL LAW. EXCEPT AS PROVIDED IN SECTION 431, THE COST FOR THE
23 FEDERAL GOVERNMENT TO ACQUIRE THE PROPERTY OR A PROPERTY INTEREST
24 SHALL BE CONSIDERED A PART OF THE COST OF THE PROJECT AS IF THE
25 PROPERTY OR A PROPERTY INTEREST WERE ACQUIRED UNDER SUBSECTION
26 (1).

1 SEC. 7A. (1) IF A COMMISSIONER OR DRAINAGE BOARD ACQUIRES
2 PROPERTY OR AN INTEREST IN PROPERTY AFTER APRIL 15, 1999, THE
3 COMMISSIONER OR DRAINAGE BOARD SHALL PROMPTLY RECORD THE PROPERTY
4 OR INTEREST IN PROPERTY IN THE OFFICE OF THE REGISTER OF DEEDS.

5 (2) AN INTEREST IN PROPERTY ACQUIRED ON OR BEFORE APRIL 15,
6 1999 SHALL BE RECORDED IN THE OFFICE OF THE REGISTER OF DEEDS BY
7 JANUARY 1, 2003.

8 (3) IF A DRAIN IS CONSOLIDATED, ANY EASEMENTS GRANTED TO THE
9 SEPARATE DRAINAGE DISTRICTS SHALL BE CONSIDERED TO BE ASSIGNED TO
10 THE CONSOLIDATED DRAINAGE DISTRICT WITH FULL FORCE AND EFFECT OF
11 LAW AS ORIGINALLY GRANTED.

12 (4) THE COST OF RECORDING UNDER THIS SECTION SHALL BE PAID
13 BY THE DRAINAGE DISTRICT.

14 SEC. 7B. THE OWNER OF ANY LAND OVER, THROUGH, OR ACROSS
15 WHICH A DRAINAGE DISTRICT HAS ACQUIRED AN EASEMENT OR
16 RIGHT-OF-WAY FOR THE CONSTRUCTION AND MAINTENANCE OF A DRAIN
17 SHALL NOT USE THE LAND WITHIN THE EASEMENT OR RIGHT-OF-WAY IN ANY
18 MANNER INCONSISTENT WITH THE EASEMENT OR RIGHT-OF-WAY OF THE
19 DISTRICT. A USE OF THE LAND WITHIN THE EASEMENT OR RIGHT-OF-WAY
20 THAT WILL INTERFERE WITH THE OPERATION OF THE DRAIN OR WILL
21 INCREASE THE COST TO THE DISTRICT OF PERFORMING WORK ON THE DRAIN
22 IS INCONSISTENT WITH THE EASEMENT OR RIGHT-OF-WAY. A FILTER
23 STRIP IS NOT A USE OF THE LAND IN A MANNER INCONSISTENT WITH AN
24 EASEMENT OR RIGHT-OF-WAY. A LANDOWNER WHO VIOLATES THIS SECTION
25 IS SUBJECT TO SECTION 421.

26 Sec. 8. (1) ~~The~~ ALL business ~~which~~ PERFORMED BY a board
27 or ~~commission~~ OTHER BODY created pursuant to this act ~~, or a~~

1 ~~body of special commissioners appointed pursuant to this act, may~~
2 ~~perform~~ shall be conducted at a public meeting of the board ~~—,~~
3 ~~commission, or body of special commissioners~~ OR OTHER BODY held
4 in compliance with ~~Act No. 267 of the Public Acts of 1976, being~~
5 ~~sections 15.261 to 15.275 of the Michigan Compiled Laws~~ THE OPEN
6 MEETINGS ACT, 1976 PA 267, MCL 15.261 TO 15.275. Public notice
7 of the time, date, and place of the meeting shall be given in the
8 manner required by ~~Act No. 267 of the Public Acts of 1976~~ THE
9 OPEN MEETINGS ACT, 1976 PA 267, MCL 15.261 TO 15.275.

10 (2) IN ADDITION TO THE REQUIREMENTS OF SUBSECTION (1) AND
11 EXCEPT AS OTHERWISE PROVIDED IN THIS ACT, NOTICE OF ANY OF THE
12 FOLLOWING SHALL BE SENT BY FIRST-CLASS MAIL TO ALL LANDOWNERS
13 OTHER THAN MUNICIPALITIES SUBJECT TO AN ASSESSMENT IN THE DRAIN-
14 AGE DISTRICT OR PROPOSED DRAINAGE DISTRICT AT THE ADDRESS IN THE
15 LAST CITY, VILLAGE, OR TOWNSHIP TAX ASSESSMENT ROLL:

16 (A) HEARINGS FOR THE BOARD OF DETERMINATION OR BOARD OF
17 REVIEW AND MEETINGS FOR THE DAY OF REVIEW OR THE REAPPORTIONMENT
18 OF BENEFITS.

19 (B) THE FILING OF OBJECTIONS TO THE ESTABLISHMENT OF A
20 DRAINAGE DISTRICT AND THE ESTABLISHMENT AND CONSTRUCTION OF A
21 DRAIN UNDER SECTION 51C(3).

22 (C) HEARINGS OF THE DRAINAGE BOARD.

23 (D) AN ORDER UNDER SECTION 51 OR 53 REJECTING A PETITION.

24 (E) THE REVIEW OF APPORTIONMENTS.

25 (F) AN ORDER UNDER SECTION 163 GRANTING OR DENYING A PETI-
26 TION FOR REAPPORTIONMENT OF BENEFITS.

1 (G) A FINAL DECISION OF THE BOARD OF REVIEW.

2 (3) IF A MUNICIPALITY MAY BE SUBJECT TO AN ASSESSMENT FOR
3 THE DRAIN, NOTICE SHALL BE PERSONALLY DELIVERED OR SENT BY
4 FIRST-CLASS MAIL TO THE GOVERNING BODY OF THE MUNICIPALITY.
5 NOTICE SHALL ALSO BE PERSONALLY DELIVERED OR SENT BY FIRST-CLASS
6 MAIL TO THE DIRECTOR OF AGRICULTURE, THE DIRECTOR OF THE STATE
7 TRANSPORTATION DEPARTMENT, THE DIRECTOR OF THE DEPARTMENT OF NAT-
8 URAL RESOURCES, THE DIRECTOR OF THE DEPARTMENT OF ENVIRONMENTAL
9 QUALITY, AND THE BOARD OF COUNTY ROAD COMMISSIONERS, THE GOVERN-
10 ING BODY OF EACH MUNICIPALITY IN WHICH LIE LANDS THAT ARE SUBJECT
11 TO ASSESSMENT FOR THE PROJECT OR THAT ARE LOCATED DOWNSTREAM OF
12 THE PROJECT, AND THE DIRECTOR OF EACH SOIL CONSERVATION DISTRICT
13 IN THE WATERSHED WHERE THE DRAIN IS PROPOSED TO BE LOCATED.

14 (4) THE NOTICE SHALL BE MAILED AS FOLLOWS:

15 (A) FOR A HEARING UNDER SECTION 467 OR 469, NOT LESS THAN 21
16 DAYS BEFORE THE DATE OF THE HEARING.

17 (B) FOR ANY OTHER PROCEEDING, NOT LESS THAN 28 DAYS BEFORE
18 THE DATE OF THE PROCEEDING.

19 (C) FOR THE FILING OF OBJECTIONS TO THE ESTABLISHMENT OF A
20 DRAINAGE DISTRICT AND THE ESTABLISHMENT AND CONSTRUCTION OF A
21 DRAIN UNDER SECTION 51C(3), NOT MORE THAN 21 DAYS AFTER THE
22 OBJECTIONS ARE FILED.

23 (D) FOR AN ORDER UNDER SECTION 51 OR 53 REJECTING A PETITION
24 OR AN ORDER UNDER SECTION 163 GRANTING OR DENYING A PETITION FOR
25 REAPPORTIONMENT OF BENEFITS, NOT MORE THAN 14 DAYS AFTER ENTRY OF
26 THE ORDER.

1 (E) FOR NOTICE OF A FINAL DECISION OF THE BOARD OF REVIEW,
2 NOT MORE THAN 14 DAYS AFTER THE COMMISSIONER RECEIVES THE
3 DECISION.

4 (5) THE PERSON GIVING NOTICE SHALL MAKE AN AFFIDAVIT OF THE
5 MAILING AND SHALL RECITE IN THE AFFIDAVIT THAT THE PERSONS TO
6 WHOM THE NOTICE WAS MAILED CONSTITUTE ALL OF THE PERSONS WHOSE
7 NAMES AND ADDRESSES APPEAR UPON THE TAX ROLLS AS OWNING LAND
8 WITHIN THE DRAINAGE DISTRICT OR PROPOSED DRAINAGE DISTRICT. THE
9 AFFIDAVIT OF MAILING IS PROOF THAT NOTICE WAS MAILED ACCORDING TO
10 THIS ACT. FAILURE TO RECEIVE A NOTICE BY MAIL IS NOT A JURISDIC-
11 TIONAL DEFECT INVALIDATING A DRAIN PROCEEDING OR SPECIAL ASSESS-
12 MENT IF NOTICE HAS BEEN SENT AS PROVIDED IN THIS ACT.

13 (6) THE NOTICE DESCRIBED IN SUBSECTION (2) SHALL BE POSTED
14 IN THE OFFICE OF EACH COMMISSIONER INVOLVED BY THE DATE BY WHICH
15 PUBLICATION IS FIRST REQUIRED.

16 (7) NOTICE OF A PUBLIC HEARING DESCRIBED IN SUBSECTION (2)
17 SHALL BE PUBLISHED IN A NEWSPAPER OF GENERAL CIRCULATION IN THE
18 DRAINAGE DISTRICT. THE NOTICE SHALL BE PUBLISHED AT LEAST TWICE,
19 WITH THE FIRST PUBLICATION NOT LESS THAN 21 DAYS BEFORE THE DATE
20 OF THE HEARING AND THE SECOND PUBLICATION NOT LESS THAN 14 DAYS
21 BEFORE THE DATE OF THE HEARING.

22 (8) NOTICE OF A PUBLIC HEARING DESCRIBED IN SUBSECTION (2)
23 SHALL SET FORTH THE TIME, DATE, PLACE, AND PURPOSE OF THE
24 HEARING. THE NOTICE SHALL EXPLAIN THE CONSEQUENCE OF ANY OF THE
25 DECISIONS MADE AT THE HEARING AND SHALL SPECIFY ANY APPEAL PERIOD
26 FOR THE ACTION TAKEN. IF THE HEARING IS FOR THE DRAINAGE BOARD
27 OR BOARD OF DETERMINATION, DAY OF REVIEW, OR BOARD OF REVIEW, THE

1 NOTICE SHALL INCLUDE THE NAME, ADDRESS, AND TELEPHONE NUMBER OF
2 THE COMMISSIONER IN THE COUNTY WHERE THE PROCEEDING WILL TAKE
3 PLACE.

4 (9) IF THE HEARING IS A HEARING UNDER SECTION 51C, THE
5 NOTICE SHALL DO ALL OF THE FOLLOWING:

6 (A) STATE THAT LANDOWNERS WHOSE LANDS WOULD BE LIABLE TO
7 ASSESSMENT WILL HAVE AN OPPORTUNITY AT THE HEARING TO SIGN THE
8 PETITION OR TO SIGN A STATEMENT OPPOSING THE PROJECT.

9 (B) INCLUDE THE INFORMATION SET FORTH IN THE PETITION UNDER
10 SECTION 51(4)(C) TO (F).

11 (C) INCLUDE ANY REQUEST OR PROPOSAL SET FORTH IN THE PETI-
12 TION UNDER SECTION 51(5).

13 (D) STATE THAT COPIES OF THE PETITION ARE AVAILABLE UPON
14 REQUEST FROM THE OFFICE OF THE COMMISSIONER.

15 (10) IF THE HEARING IS A HEARING UNDER SECTION 51C OR 53,
16 THE NOTICE SHALL STATE THAT THE PETITION IS ON FILE AT THE OFFICE
17 OF THE RESPONSIBLE COMMISSIONER, INDICATE THAT COPIES OF THE
18 PETITION ARE AVAILABLE, SET FORTH THE REASONS FOR THE REQUESTED
19 PROJECT AS STATED IN THE PETITION, AND DESCRIBE THE SPECIFIC
20 PROBLEM TO BE ADDRESSED AS STATED IN THE PETITION. IF THE HEAR-
21 ING IS A HEARING OF PRACTICABILITY OR A HEARING OF NECESSITY OF
22 THE DRAINAGE BOARD, THE NOTICE SHALL INCLUDE THE NAME, ADDRESS,
23 AND TELEPHONE NUMBER OF EACH OF THE MEMBERS OF THE DRAINAGE
24 BOARD.

25 (11) ~~-(2)-~~ A writing prepared, owned, used, in the posses-
26 sion of, or retained by a board, commission, or advisory
27 committee created pursuant to this act, or a commissioner

1 appointed pursuant to this act, in the performance of an official
2 function shall be made available to the public in compliance with
3 ~~Act No. 442 of the Public Acts of 1976, being sections 15.231 to~~
4 ~~15.246 of the Michigan Compiled Laws~~ THE FREEDOM OF INFORMATION
5 ACT, 1976 PA 442, MCL 15.231 TO 15.246.

6 (12) A BOARD OF DETERMINATION FOR A COUNTY DRAIN SHALL
7 PROMPTLY PROVIDE TO THE COMMISSIONER OF THAT COUNTY, AND A DRAIN-
8 AGE BOARD SHALL PROMPTLY PROVIDE TO EACH COMMISSIONER WHO IS A
9 MEMBER OF THE DRAINAGE BOARD, A COPY OF EACH PETITION, REPORT,
10 ANALYSIS, DETERMINATION, NOTICE, OR OTHER RECORD CREATED OR
11 RECEIVED BY THE BOARD OF DETERMINATION OR DRAINAGE BOARD IN THE
12 EXERCISE OF ITS POWERS OR THE DISCHARGE OF ITS DUTIES UNDER THIS
13 ACT. A COMMISSIONER SHALL FILE IN HIS OR HER OFFICE EACH PETI-
14 TION, REPORT, ANALYSIS, DETERMINATION, NOTICE, OR OTHER RECORD
15 CREATED OR RECEIVED BY THE COMMISSIONER IN THE EXERCISE OF THE
16 COMMISSIONER'S POWERS OR THE DISCHARGE OF THE COMMISSIONER'S
17 DUTIES UNDER THIS ACT. A COMMISSIONER IS SUBJECT TO SECTION 491
18 OF THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.491.

19 Sec. 10. (1) Drains may be laid or extended into or along
20 or from any lake or other body of water surrounded wholly or in
21 part by a swamp, marsh or other low lands for the general purpose
22 of drainage contemplated by this act, but not so as to impair the
23 navigation of any navigable river. ACTIVITY UNDER THIS SUBSEC-
24 TION IS SUBJECT TO ANY PERMIT REQUIRED UNDER THE NATURAL
25 RESOURCES AND ENVIRONMENTAL PROTECTION ACT, 1994 PA 451, MCL
26 324.101 TO 324.90106.

1 ~~Any meeting called pursuant to the provisions of this act,~~
2 ~~unless otherwise provided, may be adjourned from time to time by~~
3 ~~public announcement thereof and no advertisement of the time of~~
4 ~~said adjournment shall be required.~~

5 (2) The commissioner shall have jurisdiction over all estab-
6 lished county drains within his OR HER county, heretofore estab-
7 lished and now in the process of being established except that in
8 the case of a drain located or to be located entirely within a
9 single city or village, such jurisdiction shall be consented to
10 by resolution of the governing body of such city or village.

11 ~~If any drainage project lies entirely within the limits of~~
12 ~~a municipality less than a county, such municipality, by its gov-~~
13 ~~erning body, shall have the power to pledge the full faith and~~
14 ~~credit of the municipality for the payment of bonds or drain~~
15 ~~orders issued in connection with such project, and if a defi-~~
16 ~~ciency exists in the drain fund or sinking fund for said drain 1~~
17 ~~year after the last installment of the deficiency assessment pro-~~
18 ~~vided for in section 280 of this act, shall have become delin-~~
19 ~~quent, such municipality shall forthwith advance to the county~~
20 ~~drain fund the amount of such deficiency and thereafter all~~
21 ~~receipts of such drain fund from the sale of delinquent tax~~
22 ~~lands, which had been assessed for said drain, shall be paid to~~
23 ~~the municipality within 90 days after receipt by the county~~
24 ~~treasurer.~~

25 Sec. 12. Except as provided in section 8, ~~when~~ IF a time
26 is specified in this act in which the ~~drain~~ commissioner or a
27 drainage board shall take a specified administrative action or a

1 procedural step, the specification of time ~~shall be considered~~
2 IS directory and not mandatory, and failure to take the action or
3 step within the time specified ~~shall~~ DOES not affect the legal-
4 ity and validity of a drain proceeding. ~~Where~~ IF the specifi-
5 cation of time relates to the giving of notice, the filing of
6 objections, the taking of an appeal, the commencement of an
7 action in a court, the taking of an action or step in the assess-
8 ment, levy, or collection of drain assessments ~~, taxes~~ or other
9 charges, or to a requirement of due process, the specification of
10 time ~~shall be considered~~ IS mandatory if so provided in this
11 act.

12 SEC. 13. (1) THE DIRECTOR OF AGRICULTURE MAY DESIGNATE AN
13 INDIVIDUAL TO ACT IN HIS OR HER STEAD IN RESPECT TO THE PER-
14 FORMANCE OF DUTIES UNDER THIS ACT. IF ANY DEPUTY OR ASSISTANT SO
15 ACTS, IT SHALL BE CONCLUSIVELY PRESUMED THAT HE OR SHE WAS PROP-
16 ERLY DESIGNATED BY THE DIRECTOR OF AGRICULTURE. ANY OFFICIAL
17 PROCEEDINGS MAY BE SIGNED BY THE DESIGNEE IN HIS OR HER OWN
18 NAME. THE SIGNATURE OF THE DESIGNEE SHALL BE FOLLOWED BY HIS OR
19 HER OFFICIAL TITLE. IF AN INDIVIDUAL IS DESIGNATED BY THE DIREC-
20 TOR OF AGRICULTURE TO ACT IN HIS OR HER STEAD IN CONNECTION WITH
21 ALL THE PROCEEDINGS AS TO ANY PROJECT, THEN ANY NOTICE REQUIRED
22 TO BE SERVED UPON OR MAILED TO THE DIRECTOR OF AGRICULTURE MAY BE
23 SERVED UPON OR MAILED TO THE DESIGNEE.

24 (2) EXPENSES INCURRED BY THE DIRECTOR OF AGRICULTURE UNDER
25 THIS ACT SHALL BE ASSUMED BY THE DEPARTMENT OF AGRICULTURE.

26 SEC. 14. FOR A MUNICIPALITY TO BE A PETITIONER UNDER THIS
27 ACT, THE PETITION SHALL BE AUTHORIZED BY RESOLUTION OF THE

1 GOVERNING BODY AND SIGNED ON BEHALF OF THE MUNICIPALITY BY AN
2 OFFICER DESIGNATED BY THE GOVERNING BODY. A CERTIFIED COPY OF
3 THE RESOLUTION SHALL BE ATTACHED TO THE PETITION.

4 SEC. 15. (1) EACH COMMISSIONER, EACH DRAINAGE BOARD, AND
5 THE DIRECTOR OF AGRICULTURE SHALL DO ALL OF THE FOLLOWING:

6 (A) PROTECT WATER QUALITY, HEADWATERS, AND TRIBUTARIES.

7 (B) AVOID CHANNELIZATION EXCEPT WHEN ABSOLUTELY NECESSARY.

8 (C) INCORPORATE FLOW PATTERNS INTO CRITERIA FOR DRAIN DESIGN
9 AND STORM WATER MANAGEMENT.

10 (D) MAKE ON-SITE RETENTION OF STORM WATER A PRIORITY.

11 (2) A COMMISSIONER SHALL WORK WITH MUNICIPALITIES WITHIN THE
12 COMMISSIONER'S COUNTY TO DEVELOP STORM WATER MANAGEMENT ORDI-
13 NANCES REQUIRING ON-SITE MANAGEMENT PRACTICES MINIMIZING THE NEED
14 FOR EXPENSIVE REMEDIAL WORKS. A COMMISSIONER SHALL CONSIDER
15 WATER RETENTION AND FILTRATION QUALITIES FOR HIGH-FLOW CONDITIONS
16 AND NATURAL WATER QUALITY FILTRATION AS PART OF STORM WATER MAN-
17 AGEMENT SYSTEMS. A COMMISSIONER MAY IMPLEMENT WATERSHED PLANS
18 AND CREATE DATABASES AND MAPS OF CURRENT AND PROPOSED IMPERVIOUS
19 SURFACES AND ASSIST MUNICIPALITIES TO TAKE PREVENTATIVE STEPS TO
20 LIMIT RUNOFF OF STORM WATER.

21 (3) THE DIRECTOR OF AGRICULTURE, THE DEPARTMENT OF ENVIRON-
22 MENTAL QUALITY, AND THE DEPARTMENT OF NATURAL RESOURCES SHALL
23 COOPERATIVELY UNDERTAKE STORM WATER MANAGEMENT PLANNING THAT
24 EMPHASIZES WATER QUALITY AS A TOP PRIORITY.

25 (4) IF THE DEPARTMENT OF ENVIRONMENTAL QUALITY APPROVES A
26 WATERSHED PLAN, THE DEPARTMENT OF ENVIRONMENTAL QUALITY SHALL
27 PROMPTLY SEND A COPY OF THE PLAN TO EACH COMMISSIONER WITHIN

1 WHOSE COUNTY THE WATERSHED LIES. WITHIN 60 DAYS AFTER RECEIPT OF
2 A COPY OF THE PLAN, THE COMMISSIONER SHALL ENTER AN ORDER APPROV-
3 ING OR DISAPPROVING THE PLAN AND SEND A COPY OF THE ORDER TO THE
4 DEPARTMENT OF ENVIRONMENTAL QUALITY. AN ORDER DISAPPROVING THE
5 PLAN SHALL STATE THE SPECIFIC REASONS FOR DISAPPROVAL. IF THE
6 COMMISSIONER APPROVES THE PLAN, THE COMMISSIONER SHALL CARRY OUT
7 HIS OR HER POWERS AND DUTIES UNDER THIS ACT IN A MANNER CONSIS-
8 TENT WITH THE PLAN. THE DISAPPROVAL OF THE PLAN BY THE COMMIS-
9 SIONER HAS NO LEGAL EFFECT OTHER THAN THAT THE COMMISSIONER NEED
10 NOT CARRY OUT HIS OR HER POWERS AND DUTIES UNDER THIS ACT IN A
11 MANNER CONSISTENT WITH THE PLAN, UNLESS OTHERWISE REQUIRED BY
12 LAW.

13 (5) THE NATURAL RESOURCE CONSERVATION SERVICE, THE DEPART-
14 MENT OF ENVIRONMENTAL QUALITY, AND EACH COUNTY ENFORCING AGENCY,
15 LOCAL ENFORCING AGENCY, AND AUTHORIZED PUBLIC AGENCY WITH JURIS-
16 DICTION IN A WATERSHED SHALL COOPERATIVELY DEVELOP A UNIFORM SOIL
17 EROSION AND SEDIMENTATION CONTROL PROGRAM THROUGHOUT THE
18 WATERSHED. AS USED IN THIS SUBSECTION, "COUNTY ENFORCING
19 AGENCY", "LOCAL ENFORCING AGENCY", AND "AUTHORIZED PUBLIC AGENCY"
20 MEAN THOSE TERMS AS DEFINED IN PART 91 OF THE NATURAL RESOURCES
21 AND ENVIRONMENTAL PROTECTION ACT, 1994 PA 451, MCL 324.9101 TO
22 324.9123.

23 (6) BY FEBRUARY 1 OF EACH YEAR, EACH COMMISSIONER AND DRAIN-
24 AGE BOARD SHALL SUBMIT A REPORT TO THE DEPARTMENT OF ENVIRONMEN-
25 TAL QUALITY ON THE STATUS OF SOIL EROSION AND SEDIMENTATION CON-
26 TROL IN EACH DRAINAGE DISTRICT UNDER THE JURISDICTION OF THAT
27 COMMISSIONER OR DRAINAGE BOARD.

1 (7) EACH COMMISSIONER SHALL REPORT INDICATIONS OF BACTERIAL
2 CONTAMINATION IN A DRAIN IN THAT COMMISSIONER'S COUNTY TO THE
3 COUNTY HEALTH DEPARTMENT IN WRITING AND MAINTAIN A COPY OF THE
4 REPORT IN THE COMMISSIONER'S OFFICE.

5 CHAPTER 2 —

6 ~~COUNTY DRAIN~~ COMMISSIONER —

7 Sec. 21. (1) ~~At~~ SUBJECT TO THIS SECTION, AT the general
8 election to be held in November ~~, 1976~~ 2000, and each fourth
9 year after November ~~, 1976~~ 2000, a ~~county drain~~ commissioner
10 shall be elected in each county having a ~~drain~~ commissioner by
11 the qualified electors of the county. The term of office of
12 ~~the~~ A commissioner shall begin on the January 1 following the
13 ~~drain~~ commissioner's election and continue for a period of 4
14 years and until his or her successor is elected and qualified,
15 whichever occurs earlier.

16 (2) As determined by the county board of commissioners, the
17 ~~county drain~~ commissioner shall be covered by a blanket bond
18 or, before entering upon the duties of office, shall execute and
19 file with the county clerk a bond to the people of the state in
20 the penal sum of ~~-\$5,000.00~~ \$100,000.00, issued by a surety com-
21 pany licensed to do business in this state, conditioned upon the
22 faithful discharge of the duties of the office. The county board
23 of commissioners may fix the individual bond to be required of
24 the commissioner at a different amount if, in its judgment, that
25 is desirable.

26 (3) The county board of commissioners of a county having a
27 population of less than 12,000, by resolution of a 2/3 vote of

1 the members elect, may abolish the office of ~~county drain~~
2 commissioner and transfer the powers and duties of the office to
3 the board of county road commissioners.

4 (4) If a county establishes a department of public works
5 pursuant to ~~Act No. 185 of the Public Acts of 1957, as amended,~~
6 ~~being sections 123.731 to 123.786 of the Michigan Compiled Laws~~
7 1957 PA 185, MCL 123.731 TO 123.786, or a public improvement
8 agency with the ~~drain~~ commissioner designated as the county
9 agent pursuant to the county public improvement act of 1939, ~~Act~~
10 ~~No. 342 of the Public Acts of 1939, as amended, being sections~~
11 ~~46.171 to 46.188 of the Michigan Compiled Laws~~ 1939 PA 342,
12 MCL 46.171 TO 46.188, the county board of commissioners, by reso-
13 lution of a 2/3 vote of the members elected and serving, may com-
14 bine the powers, duties, and functions set forth in ~~Act No. 185~~
15 ~~of the Public Acts of 1957, as amended, Act No. 342 of the Public~~
16 ~~Acts of 1939, as amended~~ 1957 PA 185, MCL 123.731 TO 123.786,
17 THE COUNTY PUBLIC IMPROVEMENT ACT OF 1939, 1939 PA 342,
18 MCL 46.171 TO 46.188, and this act into 1 county department
19 headed by a public works commissioner. The public works commis-
20 sioner shall be elected in the same manner and for the same term
21 as a ~~drain~~ commissioner. ~~and shall carry out the powers and~~
22 ~~duties of a drain commissioner.~~

23 (5) A resolution provided for in subsection (4) may not be
24 adopted unless the county board of commissioners has first held
25 at least 1 ~~generally publicized~~ public hearing on the
26 resolution. NOTICE OF THE HEARING SHALL BE PUBLISHED AS PROVIDED
27 IN SECTION 8(3).

1 (6) Not less than 3 years after a county establishes the
2 office of public works commissioner pursuant to subsections (4)
3 and (5), or a public improvement agency, the county board of com-
4 missioners, by resolution approved by a 2/3 vote of the members
5 elected and serving, may abolish the office of public works com-
6 missioner not less than 6 months before the next primary election
7 for that office. The office of public works commissioner shall
8 be abolished in the county effective ~~180~~ 182 days after a reso-
9 lution is adopted pursuant to this subsection. The office shall
10 then be referred to as the ~~drain~~ commissioner and the person in
11 office at the time a resolution of abolishment is passed shall
12 fulfill the remainder of the term of office until the next gen-
13 eral election.

14 (7) ~~A~~ IN A county that is organized under ~~Act No. 293 of~~
15 ~~the Public Acts of 1966, being sections 45.501 to 45.521 of the~~
16 ~~Michigan Compiled Laws~~ 1966 PA 293, MCL 45.501 TO 45.521, whose
17 charter prescribes an elected county executive, and which county
18 has a population of more than 2,000,000 at the time the charter
19 is adopted, ~~shall be governed by section 21a in place of this~~
20 ~~section~~ THE POWERS AND DUTIES OF THE COMMISSIONER, UNDER THIS
21 ACT, SHALL BE PERFORMED BY A PERSON OR PERSONS DESIGNATED UNDER
22 THE COUNTY'S CHARTER.

23 Sec. 23. The commissioner shall have jurisdiction over all
24 COUNTY drains within ~~his~~ THE county, including those
25 ~~heretofore established and now~~ in THE process of ~~construction~~
26 BEING ESTABLISHED OR CONSTRUCTED. Drains extending into more
27 than 1 county ~~,~~ or affecting lands in more than 1 county ~~,~~

1 ARE UNDER THE JURISDICTION OF THE DRAINAGE BOARD AND shall be
 2 established and constructed in accordance with the provisions of
 3 this act regulating the establishment and construction of drains
 4 traversing more than 1 county or affecting lands in more than 1
 5 county. ~~Nothing in this act shall be construed as depriving a~~
 6 ~~drain~~ THE commissioner OF A COUNTY IS NOT DEPRIVED of jurisdic-
 7 tion ~~or as making any drain~~ OVER A DRAIN AND THE DRAIN DOES NOT
 8 BECOME an intercounty drain, merely because ~~a~~ THE drain extends
 9 into another county for the purpose of securing a proper outlet
 10 and not for the purpose of draining any lands in the other
 11 county, ~~Provided, such~~ IF THE extension is approved by the
 12 ~~drain~~ commissioners and the COUNTY board of ~~supervisors~~
 13 COMMISSIONERS of each affected county. The portion of ~~any such~~
 14 THE drain extending into another county shall not be considered
 15 in determining the number of signers required ~~to~~ FOR a
 16 petition. ~~to locate, establish and construct.~~

17 Sec. 24. (1) THE COUNTY BOARD OF COMMISSIONERS MAY EMPLOY
 18 AN ENGINEER WHO SHALL PERFORM UNDER THIS ACT THE SERVICES
 19 REQUIRED TO BE PERFORMED BY AN ENGINEER OR SURVEYOR AS MAY BE
 20 DIRECTED BY THE COMMISSIONER.

21 (2) A commissioner may appoint a deputy or deputies ~~, if~~
 22 ~~the county board of commissioners approves,~~ and may revoke the
 23 appointment at pleasure. The appointment shall be made in writ-
 24 ing and filed with the clerk of the county. TO THE EXTENT AUTHO-
 25 RIZED BY THE COMMISSIONER, A DEPUTY MAY EXECUTE THE POWERS AND
 26 DUTIES OF A COMMISSIONER UNDER THIS ACT. If the commissioner is
 27 unable to execute the duties of office, the deputy or deputies

1 shall execute or assist in the execution of the duties of the
2 ~~county drain~~ commissioner. ~~assigned by the county drain~~
3 ~~commissioner. As determined by the county board of commission-~~
4 ~~ers, the deputy or deputies, either shall be covered by a blanket~~
5 ~~bond or shall file a bond with and to be approved by the commis-~~
6 ~~sioner in a sum not to exceed \$5,000.00, conditioned upon the~~
7 ~~faithful discharge of the deputy's or deputies' duties. If the~~
8 commissioner dies during his or her term, the deputy commissioner
9 shall have all of the powers and be charged with all of the
10 duties of a commissioner until a commissioner is appointed or
11 elected.

12 (3) AS DETERMINED BY THE COUNTY BOARD OF COMMISSIONERS, THE
13 DEPUTY OR DEPUTIES EITHER SHALL BE COVERED BY A BLANKET BOND OR
14 SHALL FILE WITH THE COMMISSIONER A BOND TO BE APPROVED BY THE
15 COMMISSIONER IN A SUM NOT TO EXCEED \$100,000.00, CONDITIONED ON
16 THE FAITHFUL DISCHARGE OF THE DUTIES OF THE DEPUTY OR DEPUTIES.

17 Sec. 25. (1) The commissioner and ~~his bondsmen shall be~~
18 THE SURETIES ON THE INDIVIDUAL OR BLANKET BONDS COVERING THE COM-
19 MISSIONER AND DEPUTY ARE liable for all the acts and defaults of
20 ~~the~~ A deputy ~~or deputies when~~ appointed as ~~herein~~ provided
21 IN SECTION 24. After entry of the order ~~designating drainage~~
22 ~~districts as provided in section 54 and section 105 of this act-~~
23 ESTABLISHING A DRAINAGE DISTRICT, the drainage district as desig-
24 nated ~~shall be responsible for and~~ IS liable for all acts and
25 defaults of ~~such~~ THE commissioner ~~and his~~ OR A deputy, ~~or~~
26 ~~deputies,~~ except for acts of malfeasance or misfeasance. THE
27 COMMISSIONER IS LIABLE ON THE BLANKET BOND OR HIS OR HER

1 INDIVIDUAL BOND FOR GROSS NEGLECT OF DUTY OR A MISAPPLICATION OF
2 MONEY COMING UNDER HIS OR HER CONTROL AS COMMISSIONER.

3 (2) The COUNTY board of ~~supervisors~~ COMMISSIONERS may
4 adopt resolutions providing that public liability or other insur-
5 ance may be purchased at the expense of the county to cover such
6 potential liabilities of the ~~various~~ drainage districts under
7 the supervision of the ~~county drain~~ commissioner.

8 Sec. 26. Each deputy commissioner shall receive ~~such~~ THE
9 salary or compensation ~~as the~~ DETERMINED BY THE COUNTY board of
10 ~~supervisors shall allow~~ COMMISSIONERS and all traveling
11 expenses actually and necessarily spent ~~by him~~ in the discharge
12 of his OR HER duties as prescribed in this act. ~~; he shall make~~
13 ~~a report to the commissioner of all work performed by him on or~~
14 ~~before the first Saturday of each month and an annual report on~~
15 ~~or before the second Wednesday in September of each year.~~

16 Sec. 27. (1) ~~County clerks, or the board of auditors in~~
17 ~~counties having such boards, shall be authorized, and it shall be~~
18 ~~their duty to procure, at the expense of their respective coun-~~
19 ~~ties, the necessary books, blanks and stationery for the use of~~
20 ~~said commissioners; and each commissioner shall furnish upon~~
21 ~~request blank applications or petitions to any person who may~~
22 ~~desire to file the same under this act. The~~ AT THE EXPENSE OF
23 THE COUNTY AND SUBJECT TO COUNTY APPROPRIATIONS, THE office of
24 the commissioner shall be furnished ~~at the expense of the county~~
25 ~~by the board of supervisors, or by the board of auditors in coun-~~
26 ~~ties having such boards, and shall be maintained at the county~~
27 ~~seat, in which said office said commissioner shall be and remain~~

1 ~~at least 1 day per week such day to be painted on the door of the~~
2 ~~commissioner's office and printed or stamped on his stationery.~~
3 WITH NECESSARY SUPPLIES, EQUIPMENT, AND FACILITIES, WHICH MAY, IN
4 THE JUDGMENT OF THE COUNTY BOARD OF COMMISSIONERS, INCLUDE ANY OF
5 THE FOLLOWING:

6 (A) BOOKS, BLANKS, DOCUMENTS, STATIONERY, AND OFFICE
7 SUPPLIES.

8 (B) OFFICE EQUIPMENT NECESSARY TO MAKE PROFILES, BLUEPRINTS,
9 AND SPECIFICATIONS IN ANY DRAINAGE DISTRICT, WORD PROCESSING
10 EQUIPMENT, AND MAPPING AND ASSESSING EQUIPMENT.

11 (C) SPACE AND FACILITIES TO FILE, PRESERVE, AND RETAIN FIELD
12 NOTES, BLUEPRINTS, PROFILES, ESTIMATES, AND ALL OTHER RECORDS.

13 (2) THE OFFICE OF THE COMMISSIONER SHALL BE MAINTAINED AT
14 THE COUNTY SEAT OR AT FACILITIES OUTSIDE THE COUNTY SEAT WHERE
15 OTHER COUNTY OFFICES ARE LOCATED.

16 Sec. 28. (1) ~~Each~~ SUBJECT TO SUBSECTION (2), A commis-
17 sioner shall receive an annual salary ~~to be paid at other county~~
18 ~~officers are paid, the~~ AND FRINGE BENEFITS AS DETERMINED BY
19 COUNTY APPROPRIATIONS. THE amount of the salary ~~to~~ AND FRINGE
20 BENEFITS SHALL be fixed by the county board of commissioners
21 before November 1 of each year AND SHALL BE PAID FROM THE GENERAL
22 FUND OF THE COUNTY in the same manner AND AT THE SAME TIME as the
23 salaries AND FRINGE BENEFITS of other county officers are fixed
24 AND PAID. ~~The~~ A COMMISSIONER'S salary AND FRINGE BENEFITS may
25 be increased but shall not be decreased during ~~his or her~~ THE
26 term of office. ~~, and in addition, each commissioner shall be~~
27 ~~allowed~~ THE COUNTY SHALL PAY A COMMISSIONER FOR his or her

1 actual necessary expenses, including traveling expenses incurred
2 in the discharge of the duties of the office. ~~, including all~~
3 ~~actual and necessary expense for clerk hire and recording by the~~
4 ~~county board of commissioners or board of county auditors to be~~
5 ~~paid by the county.~~ The expense account shall be an itemized
6 account. ~~and verified by oath taken before a proper officer.~~
7 The amounts paid to the commissioner for salary and expenses
8 shall be in full for all services rendered by the commissioner
9 and all expenses incurred in the performance of the duties of the
10 office.

11 (2) ~~Notwithstanding subsection (1), for~~ IF a county
12 ~~which~~ has a county officers compensation commission, the com-
13 pensation for ~~each county drain~~ THE commissioner shall be
14 determined by that commission UNDER 1978 PA 485, MCL 45.471 TO
15 45.477. ~~A change in compensation for a county drain commis-~~
16 ~~sioner of a county which has a county officers compensation com-~~
17 ~~mission shall commence at the beginning of the first odd numbered~~
18 ~~year after the determination is made by the county officers com-~~
19 ~~mission and is not rejected.~~

20 Sec. 29. ~~The county shall furnish the commissioner with~~
21 ~~all necessary books and papers for use in the survey, and such~~
22 ~~office equipment as shall be necessary in making profiles, blue-~~
23 ~~prints and specifications in any drainage district. The surveyor~~
24 ~~or engineer shall file with the commissioner all field notes,~~
25 ~~blueprints, profiles, estimates and all other papers in his pos-~~
26 ~~session relating to said drain. The board of supervisors of any~~
27 ~~county may employ an engineer who shall perform under this act~~

1 ~~the services required to be performed by an engineer or~~
2 ~~surveyor.~~ THE COMMISSIONER'S OFFICE SHALL FURNISH TO ANY PERSON,
3 WHO MAY SO DESIRE, DOCUMENTS AS MAY BE REQUIRED TO IMPLEMENT THE
4 PROCEDURES OF THIS ACT, AND THE COMMISSIONER MAY ASSIST IN THE
5 PREPARATION OF SUCH DOCUMENTS AS MAY BE REQUIRED TO IMPLEMENT THE
6 PROCEDURES OF THIS ACT.

7 Sec. 30. ~~It shall be the duty of each commissioner to make~~
8 ~~and keep~~ A COMMISSIONER SHALL MAINTAIN a full financial state-
9 ment of each drainage district. The commissioner shall also make
10 and keep in ~~his~~ THE COMMISSIONER'S office ~~in a book to be pro-~~
11 ~~vided for that purpose~~ a complete record of each drainage
12 district. ~~, which~~ THE record shall include a copy of ~~the~~ ANY
13 application for laying out and designating ~~such~~ THE district
14 UNDER FORMER PROVISIONS OF THIS ACT, of the petition for the
15 drain, of the minutes of the survey, of the releases of the
16 right-of-way where the same have been released, of the ~~orders of~~
17 ~~determination of the necessity for and of the establishment of~~
18 ~~the drain~~ ORDER ESTABLISHING THE DRAINAGE DISTRICT AND THE ORDER
19 OF NECESSITY, and of the apportionment and assessment of benefits
20 therefor ~~.~~ ~~Where special commissioners have been called, it~~
21 ~~shall also contain a copy of the application to the probate~~
22 ~~court, of the return of the special commissioners~~ and of all
23 other ~~papers~~ RECORDS in ~~his~~ THE office necessary to show a
24 complete history of each drainage district, all of which said
25 original ~~papers~~ RECORDS shall then be enrolled and filed in the
26 office of the ~~county drain~~ commissioner. ~~No drain tax shall~~

1 ~~be spread until all the records required have been deposited and~~
2 ~~filed in the office of the county drain commissioner.~~

3 Sec. 31. ~~(1) Each~~ IF REQUESTED BY THE COUNTY BOARD OF
4 COMMISSIONERS, A commissioner shall make a report to the county
5 board of commissioners at its annual meeting in October of the
6 drainage districts ~~laid out, the drains constructed, finished,~~
7 ~~or begun~~ ESTABLISHED AND THE DRAINS ESTABLISHED AND CONSTRUCTED
8 under his or her supervision during the year ending October 1,
9 and ~~the commissioner~~ shall ~~also~~ submit to the board a full
10 financial statement of each drainage district. THE REPORTS ARE
11 INTENDED TO BE ADVISORY AND NOT A PREREQUISITE TO THE SPREAD OF
12 ANY SPECIAL ASSESSMENTS UNDER THIS ACT. THE FAILURE TO SUBMIT A
13 REPORT DOES NOT CONSTITUTE A DEFECT INVALIDATING A DRAIN PROCEED-
14 ING OR SPECIAL ASSESSMENT. If authorized by resolution of the
15 county board of commissioners, the report shall be made before
16 April 2 of each year and shall cover the preceding calendar
17 year. The commissioner shall also make reports and furnish
18 information as required by the director of ~~the department of~~
19 agriculture. ~~(2) The reports required by subsection (1)~~
20 UNDER THIS SECTION shall include an itemized statement of the
21 orders issued on account of each drainage district and a debit
22 and credit balance of the district fund. ~~The commissioner shall~~
23 ~~be liable on the blanket bond or his or her individual bond for~~
24 ~~gross neglect of duty or a misapplication of money coming under~~
25 ~~his or her control as commissioner.~~

26 Sec. 32. The COUNTY board of ~~supervisors of each county~~
27 ~~having a drain commissioner~~ COMMISSIONERS may adopt a resolution

1 authorizing the county to enter into an agreement with the
2 secretary of ~~health, education and welfare pursuant to the pro-~~
3 ~~visions of Act No. 205 of the Public Acts of 1951, as amended,~~
4 ~~being sections 38.851 to 38.870 of the Compiled Laws of 1948,~~
5 THE DEPARTMENT OF HEALTH AND HUMAN SERVICES UNDER 1951 PA 205,
6 MCL 38.851 TO 38.871, to allow the ~~drain~~ commissioner and all
7 the employees of the ~~drain~~ commissioner's office to obtain the
8 benefits provided by the ~~federal~~ social security act, CHAPTER
9 531, 49 STAT. 620. The funds necessary for this coverage shall
10 be appropriated from the county general fund. ~~or from the~~
11 ~~revolving drain fund.~~

12 Sec. 33. (1) ~~The salary of the commissioner, deputy com-~~
13 ~~missioners, and clerks and employees of the drain commissioner's~~
14 ~~office shall, except as otherwise provided in this act, be paid~~
15 ~~from the general fund of the county in the same manner and at the~~
16 ~~same time as other county employees are paid. (2) The drain~~
17 commissioner may, with the approval of the county board of com-
18 missioners, hire drain maintenance employees. ~~Such drain~~ DRAIN
19 maintenance employees ~~shall be considered~~ ARE county employees
20 and shall be compensated from the general fund of a county in the
21 same manner and at the same time as other county employees.

22 (2) ~~(3)~~ The general fund of a county shall be reimbursed
23 by the drain districts in which work is performed by drain main-
24 tenance employees hired by the commissioner pursuant to subsec-
25 tion (2) for compensation, including the cost of fringe benefits,
26 paid to the drain maintenance employees by the county from its
27 general fund. The county board of commissioners may waive the

1 reimbursement for emergency work ~~not exceeding \$800.00~~
2 performed on any 1 drain during the course of 1 year.

3 SEC. 34. (1) IF A MUNICIPALITY DETERMINES THAT CONSTRUCTION
4 OR OTHER ACTIVITY THAT THE MUNICIPALITY HAS AUTHORITY TO APPROVE
5 MAY HAVE A SIGNIFICANT EFFECT ON THE QUANTITY OR QUALITY OF WATER
6 ENTERING A DRAIN OR ON THE HYDROLOGY OF A DRAIN, THE MUNICIPALITY
7 SHALL NOTIFY THE COMMISSIONER A REASONABLE TIME BEFORE APPROVING
8 THE ACTIVITY. THE COMMISSIONER MAY REVIEW, INSPECT, AND ANALYZE
9 THE ACTIVITY AND MAKE RECOMMENDATIONS TO THE MUNICIPALITY. THE
10 COMMISSIONER MAY PROPOSE AND THE COUNTY BOARD OF COMMISSIONERS
11 MAY ADOPT AN ORDINANCE ESTABLISHING A SCHEDULE OF FEES ATTENDANT
12 TO THE REVIEW, INSPECTION, OR ANALYSIS OF ACTIVITY DESCRIBED IN
13 THIS SUBSECTION.

14 (2) THE COMMISSIONER OR DRAINAGE BOARD SHALL REVIEW AND MAY
15 APPROVE ALL REQUESTS TO DISCHARGE INTO, MAKE A CONNECTION TO, OR
16 CONSTRUCT A CROSSING OF ANY ESTABLISHED COUNTY OR INTERCOUNTY
17 DRAINS. THE COMMISSIONER MAY PROPOSE AND THE COUNTY BOARD OF
18 COMMISSIONERS MAY ADOPT AN ORDINANCE TO IMPLEMENT THIS
19 SUBSECTION. THE ORDINANCE MAY INCLUDE A SCHEDULE OF FEES TO BE
20 CHARGED FOR THE REVIEW AND INSPECTION OF ANY DISCHARGES, CONNEC-
21 TIONS, OR CROSSINGS AND PENALTIES FOR NONCOMPLIANCE. THE FEES
22 SHALL BE DEPOSITED IN A REVOLVING FUND AND USED FOR REVIEWS AND
23 INSPECTIONS AS SPECIFIED IN THE ORDINANCE. IF THE REVOLVING FUND
24 IS NOT SUFFICIENT TO COVER EXPENSES FOR THE REVIEWS AND INSPEC-
25 TIONS, THE EXPENSES SHALL BE PAID FROM THE COUNTY GENERAL FUND.

26 (3) THE COMMISSIONER MAY PROPOSE AND THE COUNTY BOARD OF
27 COMMISSIONERS MAY ADOPT AN ORDINANCE THAT GOVERNS, AND INCLUDES A

1 SCHEDULE OF FEES FOR, OTHER REVIEWS AND INSPECTIONS REQUIRED OF
2 THE COMMISSIONER'S OFFICE BY THE COUNTY BOARD OF COMMISSIONERS OR
3 BY OTHER STATUTE, INCLUDING BUT NOT LIMITED TO THE LAND DIVISION
4 ACT, 1967 PA 288, MCL 560.101 TO 560.293, THE MOBILE HOME COMMIS-
5 SION ACT, 1987 PA 96, MCL 125.2301 TO 125.2349, AND THE CONDOMIN-
6 IUM ACT, 1978 PA 59, MCL 559.101 TO 559.275. THE FEES SHALL BE
7 DEPOSITED IN A REVOLVING FUND UNDER SUBSECTION (2).

8 SEC. 35. (1) IF A COMMISSIONER WHO IS REQUIRED TO APPORTION
9 BENEFITS UNDER THIS ACT, OR THE SPOUSE OR CHILD OF SUCH A COMMIS-
10 SIONER, OWNS LANDS THAT WOULD BE LIABLE TO AN ASSESSMENT FOR THE
11 BENEFITS, OR IF THE COMMISSIONER IS OTHERWISE DISQUALIFIED TO ACT
12 IN THE MAKING OF AN APPORTIONMENT OF BENEFITS, THE COMMISSIONER
13 SHALL FILE WITH THE CHIEF OR ONLY JUDGE OF THE CIRCUIT COURT FOR
14 THE COUNTY A COPY OF THE PETITION AND A SIGNED STATEMENT SHOWING
15 THAT THE COMMISSIONER IS DISQUALIFIED TO ACT IN MAKING THE APPOR-
16 TIONMENT OF BENEFITS.

17 (2) NOT MORE THAN 14 DAYS AFTER RECEIVING THE PETITION AND
18 SIGNED STATEMENT UNDER SUBSECTION (1), THE CHIEF OR ONLY JUDGE OF
19 THE CIRCUIT COURT SHALL APPOINT A DISINTERESTED COMMISSIONER OF
20 AN ADJOINING OR NEARBY COUNTY TO MAKE THE APPORTIONMENT OF BENE-
21 FITS ON THE DRAIN. THE DISINTERESTED COMMISSIONER APPOINTED
22 SHALL MAKE AND COMPLETE WITHIN A PERIOD OF 28 DAYS, OR WITHIN
23 SUCH REASONABLE TIME THEREAFTER AS MAY BE NECESSARY, AN APPOR-
24 TIONMENT OF THE BENEFITS OF THE DRAIN AND FILE THE APPORTIONMENT
25 WITH THE DISQUALIFIED COMMISSIONER. THE APPORTIONMENT SHALL BE
26 ADOPTED FOR THE DRAIN, SUBJECT TO THE SAME RIGHTS OF APPEAL AS
27 PROVIDED IN THIS ACT. THE DISQUALIFIED COMMISSIONER SHALL

1 FURNISH THE DISINTERESTED COMMISSIONER WITH A COPY OF THE ORDER
2 OF NECESSITY.

3 (3) THE SALARY OF THE COMMISSIONER APPOINTED UNDER SUBSEC-
4 TION (2) SHALL BE THE SAME AS THAT RECEIVED FROM THE COUNTY OF
5 WHICH HE OR SHE IS THE COMMISSIONER. THE SALARY, TOGETHER WITH
6 ALL EXPENSES ACTUALLY AND NECESSARILY INCURRED BY THE COMMISSION-
7 ER, SHALL BE ASSESSED AGAINST THE DRAIN IN CONNECTION WITH WHICH
8 THE SERVICES WERE PERFORMED AND SHALL BE PAID IN THE SAME MANNER
9 AS OTHER EXPENSES ARE PAID.

10 CHAPTER 3 —

11 ~~COUNTY~~ NEW DRAINAGE DISTRICTS — AND NEW DRAINS

12 SEC. 41. (1) A PERSON SEEKING ANY ADVICE OR ACTION WITH
13 REGARD TO A DRAINAGE PROBLEM OR A PROJECT SHALL MAKE AN APPLICA-
14 TION TO THE COMMISSIONER OF THAT PERSON'S COUNTY SEEKING TO HAVE
15 A SPECIFIC PROBLEM INVESTIGATED AND EVALUATED AS TO THE NEED FOR
16 FURTHER ACTION AND THE NATURE OF THAT ACTION.

17 (2) THE APPLICATION SHALL BE MADE ON APPLICATION FORMS SUP-
18 PLIED BY THE COMMISSIONER. THE COMPLETED APPLICATION FORM SHALL
19 CONTAIN, BUT NEED NOT BE LIMITED TO, THE FOLLOWING INFORMATION:

20 (A) WHETHER THE APPLICATION IS FOR PUBLIC HEALTH, OR PUBLIC
21 CONVENIENCE, OR PUBLIC WELFARE, OR A COMBINATION THEREOF.

22 (B) A SPECIFIC DESCRIPTION OF THE PROBLEM.

23 (C) A DESCRIPTION OF THE LOCATION OF THE PROBLEM.

24 (D) NAMES AND ADDRESSES OF OTHER LANDOWNERS AFFECTED BY THE
25 PROBLEM.

26 (E) THE EXTENT AND SEVERITY OF THE PROBLEM, INCLUDING THE
27 FREQUENCY OF THE PROBLEM'S OCCURRENCE AND THE ESTIMATED DAMAGES

1 PER OCCURRENCE. DOCUMENTATION SUPPORTING THIS INFORMATION SHALL
2 BE ATTACHED TO THE APPLICATION.

3 (F) A STATEMENT OF THE MAXIMUM EXTENT OF CORRECTIVE ACTION
4 AND MAXIMUM COSTS FOR A PROJECT ACCEPTABLE TO THE APPLICANTS.

5 (G) A LOCATION AND ROUTE FOR A DRAIN.

6 (H) THE SIGNATURE OF THE APPLICANT AND THE DATE OF FILING OF
7 THE APPLICATION.

8 (I) A SUGGESTED DATE FOR CONSULTATION WITH THE
9 COMMISSIONER. THIS DATE SHALL NOT BE MORE THAN 21 DAYS FROM THE
10 DATE OF FILING OF THE APPLICATION.

11 SEC. 42. (1) UPON RECEIPT OF A COMPLETED APPLICATION FORM,
12 THE COMMISSIONER SHALL INVESTIGATE THE STATED PROBLEM AND SHALL
13 STATE HIS OR HER FINDINGS AND RECOMMENDATIONS IN WRITING.

14 (2) UPON INVESTIGATING AN APPLICATION, IF THE COMMISSIONER'S
15 FINDINGS INDICATE THAT AN OBSTRUCTION HAS BEEN CREATED BY A
16 PERSON, THE COMMISSIONER SHALL PROCEED UNDER SECTION 421.

17 (3) THE FINDINGS OF THE COMMISSIONER SHALL CONTAIN HIS OR
18 HER ASSESSMENT OF WHETHER THE PROBLEM IS OF SIGNIFICANT MAGNITUDE
19 TO WARRANT FURTHER ACTION. IF FURTHER ACTION IS RECOMMENDED, THE
20 FINDINGS SHALL INCLUDE AN ESTIMATE OF THE SIZE OF THE PROJECT
21 NECESSARY TO CORRECT THE STATED PROBLEM AND A STATEMENT WHETHER
22 THE PROJECT SHOULD PROCEED UNDER THIS CHAPTER, CHAPTER 8, OR
23 CHAPTER 8A.

24 SEC. 44. UPON REQUEST, THE COMMISSIONER SHALL SUPPLY TO ANY
25 PERSON THE NECESSARY PETITION FORMS FOR A PROJECT UNDER THIS
26 CHAPTER, CHAPTER 8, OR CHAPTER 8A, AS APPROPRIATE. THE
27 COMMISSIONER SHALL ASSIST IN THE COMPLETION OF THOSE FORMS. THE

1 COMMISSIONER SHALL ALSO SUPPLY WRITTEN STEP-BY-STEP INSTRUCTIONS
2 INFORMING ALL PETITIONERS OF THE SIGNATURE REQUIREMENTS AND HEAR-
3 ING PROCEDURES AND ANY BONDING REQUIREMENTS TO FOLLOW.

4 Sec. 51. (1) ~~Before a commissioner takes any action on any~~
5 ~~application to locate, establish and construct any drain, there~~
6 ~~shall first be filed with him an application to lay out and des-~~
7 ~~ignate a drainage district with reference to a proposed drain~~
8 ~~therein; such application shall tentatively describe the location~~
9 ~~and route of such proposed drain. The application shall be~~
10 ~~signed by not less than 10 freeholders of the township or town-~~
11 ~~ships in which such proposed drain or the proposed lands to be~~
12 ~~drained thereby may be situated: Provided, That 5 or more of~~
13 ~~said signers shall be the owners of land liable to an assessment~~
14 ~~for the construction of such proposed drain: Provided further,~~
15 ~~if it shall appear to the drain commissioner on filing an appli-~~
16 ~~cation to lay out and designate a drainage district that said~~
17 ~~district might not include 20 freeholders whose lands would be~~
18 ~~liable for such assessment, in such case such application shall~~
19 ~~be received if any one of the signers is a freeholder liable to~~
20 ~~an assessment for the construction of such proposed drain. A~~
21 PERSON SHALL FILE A PETITION WITH A COMMISSIONER TO INITIATE THE
22 PROCESS OF, FIRST, ESTABLISHING A DRAINAGE DISTRICT AND, SECOND,
23 ESTABLISHING AND CONSTRUCTING A DRAIN. SUBJECT TO SUBSECTION
24 (3), THE PETITION SHALL BE SIGNED BY A NUMBER OF LANDOWNERS IN
25 THE PROPOSED DRAINAGE DISTRICT WHOSE LANDS WOULD BE SUBJECT TO AN
26 ASSESSMENT FOR BENEFITS, EQUAL TO 1/2 THE NUMBER OF LANDOWNERS
27 WHOSE LANDS WOULD BE TRAVERSED BY THE DRAIN OR DRAINS APPLIED FOR

1 OR ABUT ON ANY ROADWAY ALONG THE SIDE OF WHICH THE DRAIN EXTENDS,
2 BETWEEN THE POINT WHERE THE DRAIN ENTERS THE ROADWAY AND THE
3 POINT WHERE IT LEAVES THE ROADWAY AND WHICH LANDS ARE WITHIN THE
4 PROPOSED DRAINAGE DISTRICT.

5 (2) The COMMISSIONER SHALL DETERMINE THE eligibility of the
6 signers to ~~such application shall be determined by the drain~~
7 ~~commissioner according to their interest of record in the office~~
8 ~~of the register of deeds, in the probate court or in the circuit~~
9 ~~court of the county in which such lands are situated at the time~~
10 ~~such application is~~ THE PETITION BASED ON THEIR STATUS AS LAND-
11 OWNERS WHEN THE PETITION WAS filed. ~~The board of supervisors,~~
12 ~~by resolution, may instruct the drain commissioner to refuse any~~
13 ~~application to lay out a drainage district unless a cash deposit,~~
14 ~~sufficient to cover the preliminary costs, accompanies the~~
15 ~~application. If the drain is completed, the cost advanced shall~~
16 ~~be returned to the depositor or his personal representative out~~
17 ~~of the first tax collections on the drain. If uncompleted, any~~
18 ~~excess above costs shall be so returned. In lieu of an applica-~~
19 ~~tion signed by freeholders as aforesaid, such an application may~~
20 ~~be signed solely by the board of health of the county if the~~

21 (3) INSTEAD OF LANDOWNERS, A MUNICIPALITY MAY PETITION FOR
22 THE ESTABLISHMENT OF A DRAINAGE DISTRICT AND THE ESTABLISHMENT
23 AND CONSTRUCTION OF A DRAIN BY ASSERTING IN THE PETITION THAT THE
24 proposed drain is necessary for ~~the~~ public health ~~of any part~~
25 ~~of the county, or may be signed solely by any city, village or~~
26 ~~township when duly authorized by its governing body, if the~~
27 ~~proposed drain is necessary for the public health of such~~

~~1 municipality and if such municipality will be liable for an~~
~~2 assessment at large against it for a percentage of the cost of~~
~~3 the proposed drain. The entry of an order designating a drainage~~
~~4 district, as hereinafter provided, shall be deemed a determina-~~
~~5 tion of the sufficiency of such application~~ IN THE
6 MUNICIPALITY.

7 (4) A PETITION UNDER THIS SECTION SHALL REQUEST THE ESTAB-
8 LISHMENT OF A DRAINAGE DISTRICT AND THE ESTABLISHMENT AND CON-
9 STRUCTION OF A DRAIN. THE PETITION SHALL BE ON THE FORM PROVIDED
10 BY THE COMMISSIONER. THE PETITION FORM SHALL INCLUDE A STATE-
11 MENT, IN 14-POINT BOLDFACED TYPE, THAT THE PETITIONERS ARE LIABLE
12 FOR COSTS IF THE DRAINAGE DISTRICT IS NOT ESTABLISHED. THE PETI-
13 TION FORM SHALL REQUIRE THE PETITIONERS TO SET FORTH AT LEAST ALL
14 OF THE FOLLOWING:

15 (A) THE INFORMATION REQUIRED BY SECTION 41(2)(A) TO (G) FOR
16 AN APPLICATION.

17 (B) A STATEMENT BY THE PETITIONERS THAT THEY UNDERSTAND THAT
18 THEY ARE LIABLE FOR COSTS IF THE DRAINAGE DISTRICT IS NOT
19 ESTABLISHED.

20 (5) THE PETITION MAY REQUEST THAT MEASURES BE UNDERTAKEN
21 WHICH ARE INTENDED TO ENHANCE OR IMPROVE THE NATURAL RESOURCE
22 VALUES OF THE PROPOSED DRAINAGE DISTRICT. THE PETITION MAY
23 REQUEST THAT MEASURES BE UNDERTAKEN TO PROVIDE BENEFIT TO THE
24 DESIGNED FUNCTION, LONGEVITY, OR HYDRAULIC CAPACITY OF THE PRO-
25 POSED DRAIN.

26 (6) THE PETITION SHALL BE ACCOMPANIED BY A BOND IN AN AMOUNT
27 NOT LESS THAN THE COMMISSIONER'S ESTIMATE OF THE COST OF

1 ESTABLISHING THE DRAINAGE DISTRICT INCLUDING PERFORMANCE OF THE
2 ANALYSES REQUIRED UNDER SECTION 52. THE PETITION SHALL ALSO BE
3 ACCOMPANIED BY AN ENGINEERING REPORT SETTING FORTH THE PROPOSED
4 BOUNDARIES OF THE DRAINAGE DISTRICT AND THE PROPOSED ROUTE AND
5 COURSE OF THE DRAIN.

6 (7) A PETITION SHALL BE ACCOMPANIED BY A DESCRIPTION AND TAX
7 PARCEL NUMBER OF THE LAND IN THE PROPOSED DISTRICT OWNED BY EACH
8 SIGNER AND BY A CERTIFICATE OF THE COUNTY TREASURER AS TO PAYMENT
9 OF TAXES AND SPECIAL ASSESSMENTS AGAINST THE LANDS. THE CERTIFI-
10 CATE SHALL BE IN SUBSTANTIALLY THE FOLLOWING FORM:

11 I HEREBY CERTIFY THAT THERE ARE NO TAXES OR SPECIAL ASSESS-
12 MENTS UNPAID AGAINST ANY OF THE LANDS DESCRIBED IN THE ANNEXED
13 LIST ACCORDING TO THE RECORDS OF THE COUNTY TREASURER'S OFFICE
14 FOR THE PRECEDING 3 YEARS, EXCEPT AS FOLLOWS:

15

16	DESCRIPTION	YEAR	TAX OR ASSESSMENT	AMOUNT
17

18 (8) THE NAME OF ANY SIGNER AS TO WHOSE LAND THE CERTIFICATE
19 SHOWS TAXES OR ASSESSMENTS UNPAID FOR THE PRECEDING 3 YEARS SHALL
20 NOT BE COUNTED. IF IT APPEARS FROM THE CERTIFICATE THAT 33-1/3%
21 OR MORE OF THE LANDS IN THE PROPOSED DRAINAGE DISTRICT HAVE BEEN
22 RETURNED AS TAX DELINQUENT AND STILL REMAIN DELINQUENT, THE COM-
23 MISSIONER SHALL NOT TAKE FURTHER ACTION ON THE PETITION.

24 SEC. 51A. (1) NOT MORE THAN 7 DAYS AFTER THE FILING OF A
25 PETITION UNDER SECTION 51 FOR A COUNTY DRAIN, THE COMMISSIONER
26 AUTHORIZED TO ACT ON THE PETITION SHALL SET THE DATE, TIME, AND
27 PLACE FOR A HEARING OF THE BOARD OF DETERMINATION. THE HEARING

1 OF THE BOARD OF DETERMINATION SHALL BE HELD AS SOON AS
2 PRACTICABLE AFTER THE DEADLINE FOR APPOINTMENT OF THE BOARD OF
3 DETERMINATION UNDER SUBSECTION (2).

4 (2) AS SOON AS PRACTICABLE BUT NOT LATER THAN 63 DAYS AFTER
5 THE FILING OF A PETITION UNDER SECTION 51, THE COMMISSIONER, IF
6 NOT DISQUALIFIED UNDER SECTION 35 TO MAKE THE APPORTIONMENT OF
7 BENEFITS, MAY APPOINT A BOARD OF DETERMINATION COMPOSED OF 3
8 PROPERTY OWNERS AND AN ALTERNATE DISINTERESTED PROPERTY OWNER.
9 IF THE COMMISSIONER IS DISQUALIFIED OR CHOOSES NOT TO APPOINT THE
10 BOARD OF DETERMINATION, THE COMMISSIONER SHALL IMMEDIATELY FILE
11 WITH THE CHAIRPERSON OF THE COUNTY BOARD OF COMMISSIONERS A COPY
12 OF THE PETITION, TOGETHER WITH A STATEMENT SIGNED BY THE COMMIS-
13 SIONER, EXPLAINING WHY HE OR SHE IS DISQUALIFIED OR CHOOSES NOT
14 TO ACT IN APPOINTING A BOARD OF DETERMINATION. AS SOON AS PRAC-
15 TICABLE AFTER RECEIVING THE COPY OF THE PETITION AND THE STATE-
16 MENT, THE CHAIRPERSON OF THE COUNTY BOARD OF COMMISSIONERS, IF
17 NOT PRIVATELY INTERESTED, SHALL APPOINT THE BOARD OF DETERMINA-
18 TION AND SHALL IMMEDIATELY NOTIFY THE COMMISSIONER OF THE NAMES
19 AND ADDRESSES OF THOSE APPOINTED. IF THE CHAIRPERSON OF THE
20 COUNTY BOARD OF COMMISSIONERS HAS A PRIVATE INTEREST IN THE PRO-
21 CEEDINGS, THE FINANCE COMMITTEE OF THE COUNTY BOARD OF COMMIS-
22 SIONERS SHALL APPOINT THE BOARD OF DETERMINATION.

23 (3) A MEMBER OF THE BOARD OF DETERMINATION SHALL ALSO NOT BE
24 EITHER OF THE FOLLOWING:

25 (A) A MEMBER OF THE COUNTY BOARD OF COMMISSIONERS.

26 (B) THE SPOUSE, PARENT, CHILD, OR SIBLING OF A MEMBER OF THE
27 COUNTY BOARD OF COMMISSIONERS OR OF THE COMMISSIONER.

1 (4) THE ALTERNATE MEMBER OF THE BOARD OF DETERMINATION SHALL
2 SERVE IF A REGULAR MEMBER NEGLECTS, REFUSES, OR IS UNABLE TO
3 SERVE.

4 (5) UPON REQUEST, THE COMMISSIONER SHALL INFORM IN WRITING
5 THE STATE LEGISLATORS WHO REPRESENT THAT PORTION OF THE AREA IN
6 WHICH THE PROPOSED DRAIN IMPROVEMENT IS TO BE CONSTRUCTED OF THE
7 NAMES AND ADDRESSES OF THE PERSONS APPOINTED TO A BOARD OF
8 DETERMINATION.

9 (6) THE PER DIEM COMPENSATION, MILEAGE, AND EXPENSES OF A
10 MEMBER OF THE BOARD OF DETERMINATION SHALL BE PAID IN THE SAME
11 AMOUNT AND MANNER AS FOR A MEMBER OF THE COUNTY BOARD OF COMMIS-
12 SIONERS OF THE COUNTY. IN A COUNTY IN WHICH MEMBERS OF THE
13 COUNTY BOARD OF COMMISSIONERS ARE NOT PAID ON A PER DIEM BASIS,
14 THE COMPENSATION, MILEAGE, AND EXPENSES SHALL BE FIXED BY THE
15 COMMISSIONER.

16 (7) THE BOARD OF DETERMINATION SHALL ACT BY MAJORITY VOTE OF
17 THE BOARD.

18 (8) THE COMMISSIONER OR DEPUTY COMMISSIONER SHALL ATTEND
19 EACH HEARING OF THE BOARD OF DETERMINATION.

20 SEC. 51B. (1) NOT MORE THAN 21 DAYS AFTER THE FILING OF A
21 PETITION FOR AN INTERCOUNTY DRAIN, THE COMMISSIONER SHALL SEND A
22 COPY OF THE PETITION BY FIRST-CLASS MAIL TO THE DIRECTOR OF AGRI-
23 CULTURE AND TO THE DRAIN COMMISSIONER OF EACH COUNTY IN WHICH LIE
24 LANDS LIABLE FOR ASSESSMENT FOR BENEFITS FOR THE CONSTRUCTION OF
25 THE PROPOSED DRAIN.

26 (2) THE DRAIN COMMISSIONERS OF SUCH COUNTIES AND THE
27 DIRECTOR OF AGRICULTURE SHALL CONSTITUTE THE DRAINAGE BOARD. IF

1 AT ANY TIME THE DRAINAGE BOARD DETERMINES THAT LANDS SHOULD BE
2 ADDED TO THE DRAINAGE DISTRICT AND IF THOSE LANDS ARE LOCATED IN
3 A COUNTY WHOSE DRAIN COMMISSIONER IS NOT A MEMBER OF THE DRAINAGE
4 BOARD, THE DRAINAGE BOARD SHALL NOTIFY THAT DRAIN COMMISSIONER
5 AND HE OR SHE SHALL BECOME A MEMBER OF THE DRAINAGE BOARD. IF AT
6 ANY TIME THE DRAINAGE BOARD DETERMINES THAT ALL THE LANDS FROM A
7 PARTICULAR COUNTY THAT ARE PART OF THE DRAINAGE DISTRICT SHOULD
8 BE DELETED FROM THE DRAINAGE DISTRICT, THE DRAIN COMMISSIONER
9 FROM THAT COUNTY SHALL NO LONGER BE A MEMBER OF THE DRAINAGE
10 BOARD.

11 (3) THE DIRECTOR OF AGRICULTURE SHALL SERVE AS CHAIRPERSON
12 OF THE DRAINAGE BOARD AND SHALL ONLY VOTE IF THERE IS A TIE. THE
13 DRAINAGE BOARD SHALL ACT BY MAJORITY VOTE OF THE DRAINAGE BOARD.

14 (4) THE DIRECTOR OF AGRICULTURE SHALL CALL A HEARING OF THE
15 DRAINAGE BOARD AS SOON AS PRACTICAL BUT NOT LATER THAN 63 DAYS
16 AFTER THE FILING OF A PETITION.

17 SEC. 51C. (1) EACH HEARING OF THE BOARD OF DETERMINATION OR
18 DRAINAGE BOARD SHALL BE CALLED BY THE COMMISSIONER OR DIRECTOR OF
19 AGRICULTURE, RESPECTIVELY, AND HELD WITHIN THE DRAINAGE DISTRICT
20 OR PROPOSED DRAINAGE DISTRICT AT A CONVENIENT PLACE DESIGNATED BY
21 THE COMMISSIONER OR DIRECTOR OF AGRICULTURE. A HEARING MAY ALSO
22 BE HELD OUTSIDE THE DRAINAGE DISTRICT AT A SUITABLE PUBLIC BUILD-
23 ING ANYWHERE WITHIN THE CITY, VILLAGE, OR TOWNSHIP IN WHICH THE
24 DRAIN IS LOCATED OR, IF THERE IS NO SUCH BUILDING, AT ANY SUIT-
25 ABLE PUBLIC BUILDING NEAR THE DRAINAGE DISTRICT.

26 (2) NOTICE OF EACH HEARING OF THE BOARD OF DETERMINATION OR
27 DRAINAGE BOARD SHALL BE GIVEN IN THE MANNER PROVIDED IN SECTION

1 8. THE BOARD SHALL MEET AT THE TIME AND PLACE SPECIFIED IN THE
2 NOTICE.

3 (3) IF, AT OR BEFORE THE HEARING OF THE BOARD OF DETERMINA-
4 TION, WRITTEN OBJECTIONS TO THE ESTABLISHMENT OF THE DRAINAGE
5 DISTRICT AND THE ESTABLISHMENT AND CONSTRUCTION OF A DRAIN ARE
6 FILED BY NOT LESS THAN 20% OF THE LANDOWNERS IN THE PROPOSED
7 DRAINAGE DISTRICT WHOSE LANDS WOULD BE SUBJECT TO AN ASSESSMENT
8 FOR BENEFITS, THERE SHALL BE NO FURTHER PROCEEDINGS FOR THE
9 ESTABLISHMENT OF A DRAINAGE DISTRICT AND THE ESTABLISHMENT AND
10 CONSTRUCTION OF A DRAIN UNLESS THE PETITION UNDER SECTION 51 IS
11 SIGNED BY NOT LESS THAN 50% OF THE LANDOWNERS IN THE PROPOSED
12 DRAINAGE DISTRICT WHOSE LANDS WOULD BE SUBJECT TO AN ASSESSMENT
13 FOR BENEFITS. A SUPPLEMENTAL PETITION MAY BE FILED FOR THIS PUR-
14 POSE NOT LESS THAN 35 DAYS AFTER THE OBJECTIONS ARE FILED.
15 NOTICE OF THE OBJECTIONS AND THE RIGHT TO FILE A SUPPLEMENTAL
16 PETITION UNDER THIS SECTION SHALL BE GIVEN IN THE MANNER PROVIDED
17 IN SECTION 8.

18 (4) THE COMMISSIONER OR DRAINAGE BOARD SHALL ARRANGE FOR A
19 CERTIFIED COURT REPORTER, STENOMASK REPORTER, OR COURT RECORDER
20 TO ATTEND EACH HEARING OF THE BOARD OF DETERMINATION OR DRAINAGE
21 BOARD, RESPECTIVELY, AND TAKE A VERBATIM RECORD OF THE
22 PROCEEDINGS. TESTIMONY BEFORE THE BOARD OF DETERMINATION OR
23 DRAINAGE BOARD SHALL BE GIVEN UNDER OATH OR AFFIRMATION. THE
24 REPORTER OR RECORDER SHALL ADMINISTER THE OATH OR AFFIRMATION.

25 (5) THE BOARD OF DETERMINATION FOR A COUNTY DRAIN OR DRAIN-
26 AGE BOARD FOR AN INTERCOUNTY DRAIN SHALL DO ALL OF THE
27 FOLLOWING:

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1 (A) ELECT A SECRETARY AND A CHAIRPERSON.

2 (B) RECEIVE COMMENTS AND INFORMATION ON WHETHER THE NEW
3 DRAINAGE DISTRICT MAY BE NECESSARY TO THE PUBLIC HEALTH, OR
4 PUBLIC CONVENIENCE, OR PUBLIC WELFARE, OR COMBINATION THEREOF, AS
5 ALLEGED IN THE PETITION.

6 (C) RECEIVE TESTIMONY AND EVIDENCE ON THE PROPOSED ROUTE AND
7 COURSE OF THE DRAIN AND THE BOUNDARIES OF THE DRAINAGE DISTRICT.

8 (D) PROVIDE AN OPPORTUNITY FOR LANDOWNERS WHO SUPPORT THE
9 PROJECT AND WHOSE LANDS WOULD BE LIABLE TO ASSESSMENT TO SIGN THE
10 PETITION.

11 (E) PROVIDE AN OPPORTUNITY FOR LANDOWNERS WHO OPPOSE THE
12 PROJECT AND WHOSE LANDS WOULD BE SUBJECT TO ASSESSMENT TO SIGN A
13 PETITION OPPOSING THE PROJECT.

14 (F) DETERMINE WHETHER OR NOT THE ESTABLISHMENT OF THE PRO-
15 POSED DRAINAGE DISTRICT MAY BE NECESSARY FOR PUBLIC HEALTH, OR
16 PUBLIC CONVENIENCE, OR PUBLIC WELFARE, OR A COMBINATION THEREOF,
17 AS ALLEGED IN THE PETITION.

18 (G) PRELIMINARILY DETERMINE WHETHER THE DRAIN WOULD SERVE
19 LANDS IN ONLY 1 COUNTY OR WHETHER IT WOULD SERVE LANDS IN MORE
20 THAN 1 COUNTY. A DRAINAGE BOARD SHALL ALSO PRELIMINARILY DETER-
21 MINE THE PERCENTAGES OF THE COST OF ESTABLISHING THE DISTRICT AND
22 CONSTRUCTING THE DRAIN THAT EACH COUNTY WILL BEAR. THE COUNTIES
23 AFFECTED SHALL PAY THE COSTS DESCRIBED IN SECTION 302 AS PROVIDED
24 IN THAT SECTION.

25 (H) DETERMINE, BASED ON A COST-BENEFIT ANALYSIS, WHETHER THE
26 BENEFITS OF THE DRAIN WOULD EXCEED ITS COSTS.

1 (I) DETERMINE WHETHER PUBLIC FUNDS SHOULD BE SPENT TO SOLVE
2 THE DRAINAGE PROBLEM.

3 (6) IF THE BOARD OF DETERMINATION OR DRAINAGE BOARD DOES NOT
4 DETERMINE THAT THE DRAINAGE DISTRICT MAY BE NECESSARY FOR PUBLIC
5 HEALTH, OR PUBLIC CONVENIENCE, OR PUBLIC WELFARE, OR COMBINATION
6 THEREOF, AS ALLEGED IN THE PETITION, THE BOARD SHALL ENTER AN
7 ORDER REJECTING THE PETITION. THE ORDER SHALL INCLUDE FINDINGS
8 OF FACT SUPPORTING THE DETERMINATION AND STATE WHY PUBLIC FUNDS
9 SHOULD BE USED TO SOLVE THE PROBLEM. THE BOARD OF DETERMINATION
10 OR DRAINAGE BOARD SHALL SUBMIT A COPY OF THE ORDER TO THE COMMIS-
11 SIONER OR TO EACH OF THE COMMISSIONERS. AN ORDER UNDER THIS SUB-
12 SECTION MAY BE APPEALED UNDER CHAPTER 26.

13 (7) IF THE DRAINAGE BOARD OR BOARD OF DETERMINATION DETER-
14 MINES THAT THE DRAINAGE DISTRICT MAY BE NECESSARY FOR PUBLIC
15 HEALTH, OR PUBLIC CONVENIENCE, OR PUBLIC WELFARE, OR COMBINATION
16 THEREOF, AS ALLEGED IN THE PETITION, THE BOARD SHALL ENTER AN
17 ORDER ESTABLISHING THE DRAINAGE DISTRICT FOR THE PURPOSE OF FUND-
18 ING THE COSTS OF FURTHER INVESTIGATION. THE ORDER SHALL INCLUDE
19 FINDINGS OF FACT SUPPORTING THE DETERMINATION. THE FINDINGS SUP-
20 PORTING A DETERMINATION THAT THE DRAIN MAY BE NECESSARY FOR
21 PUBLIC HEALTH, OR PUBLIC CONVENIENCE, OR PUBLIC WELFARE, OR A
22 COMBINATION THEREOF, AS ALLEGED IN THE PETITION, SHALL BE BASED
23 ON EXPERT AND OTHER TESTIMONY. THE BOARD OF DETERMINATION OR
24 DRAINAGE BOARD SHALL SUBMIT A COPY OF THE ORDER TO THE COMMIS-
25 SIONER OR TO EACH OF THE COMMISSIONERS. AN ORDER UNDER THIS SUB-
26 SECTION MAY BE APPEALED UNDER CHAPTER 26.

1 Sec. 52. ~~Upon filing of such application for a new~~
2 ~~drainage district, the commissioner shall immediately cause a~~
3 ~~survey to be made by a competent surveyor or engineer to deter-~~
4 ~~mine the area which would be drained by the proposed drain, and~~
5 ~~the route and type of construction of the drain or drains most~~
6 ~~serviceable for that purpose. He shall not be limited in such~~
7 ~~determination to the route described in the application. In any~~
8 ~~county having a board of county auditors, no survey shall be~~
9 ~~ordered without the approval of such board but if the application~~
10 ~~shows, or it is determined thereafter, that any such proposed~~
11 ~~drainage district will affect lands in more than 1 county, the~~
12 ~~commissioner shall proceed under the portions of chapter 5 of~~
13 ~~this act relating to intercounty drains, and in such case the~~
14 ~~approval of the board of county auditors shall not be required.~~
15 ~~If upon the survey, or if before the survey is made, the commis-~~
16 ~~sioner determines that the proposed drain is impractical, he~~
17 ~~shall take no further action thereon but shall, in writing,~~
18 ~~notify the persons who delivered the application to him, of that~~
19 ~~fact, and his reasons for making his determination. If upon the~~
20 ~~survey the commissioner determines the proposed drain to be prac-~~
21 ~~tical, he shall lay out a drainage district, prepare and file in~~
22 ~~the office of the drain commissioner a description of the drain-~~
23 ~~age district, which may be described by its boundaries of high-~~
24 ~~ways and streets and tracts and parcels of land including therein~~
25 ~~all highways and streets, townships, cities and villages or by a~~
26 ~~description of all tracts or parcels of land, highways,~~
27 ~~townships, cities and villages which would be benefited by the~~

~~1 construction of the proposed drain, and which would be liable to~~
~~2 an assessment therefor, should the drain be constructed as here-~~
~~3 inafter provided. The commissioner shall obtain from the county~~
~~4 treasurer a statement showing as near as may be the amount of~~
~~5 taxes and special assessments levied against the lands in the~~
~~6 proposed drainage district on the tax rolls for the 3 years next~~
~~7 preceding, and the amount of such taxes and assessments remaining~~
~~8 unpaid, and if it appears from the statement that 33 1/3% or more~~
~~9 of the lands in the proposed drainage district have been returned~~
~~10 as tax delinquent and still remain delinquent, no further action~~
~~11 shall be taken.~~ IF THE BOARD OF DETERMINATION OR DRAINAGE BOARD
12 DETERMINES THAT A PROPOSED DRAIN MAY BE NECESSARY FOR PUBLIC
13 HEALTH, OR PUBLIC CONVENIENCE, OR PUBLIC WELFARE, OR A COMBINA-
14 TION THEREOF, AS ALLEGED IN THE PETITION, THE COMMISSIONER OR
15 DRAINAGE BOARD SHALL PROMPTLY SECURE THE SERVICES OF AN ENGINEER
16 AND ARRANGE FOR THE PREPARATION OF AN ENGINEERING ANALYSIS. THE
17 COMMISSIONER OR DRAINAGE BOARD SHALL SELECT THE ENGINEER BASED ON
18 THE ENGINEER'S QUALIFICATIONS. THE ENGINEERING ANALYSIS SHALL
19 DESCRIBE A DRAIN AND DRAINAGE DISTRICT TO ADDRESS THE REASONS FOR
20 A DRAIN AND DRAINAGE DISTRICT SET FORTH IN THE PETITION AND IN
21 THE EVIDENCE AND TESTIMONY RECEIVED AT THE HEARING OF THE BOARD.
22 EXCEPT AS PROVIDED IN SUBDIVISION (I), AN ENGINEER SHALL PREPARE
23 THE ENGINEERING ANALYSIS. THE ENGINEERING ANALYSIS SHALL INCLUDE
24 ALL OF THE FOLLOWING:
25 (A) A HYDROLOGIC AND HYDRAULIC REPORT THAT INCLUDES, BUT IS
26 NOT LIMITED TO, PRESENT AND ANTICIPATED LAND USES WITHIN THE

1 DRAINAGE DISTRICT AND FLOODING CHARACTERISTICS OF LAND IN THE
2 DRAINAGE DISTRICT AND NATURAL WATERSHED.

3 (B) A RECOMMENDED ROUTE AND COURSE.

4 (C) AN EXISTING AND PROPOSED PROFILE OF THE RECOMMENDED
5 ROUTE AND COURSE.

6 (D) A DESCRIPTION OF POSSIBLE ALTERNATIVES TO REMEDY THE
7 PROBLEM INCLUDING LOWER COST NATURAL APPROACHES AND ANY OTHER
8 RECOMMENDED WORK INCLUDING CROSSINGS, STRUCTURES, AND
9 FACILITIES.

10 (E) A DESCRIPTION OF THE DRAINAGE DISTRICT BY ITS BOUNDARIES
11 OF STREETS OR HIGHWAYS OR TRACTS OR PARCELS OF LAND, OR BY A
12 DESCRIPTION OF ALL TRACTS OR ALL PARCELS OF LAND, INCLUDING ALL
13 HIGHWAYS, TOWNSHIPS, COUNTIES, CITIES, AND VILLAGES WHICH WOULD
14 BE BENEFITED BY THE CONSTRUCTION OF THE PROPOSED DRAIN. THE
15 DESCRIPTION OF THE DRAINAGE DISTRICT MAY BE PREPARED BY A
16 SURVEYOR.

17 (F) AN ESTIMATE OF THE COST OF CONSTRUCTION OF THE
18 ENGINEER'S RECOMMENDATION.

19 (G) A DESCRIPTION OF ALTERNATIVES CONSIDERED, INCLUDING, BUT
20 NOT LIMITED TO, MEASURES TO STORE, RETAIN, OR DETAIN DRAINAGE
21 WATERS.

22 (H) THE IMPACT OF THE PROPOSED PROJECT AND OF ALTERNATIVES
23 DESCRIBED UNDER SUBDIVISION (G) ON FLOODING CHARACTERISTICS DOWN-
24 STREAM OF THE DRAINAGE DISTRICT.

25 (I) AN EVALUATION OF THE IMPACTS OF THE PROJECT ON NATURAL
26 RESOURCES, INCLUDING, BUT NOT LIMITED TO, WATER QUALITY AND PLANT
27 AND ANIMAL LIFE. THE ENGINEER SHALL CONSULT WITH THE DEPARTMENT

1 OF NATURAL RESOURCES AND ANY OTHER QUALIFIED INDIVIDUALS
2 REGARDING ACTIONS POSSIBLE TO LESSEN NEGATIVE IMPACTS ON THE HAB-
3 ITAT QUALITY OF THE WATERCOURSE. THE EVALUATION SHALL IDENTIFY
4 APPROPRIATE PRACTICAL MEASURES TO MINIMIZE ADVERSE EFFECTS AND
5 ANY FEDERAL OR STATE PERMITS THAT MAY BE REQUIRED. THE EVALU-
6 ATION SHALL BE PREPARED BY THE ENGINEER OR A QUALIFIED INDIVIDUAL
7 RETAINED BY THE ENGINEER.

8 (J) A COST-BENEFIT ANALYSIS OF THE VARIOUS ALTERNATIVES SUG-
9 GESTED BY THE ENGINEER TO ADDRESS THE PROBLEM.

10 (K) ANY OTHER INFORMATION REQUESTED BY THE COMMISSIONER OR
11 DRAINAGE BOARD.

12 Sec. 53. (1) ~~The surveyor or engineer authorized to make~~
13 ~~the survey shall ascertain the size and depth of the drains and~~
14 ~~he shall preserve all minutes with reference thereto. He shall~~
15 ~~prepare preliminary plans, drawings and profiles thereof,~~
16 ~~together with a computation of the yards of earth to be exca-~~
17 ~~vated, the amount of tile or pipe to be used and the necessary~~
18 ~~bridges and culverts or fords to be built in constructing such~~
19 ~~proposed drain, and his estimate of the cost of such construc-~~
20 ~~tion, and where practicable shall recommend the leveling of the~~
21 ~~spoil banks. He shall thereupon lay out a drainage district,~~
22 ~~which district may be described by its boundaries of streets or~~
23 ~~highways or tracts or parcels of land, or by a description of all~~
24 ~~tracts or all parcels of land, including therein all highways,~~
25 ~~townships, counties, cities and villages which would be benefited~~
26 ~~by the construction of the proposed drain, all of which he shall~~
27 ~~deliver to the commissioner. The surveyor or engineer shall not~~

1 ~~be limited to the route described in the application but may~~
2 ~~recommend a route and type of construction for the drains he con-~~
3 ~~siders most serviceable for draining the area involved.~~ UPON
4 COMPLETION OF THE ENGINEERING ANALYSIS, THE BOARD OF DETERMINA-
5 TION FOR A COUNTY DRAIN OR THE DRAINAGE BOARD FOR AN INTERCOUNTY
6 DRAIN SHALL RECONVENE TO DETERMINE WHETHER THE DRAIN IS NECESSARY
7 FOR PUBLIC HEALTH, OR PUBLIC CONVENIENCE, OR PUBLIC WELFARE, OR A
8 COMBINATION THEREOF, AS ALLEGED IN THE PETITION. THE COMMIS-
9 SIONER OR DRAINAGE BOARD SHALL GIVE NOTICE OF FILING OF THE ENGI-
10 NEERING ANALYSIS AND THE RECONVENING OF THE BOARD OF DETERMINA-
11 TION OR DRAINAGE BOARD IN THE MANNER PROVIDED IN SECTION 8. THE
12 NOTICE SHALL GIVE ALL OF THE FOLLOWING INFORMATION:

13 (A) A DESCRIPTION OF THE DRAINAGE DISTRICT.

14 (B) THE NAME OR NUMBER OF THE DRAINAGE DISTRICT.

15 (C) A MAP OF THE DRAINAGE DISTRICT AS DESCRIBED IN THE ENGI-
16 NEERING ANALYSIS OR A GENERAL DESCRIPTION OF THE BOUNDARIES OF
17 THAT DRAINAGE DISTRICT BY MUNICIPAL BOUNDARIES, ROADWAYS, OR PAR-
18 CELS OR TRACTS OF LAND.

19 (D) A DESCRIPTION OF THE ROUTE AND TYPE OF PROJECTS PROPOSED
20 AND THE ESTIMATED COST OF EACH OF THE ENGINEER'S RECOMMENDATIONS
21 ALONG WITH INFORMATION ON THE RESULT OF THE COST-BENEFIT
22 ANALYSIS.

23 (2) IF, AFTER CONSIDERING THE ENGINEERING ANALYSIS AND OTHER
24 INFORMATION AND TESTIMONY OFFERED, THE BOARD OF DETERMINATION OR
25 DRAINAGE BOARD DETERMINES THAT ADDITIONAL INFORMATION REGARDING
26 EXISTING CONDITIONS, IMPACTS OF THE PROJECT ON NATURAL RESOURCES,
27 ALTERNATIVES, INCLUDING, BUT NOT LIMITED TO, MEASURES TO STORE

1 AND RETAIN DRAINAGE WATERS, OR OTHER MATTERS IS NEEDED TO
2 DETERMINE WHETHER THE DRAIN IS NECESSARY FOR PUBLIC HEALTH, OR
3 PUBLIC CONVENIENCE, OR PUBLIC WELFARE, OR A COMBINATION THEREOF,
4 AS ALLEGED IN THE PETITION, OR TO DETERMINE THE BOUNDARIES OF THE
5 DRAINAGE DISTRICT, THE BOARD MAY ADJOURN THE HEARING TO ALLOW
6 SUCH ADDITIONAL INFORMATION TO BE GATHERED. THE COMMISSIONER
7 SHALL GATHER THE INFORMATION FOR A BOARD OF DETERMINATION.

8 (3) THE BOARD OF DETERMINATION OR DRAINAGE BOARD SHALL
9 RECONVENE PROMPTLY AFTER THE ADDITIONAL INFORMATION IS GATHERED.
10 THE COMMISSIONER OR DRAINAGE BOARD SHALL GIVE NOTICE OF THE
11 RECONVENING AS PROVIDED IN SUBSECTION (1). AT THE RECONVENED
12 HEARING OF A BOARD OF DETERMINATION OR DRAINAGE BOARD, THE COM-
13 MISSIONER SHALL PRESENT THE ADDITIONAL INFORMATION.

14 (4) AT THE RECONVENED HEARING, THE BOARD OF DETERMINATION OR
15 DRAINAGE BOARD SHALL CONSIDER AND WEIGH THE INFORMATION AND COM-
16 MENTS OFFERED AND DETERMINE WHETHER THE DRAIN IS NECESSARY FOR
17 THE PUBLIC HEALTH, OR PUBLIC CONVENIENCE, OR PUBLIC WELFARE, OR A
18 COMBINATION THEREOF, AS ALLEGED IN THE PETITION. THE BOARD SHALL
19 DETERMINE THE SCOPE OF THE WORK TO BE UNDERTAKEN.

20 (5) IF THE BOARD OF DETERMINATION OR DRAINAGE BOARD DETER-
21 MINES THAT THE DRAIN IS NOT NECESSARY FOR PUBLIC HEALTH, OR
22 PUBLIC CONVENIENCE, OR PUBLIC WELFARE, OR A COMBINATION THEREOF,
23 AS ALLEGED IN THE PETITION, THE BOARD SHALL ENTER AN ORDER
24 REJECTING THE PETITION. IF THE COST-BENEFIT ANALYSIS CONCLUDES
25 THAT THE COSTS OF EACH OF THE ALTERNATIVE PROJECTS WILL EXCEED
26 ITS BENEFITS, THE COMMISSIONER OR DRAINAGE BOARD SHALL ENTER AN
27 ORDER REJECTING THE PETITION AND GIVE NOTICE OF THE ORDER IN THE

1 MANNER PROVIDED IN SECTION 8. AN ORDER UNDER THIS SUBSECTION
2 SHALL INCLUDE FINDINGS OF FACT SUPPORTING THE DETERMINATION. THE
3 BOARD OF DETERMINATION OR DRAINAGE BOARD SHALL GIVE NOTICE OF AN
4 ORDER UNDER THIS SUBSECTION IN THE MANNER PROVIDED IN SECTION 8
5 AND SUBMIT A COPY OF THE ORDER TO THE COMMISSIONER OR TO EACH OF
6 THE COMMISSIONERS. THE COSTS INCURRED BY THE COMMISSIONER AND
7 THE BOARD UNDER SECTIONS 52 AND 53 SHALL BE PAID FROM THE BOND
8 THAT WAS FILED WITH THE PETITION.

9 (6) AN ORDER UNDER SUBSECTION (5) MAY BE APPEALED UNDER
10 CHAPTER 26.

11 (7) IF, AFTER THE ENGINEERING ANALYSIS IS FILED UNDER SUB-
12 SECTION (1), BUT BEFORE THE HEARING TO DETERMINE IF THE DRAIN IS
13 NECESSARY FOR PUBLIC HEALTH, OR PUBLIC CONVENIENCE, OR PUBLIC
14 WELFARE, OR A COMBINATION THEREOF, AS ALLEGED IN THE PETITION, A
15 MAJORITY OF THE PETITIONERS UNDER SECTIONS 51 AND 51A FILE A
16 REQUEST WITH THE COMMISSIONER FOR A COUNTY DRAIN OR THE DRAINAGE
17 BOARD FOR AN INTERCOUNTY DRAIN REQUESTING THAT THE PETITION TO
18 ESTABLISH THE DRAINAGE DISTRICT AND TO ESTABLISH AND CONSTRUCT
19 THE DRAIN BE REJECTED, THE COMMISSIONER FOR A COUNTY DRAIN OR
20 DRAINAGE BOARD FOR AN INTERCOUNTY DRAIN SHALL FILE AN ORDER
21 REJECTING THE PETITION TO ESTABLISH THE DRAINAGE DISTRICT AND TO
22 ESTABLISH AND CONSTRUCT THE DRAIN.

23 (8) IF, AT OR BEFORE THE HEARING OF THE BOARD OF DETERMINA-
24 TION, WRITTEN OBJECTIONS TO THE ESTABLISHMENT OF THE DRAINAGE
25 DISTRICT AND THE ESTABLISHMENT AND CONSTRUCTION OF A DRAIN ARE
26 FILED BY NOT LESS THAN 20% OF THE LANDOWNERS IN THE PROPOSED
27 DRAINAGE DISTRICT WHOSE LANDS WOULD BE SUBJECT TO AN ASSESSMENT

1 FOR BENEFITS, THERE SHALL BE NO FURTHER PROCEEDINGS FOR THE
2 ESTABLISHMENT OF A DRAINAGE DISTRICT AND THE ESTABLISHMENT AND
3 CONSTRUCTION OF A DRAIN UNLESS THE PETITION UNDER SECTION 51 IS
4 SIGNED BY NOT LESS THAN 50% OF THE LANDOWNERS IN THE PROPOSED
5 DRAINAGE DISTRICT WHOSE LANDS WOULD BE SUBJECT TO AN ASSESSMENT
6 FOR BENEFITS. A SUPPLEMENTAL PETITION MAY BE FILED FOR THIS PUR-
7 POSE NOT LESS THAN 35 DAYS AFTER THE OBJECTIONS ARE FILED.
8 NOTICE OF THE OBJECTIONS AND THE RIGHT TO FILE A SUPPLEMENTAL
9 PETITION UNDER THIS SECTION SHALL BE GIVEN IN THE MANNER PROVIDED
10 IN SECTION 8.

11 Sec. 54. ~~The commissioner shall prepare and file in his~~
12 ~~office his order designating a drainage district and give it a~~
13 ~~name or number and describe therein the boundaries of the dis-~~
14 ~~trict by streets or highways or parcels of land for each of the~~
15 ~~several tracts or parcels of land included therein and the coun-~~
16 ~~ties, townships, cities, villages and state trunk line highways~~
17 ~~which would be benefited by the construction of the drains and~~
18 ~~would be liable to assessment therefor, also a description of the~~
19 ~~drains as determined by him, showing the beginning, route, termi-~~
20 ~~nus, type of the proposed construction and the estimated cost of~~
21 ~~such proposed construction. The commissioner shall give notice~~
22 ~~of filing the order designating a drainage district by publishing~~
23 ~~a notice in a newspaper of general circulation in the county, or~~
24 ~~a newspaper of general circulation in the area where the drainage~~
25 ~~district boundaries are located, which notice shall give a gen-~~
26 ~~eral description of the route of the proposed drain or drains and~~
27 ~~of the drainage district as shown by the order.~~

~~1 At any time after the order designating a drainage district
2 and giving it a name or number has been filed in the office of
3 the drain commissioner, the order may be amended as to the name
4 or number of the drain at any time by presenting to the drain
5 commissioner of the county a petition signed by no less than 5
6 land owners whose land is traversed by the drain, which petition
7 shall state the then present name or number of the drain and the
8 change or changes to be made in the name or number. Upon receipt
9 of such petition, and if in the drain commissioner's opinion it
10 is to the best interest of all concerned that the name or number
11 be changed, he shall make his order amending the name or number,
12 and thereafter the drainage district shall be known by such name
13 or number. The drain commissioner shall forthwith post such
14 signs upon the drain as he may deem advisable for public notice
15 of the new name or number.~~

16 (1) IF THE DRAINAGE BOARD OR BOARD OF DETERMINATION DETER-
17 MINES BY MAJORITY VOTE THAT THE DRAINAGE DISTRICT IS NECESSARY
18 FOR PUBLIC HEALTH, OR PUBLIC CONVENIENCE, OR PUBLIC WELFARE, OR A
19 COMBINATION THEREOF, AS ALLEGED IN THE PETITION, THE BOARD SHALL
20 ENTER AN ORDER OF NECESSITY FOR THE ESTABLISHMENT AND CONSTRUC-
21 TION OF THE DRAIN. THE ORDER SHALL DO ALL OF THE FOLLOWING:

22 (A) INCLUDE FINDINGS OF FACT SUPPORTING THE DETERMINATION
23 THAT THE DRAIN IS NECESSARY. THE FINDINGS SUPPORTING A DETERMI-
24 NATION THAT THE DRAIN IS NECESSARY FOR PUBLIC HEALTH SHALL BE
25 BASED ON EXPERT AND OTHER TESTIMONY.

26 (B) STATE WHY PUBLIC FUNDS SHOULD BE USED TO SOLVE THE
27 PROBLEM.

1 (C) STATE WHICH RECOMMENDATION OF THE ENGINEER RESULTS IN
2 THE LOWEST COST AND THE HIGHEST NATURAL RESOURCE QUALITIES FOR
3 THE PUBLIC FUNDS THAT ARE TO BE SPENT.

4 (D) DESCRIBE THE DRAINAGE DISTRICT BY ITS BOUNDARIES OR BY A
5 DESCRIPTION OF ALL THE LAND THAT WOULD BE BENEFITED BY THE CON-
6 STRUCTION OF THE DRAIN AND WOULD BE SUBJECT TO ASSESSMENT THERE-
7 FOR INCLUDING THE COUNTIES, TOWNSHIPS, CITIES, AND VILLAGES;
8 ROADWAYS; AND PARCELS OF LAND IDENTIFIED BY LEGAL DESCRIPTION OR
9 TAX CODE PARCEL NUMBER.

10 (E) DESCRIBE THE BEGINNING, ROUTE, TERMINUS, TYPE OF THE
11 PROPOSED CONSTRUCTION, AND THE ESTIMATED COST OF SUCH PROPOSED
12 CONSTRUCTION.

13 (F) SET FORTH FINDINGS WHETHER ALL OR A PORTION OF THE COST
14 OF CONSTRUCTION OF THE DRAIN IS NECESSARY FOR THE PROTECTION OF
15 PUBLIC HEALTH IN 1 OR MORE MUNICIPALITIES. IF THE BOARD FINDS
16 THAT THE WHOLE COST, EXCEPT THAT TO BE ASSESSED AGAINST ROADWAY
17 AUTHORITIES FOR BENEFITS TO ROADWAYS, IS NECESSARY FOR PUBLIC
18 HEALTH, THE COST SHALL BE ASSESSED AGAINST THE MUNICIPALITIES AT
19 LARGE.

20 (2) IF THE BOARD ENTERS AN ORDER OF NECESSITY, THE COSTS
21 INCURRED BY THE COMMISSIONER AND BOARD UNDER SECTIONS 52 AND 53
22 SHALL BE INCLUDED IN THE COMPUTATION OF THE COSTS FOR THE DRAIN.
23 ANY SECURITY POSTED UNDER SECTION 52 SHALL BE RELEASED TO THE
24 PERSONS WHO POSTED THE SECURITY. NOT MORE THAN 14 DAYS AFTER THE
25 ORDER IS ENTERED, THE BOARD SHALL PUBLISH NOTICE OF THE ORDER IN
26 THE MANNER PROVIDED IN SECTION 8.

1 (3) WITHIN 35 DAYS AFTER THE ORDER OF NECESSITY IS MADE, THE
2 COMMISSIONER FOR A COUNTY DRAIN OR DRAINAGE BOARD FOR AN
3 INTERCOUNTY DRAIN SHALL NOTIFY, BY FIRST-CLASS MAIL, EACH MUNICI-
4 PALITY IDENTIFIED IN THE ORDER OF NECESSITY AS RECEIVING BENEFITS
5 AT LARGE FOR PUBLIC HEALTH THAT IT IS LIABLE TO PAY A PERCENT OF
6 THE COST OF CONSTRUCTION OF THE DRAIN BY REASON OF BENEFITS FOR
7 PUBLIC HEALTH. THE MUNICIPALITY MAY APPEAL THIS DETERMINATION OF
8 LIABILITY UNDER CHAPTER 26.

9 (4) AN ORDER OF NECESSITY MAY BE APPEALED UNDER CHAPTER 26.

10 SEC. 56. UPON RECEIPT OF A PETITION UNDER THIS CHAPTER, THE
11 COMMISSIONER OR DRAINAGE BOARD SHALL SEND A COPY OF THE PETITION
12 TO THE DEPARTMENT OF ENVIRONMENTAL QUALITY AND BEGIN A PROCESS OF
13 CONFERRING AND COLLABORATING WITH THE DEPARTMENT OF ENVIRONMENTAL
14 QUALITY CONCERNING ANY PERMITS THAT MAY BE NEEDED FOR THE
15 PROJECT. AS EARLY IN THE PROCEEDINGS UNDER THIS CHAPTER AS POS-
16 SIBLE, THE COMMISSIONER OR DRAINAGE BOARD SHALL APPLY FOR ANY
17 PERMITS REQUIRED UNDER THE NATURAL RESOURCES AND ENVIRONMENTAL
18 PROTECTION ACT, 1994 PA 451, MCL 324.101 TO 324.90106. ALL COSTS
19 ASSOCIATED WITH EVALUATING NATURAL RESOURCE IMPACTS AND IMPLE-
20 MENTING THE MEASURES TO MINIMIZE THOSE IMPACTS SHALL BE THE
21 RESPONSIBILITY OF THE DRAINAGE DISTRICT.

22 SEC. 57. (1) AFTER AN ORDER OF NECESSITY IS MADE, THE COM-
23 MISSIONER OR DRAINAGE BOARD SHALL PROCEED TO ACQUIRE PROPERTY FOR
24 THE DRAIN UNDER SECTION 7.

25 (2) THE APPORTIONMENT AND REVIEW OF BENEFITS, THE LETTING OF
26 CONTRACTS, AND THE LEVY AND COLLECTION OF DRAIN SPECIAL

1 ASSESSMENTS FOR THE DRAIN SHALL BE AS PROVIDED IN CHAPTERS 7, 9,
2 AND 11.

3 SEC. 58. A PERSON SIGNING A PETITION UNDER THIS CHAPTER IS
4 NOT ELIGIBLE TO SIGN A NEW PETITION OF THAT TYPE CONCERNING THE
5 SAME DRAIN FOR 1 YEAR AFTER SIGNING THE FIRST PETITION.

6 CHAPTER 7 —

7 APPORTIONMENT AND REVIEW —

8 Sec. 151. ~~Upon the release of the right of way and dam-~~
9 ~~ages, or upon the determination and return of the special commis-~~
10 ~~sioners, the commissioner shall make his final order of determi-~~
11 ~~nation establishing the drain, which drain shall be divided into~~
12 ~~convenient sections for the letting of contracts: Provided, That~~
13 ~~the commissioner may let the drain in sections or as a whole.~~
14 ~~Said order of determination shall be filed with the county drain~~
15 ~~commissioner within 5 days after such order is made. He shall,~~
16 ~~before~~

17 (1) BEFORE the day of ~~letting and~~ review OF
18 APPORTIONMENTS, THE COMMISSIONER OR DRAINAGE BOARD SHALL fix the
19 number of installments for the collection of drainage ~~taxes~~
20 ASSESSMENTS and apportion the ~~per cent~~ PERCENT of the cost of
21 construction of ~~such drain which any township, city or village~~
22 ~~traversed or benefited thereby shall be~~ THE DRAIN THAT ANY CITY,
23 VILLAGE, OR TOWNSHIP IS liable to pay by reason of the benefit to
24 the public health ~~, convenience or welfare, or as the means of~~
25 ~~improving any highway under the control of such township, city or~~
26 ~~village. He shall apportion the per cent of the cost of~~
27 ~~construction of such drain which any highway then under the~~

~~1 control of the county or district road commissioners, shall be~~
~~2 liable to pay by reason of benefits therefor, and as the means of~~
~~3 improving such highway. He shall also apportion the per cent of~~
~~4 the cost of construction of such drain which any state trunk line~~
~~5 highway, under the control of the state highway commissioner,~~
~~6 shall be liable to pay by reason of benefits therefor and as the~~
~~7 means of improving said highway. He~~ OR THAT ANY ROADWAY AUTHOR-
8 ITY IS LIABLE TO PAY BY REASON OF BENEFITS TO OR CONTRIBUTIONS
9 FROM A ROADWAY. THE APPORTIONMENT OF BENEFITS FOR STATE TRUNK
10 LINE HIGHWAYS AND THE PORTION PAID BY COUNTY ROAD COMMISSIONS FOR
11 BENEFIT TO COUNTY ROADS MUST BE PAID PURSUANT TO SECTION 14A OF
12 1951 PA 51, MCL 247.664A. THE COUNTY MAY ASSUME AN ADDITIONAL
13 COST OF THE DRAIN BY THE VOTE OF 2/3 OF THE MEMBERS ELECT OF THE
14 COUNTY BOARD OF COMMISSIONERS.

15 (2) IN MAKING THE APPORTIONMENTS TO CITIES, VILLAGES, AND
16 TOWNSHIPS FOR BENEFITS TO PUBLIC HEALTH, THE COMMISSIONER OR
17 DRAINAGE BOARD SHALL CONSIDER THE BENEFITS TO ACCRUE TO EACH
18 CITY, VILLAGE, OR TOWNSHIP AND ALSO THE EXTENT TO WHICH EACH
19 CITY, VILLAGE, OR TOWNSHIP CONTRIBUTES TO THE CONDITIONS THAT
20 MAKE THE PROJECT NECESSARY. APPORTIONMENTS AGAINST THIS STATE OR
21 A COUNTY FOR PUBLIC HEALTH BENEFITS SHALL RELATE SOLELY TO STATE
22 TRUNK LINE HIGHWAYS OR COUNTY ROADS, RESPECTIVELY. EXCEPT AS
23 OTHERWISE PROVIDED IN THIS SECTION, ASSESSMENTS AGAINST A TOWN-
24 SHIP FOR BENEFITS TO PUBLIC HEALTH SHALL BE AGAINST THE TOWNSHIP
25 AS A WHOLE, INCLUDING ANY VILLAGE. HOWEVER, THE DRAINAGE BOARD
26 OR THE COMMISSIONER MAY DETERMINE TO ASSESS SEPARATELY OR EXCLUDE
27 A VILLAGE, IN WHICH CASE THE ASSESSMENT AGAINST THE TOWNSHIP

1 SHALL BE EXCLUSIVE OF THE VILLAGE AND THE TAX LEVIES TO BE MADE
2 BY THE TOWNSHIP TO PAY THE ASSESSMENT SHALL NOT INCLUDE PROPERTY
3 TAXABLE IN THE VILLAGE.

4 (3) THE COMMISSIONER shall also apportion the ~~per cent~~
5 PERCENT of benefits to accrue to any piece or parcel of
6 PRIVATELY-OWNED land by reason of the construction, MAINTENANCE,
7 OR IMPROVEMENT of ~~such~~ THE drain. ~~over and above the per cent~~
8 THIS APPORTIONMENT MAY BE IN ADDITION TO THE PERCENT apportioned
9 to any township, city, or village at large or to any ~~highway as~~
10 ~~above provided~~ ROADWAY UNDER SUBSECTION (1). ~~Such per cent so~~
11 ~~apportioned~~

12 (4) THE PERCENT APPORTIONED UNDER THIS SECTION, when finally
13 approved, shall be assessed ~~against such townships, cities and~~
14 ~~villages and against the county at large by reason of the~~
15 ~~improvement of the highways within the drainage district, and~~
16 ~~against the state by reason of the improvement of the state trunk~~
17 ~~line highways within such drainage district, and against all par-~~
18 ~~cels of land therein~~ according to ~~such~~ THE apportionment of
19 benefits. ~~as herein provided.~~ The apportionment of benefits ~~so~~
20 ~~made shall be~~ IS subject to review and correction and may be
21 appealed from as PROVIDED in this act. ~~provided.~~ The board of
22 ~~supervisors~~ COMMISSIONERS at its October meeting each year
23 shall make provision by proper assessment of the amounts appor-
24 tioned against any ~~highway under the control of the county and~~
25 ~~district highway commissioners~~ COUNTY ROAD.

1 Sec. 152. ~~All apportionments of benefits under the~~
2 ~~provisions of this act shall be upon the principle of benefits~~
3 ~~derived. All descriptions~~

4 (1) EACH APPORTIONMENT SHALL BE BASED ON PROVABLE BENEFITS
5 TO THE INDIVIDUAL PARCEL, MUNICIPALITY, OR ROADWAY.

6 (2) BY NOT LATER THAN 1 YEAR AFTER THE EFFECTIVE DATE OF THE
7 AMENDATORY ACT THAT ADDED THIS SENTENCE, THE DEPARTMENT OF AGRI-
8 CULTURE AND THE DEPARTMENT OF TREASURY SHALL JOINTLY PROMULGATE
9 RULES PURSUANT TO THE ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969
10 PA 306, MCL 24.201 TO 24.328, SETTING FORTH UNIFORM STANDARD PRO-
11 CEDURES AND METHODS FOR APPORTIONING BENEFITS UNDER THIS ACT.

12 (3) A DESCRIPTION of land under ~~the provisions of~~ this act
13 shall be made by giving the legal subdivision thereof, whenever
14 practicable, and when the tract of land which is to be benefited
15 or affected by ~~such~~ A drain is less than ~~such~~ A legal
16 subdivision, it may be described by designation of the lot or A
17 PART OF A LOT OR other boundaries, or in some way. ~~by which it~~
18 ~~may be known.~~ IF THE COMMISSIONER RETAINS IN HIS OR HER OFFICE A
19 DETAILED DESCRIPTION, MAP, OR OTHER SPECIFICATION THAT DESIGNATES
20 A PARCEL OR PORTION OF A PARCEL TO BE BENEFITED BY THE DRAIN, THE
21 COMMISSIONER, INSTEAD OF PROVIDING A SPECIFIC DESCRIPTION OF THE
22 PARCEL, MAY DESIGNATE THE PARCEL BY USE OF THE PARCEL'S TAX
23 PARCEL IDENTIFICATION NUMBER.

24 (4) THE APPORTIONMENT OF BENEFITS FOR STATE TRUNK LINE HIGH-
25 WAYS AND THE PORTION PAID BY COUNTY ROAD COMMISSIONS FOR BENEFIT
26 TO COUNTY ROADS MUST BE PAID PURSUANT TO SECTION 14A OF 1951
27 PA 51, MCL 247.664A.

1 Sec. 154. (1) ~~The commissioner shall give notice for the~~
2 ~~receiving of bids for the construction of the drain and for the~~
3 ~~holding of a public meeting. At the meeting a review shall be~~
4 ~~made of the apportionment of benefits. The notice shall specify~~
5 ~~the time and place of receiving bids, and the time and place of~~
6 ~~the meeting for review of apportionment. The meeting shall be~~
7 ~~not less than 5 nor more than 30 days after the date set for~~
8 ~~receiving bids. The notice shall be given by publication of at~~
9 ~~least 2 insertions in a newspaper published and of general circu-~~
10 ~~lation in the county. The first publication shall be at least 10~~
11 ~~days before the date set for receiving bids. The drain commis-~~
12 ~~sioner shall send notice by first class mail of the time, date,~~
13 ~~and place of the meeting, at least 10 days before the date of the~~
14 ~~meeting, to each person whose name appears upon the last city or~~
15 ~~township tax assessment roll as owning land within the special~~
16 ~~assessment district, at the address shown on the roll. If an~~
17 ~~address does not appear on the roll, then notice need not be~~
18 ~~mailed to the person. The drain commissioner shall make an affi-~~
19 ~~davit of the mailing and shall recite in the affidavit that the~~
20 ~~persons to whom the notice was mailed, constitute all of the per-~~
21 ~~sons whose names and addresses appear upon the tax rolls as~~
22 ~~owning land within the particular special assessment district.~~
23 ~~The affidavit shall be conclusive proof that notice was mailed to~~
24 ~~each person to whom notice is required to be mailed. If notice~~
25 ~~has been sent by first class mail as provided in this section,~~
26 ~~the failure to receive notice by mail shall not constitute a~~
27 ~~jurisdictional defect invalidating a drain proceeding or tax.~~

1 AFTER DETERMINING THE APPORTIONMENT OF BENEFITS FOR THE PROJECT,
2 THE COMMISSIONER OR DRAINAGE BOARD SHALL PROCEED UNDER SECTION
3 221 TO DETERMINE THE LOWEST RESPONSIBLE BIDDER FOR THE PROJECT.
4 BASED ON THE LOWEST RESPONSIBLE BID, THE COMMISSIONER OR DRAINAGE
5 BOARD SHALL COMPUTE THE TOTAL COST FOR THE DRAIN PROJECT INCLUD-
6 ING THE ITEMS LISTED IN SECTION 261 AND THE AMOUNT TO BE ASSESSED
7 AGAINST EACH PRIVATE LANDOWNER, MUNICIPALITY, OR ROADWAY. THE
8 COMMISSIONER RESPONSIBLE FOR APPORTIONMENT OF BENEFITS FOR THE
9 COUNTY OR INTERCOUNTY DRAIN SHALL THEN GIVE NOTICE UNDER SECTION
10 8 OF THE MEETING FOR THE REVIEW OF THE APPORTIONMENTS MADE BY
11 THAT COMMISSIONER. THE NOTICE TO EACH PERSON SUBJECT TO AN
12 ASSESSMENT FOR THE COSTS OF THE PROJECT SHALL STATE THE TOTAL
13 COST OF THE PROJECT AS COMPUTED UNDER SECTION 221, THE PERCENTAGE
14 OF THE COST OF THE PROJECT APPORTIONED TO THAT PERSON, AND THE
15 AMOUNT TO BE ASSESSED TO THAT PERSON. If the board of determina-
16 tion OR DRAINAGE BOARD determines that the drain is necessary for
17 the protection of the public health and that the whole cost of
18 the drain, except that part which may be apportioned TO ROADWAY
19 AUTHORITIES for benefits to highways, shall be apportioned to
20 municipalities, then mailing of individual notices to persons
21 owning land within the special assessment district as provided in
22 this section ~~shall not be~~ IS NOT required.

23 ~~-(2) The notice shall also contain the names of the coun-~~
24 ~~ties, cities, townships, or villages to be assessed at large, and~~
25 ~~shall be personally served on the county clerk and 1 or more mem-~~
26 ~~bers of the road commission of a county or road district, the~~
27 ~~supervisor of a township, the mayor of a city, and the president~~

1 of a village to be assessed at large. The notice shall contain a
2 description of the land constituting the special assessment dis-
3 trict for the drain. The description may be stated by designat-
4 ing the boundaries of the special assessment district by streets,
5 highways, parcels, or tracts of land or by describing the tracts
6 or parcels of land constituting the district. A tract or parcel
7 need not be subdivided beyond the point where the whole of the
8 tract or parcel is within the drainage district or to describe
9 the drain further than by reference to it by its name or number.
10 The notice shall also state the number and length of sections,
11 the average depth and width of each section, and in case of
12 closed drains, the amount and specifications of all tile or pipe
13 required. The notice shall contain the location, number, type,
14 and size of all culverts and bridges and the conditions upon
15 which the contract will be awarded. The notice need not contain
16 minutes of survey or table of cuttings which shall be kept on
17 file in the office of the drain commissioner.

18 (3) Bids shall be received and computation of the total cost
19 of the drain shall be made before the time set for review of the
20 apportionment, and the computation shall be open to inspection.
21 If the computation is not completed before the day of review, the
22 review may be adjourned from time to time, not more than 20 days
23 in all, for the completion of the computation, or a new hearing
24 may be called with similar notice, by publication and service at
25 least 10 days before the hearing.

26 (2) If the contracts on which the computation was based are
27 not executed and new contracts ~~shall~~ WILL be let at a higher

1 price, a corrected computation shall be made and a new review
 2 held with ~~a similar~~ THE SAME notice. At the time and place
 3 fixed in the notice, or at another time and place to which the
 4 ~~county drain~~ commissioner may adjourn the hearing, the appor-
 5 tionment of benefits and the lands comprised within the special
 6 assessment district shall be subject to review for at least ~~1~~
 7 ~~day~~ 3 DAYS. The review shall be held open from 9 a.m. until 5
 8 p.m. ON 2 DAYS AND FROM 6 P.M. TO 9 P.M. ON 1 OTHER DAY. On the
 9 DAY OF review, the county clerk or the county road commission may
 10 appear on behalf of the county or a road district; the supervisor
 11 ~~or commissioner of highways~~ of a township may appear on behalf
 12 of a township; the mayor or an officer of the city designated by
 13 the mayor may appear for a city; AND the president may appear on
 14 behalf of a village. At the review, the ~~county drain~~ commis-
 15 sioner shall ~~hear the proofs and allegations~~ RECEIVE COMMENTS
 16 AND INFORMATION ON THE APPORTIONMENT and shall carefully recon-
 17 sider and review the description of land comprised within the
 18 special assessment district, the several descriptions and appor-
 19 tionment of benefits, and define and equalize the land as is just
 20 and equitable. THE OWNER OF ANY LAND IN THE DRAINAGE DISTRICT
 21 AGGRIEVED BY THE APPORTIONMENT OF BENEFITS MAY APPEAL THE APPOR-
 22 TIONMENT UNDER CHAPTER 26.

23 (3) ~~(4) when~~ IF an apportionment of benefits is made
 24 against a state trunk line highway, unless the ~~state highway~~
 25 director OF THE STATE TRANSPORTATION DEPARTMENT consents in writ-
 26 ing to the apportionment, the ~~drain~~ commissioner, at least ~~20~~
 27 21 days before the ~~review on the trunk line~~ DAY OF REVIEW,

1 shall notify THE DIRECTOR OF THE STATE TRANSPORTATION DEPARTMENT
2 by ~~registered~~ CERTIFIED mail ~~the state highway director~~ of
3 the ~~percentage apportioned~~ TOTAL COST OF THE PROJECT, AS COM-
4 PUTED UNDER SECTION 221, THE PERCENTAGE OF THE COST OF THE
5 PROJECT APPORTIONED AGAINST THE STATE TRUNK LINE HIGHWAY, AND THE
6 AMOUNT TO BE ASSESSED against the STATE TRUNK LINE highway and
7 the date, time, and place fixed for a review of apportionment of
8 benefits. If the ~~state highway director~~ DIRECTOR OF THE STATE
9 TRANSPORTATION DEPARTMENT desires to have the apportionment of
10 benefits reviewed by the director of ~~the department of~~ agricul-
11 ture, the ~~state highway~~ director ~~, within 10~~ OF THE STATE
12 TRANSPORTATION DEPARTMENT, NOT MORE THAN 14 days ~~from~~ AFTER the
13 receipt of the notice, shall file with the ~~drain~~ commissioner
14 an objection to the apportionment. The ~~drain~~ commissioner
15 shall notify the director ~~of the department~~ of agriculture of
16 the date, time, and place fixed for the review of apportionments.
17 ~~, and at~~ AT the meeting, the director of ~~the department of~~
18 agriculture ~~, or a deputy of the director,~~ shall review the
19 apportionment made against the state trunk line highway, listen
20 to the proofs and allegations of the parties, and may view the
21 STATE TRUNK LINE highway benefited. The action and decision on
22 the apportionment SHALL BE reduced to writing ~~shall be~~ AND IS
23 final.

24 (4) THE DIRECTOR OF THE STATE TRANSPORTATION DEPARTMENT
25 SHALL NOTIFY THE COMMISSIONER IN WRITING WHETHER THE DEPARTMENT
26 WILL PAY ANY ASSESSMENT AGAINST STATE TRUNK LINE HIGHWAYS IN A
27 SINGLE PAYMENT OR IN INSTALLMENTS. IF THE DIRECTOR OF THE STATE

1 TRANSPORTATION DEPARTMENT DOES NOT SPECIFY BEFORE THE
2 ADVERTISEMENT OF THE SALE OF BONDS OR NOTES WHETHER THE DEPART-
3 MENT WILL PAY THE ASSESSMENT IN FULL OR IN INSTALLMENTS, THE
4 DEPARTMENT IS LIABLE FOR THE INTEREST CHARGES INCURRED AS A
5 RESULT OF THE SALE OF BONDS OR NOTES.

6 (5) ASSESSMENTS RELATED TO DRAINAGE OF STATE TRUNK LINE
7 HIGHWAYS SHALL BE PAID FROM FUNDS APPROPRIATED TO THE STATE
8 TRANSPORTATION DEPARTMENT.

9 SEC. 163. (1) TO INITIATE THE REAPPORTIONMENT OF BENEFITS
10 ASSESSED IN A PARTICULAR COUNTY FOR A PROJECT, A PETITION SHALL
11 BE FILED WITH THE DRAIN COMMISSIONER. THE PETITION SHALL STATE
12 THAT THE CURRENT APPORTIONMENT OF BENEFITS IS INEQUITABLE AND
13 UNJUST AND SHALL REQUEST A NEW APPORTIONMENT. THE PETITION SHALL
14 BE SIGNED BY AT LEAST 5 LANDOWNERS IN THE DRAINAGE DISTRICT IN
15 THAT COUNTY WHOSE LANDS ARE SUBJECT TO ASSESSMENT FOR BENEFITS OR
16 BY AT LEAST 50% OF THE LANDOWNERS IN THE DRAINAGE DISTRICT IN
17 THAT COUNTY WHOSE LANDS ARE SUBJECT TO ASSESSMENT FOR BENEFITS IF
18 THERE ARE LESS THAN 5 SUCH LANDOWNERS. THE DRAIN COMMISSIONER
19 SHALL DETERMINE THE ELIGIBILITY OF THE SIGNERS TO THE PETITION
20 BASED ON THEIR STATUS AS LANDOWNERS WHEN THE PETITION WAS FILED.

21 (2) INSTEAD OF LANDOWNERS, A MUNICIPALITY MAY PETITION FOR A
22 REAPPORTIONMENT OF BENEFITS IF THE MUNICIPALITY IS ASSESSED AT
23 LARGE FOR A PROJECT AND THE MUNICIPALITY UNDER FORMER
24 SECTION 489A, 490, 538A, OR 539 OF THIS ACT CAUSED A PORTION OF
25 THAT AT-LARGE ASSESSMENT TO BE SPECIALLY ASSESSED AGAINST ESPE-
26 CIALLY BENEFITED LANDS. AFTER THE EFFECTIVE DATE OF THE
27 AMENDATORY ACT THAT ADDED THIS SECTION, A MUNICIPALITY SHALL NOT

1 CAUSE ALL OR PART OF AN AT-LARGE ASSESSMENT UNDER THIS ACT TO BE
2 SPECIALLY ASSESSED AGAINST ESPECIALLY BENEFITED LANDS. SUCH
3 LANDS MAY BE DIRECTLY ASSESSED BY THE COMMISSIONER OR DRAINAGE
4 BOARD THROUGH A REAPPORTIONMENT OF BENEFITS UNDER THIS SECTION.

5 (3) NOT MORE THAN 56 DAYS AFTER THE FILING OF THE PETITION,
6 THE DRAIN COMMISSIONER SHALL HOLD A MEETING ON THE PETITION. THE
7 MEETING SHALL BE HELD AT A LOCATION AS PROVIDED IN SECTION 51A.
8 THE DRAIN COMMISSIONER SHALL ARRANGE FOR A VERBATIM RECORD OF THE
9 PROCEEDINGS IN THE MANNER PROVIDED IN SECTION 51A. NOTICE OF THE
10 MEETING SHALL BE GIVEN IN THE MANNER PROVIDED IN SECTION 8.

11 (4) AT THE MEETING, THE DRAIN COMMISSIONER SHALL RECEIVE
12 COMMENTS AND INFORMATION ON WHETHER BENEFITS FROM THE PROJECT
13 SHOULD BE REAPPORTIONED. AT THE MEETING, OR WITHIN 14 DAYS AFTER
14 THE MEETING, THE DRAIN COMMISSIONER SHALL DECIDE WHETHER THE BEN-
15 EFITS ARE PROPERLY APPORTIONED UNDER THE STANDARDS SET FORTH IN
16 SECTIONS 151 AND 152 AND SHALL FILE AN ORDER GRANTING OR REJECT-
17 ING THE PETITION ACCORDINGLY. THE DRAIN COMMISSIONER SHALL
18 PROMPTLY GIVE NOTICE OF THE ORDER IN THE MANNER PROVIDED IN SEC-
19 TION 8. IF THE DRAIN COMMISSIONER DECIDES TO GRANT THE PETITION,
20 THE DRAIN COMMISSIONER SHALL ALSO GIVE NOTICE IN THE MANNER PRO-
21 VIDED IN SECTION 8 OF THE TIME AND PLACE FOR A MEETING FOR THE
22 REVIEW OF APPORTIONMENTS, TO BE HELD NOT LESS THAN 14 DAYS OR
23 MORE THAN 28 DAYS AFTER THE DATE OF THE ORDER. THESE NOTICES MAY
24 BE COMBINED.

25 (5) THE DRAIN COMMISSIONER SHALL APPORTION BENEFITS AS PRO-
26 VIDED IN SECTIONS 151 AND 152. THE DAY OF REVIEW SHALL BE
27 CONDUCTED IN THE SAME MANNER AND SUBJECT TO THE SAME RIGHTS OF

1 REVIEW AND APPEAL AS THE INITIAL DAY OF REVIEW FOR A PROJECT
2 UNDER THIS CHAPTER.

3 (6) A PETITION SHALL NOT BE FILED UNDER THIS SECTION WITHIN
4 5 YEARS AFTER THE INITIAL DAY OF REVIEW FOR A PROJECT UNDER THIS
5 CHAPTER OR WITHIN 5 YEARS AFTER THE FILING OF AN ORDER UNDER SUB-
6 SECTION (3) GRANTING OR REJECTING A PREVIOUS PETITION UNDER THIS
7 SECTION.

8 CHAPTER 8 —

9 MAINTAINING DRAINS

10 Sec. 191. ~~When a drain or portion thereof, which traverses~~
11 ~~lands wholly in 1 county, and lands only in 1 county which is~~
12 ~~subject to assessment, needs cleaning out, relocating, widening,~~
13 ~~deepening, straightening, tiling, extending, or relocating along~~
14 ~~a highway, or requires structures or mechanical devices that will~~
15 ~~properly purify or improve the flow of the drain or pumping~~
16 ~~equipment necessary to assist or relieve the flow of the drain,~~
17 ~~or needs supplementing by the construction of 1 or more relief~~
18 ~~drains which may consist of new drains or extensions, enlarge-~~
19 ~~ments, or connections to existing drains, or needs 1 or more~~
20 ~~branches added thereto, any 5 or at least 50% of the freeholders~~
21 ~~if there are less than 5 freeholders whose lands shall be liable~~
22 ~~to an assessment for benefits of such work, may make petition in~~
23 ~~writing to the commissioner setting forth the necessity of the~~
24 ~~proposed work and the commissioner shall proceed in the same~~
25 ~~manner provided for the location, establishment, and construction~~
26 ~~of a drain. If the project includes a tiled relief drain, or the~~
27 ~~tiling of an existing open drain or any portion thereof, with a~~

~~1 conduit a part of which has an inside diameter in excess of 36
2 inches or the retiling of an existing drain with a conduit, a
3 part of which has an inside diameter in excess of 36 inches, then
4 the petition shall comply with section 71. The preceding sen-
5 tence shall not be applicable to the construction of bridges,
6 culverts, and passageways. The word tiling as used in this and
7 other sections of this act, means the laying of a conduit com-
8 posed of tile, brick, concrete, or other material. When it is
9 necessary for the public health of 1 or more cities, villages,
10 and townships, the petition may be signed solely by a city, vil-
11 lage, or township when authorized by its governing body or by a
12 combination of the municipalities, if the municipality or munici-
13 palities are liable to assessments at large for a percentage of
14 the total amount assessed for the cost of the proposed work.
15 After the board of determination determines the necessity for the
16 work, as provided in section 72, the commissioner shall, as soon
17 as practicable after the final order of determination prescribed
18 in section 151 has been filed by him, proceed as provided in sec-
19 tions 151 to 161. If the apportionment is the same as the last
20 recorded apportionments, no day of review is necessary, but in
21 other cases the commissioner shall proceed as provided in sec-
22 tions 151 to 161, including the notice of and the holding of a
23 day of review.~~

24 (1) SUBJECT TO SUBSECTION (2), A COUNTY DRAIN OR AN INTER-
25 COUNTY DRAIN MAY BE MAINTAINED UNDER THIS CHAPTER.

1 (2) A DRAIN OR PORTION OF A DRAIN THAT WAS AT ANY TIME A
2 NATURAL WATERCOURSE SHALL NOT BE MAINTAINED UNDER THIS CHAPTER
3 BUT MAY BE IMPROVED UNDER CHAPTER 8A.

4 Sec. 192. ~~Whenever a drain or portion thereof, which~~
5 ~~traverses lands in more than 1 county, and lands in more than 1~~
6 ~~county shall be subject to assessments, needs cleaning out, relo-~~
7 ~~cating, widening, deepening, straightening, tiling, extending or~~
8 ~~relocating along a highway, or requires structures or mechanical~~
9 ~~devices that will properly purify or improve the flow of the~~
10 ~~drain or pumping equipment necessary to assist or relieve the~~
11 ~~flow of the drain, or needs supplementing by the construction of~~
12 ~~1 or more relief drains which may consist of new drains or exten-~~
13 ~~sions, enlargements or connections to existing drains, or needs 1~~
14 ~~or more branches added thereto, freeholders within the drainage~~
15 ~~district equal to 50% of the number of freeholders whose lands~~
16 ~~are traversed by said drain or drains in said petition or abut on~~
17 ~~any highway or street along either side of which such drain~~
18 ~~extends, between the point where said drain enters such highway~~
19 ~~and the point where it leaves such highway or street and which~~
20 ~~lands are within the drainage district, may make a petition in~~
21 ~~writing to the commissioner of any county having lands in such~~
22 ~~district setting forth the necessity of such proposed work.~~
23 ~~Whenever it is necessary for the public health of 1 or more~~
24 ~~cities, villages or townships, the petition may be signed solely~~
25 ~~by a city, village or township when duly authorized by its gov-~~
26 ~~erning body or by any combination of such municipalities if the~~
27 ~~municipality or municipalities will be liable to assessments at~~

~~1 large for a percentage of the total amount to be assessed for the
2 cost of the proposed work. The percentage of cost apportioned to
3 the municipality or municipalities shall be based upon the bene-
4 fits to accrue to such municipality or municipalities and also
5 the extent to which they contribute to the conditions which makes
6 the drain necessary. Upon receipt of such petition, the commis-
7 sioner shall notify the state director of agriculture and the
8 commissioners of each county embracing any lands in the drainage
9 district, and the director of agriculture shall call a meeting
10 within the time and in the manner prescribed in section 122. The
11 persons so named shall constitute a drainage board and if such
12 work is then determined to be practicable, they may thereupon
13 appoint a competent surveyor or engineer to make a survey of said
14 drain, and lay out a drainage district according to section 104.
15 After the surveyor or engineer has filed all data with the drain-
16 age board, the director of agriculture shall call a meeting as
17 provided in section 122, and thereafter take all steps and per-
18 form all acts which are required to be done by said board upon a
19 petition for the location, establishment and construction of
20 drains as provided in sections 121 to 135. Such board and the
21 commissioners shall exercise such power and be subject to such
22 limitations as are provided in sections 121 to 135. UPON REQUEST
23 AND SUBJECT TO SECTION 44, THE COMMISSIONER OR DRAINAGE BOARD
24 SHALL SUPPLY AN APPLICATION FORM FOR MAINTENANCE OF A DRAIN TO
25 ANY PERSON LIABLE FOR AN ASSESSMENT IN THE DRAINAGE DISTRICT. A
26 COMPLETED APPLICATION FORM RETURNED TO THE DRAIN COMMISSION UNDER
27 THIS SECTION SHALL STATE THAT IT IS FOR THE PURPOSE OF REQUESTING~~

1 ONLY MAINTENANCE ON A DRAIN. THE COMPLETED APPLICATION FORM
2 SHALL CONTAIN, BUT NEED NOT BE LIMITED TO, THE FOLLOWING
3 INFORMATION:

4 (A) A SPECIFIC DESCRIPTION OF THE PROBLEM.

5 (B) A DESCRIPTION OF THE LOCATION OF THE PROBLEM.

6 (C) NAMES AND ADDRESSES OF OTHER LANDOWNERS AFFECTED BY THE
7 PROBLEM.

8 (D) THE EXTENT AND SEVERITY OF THE PROBLEM, INCLUDING THE
9 FREQUENCY OF THE PROBLEM'S OCCURRENCE AND THE ESTIMATED DAMAGES
10 PER OCCURRENCE. DOCUMENTATION SUPPORTING THIS INFORMATION SHALL
11 BE ATTACHED TO THE APPLICATION.

12 (E) A STATEMENT OF THE MAXIMUM EXTENT OF CORRECTIVE ACTION
13 AND MAXIMUM COSTS FOR A PROJECT ACCEPTABLE TO THE APPLICANTS.

14 (F) THE SIGNATURE OF THE APPLICANT AND THE DATE OF FILING OF
15 THE APPLICATION.

16 (G) A SUGGESTED DATE FOR CONSULTATION WITH THE
17 COMMISSIONER. THIS DATE SHALL NOT BE MORE THAN 21 DAYS FROM THE
18 DATE OF FILING OF THE APPLICATION.

19 Sec. 193. ~~All apportionments hereunder shall be made~~
20 ~~according to the benefits received and shall be subject to appeal~~
21 ~~the same as in the first instance. In case the apportionment~~
22 ~~shall be the same as the last recorded apportionment, no day of~~
23 ~~review shall be necessary. In case the apportionment shall be~~
24 ~~changed, or in case an apportionment is made in a consolidated~~
25 ~~district which apportions benefits between lands which have not~~
26 ~~been previously assessed by the consolidated district, the~~
27 ~~procedure shall be in all respects in accordance with the~~

~~1 provisions of chapter 7 of this act, including the notice of and
2 the holding of a day of review.~~

3 (1) UPON RECEIPT OF A PROPERLY COMPLETED APPLICATION FORM,
4 THE COMMISSIONER OR DRAINAGE BOARD SHALL INVESTIGATE THE STATED
5 PROBLEM.

6 (2) FOLLOWING THE INVESTIGATION, THE DRAIN COMMISSIONER OR
7 DRAINAGE BOARD SHALL PREPARE AN EVALUATION OF, AND RECOMMENDED
8 SOLUTION TO, THE PROBLEM IN WRITING.

9 (3) THE FINDINGS OF THE COMMISSIONER OR DRAINAGE BOARD SHALL
10 CONTAIN AN EVALUATION OF WHETHER THE PROBLEM IS OF SIGNIFICANT
11 MAGNITUDE TO WARRANT MAINTENANCE OF THE DRAIN, AN ESTIMATE OF THE
12 SCOPE OF THE PROJECT NECESSARY TO CORRECT THE STATED PROBLEM, AND
13 AN ESTIMATE OF THE COST OF THE PROJECT.

14 (4) IF THE COMMISSIONER OR DRAINAGE BOARD ESTIMATES THAT THE
15 COST OF THE PROJECT WILL EXCEED \$2,500.00 PER MILE OR FRACTION OF
16 A MILE IN 1 YEAR, THE PROJECT SHALL NOT BE UNDERTAKEN UNDER THIS
17 CHAPTER. THE FINDINGS SHALL STATE THAT, BECAUSE THE COST OF THE
18 PROJECT WILL EXCEED \$2,500.00 PER MILE OR FRACTION OF A MILE IN 1
19 YEAR, THE APPLICANTS MUST PROCEED UNDER CHAPTER 8A IF THEY WANT
20 THE PROJECT TO BE UNDERTAKEN.

21 (5) IF THE COMMISSIONER OR DRAINAGE BOARD ESTIMATES THAT THE
22 COST OF THE PROJECT WILL NOT EXCEED \$2,500.00 PER MILE OR FRAC-
23 TION OF A MILE IN 1 YEAR AND THAT THE PROBLEM IS OF SIGNIFICANT
24 MAGNITUDE TO WARRANT MAINTENANCE OF THE DRAIN, THE COMMISSIONER
25 OR DRAINAGE BOARD SHALL PROCEED WITH THE MAINTENANCE. THE COM-
26 MISSIONER OR DRAINAGE BOARD SHALL DO ALL OF THE FOLLOWING:

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1 (A) GIVE NOTICE AS PROVIDED UNDER SECTION 8.

2 (B) DEVELOP SPECIFICATIONS FOR THE MAINTENANCE PROJECT.

3 (C) LET BIDS, APPORTION COSTS, AND LEVY ASSESSMENTS AS PRO-
4 VIDED IN CHAPTERS 7 AND 9.

5 (6) IF THE COMMISSIONER OR DRAINAGE BOARD ESTIMATES THAT THE
6 COST OF THE PROJECT WILL NOT EXCEED \$2,500.00 PER MILE OR FRAC-
7 TION OF A MILE IN 1 YEAR AND THAT THE PROBLEM IS NOT OF SIGNIFI-
8 CANT MAGNITUDE TO WARRANT MAINTENANCE OF THE DRAIN, THE COMMIS-
9 SIONER OR DRAINAGE BOARD SHALL NOT PROCEED WITH THE PROJECT
10 UNLESS A PETITION FOR MAINTENANCE IS FILED IN THE MANNER PROVIDED
11 IN CHAPTER 3. IF A PETITION MEETING THE REQUIREMENTS OF CHAPTER
12 3 IS FILED, ALL OF THE FOLLOWING APPLY:

13 (A) THE COMMISSIONER OR DRAINAGE BOARD SHALL GIVE NOTICE AS
14 PROVIDED UNDER SECTION 8.

15 (B) THE BOARD OF DETERMINATION OR DRAINAGE BOARD SHALL
16 DETERMINE THE NECESSITY OF THE PROJECT AS PROVIDED IN CHAPTER 3.

17 (C) THE COMMISSIONER OR DRAINAGE BOARD SHALL DEVELOP SPECI-
18 FICATIONS FOR THE SPECIFIC MAINTENANCE PROJECT PETITIONED FOR AND
19 SHALL LET BIDS, APPORTION COSTS, AND LEVY ASSESSMENTS AS PROVIDED
20 IN CHAPTERS 7 AND 9.

21 (7) IF THE FINDINGS INDICATE THAT AN OBSTRUCTION HAS BEEN
22 CREATED BY A PERSON, THE COMMISSIONER OR DRAINAGE BOARD SHALL
23 PROCEED UNDER SECTION 421.

24 (8) A COPY OF THE DRAIN COMMISSIONER'S RESPONSE SHALL BE
25 PROVIDED TO EVERY APPLICANT WITHIN 28 DAYS.

26 (9) THE DETERMINATION OF THE MAXIMUM EXPENDITURE ALLOWED
27 WITHOUT A PETITION OR RESOLUTION SHALL BE BASED ON THE TOTAL

1 NUMBER OF MILES OF THE DRAIN AND NOT ON THE ACTUAL NUMBER OF
2 MILES OR LOCATION OF THE MAINTENANCE OR REPAIR. THE AMOUNT OF
3 THE TOTAL ASSESSMENT SHALL NOT EXCEED THE ACTUAL COST OF THE
4 MAINTENANCE PERFORMED. FOR THE PURPOSES OF THIS SECTION, MAINTENANCE COSTS THAT ARE UTILITY CHARGES OR COSTS TO SERVICE PUMPING
5 STATIONS, SEWAGE TREATMENT FACILITIES, OR RETENTION BASINS SHALL
6 NOT BE CONSIDERED IN CALCULATING THE AMOUNT TO BE EXPENDED FOR
7 MAINTENANCE.
8

9 CHAPTER 8A

10 IMPROVEMENTS

11 SEC. 201. (1) A COUNTY OR INTERCOUNTY DRAIN MAY BE IMPROVED
12 UNDER THIS CHAPTER.

13 (2) IMPROVEMENT ACTIVITIES MADE TO ALL OR PART OF A DRAIN
14 THAT WAS AT ANY TIME A NATURAL WATERCOURSE REQUIRE ALL STATE AND
15 FEDERAL PERMITS.

16 (3) SUBJECT TO PART 315 OF THE NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT, 1994 PA 451, MCL 324.31501 TO
17 324.31529, AN EXISTING DAM IN A DRAIN MAY BE OPERATED AND MAINTAINED OR ANY OTHER STRUCTURE IN OR ADJACENT TO THE DRAIN MAY BE
18 CONSTRUCTED, OPERATED, AND MAINTAINED TO CONTROL THE RATE OF FLOW
19 THROUGH OR INTO THE DRAIN, OR THE LEVEL OF WATER, OR THE AMOUNT
20 OF SEEPAGE, OR TO PROVIDE FOR REMOVAL OF DRAINAGE BY PUMPING AND
21 OTHER MECHANICAL OPERATIONS. A PETITION FOR SUCH A DAM OR STRUCTURE SHALL STATE THAT THE IMPROVEMENT IS NECESSARY TO DRAIN, PROTECT, OR IRRIGATE LAND. THE PETITION MAY STATE THE DESIRED LOCATION OF THE DAM OR STRUCTURE, THE PROPOSED METHOD OF OPERATION
22 AND OUTLET, AND HOW HISTORICAL DRAINAGE IS TO BE MAINTAINED.
23
24
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1 (4) A DRAINAGE DISTRICT MAY BE CONSOLIDATED WITH ANY
2 ADJACENT ESTABLISHED DRAINAGE DISTRICT OR HAVE LANDS ADDED OR
3 DELETED. THE CONSOLIDATION, ADDITION, OR DELETION SHALL OTHER-
4 WISE COMPLY WITH SECTION 277A RELATIVE TO DISPOSITION OF FUNDS
5 AND PAYMENT OF OUTSTANDING DEBT. THE LANDOWNERS OF ANY LANDS
6 BEING PETITIONED FOR CONSOLIDATION, ADDITION, OR DELETION AND THE
7 MUNICIPALITIES IN WHICH THOSE LANDS ARE LOCATED SHALL BE GIVEN
8 NOTICE OF THE PROPOSED CONSOLIDATION, ADDITION, OR DELETION.

9 SEC. 202. UPON REQUEST AND SUBJECT TO SECTION 44, THE COM-
10 MISSIONER OR DRAINAGE BOARD SHALL SUPPLY AN APPLICATION FORM FOR
11 IMPROVEMENT OF A DRAIN TO ANY PERSON WHO MAY BE SUBJECT TO AN
12 ASSESSMENT FOR THE IMPROVEMENT. THE COMPLETED APPLICATION FORM
13 SHALL CONTAIN, BUT NEED NOT BE LIMITED TO, THE FOLLOWING
14 INFORMATION:

15 (A) A SPECIFIC DESCRIPTION OF THE PROBLEM.

16 (B) A DESCRIPTION OF THE LOCATION OF THE PROBLEM.

17 (C) NAMES AND ADDRESSES OF OTHER LANDOWNERS AFFECTED BY THE
18 PROBLEM.

19 (D) THE EXTENT AND SEVERITY OF THE PROBLEM, INCLUDING THE
20 FREQUENCY OF THE PROBLEM'S OCCURRENCE AND THE ESTIMATED DAMAGES
21 PER OCCURRENCE. DOCUMENTATION SUPPORTING THIS INFORMATION SHALL
22 BE ATTACHED TO THE APPLICATION.

23 (E) A STATEMENT OF THE MAXIMUM EXTENT OF CORRECTIVE ACTION
24 AND MAXIMUM COSTS FOR A PROJECT ACCEPTABLE TO THE APPLICANTS.

25 (F) THE SIGNATURE OF THE APPLICANT AND THE DATE OF FILING OF
26 THE APPLICATION.

1 (G) A SUGGESTED DATE FOR CONSULTATION WITH THE
2 COMMISSIONER. THIS DATE SHALL NOT BE MORE THAN 21 DAYS FROM THE
3 DATE OF FILING OF THE APPLICATION.

4 SEC. 203. (1) IF AFTER THE CONSULTATION WITH THE DRAIN COM-
5 MISSIONER THE APPLICANT WISHES TO FILE A PETITION FOR AN IMPROVE-
6 MENT TO THE DRAIN, THE DRAIN COMMISSIONER OR DRAINAGE BOARD SHALL
7 SUPPLY THE APPLICANT WITH A PETITION FORM AND SHALL OTHERWISE
8 COMPLY WITH SECTION 44.

9 (2) IF A COMPLETED PETITION FOR AN IMPROVEMENT PROJECT THAT
10 MEETS THE REQUIREMENTS OF SECTION 51 IS FILED WITH THE DRAIN COM-
11 MISSIONER OR DRAINAGE BOARD, THE PROCEDURES SET FORTH IN SECTIONS
12 51A TO 57 APPLY TO THE IMPROVEMENT PROJECT.

13 CHAPTER 9 —

14 LETTING OF CONTRACTS —

15 Sec. 221. (1) ~~At the time and place fixed in the notice~~
16 ~~therefor, the commissioner shall receive bids for the construc-~~
17 ~~tion of the drain.~~ THE COMMISSIONER OR DRAINAGE BOARD SHALL GIVE
18 NOTICE UNDER SECTION 8 FOR THE RECEIVING OF BIDS FOR THE CON-
19 STRUCTION, MAINTENANCE, OR IMPROVEMENT OF THE DRAIN. THE NOTICE
20 SHALL SPECIFY THE TIME AND PLACE OF RECEIVING BIDS. THE NOTICE
21 SHALL ALSO PROVIDE A BRIEF DESCRIPTION OF THE PROJECT INCLUDING
22 ITS GENERAL LOCATION, TYPE OF CONSTRUCTION, AND ESTIMATE OF THE
23 AMOUNT AND TYPE OF TILE OR PIPE REQUIRED FOR THE DRAIN. A
24 PROJECT MAY BE DIVIDED FOR THE PURPOSE OF LETTING CONTRACTS. THE
25 NOTICE SHALL ALSO INCLUDE INFORMATION CONCERNING PREQUALIFICA-
26 TIONS REQUIRED BY SUBSECTION (5). The commissioner OR THE
27 DRAINAGE BOARD may in any case, and shall for all ~~drains~~

1 PROJECTS having an estimated cost exceeding ~~-\$5,000.00-~~
2 \$10,000.00, advertise for sealed proposals, to be opened on the
3 day of letting. IF THE COMMISSIONER OR DRAINAGE BOARD DOES NOT
4 ADVERTISE FOR PROPOSALS, THE COMMISSIONER OR DRAINAGE BOARD SHALL
5 SOLICIT 2 OR MORE ESTIMATES FOR THE COST OF THE CONSTRUCTION,
6 MAINTENANCE, OR IMPROVEMENT FROM QUALIFIED CONTRACTORS.

7 (2) THE COMMISSIONER OR DRAINAGE BOARD, IN CONSULTATION WITH
8 AN ENGINEER, MAY ESTABLISH PREQUALIFICATIONS FOR A PROSPECTIVE
9 CONTRACTOR TO SUBMIT A BID FOR THE CONSTRUCTION OF THE DRAIN,
10 CONSISTENT WITH 1933 PA 170, MCL 123.501 TO 123.508.

11 PREQUALIFICATIONS MAY INCLUDE, BUT NEED NOT BE LIMITED TO, EXPER-
12 TISE, FINANCIAL SOLVENCY, EXPERIENCE, OR EQUIPMENT.

13 PREQUALIFICATION SHALL BE DETERMINED BEFORE ADVERTISEMENT FOR
14 BIDS. THE NOTICE SHALL INDICATE THAT PREQUALIFICATIONS ARE
15 APPLICABLE AND WHERE THE PREQUALIFICATIONS CAN BE REVIEWED BY THE
16 PROSPECTIVE CONTRACTOR.

17 (3) All sealed proposals received by the commissioner OR
18 DRAINAGE BOARD shall be publicly opened by ~~him~~ THE COMMISSIONER
19 OR THE DRAINAGE BOARD in the meeting and may be there examined by
20 any person interested. As soon as practical after the opening of
21 bids for the construction of any drain, the commissioner OR
22 DRAINAGE BOARD shall determine the lowest responsible bidder.
23 ~~and award contracts, or he may reject all proposals and readver-~~
24 ~~tise as in the first instance, and in cases where the commis-~~
25 ~~sioner determined that the taxes assessed for benefits shall be~~
26 ~~collected in more than 1 installment, he shall, subject to the~~
27 ~~provisions set forth in section 275 of this act, determine the~~

1 ~~amount, form, maturity and rate of interest of bonds to be~~
2 ~~issued. In counties having a board of county auditors no drain~~
3 ~~bonds shall be sold and no drain contracts let without the writ-~~
4 ~~ten consent and approval of the board of county auditors, but the~~
5 ~~approval of said board shall not be required in proceedings rela-~~
6 ~~tive to intercounty drains.~~ BEFORE DETERMINING THE LOWEST
7 RESPONSIBLE BIDDER, THE COMMISSIONER OR DRAINAGE BOARD MAY REJECT
8 ALL PROPOSALS AND READVERTISE AS IN THE FIRST INSTANCE.

9 (4) IF THE LOWEST RESPONSIBLE BID FOR A PROJECT UNDER CHAP-
10 TER 3 IS MORE THAN 10% HIGHER THAN THE ESTIMATE OF THE COST OF
11 CONSTRUCTION OF THE ENGINEER'S RECOMMENDATION IN THE ENGINEERING
12 ANALYSIS, THE COMMISSIONER SHALL RECONVENE THE BOARD OF
13 DETERMINATION. THE BOARD OF DETERMINATION AND THE COMMISSIONER
14 SHALL PROCEED AS PROVIDED IN SECTIONS 53 TO 57.

15 (5) THE COMMISSIONER OR DRAINAGE BOARD SHALL AWARD
16 CONTRACTS. If ~~no~~ A contract ~~shall be~~ IS NOT let within ~~5~~ 2
17 years after the date of filing the petition to ~~locate, establish~~
18 ~~and construct, or deepen, widen, straighten, title, extend or~~
19 ~~clean out~~ ESTABLISH A DRAINAGE DISTRICT AND ESTABLISH AND CON-
20 STRUCT A DRAIN OR TO MAINTAIN OR IMPROVE a drain, the ~~drain-~~
21 commissioner OR DRAINAGE BOARD may determine that the petition
22 shall be ~~deemed~~ CONSIDERED abandoned and ~~no~~ ISSUE AN ORDER TO
23 THAT EFFECT. NO further action shall be taken to construct, MAIN-
24 TAIN, OR IMPROVE the drain. Time during which ~~any~~ litigation
25 ~~shall be~~ IS pending to contest the validity of such proceedings
26 shall not be counted as a part of ~~such 5-year~~ THE 2-YEAR
27 period. ~~If the drain commissioner determines the petition shall~~

1 ~~be abandoned, he shall issue his order to that effect; provided,~~
 2 ~~that such determination of abandonment shall not be issued within~~
 3 ~~the 5-year period.~~ Notice of the order shall be given by pub-
 4 lishing a notice in a newspaper of general circulation in the
 5 county. ~~The provisions of this~~ THIS section ~~shall apply~~
 6 APPLIES to all petitions which are in full force and effect on
 7 the ~~date of January 1, 1973, or thereafter~~ EFFECTIVE DATE OF
 8 THE 1998 AMENDATORY ACT THAT AMENDED SECTION 1.

9 (6) The board of county road commissioners, ~~when~~ IF autho-
 10 rized by ~~a committee of supervisors appointed by~~ the COUNTY
 11 board of ~~supervisors~~ COMMISSIONERS, ~~is hereby authorized to~~
 12 MAY bid for the construction, cleaning, deepening, and widening
 13 of drains within the county, and, if ~~such~~ THE bid is accepted,
 14 shall ~~be authorized to~~ perform the work called for ~~therein~~ IN
 15 THE BID, and MAY receive payment ~~therefor~~ FOR THE WORK. ~~A bid~~
 16 ~~tendered by such board of county road commissioners shall not be~~
 17 ~~accepted unless such bid shall be at least 15% lower than any~~
 18 ~~other bid tendered.~~ The ~~moneys~~ MONEY received by the county
 19 road commission shall be credited to the county road fund, and
 20 expenditures incurred by the county road commission ~~shall be~~ IN
 21 PERFORMING THE WORK ARE proper disbursements therefrom.

22 Sec. 222. ~~The commissioner shall first let the section at~~
 23 ~~the outlet of the drain and shall let each remaining section in~~
 24 ~~its order up stream:~~ Provided, That the THE commissioner OR
 25 DRAINAGE BOARD may ~~let~~ RECEIVE BIDS FOR the drain in sections
 26 or as a whole, whichever appears to ~~him~~ BE the most practical.
 27 ~~∴ Provided further, That the~~ THE commissioner OR DRAINAGE

1 BOARD shall reserve the right to reject any and all bids or
2 proposals FOR A SECTION OF THE DRAIN and proceed to ~~let said~~
3 RECEIVE BID PROPOSALS FOR THE drain in its entirety. ~~, and~~ THE
4 COMMISSIONER OR DRAINAGE BOARD may adjourn ~~such~~ THE letting in
5 ~~the~~ whole or in part ~~, from time to time, to such other time~~
6 ~~or place to be by him at the time of such adjournment publicly~~
7 ~~announced as shall to him seem proper, but not in all more than~~
8 ~~40 90 days from and after the time of letting as first~~
9 ~~advertised.~~ TO ANOTHER PLACE OR TIME NOT MORE THAN 91 DAYS AFTER
10 THE DAY OF LETTING BIDS AS FIRST ADVERTISED. NOTICE OF THE
11 ADJOURNED MEETING SHALL BE GIVEN AS PROVIDED IN SECTION 8.

12 Sec. 223. (1) A deposit in the form of a CASHIER'S CHECK,
13 certified check, ~~or its equivalent~~ CASH, BANK MONEY ORDER, OR
14 BID BOND FROM A SURETY AUTHORIZED TO DO BUSINESS IN THIS STATE in
15 the amount that the commissioner OR DRAINAGE BOARD considers rea-
16 sonable may be required with each bid, whether on opening bidding
17 or sealed proposals, as evidence of good faith and to reimburse
18 the district ~~in the event of failure on the part of~~ IF the suc-
19 cessful bidder FAILS to execute the necessary contracts or to
20 furnish the required security or indemnity insurance. A BID BOND
21 OF THE SUCCESSFUL BIDDER, OTHER THAN A BID BOND FROM A SURETY,
22 SHALL BE DEPOSITED WITH THE TREASURER OF THE DRAINAGE DISTRICT.
23 IF THE BID BONDS ARE HELD MORE THAN 63 DAYS, THE TREASURER OF THE
24 DRAINAGE DISTRICT SHALL PAY TO THE BIDDER INTEREST ACTUALLY
25 EARNED FROM THE DATE OF DEPOSIT ON A BID BOND, OTHER THAN A BID
26 BOND FROM A SURETY. If the successful bidder does not execute the
27 proper contracts or furnish the security or indemnity insurance

1 required of him or her ~~within 10~~ NOT MORE THAN 14 days after
2 the acceptance of his or her bid, then the commissioner OR DRAIN-
3 AGE BOARD may retain the deposit as stipulated damages for the
4 nonexecution of the contract and proceed to advertise for and let
5 the job anew. If the successful bidder furnishes the security or
6 indemnity insurance required and executes the required contracts,
7 then the deposit shall be returned to him or her. All money for-
8 feited to the commissioner OR DRAINAGE BOARD under this subsec-
9 tion shall be deposited with the ~~county~~ treasurer OF THE DRAIN-
10 AGE DISTRICT to the credit of the drainage district fund.

11 (2) The successful bidder shall, ~~within the time stated in~~
12 ~~subsection (1)~~ NOT MORE THAN 14 DAYS AFTER THE ACCEPTANCE OF HIS
13 OR HER BID, file with the commissioner security considered neces-
14 sary by the commissioner guaranteeing that the contract will be
15 completed in accordance with the terms specified in the
16 contract. The security shall be in a sum fixed by the commis-
17 sioner, but shall not be less than the contract price. At the
18 option of the commissioner, the security shall consist of 1 or
19 more of the following:

20 (a) Cash.

21 (b) Certified check.

22 (c) Performance bond executed by a surety company authorized
23 to do business in this state.

24 (d) Escrow agreement acceptable to the commissioner.

25 (e) Irrevocable letter of credit issued by a state or feder-
26 ally regulated financial institution.

1 (f) Personal surety acceptable to the commissioner.

2 (3) If a personal surety is used as security, the
3 commissioner shall require all of the following: ~~conditions and~~
4 ~~limitations:~~

5 (a) That the personal surety be a contractor with the
6 experience and ability to perform and complete, in a timely
7 manner, the contract ~~in the event of a default by~~ IF the suc-
8 cessful bidder DEFAULTS.

9 (b) That the personal surety not act as the personal surety
10 for more than 1 other principal during the term of the contract
11 upon which he or she is giving security.

12 (c) That no more than 2 personal sureties be utilized as
13 security on any 1 contract.

14 (d) That, the personal surety provide financial information
15 requested by the commissioner and that, after a review of this
16 information, the commissioner be satisfied with the surety's
17 ability to perform the contract upon which he or she is giving
18 security.

19 (e) That the personal surety provide to the commissioner a
20 list of contracts upon which the surety is required to perform,
21 naming the parties to each contract, the amount of each contract,
22 the work to be performed under each contract and the time during
23 which each contract is to be performed, and that the personal
24 surety revise this listing during the term of the contract upon
25 which he or she is giving security, adding or deleting informa-
26 tion as contracts are entered or completed.

1 (f) That the personal surety agree that ~~in the event~~ IF
2 the successful bidder defaults on the contract, the personal
3 surety shall ~~enter onto the project and~~ complete the project
4 pursuant to the terms of the contract within the time limitations
5 specified by the commissioner or pay to the drainage district the
6 amount of money specified by the commissioner as necessary to pay
7 another contractor to complete the contract.

8 (4) If a contract is not completed in accordance with its
9 written terms, the security provided to the commissioner shall be
10 used to complete the contract.

11 (5) In addition to the security required in subsection (2),
12 the commissioner OR DRAINAGE BOARD shall require the successful
13 bidder to furnish ~~a bond or~~ indemnity insurance AND MOTOR VEHI-
14 CLE INSURANCE in the sum required by the commissioner OR DRAINAGE
15 BOARD. This ~~bond or indemnity~~ insurance shall run to the
16 people of ~~the state of Michigan~~ THIS STATE and shall be main-
17 tained in full force and effect until the contract is terminated
18 to indemnify the commissioner AND DRAINAGE BOARD, the drainage
19 district, and the county or other municipality against loss or
20 damage resulting from injury to a worker on the drain, or the
21 negligence or carelessness of the contractor in the construction
22 of the drain. Indemnity insurance that terminates by expiration
23 or cancellation shall be replaced ~~prior to~~ BEFORE termination
24 in the sum then required by the commissioner OR DRAINAGE BOARD.
25 THE COMMISSIONER OR DRAINAGE BOARD SHALL ALSO REQUIRE THE SUC-
26 CESSFUL BIDDER TO FURNISH WORKER'S COMPENSATION INSURANCE.

1 (6) The provisions of this section apply to contracts in
2 excess of \$100,000.00. For all contracts equal to or less than
3 \$100,000.00, the commissioner OR DRAINAGE BOARD may require
4 security that ~~he or she~~ THE COMMISSIONER OR DRAINAGE BOARD con-
5 sider adequate and necessary, consistent with the provisions of
6 this section.

7 (7) The commissioner, at his or her option, may require the
8 provision of additional kinds of security.

9 CHAPTER 10 —

10 INSPECTION AND APPROVAL OF CONSTRUCTION AND PAYMENT

11 FOR THE DRAIN —

12 Sec. 241. ~~No~~ A warrant, ~~or~~ drain order, VOUCHER, OR
13 OTHER ORDER for ~~the~~ payment of any part of ~~such~~ A drain con-
14 tract shall NOT be drawn until the work has been inspected and
15 approved as herein provided. The commissioner ~~may~~ OR DRAINAGE
16 BOARD SHALL inspect and approve any tile or open drain, or he OR
17 SHE may designate any competent surveyor or engineer to make
18 ~~such~~ THE inspection. ~~, but where the~~ HOWEVER, IF THE COST OF
19 construction exceeds ~~\$3,000.00~~ \$10,000.00, the commissioner OR
20 DRAINAGE BOARD shall designate a competent surveyor or engineer
21 to make the inspection. ~~Any~~ THE person making ~~such~~ THE
22 inspection shall see that the specifications in the contract are
23 fully complied with, and if the work is not in accordance with
24 the contract, the commissioner OR DRAINAGE BOARD shall immedi-
25 ately notify the contractor. ~~thereof.~~ If the work ~~so inspected~~
26 ~~shall conform~~ CONFORMS to the contract, the person making the
27 inspection shall certify in writing to that fact and an order of

1 approval shall ~~thereupon~~ be entered by the commissioner OR
2 DRAINAGE BOARD in his OR HER drain record, and notice of the
3 approval be given TO the contractor. ~~The commissioner may issue~~
4 ~~warrants or orders on the fund of any drain not exceeding 90% of~~
5 ~~the amount earned on any contract after the certificate of~~
6 ~~inspection and the order of approval is entered as herein~~
7 ~~provided. The payment of the final 10% or any portion thereof on~~
8 ~~any contract may be made after the certificate of inspection is~~
9 ~~made attesting to the completion and is filed in the office of~~
10 ~~the commissioner.~~ PROGRESS PAYMENTS SHALL BE MADE CONSISTENT
11 WITH 1980 PA 524, MCL 125.1561 TO 125.1566.

12 Sec. 242. The commissioner ~~shall have power to~~ OR DRAIN-
13 AGE BOARD MAY grant a reasonable extension of time for the com-
14 pletion of ~~any~~ A contract. ~~When any~~ IF A contract ~~shall not~~
15 ~~be~~ IS NOT finished within the time specified, or to which it may
16 be extended, the commissioner OR DRAINAGE BOARD shall declare
17 ~~such~~ THE contract forfeited and shall, within a reasonable time
18 thereafter, relet the unfinished portion ~~thereof~~ to the lowest
19 responsible bidder, by public letting, after not less than ~~5~~ 7
20 days' notice ~~thereof, by posting only,~~ IN THE SAME MANNER as
21 provided for the letting in the first instance, or by private
22 letting, ~~when such can be done, at a price per rod for the~~
23 ~~uncompleted portion thereof not exceeding the price per rod at~~
24 ~~which the job was first let; and he~~ IF PERMITTED BY LAW, AND THE
25 COMMISSIONER OR DRAINAGE BOARD shall make contract and take
26 security in each case as herein provided. The cost of completing
27 such part over and above the contract price, if any, and the

1 expense of notice and reletting shall be collected by the
 2 commissioner ~~of~~ OR DRAINAGE BOARD FROM the parties first con-
 3 tracting or ~~of~~ their bondsman. ~~, which moneys, when so~~ THE
 4 MONEY collected ~~,~~ shall be deposited with the county treasurer,
 5 and placed to the credit of such drain.

6 Sec. 243. ~~Whenever~~ IF the amount assessed for the con-
 7 struction of ~~any~~ A drain ~~shall not be~~ IS NOT sufficient to
 8 complete the ~~same,~~ DRAIN and to pay all the costs and inciden-
 9 tal expenses or to pay the principal and interest on ANY bonds
 10 ~~if such are~~ issued, a further assessment shall be made to meet
 11 the deficit or additional expense. ~~Such~~ THE further assessment
 12 shall be apportioned, assessed, levied and collected as provided
 13 in the first instance, and on the same percentage, and shall be
 14 collected in 1 year. ~~, but there shall be no review of nor~~
 15 ~~appeal from such further assessment:~~ Provided, That whenever by
 16 ~~reason of the~~ HOWEVER, IF THE DEFICIENCY IS THE RESULT OF
 17 embezzlement, FRAUD, or other wrongful act ~~of~~ BY any county
 18 official, ~~or by reason of the conspiracy of any county official~~
 19 ~~with any other person or persons to defraud any drainage dis-~~
 20 ~~trict, township or county, there shall be any deficiency as~~
 21 ~~aforesaid, the board of supervisors~~ THE COUNTY BOARD OF
 22 COMMISSIONERS of any county traversed by the drain may provide
 23 for the payment, out of the general fund of the county, of all or
 24 any part of ~~such~~ THE additional assessment as may be appor-
 25 tioned to that part of the drainage district within such county,
 26 or for the refunding to ~~taxpayers~~ THE PERSONS ASSESSED of any
 27 such assessment which may have been paid.

1 Sec. 244. (1) ~~All orders~~ ORDERS OR VOUCHERS for the
2 payment for services rendered and work performed shall be drawn
3 by the commissioner OR DRAINAGE BOARD upon the drain fund of each
4 particular drain. ~~In case of taxes assessed for benefits~~
5 ~~received which~~ IF SPECIAL ASSESSMENTS are to be paid in 7 annual
6 installments or less, all orders for the payment for lands for
7 right-of-way shall be paid out of the first year's ~~taxes~~
8 SPECIAL ASSESSMENTS, and the balance of ~~such~~ THE first year's
9 ~~taxes~~ SPECIAL ASSESSMENTS, if any, shall be applied pro rata
10 among the ~~several~~ contractors in the payment of the contracts
11 for the construction of such drain. For the balance due upon
12 such contracts, the commissioner OR DRAINAGE BOARD shall draw
13 orders payable out of each succeeding year's assessment pro rata
14 among the several contractors. ~~∴ Provided, That no~~ HOWEVER,
15 THE commissioner OR DRAINAGE BOARD shall NOT draw orders payable
16 in any ~~one~~ 1 year for a larger amount than ~~said~~ THE year's
17 assessment, ~~except in cases where~~ UNLESS bonds are issued and
18 sold as provided by law. ~~All drain~~

19 (2) DRAIN orders shall be drawn payable not sooner than the
20 fifteenth day of April nor later than the first day of August of
21 the year in which the drain ~~taxes for the payment thereof~~
22 SPECIAL ASSESSMENTS are required to be paid. If the drain fund
23 is insufficient for ~~such~~ THIS purpose because of delinquency in
24 the payment of drain ~~taxes~~ SPECIAL ASSESSMENTS after the lands
25 on which the ~~said taxes shall have become~~ SPECIAL ASSESSMENTS
26 ARE delinquent have been offered for sale ~~, in any such case~~
27 ~~where~~ AND payment is made by the county treasurer out of the

1 general fund, ~~and all~~ delinquent drain ~~taxes~~ SPECIAL
2 ASSESSMENTS SUBSEQUENTLY received by ~~said~~ THE treasurer
3 ~~thereafter~~ shall be credited to the general fund until the
4 ~~same~~ GENERAL FUND is reimbursed. ~~In all cases where~~ IF bonds
5 are issued and sold ~~as herein provided~~ and the proceeds
6 ~~thereof~~ are deposited in the county treasury to the credit of
7 the fund of the ~~particular~~ drain, orders presented on ~~such~~
8 THE fund shall be paid out of the proceeds ~~aforsaid,~~ or out of
9 the first annual installment of the ~~taxes~~ SPECIAL ASSESSMENTS.
10 ~~In no case where~~ IF there are outstanding bonds, ~~shall~~ an
11 order SHALL NOT be paid out of ~~any~~ AN installment of ~~taxes~~
12 SPECIAL ASSESSMENTS collected other than the first.

13 Sec. 245. (1) ~~All drain~~ DRAIN orders OR VOUCHERS made by
14 the commissioner OR DRAINAGE BOARD shall state the services
15 rendered in brief form ~~,~~ AND shall be numbered and recorded and
16 signed by the commissioner OR DRAINAGE BOARD. ~~Such~~ AN order,
17 when due, shall be presented to the county ~~clerk and he~~
18 TREASURER. THE COUNTY TREASURER shall immediately ascertain
19 ~~from the county treasurer~~ if the particular fund on which
20 ~~said~~ THE order is drawn is sufficient to pay ~~said~~ THE order.
21 If ~~such~~ THE fund is sufficient, the county treasurer shall so
22 certify on the back of ~~said~~ THE drain order and the county
23 clerk OR OTHER AUTHORIZED COUNTY OFFICER shall thereupon issue
24 the usual county warrant upon the county treasurer for the pay-
25 ment of ~~said~~ THE order, taking ~~said~~ THE order so certified as
26 his OR HER voucher. If ~~such~~ THE particular fund is
27 insufficient when ~~such~~ THE order is presented for payment, the

1 county treasurer shall so certify upon ~~such~~ THE order and
2 ~~such~~ THE order shall then draw interest at the rate ~~of 6% per~~
3 ~~annum~~ PAID ON 91-DAY UNITED STATES TREASURY NOTES from the date
4 of presentation until ~~such~~ THE particular fund is sufficient to
5 pay the ~~same, said interest to~~ ORDER. THE INTEREST SHALL be
6 computed and paid with the principal out of the proper fund on
7 which it was drawn, when there are sufficient funds to pay the
8 ~~same~~ PRINCIPAL AND INTEREST.

9 (2) The county treasurer shall keep a record in which he OR
10 SHE shall note each drain order presented for payment on a drain
11 account ~~which~~ THAT was insufficient to pay ~~such~~ THE order on
12 the date of presentation. He OR SHE shall note in such record
13 the amount, number, drain account, and the date of original pre-
14 sentation for payment. When there ~~are~~ IS sufficient ~~moneys~~
15 MONEY in the particular drain account to pay the order, plus
16 interest, the county treasurer shall note the date of ~~such~~ THE
17 sufficiency on ~~such~~ THE record and shall transfer sufficient
18 ~~moneys~~ MONEY to pay ~~such~~ THE order and interest then due from
19 the particular drain account and drain fund to a drain order
20 redemption fund and the drain order shall cease to earn interest
21 as of that date. Transfers to the drain order redemption fund
22 shall be made in the order of priority in which the drain orders
23 were originally presented for payment. Payment of ~~such~~ THE
24 orders, including interest, ~~earned as provided herein,~~ shall
25 thereafter be made by the county treasurer from the drain order
26 redemption fund. Drain orders at any time during the year in
27 which such drain order becomes due and payable and for a period

1 of ~~30~~ 28 days prior to such year shall be accepted for the
 2 payment of drainage ~~taxes~~ SPECIAL ASSESSMENTS.

3 (3) The county treasurer shall report to the commissioner OR
 4 DRAINAGE BOARD the amount paid as interest on ~~any and all such~~
 5 drain orders. The county treasurer shall at the first of each
 6 month furnish the ~~drain~~ commissioner OR DRAINAGE BOARD with a
 7 report of ~~all~~ drain orders cashed during the preceding month,
 8 including the name of the drain upon which the order was drawn,
 9 the amount, the number of the order, and the date of payment.

10 Sec. 247. The ~~county drain~~ commissioner acting under the
 11 provisions of this act may employ an attorney when ~~he deems the~~
 12 ~~same~~ CONSIDERED necessary and any legal expense shall be charged
 13 to the ~~several drain districts in behalf of which he shall be~~
 14 ~~employed. All such expenses~~ DRAINAGE DISTRICT. THE EXPENSE
 15 shall be paid out of the revolving drain fund which shall be
 16 reimbursed out of the first ~~moneys~~ MONEY available. ~~+~~
 17 ~~Provided, That the~~ THE board of ~~supervisors~~ COMMISSIONERS by
 18 resolution may ~~cause~~ REQUEST the prosecuting attorney to give
 19 ~~such~~ legal assistance as part of ~~his~~ THE duties OF THE PROSE-
 20 CUTING ATTORNEY.

21 CHAPTER 11 ~~—~~

22 LEVY AND COLLECTION OF ~~DRAIN TAXES.~~ SPECIAL ASSESSMENTS

23 Sec. 261. Within ~~10~~ 14 days after the letting of con-
 24 tracts, or in case of an appeal, ~~then forthwith~~ IMMEDIATELY
 25 after ~~such~~ THE appeal ~~shall have been~~ IS decided, the commis-
 26 sioner OR DRAINAGE BOARD shall make a computation of the entire

1 cost of ~~such~~ THE drain, ~~which shall include (1) all the~~
 2 INCLUDING, BUT NOT LIMITED TO, ALL OF THE FOLLOWING:

3 (A) THE expense of ~~laying out and designating the drainage~~
 4 ~~district, which item of expense shall include the entire~~
 5 ESTABLISHING THE DRAINAGE DISTRICT AND ESTABLISHING AND CON-
 6 STRUCTING THE DRAIN, INCLUDING, BUT NOT LIMITED TO, THE cost of
 7 the survey. ~~;~~ ~~(2) the~~

8 (B) THE expense of ~~locating,~~ establishing and
 9 constructing, MAINTAINING, OR IMPROVING the drain. ~~;~~ ~~(3) the~~
 10 ~~fees and expenses of special commissioners;~~ ~~(4) the compensation~~
 11 ~~to be paid the board of review;~~ ~~(5) the~~

12 (C) THE COSTS OF ACQUIRING PROPERTY UNDER SECTION 7.

13 (D) THE PER DIEM COMPENSATION, MILEAGE, AND EXPENSES TO BE
 14 PAID TO MEMBERS OF BOARDS UNDER THIS ACT.

15 (E) THE COST ASSOCIATED WITH EVALUATION OF NATURAL RESOURCE
 16 IMPACTS AND THE COSTS TO MINIMIZE THOSE IMPACTS.

17 (F) THE cost of construction of bridges and culverts. ~~;~~
 18 ~~(6) the~~

19 (G) THE COSTS FOR ENGINEERS, SURVEYORS, AND OTHER
 20 PROFESSIONALS.

21 (H) THE contracts for the construction of the drain, or
 22 other work to be done on ~~said~~ THE drain. ~~;~~ ~~(7) the~~

23 (I) THE estimated cost of an appeal in case the apportion-
 24 ment made by the commissioner ~~shall not be~~ OR DRAINAGE BOARD IS
 25 NOT sustained. ~~;~~ ~~(8) the~~

26 (J) THE estimated cost of inspection. ~~;~~ ~~(9) the~~

1 (K) THE cost of publishing all notices required. ~~(10)~~
2 ~~all fees~~

3 (L) FEES of the ~~probate judge; (11) attorney~~ CIRCUIT
4 JUDGE, IF APPLICABLE.

5 (M) ATTORNEY fees for legal services in connection with the
6 drain ~~; and (12) interest~~ PROJECT.

7 (N) INTEREST on bonds OR NOTES for the first year, if bonds
8 OR NOTES are to be issued. ~~, and he shall add the whole into a~~
9 ~~gross sum and add thereto not less~~

10 (O) NOT MORE than 10%, ~~nor more than 15%,~~ at the discre-
11 tion of the ~~drain~~ commissioner OR DRAINAGE BOARD, of ~~said~~
12 ~~gross sum~~ THE SUM OF THE COSTS UNDER SUBDIVISIONS (A) TO (N), to
13 cover contingent expenses. ~~, and the entire sum so ascertained~~
14 ~~shall be deemed to be the cost of construction of such drain.~~

15 Sec. 262. (1) ~~The commissioner shall thereupon make a spe-~~
16 ~~cial assessment roll for the drain for each county, township,~~
17 ~~city, or village and each state trunk line highway affected~~
18 ~~thereby, which roll shall be designated~~ AFTER THE COST OF A
19 COUNTY DRAIN IS COMPUTED UNDER SECTION 261, THE COMMISSIONER
20 SHALL MAKE A SPECIAL ASSESSMENT ROLL FOR THE DRAIN FOR EACH
21 MUNICIPALITY AND ROADWAY AFFECTED BY THE DRAIN. AFTER THE COST
22 OF AN INTERCOUNTY DRAIN IS COMPUTED UNDER SECTION 261, THE COM-
23 MISSIONER OF EACH COUNTY IN WHICH LANDS SUBJECT TO ASSESSMENT FOR
24 THE DRAIN ARE LOCATED SHALL MAKE A SPECIAL ASSESSMENT ROLL FOR
25 THE DRAIN FOR EACH MUNICIPALITY AND ROADWAY AFFECTED BY THE DRAIN
26 IN THAT COMMISSIONER'S COUNTY. THE COMMISSIONER MAKING THE ROLL
27 SHALL DESIGNATE THE ROLL, giving name or number, "drain special

1 assessment roll". The commissioner shall enter on the roll a
2 correct description of the tracts, parcels, or subdivisions of
3 land benefited by the drain WHICH DESCRIPTION MAY BE MADE BY TAX
4 PARCEL IDENTIFICATION NUMBER IN COMPLIANCE WITH SECTION 152 and
5 place opposite each description the amount of the percent hereto-
6 fore determined upon by ~~him~~ THE COMMISSIONER or by the board of
7 review. The commissioner shall also enter on the roll the amount
8 of the percent apportioned to ~~the county, for benefits to any~~
9 ~~county road, and to the township, city, or village and the state~~
10 ~~highway commission, for benefits to any state trunk line highway~~
11 A ROAD AUTHORITY FOR BENEFITS TO A ROADWAY, and ~~in case~~ IF the
12 amount ~~be~~ IS payable in installments, ~~he shall also enter~~
13 ~~thereon~~ a memorandum of the installments and of the year or
14 years when the installments shall be spread. The commissioner
15 shall add a certificate in writing of the determination whether
16 the ~~taxes~~ SPECIAL ASSESSMENTS assessed for benefits shall be
17 paid in 1 or more years. The rolls shall be dated and signed by
18 the commissioner and filed on or before the last Wednesday in
19 September in each year, in the office of the county clerk.

20 (2) The commissioner shall prepare a ~~tax~~ SPECIAL assess-
21 ment roll in each year for the collection of ~~taxes~~ SPECIAL
22 ASSESSMENTS for the current year, and shall certify the ~~same~~
23 ROLL to the county clerk on or before the first day of the annual
24 meeting of the county board of commissioners. In each roll, the
25 commissioner shall add to the amount to be collected ~~,~~ interest
26 on all unpaid installments to the date of ~~tax~~ collection, and
27 shall deduct from the amount to be collected by the county,

1 village, city, or township all amounts received from the proceeds
 2 or income of property or an interest in property located in the
 3 county, village, city, or township and acquired ~~through condem-~~
 4 ~~nation or the payment of damages~~ under this act. To the roll
 5 for the last year, the commissioner shall add a further amount,
 6 if any, as may be necessary together with outstanding uncollected
 7 ~~taxes~~ SPECIAL ASSESSMENTS, to pay all outstanding bonds and
 8 interest thereon to maturity. If the roll is made payable in
 9 more than 1 installment, a permanent assessment roll may be main-
 10 tained in the office of the county treasurer, subject to the
 11 direction of the ~~board of county auditors, in counties having~~
 12 ~~such a board, and of the county board of commissioners in other~~
 13 ~~counties~~ COUNTY BOARD OF COMMISSIONERS, showing the total cost,
 14 the number of installments, and the amount of each annual assess-
 15 ment, together with interest charges thereon, which shall be car-
 16 ried in a separate column.

17 (3) If the roll is made payable in more than 1 installment,
 18 and the total amount of any assessment is \$10.00 or less, exclu-
 19 sive of interest, then that assessment shall be payable in 1
 20 installment; but if the assessment exceeds the sum of \$10.00 and
 21 is made payable in more than 1 installment, then that install-
 22 ment, exclusive of interest, shall not be less than the sum of
 23 \$10.00, excepting the final installment, which shall be payable
 24 in the amount of the actual balance.

25 Sec. 263. ~~It shall be the duty of the~~ THE supervisor ~~,~~
 26 OR village or city assessor ~~,~~ to SHALL spread on ~~his~~ THE roll
 27 the total amount of all drain ~~taxes~~ SPECIAL ASSESSMENTS

1 determined ~~upon~~ by the ~~county drain~~ commissioner to be
 2 assessed upon the county, township, city, or village at large by
 3 adding to the county, township, city, or village tax for the year
 4 in which the ~~same~~ DRAIN ASSESSMENT was assessed and extending
 5 ~~said tax~~ THE DRAIN ASSESSMENT in the same column with the gen-
 6 eral county, township, city, or village tax. ~~∴ Provided, That~~
 7 ~~in such~~ IN villages or cities, ~~of this state,~~ where the munic-
 8 ipal taxes ~~therefor~~ are assessed and collected ~~prior to~~
 9 BEFORE the October meeting of the COUNTY board of ~~supervisors,~~
 10 ~~all taxes~~ COMMISSIONERS, DRAIN ASSESSMENTS ordered to be spread
 11 against such municipalities shall be spread during the calendar
 12 year following ~~such~~ THE action by the COUNTY board of
 13 ~~supervisors: Provided further, That in~~ COMMISSIONERS. IN lieu
 14 of the addition of ~~such tax~~ THE DRAIN ASSESSMENT to the county,
 15 township, city, or village tax, the ~~legislative body thereof~~
 16 GOVERNING BODY OF THE MUNICIPALITY may in any year provide for
 17 the payment thereof from the general or contingent fund of such
 18 county, township, city, or village. ~~Such~~ THE supervisor or
 19 assessor shall also spread upon ~~said~~ THE roll, separately, and
 20 immediately following the other descriptions, all tracts or par-
 21 cels of land specified by the commissioner to be assessed for
 22 benefits, and shall place opposite each description, in a column
 23 marked, "(giving the name or number)
 24 drain ~~taxes~~ SPECIAL ASSESSMENTS," the amount of ~~taxes~~
 25 ASSESSMENTS apportioned thereon, as certified ~~to him~~ by the
 26 county clerk.

1 Sec. 265. ~~All drain taxes~~ DRAIN SPECIAL ASSESSMENTS
2 assessed under ~~the provisions of~~ this act ~~shall be~~ ARE
3 subject to the same interest and charges, and shall be collected
4 in the same manner as state and other general taxes are col-
5 lected, and collecting officers are hereby vested with the same
6 power and authority in the collection of ~~such taxes~~ THE SPECIAL
7 ASSESSMENTS as are or may be conferred by law for collecting gen-
8 eral taxes. Drain ~~taxes~~ SPECIAL ASSESSMENTS, when collected,
9 shall be returned to the county treasurer to be disbursed ~~by~~
10 him. ~~In all cases where~~ WITHIN 14 DAYS OF RECEIPT UNLESS WAIVED
11 BY THE COMMISSIONER TO SOME OTHER SPECIFIED TIME. ANY INTEREST
12 EARNED FROM THE TIME OF COLLECTION AND ACCOUNTING TO THE DAY OF
13 DELIVERY SHALL BE RETURNED TO EACH DRAIN FUND ON A PRO RATA
14 BASIS. IF suit is brought against the collector arising out of
15 the collection of ~~any drain tax~~ A DRAIN SPECIAL ASSESSMENT, the
16 county shall defend ~~such~~ THE officer in the same manner ~~that~~
17 ~~he has now the right to be defended in~~ AS IF THE SUIT AROSE OUT
18 OF the collection of general taxes. ~~No~~ A suit shall NOT be
19 instituted to recover any drain ~~tax~~ SPECIAL ASSESSMENT or money
20 paid or property sold ~~therefor~~ FOR A DRAIN SPECIAL ASSESSMENT,
21 or for damages on account ~~thereof~~ OF A DRAIN SPECIAL
22 ASSESSMENT, unless brought within ~~30~~ 28 days from the time of
23 payment of ~~such~~ THE money to, or sale of such property by, the
24 collecting officer. ~~and if such tax shall be~~ IF THE SPECIAL
25 ASSESSMENT IS paid under protest, the reasons ~~therefor~~ FOR THE
26 PROTEST shall be specified, and the same procedure observed as is
27 or may be required by the general ~~tax law~~. ~~All taxes~~ PROPERTY

1 TAX ACT, 1893 PA 206, MCL 211.1 TO 211.157. SPECIAL ASSESSMENTS
2 levied under ~~the provisions of~~ this act, with all lawful costs,
3 interest, and charges, ~~shall be and remain a perpetual~~ ARE A
4 lien upon the lands upon which they are assessed, and a personal
5 claim against the owner or owners of such lands until they are
6 paid.

7 Sec. 266. If the ~~taxes~~ SPECIAL ASSESSMENTS levied for the
8 construction, ~~cleaning out, widening, deepening, straightening~~
9 ~~or extending~~ MAINTENANCE, OR IMPROVEMENT of ~~any~~ A drain are
10 not collected by the township, city, or village treasurer, they
11 shall ~~by him~~ be returned BY THAT TREASURER, together with the
12 lands upon which they were levied, to the county treasurer in the
13 same return, at the same time, and in the same manner, in every
14 respect (naming in each case the particular drain), as lands are
15 returned for state, county, and township taxes. ~~, and such~~
16 ~~taxes~~ DRAIN SPECIAL ASSESSMENTS shall follow ~~such~~ THE lands,
17 the same as ~~all such other~~ DO PROPERTY taxes, and ~~all~~ MAY BE
18 COLLECTED IN THE SAME MANNER AS PROVIDED BY the general provi-
19 sions of law ~~now existing, or that may be hereafter enacted~~ for
20 enforcing the payment of township, county, and state taxes. ~~,~~
21 ~~shall apply to such drain taxes, and to the lands returned delin-~~
22 ~~quent therefor, in the same manner and with like effect.~~
23 HOWEVER, THE TREASURER SHALL NOTIFY THE COMMISSIONER OF ALL LAND
24 IN THE COUNTY THAT HAS BEEN RETURNED DELINQUENT AND SUBJECT TO
25 SALE SO THAT THE COMMISSIONER OR DRAINAGE BOARD MAY FILE AN AFFI-
26 DAVIT OF SPECIAL ASSESSMENT PENDING AND SUBJECT TO COLLECTION
27 BEFORE THE SALE OR REVERSION.

06729'98

1 Sec. 267. ~~After any taxes have been assessed for the~~
2 ~~construction, location or establishment of any drain, no injunc-~~
3 ~~tion shall issue to restrain the spreading of the same upon the~~
4 ~~tax roll nor to restrain the collection thereof, nor shall the~~
5 ~~same be in any manner stayed, unless the amount of such assess-~~
6 ~~ment shall first be paid into the township treasury to be applied~~
7 ~~upon such tax, in case the court in which the suit upon which~~
8 ~~injunction is tried shall so order~~ AN ACTION FOR ERROR IN THE
9 PROCEEDINGS OF LEVYING A SPECIAL ASSESSMENT MAY BE BROUGHT UNDER
10 CHAPTER 26.

11 Sec. 270. ~~Whenever any~~ IF A drain ~~has been located and~~
12 ~~established,~~ IS ESTABLISHED and contracts let for its construc-
13 tion, MAINTENANCE, OR IMPROVEMENT and the work ~~of construction~~
14 ~~has been~~ IS completed, or partly completed, and the commissioner
15 OR DRAINAGE BOARD has made ~~his~~ AN order establishing the drain,
16 ~~his~~ THE apportionment of benefits, and special assessment roll
17 and filed the ~~same~~ ORDER in the office of the ~~county drain~~
18 commissioner, as provided by this act, ~~and such taxes remain a~~
19 ~~perpetual~~ THE SPECIAL ASSESSMENTS ARE A lien upon the lands
20 assessed. ~~, and filed all of said papers in the office of the~~
21 ~~county drain commissioner, and no person or municipality affected~~
22 ~~by the proceedings has taken any action by virtue of section 161~~
23 ~~of this act to test the validity of the proceedings, or to set~~
24 ~~the same aside, and it shall further appear that the tax~~ IF THE
25 SPECIAL ASSESSMENT has not been spread on the tax roll of the
26 municipalities affected and the lien of ~~said tax~~ THE SPECIAL
27 ASSESSMENT still remains against ~~such~~ THE lands, on the

1 application in writing of any person or corporation who is ~~now~~
2 ~~or were owners~~ AN OWNER of the land assessed at the time of the
3 apportionment of benefits ~~by the commissioner~~ or any person or
4 corporation who were the owners of land at ~~said~~ THE time OF
5 APPORTIONMENT OF BENEFITS and who were assessed therefor, and who
6 sold such land with covenants of warranty, may make an applica-
7 tion in writing to the ~~county drain~~ commissioner OR DRAINAGE
8 BOARD setting forth such facts. ~~, and upon~~ UPON the filing of
9 ~~such~~ THE application, ~~it shall be the duty of~~ the ~~county~~
10 ~~drain~~ commissioner ~~to~~ OR DRAINAGE BOARD SHALL make a certified
11 copy of the assessment roll filed in ~~his~~ THE office by the com-
12 missioner and present ~~to and lay~~ it ~~before~~ TO the COUNTY
13 board of ~~supervisors~~ COMMISSIONERS at ~~the~~ ITS first October
14 session. ~~, thereafter of said board, and thereupon it shall be~~
15 ~~the duty of said board at said~~ AT THAT session, ~~to~~ THE COUNTY
16 BOARD OF COMMISSIONERS SHALL order and direct ~~such taxes~~ THE
17 SPECIAL ASSESSMENTS TO BE spread upon the tax roll of the munici-
18 palities affected thereby, according to the ~~said~~ assessment
19 filed ~~as aforesaid, and as appears by such special assessment~~
20 roll, ~~so certified to said board~~ AND CERTIFIED. ~~The provisions~~
21 ~~of this section shall also apply to drains laid out and estab-~~
22 ~~lished and wholly or partly constructed under the provisions of~~
23 ~~all drain laws in force prior to the passage of this act, where~~
24 ~~such laws have made such drain tax a perpetual lien upon the~~
25 ~~lands upon which they are assessed.~~

26 Sec. 273. ~~In case any drain tax heretofore or to be~~
27 ~~hereafter assessed shall be~~ IF A DRAIN SPECIAL ASSESSMENT IS set

1 aside, except for causes that would deprive the commissioner of
2 jurisdiction to construct the drain, the commissioner may begin
3 proceedings anew at the stage where ~~they shall be correct.~~ In
4 ~~case~~ THE DEFECT OCCURRED. IF a drain ~~tax~~ SPECIAL ASSESSMENT
5 can or may be set aside for error in description or other defect
6 in the commissioner's or township treasurer's roll, UPON DISCOV-
7 ERY OF THE DEFECT, the DRAIN commissioner shall report the ~~same~~
8 DEFECT to the COUNTY board of ~~supervisors at their October ses-~~
9 ~~sion, who~~ COMMISSIONERS, WHICH shall order the ~~same~~ SPECIAL
10 ASSESSMENT TO BE reassessed upon the proper description. ~~Such~~
11 THE report may be made at any time before the sale of the land
12 for ~~such tax~~ THE SPECIAL ASSESSMENT.

13 Sec. 274. In any ~~suit~~ ACTION brought to set aside any
14 drain ~~tax~~ ASSESSMENT, or in any way attacking the legality of
15 any drain proceedings, the commissioner shall be made a party to
16 ~~said suit~~ THE ACTION.

17 Sec. 275. (1) ~~In cases where the issuing of bonds shall~~
18 ~~have been determined upon, as herein provided, and subject to the~~
19 ~~provisions of~~ SUBJECT TO section 221, ~~of this act,~~ the commis-
20 sioner may borrow money in anticipation of the collection of
21 ~~such~~ SPECIAL ASSESSMENT installments and may issue as evidence
22 thereof the bonds of the drainage district. ~~as herein defined.~~
23 ~~Such obligations~~ THE BONDS shall specify on their face that they
24 are payable out of the installments of drain ~~taxes~~ SPECIAL
25 ASSESSMENTS to be ~~thereafter~~ collected, and the amount
26 ~~thereof~~ OF THE BONDS shall not exceed the aggregate of the
27 installments levied. Bonds ~~issued hereunder~~ shall be signed by

1 the commissioner on behalf of the drainage district, shall be
2 countersigned by the county clerk, ~~and~~ shall be payable in
3 annual installments equal in number to the installments of
4 ~~taxes,~~ SPECIAL ASSESSMENTS, AND shall mature not earlier than
5 March first nor later than June first of the year following the
6 due dates of the respective installments of ~~taxes~~ SPECIAL
7 ASSESSMENTS. The number of installments shall not exceed 20. ~~→~~
8 ~~Provided, however, That in any drainage district containing a~~
9 ~~closed drain, any part of whose cross-section has an area exceed-~~
10 ~~ing 60 square feet, the number of installments may be, but shall~~
11 ~~not exceed, 30, and the~~ THE amount of each installment shall be
12 fixed to correspond as near as may be to the ~~drain-~~
13 commissioner's estimate of the amount of ~~taxes~~ SPECIAL
14 ASSESSMENTS actually collectible each year. ~~, and in no case~~
15 ~~shall bonds mature~~ BONDS SHALL MATURE NOT more than 2-1/2 years
16 after the corresponding installment of ~~taxes~~ SPECIAL
17 ASSESSMENTS. ~~The~~ IN THE BONDS, THE commissioner shall
18 ~~therein~~ pledge the credit of the drainage district, including
19 the lands embraced within ~~such~~ THE district and the townships,
20 cities, villages, counties, and ~~state trunk line highways~~
21 ROADWAYS assessed at large, in the proportion that they are
22 ~~taxed~~ SPECIALLY ASSESSED for the benefits received thereby.

23 ~~Such~~

24 (2) THE bonds shall be advertised and sold by the ~~drain-~~
25 commissioner ~~after~~ IN the manner provided for the advertisement
26 and sale of municipal bonds by ~~Act No. 202 of the Public Acts of~~
27 ~~1943, as amended, being sections 131.1 to 138.2, inclusive, of~~

1 ~~the Compiled Laws of 1948~~ THE MUNICIPAL FINANCE ACT, 1943
2 PA 202, MCL 131.1 TO 139.3. If any premium is received thereon,
3 such premium shall belong to the fund of the drain. The proceeds
4 derived from the sale of such bonds shall be deposited with the
5 county treasurer to the credit of the drain fund. The county
6 treasurer shall safely keep all ~~such~~ bonds until sold. ~~as~~
7 ~~above provided: Provided, however, That this act shall not be~~
8 ~~considered to~~ THIS ACT DOES NOT affect any bonds or refunding
9 bonds issued ~~prior to the effective date hereof and subsequent~~
10 ~~to the effective date of Act No. 331 of the Public Acts of 1927~~
11 ON OR AFTER SEPTEMBER 5, 1927, AND BEFORE MARCH 28, 1956, or any
12 refunding bonds ~~hereafter~~ issued ON OR AFTER MARCH 28, 1956 to
13 replace ~~the same: Provided further, That no~~ SUCH BONDS. A
14 county shall NOT advance or pay out of its general funds any
15 ~~moneys~~ MONEY for or on account of principal or interest of any
16 drain bonds issued ~~prior to the effective date of Act No. 331~~
17 ~~of the Public Acts of~~ BEFORE SEPTEMBER 5, 1927, or any refunding
18 bonds issued to replace ~~the same~~ SUCH BONDS.

19 SEC. 275A. (1) SUBJECT TO SUBSECTION (2), A DRAINAGE DIS-
20 TRICT MAY BORROW MONEY OR ACCEPT THE ADVANCE OF WORK, MATERIAL,
21 OR MONEY FROM A PUBLIC OR PRIVATE CORPORATION, PARTNERSHIP, ASSO-
22 CIATION, INDIVIDUAL, OR THE FEDERAL OR STATE GOVERNMENT OR ANY
23 AGENCY OF THE FEDERAL OR STATE GOVERNMENT FOR ANY OF THE
24 FOLLOWING:

25 (A) THE PAYMENT OF ANY PART OF A PROJECT.

1 (B) THE FINANCING OF ENGINEERING, FEASIBILITY,
2 PRACTICABILITY, ENVIRONMENTAL ASSESSMENT, OR IMPACT STUDY OR
3 COST-BENEFIT ANALYSIS OF A PROJECT.

4 (C) THE COSTS OF ACQUIRING PROPERTY UNDER SECTION 7.

5 (D) ENGINEERING, SURVEYING, AND LEGAL FEES.

6 (2) THE BORROWING BY THE DRAINAGE DISTRICT UNDER
7 SUBSECTION (1) MAY BE WITH OR WITHOUT INTEREST AS MAY BE AGREED
8 AND REIMBURSED, WHEN FUNDS ARE AVAILABLE. THE OBLIGATION OF THE
9 DRAINAGE DISTRICT TO MAKE THE REPAYMENT OR REIMBURSEMENT SHALL BE
10 EVIDENCED BY A CONTRACT OR NOTE, WHICH CONTRACT OR NOTE MAY
11 PLEDGE THE FULL FAITH AND CREDIT OF THE DRAINAGE DISTRICT AND MAY
12 BE MADE PAYABLE OUT OF THE DRAIN ASSESSMENTS MADE AGAINST MUNICI-
13 PALITIES AT LARGE, OR AGAINST LANDS IN THE DRAINAGE DISTRICT, OR
14 OUT OF THE PROCEEDS OF DRAIN ORDERS, NOTES, OR BONDS ISSUED BY
15 THE DRAINAGE DISTRICT PURSUANT TO THIS ACT OR OUT OF ANY OTHER
16 AVAILABLE FUNDS. THE CONTRACT OR NOTE SHALL NOT BE CONSIDERED TO
17 BE AN OBLIGATION WITH THE MEANING OF THE MUNICIPAL FINANCE ACT,
18 1943 PA 202, MCL 131.1 TO 139.3, UNLESS THE TOTAL OF ALL AMOUNTS
19 BORROWED OR ACCEPTED AS ADVANCES OF WORK, MATERIAL, OR MONEY
20 UNDER SUBSECTION (1), INCLUDING THE CONTRACT OR NOTE, EXCEEDS
21 \$300,000.00. HOWEVER, ANY PROJECTS IN WHICH ADVANCES OR LOANS
22 ARE MADE BY ANY PUBLIC CORPORATION, THE FEDERAL GOVERNMENT, OR
23 ANY AGENCY OF THE FEDERAL GOVERNMENT SHALL NOT BE INCLUDED IN
24 THIS TOTAL AMOUNT.

25 (3) A COUNTY BOARD OF COMMISSIONERS BY A VOTE OF 2/3 OF ITS
26 TOTAL MEMBERSHIP MAY PLEDGE THE FULL FAITH AND CREDIT OF A COUNTY
27 FOR THE PAYMENT OF A NOTE OF THE DRAINAGE DISTRICT.

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1 Sec. 276. (1) If bonds or notes are to be issued ~~in~~
2 ~~respect to an intracounty~~ FOR A COUNTY drain, the county board
3 of commissioners may, by resolution adopted by a majority of its
4 total membership, pledge the full faith and credit of the county
5 for the prompt payment of the principal of and interest on any
6 bonds or notes hereafter issued pursuant to this act. This shall
7 not validate any bonds or notes ~~heretofore~~ issued BEFORE MAY
8 14, 1957. ~~In the event~~ IF the county ~~shall be~~ IS required to
9 advance any money by reason of such pledge, and if the collec-
10 tions from special assessments shall not be sufficient to reim-
11 burse the county therefor, the ~~drain~~ commissioner of such
12 county shall, within a 2-year period from the date of advance-
13 ment, reassess the drainage district as in the first instance in
14 order to provide for the repayment to the county of the sums so
15 advanced. ~~The provisions of this section shall not permit the~~
16 ~~advancement or any moneys out of the general funds of any county~~
17 ~~to meet any deficiency in the collection of drain assessments~~
18 ~~confirmed prior to May 1, 1953.~~

19 (2) IF A DRAINAGE PROJECT LIES ENTIRELY WITHIN THE LIMITS OF
20 A MUNICIPALITY, OTHER THAN A COUNTY, THE GOVERNING BODY OF THE
21 MUNICIPALITY MAY PLEDGE THE FULL FAITH AND CREDIT OF THE MUNICI-
22 PALITY FOR THE PAYMENT OF BONDS OR DRAIN ORDERS ISSUED IN CONNEC-
23 TION WITH THE PROJECT. IF THE GOVERNING BODY PLEDGED THE FULL
24 FAITH AND CREDIT OF THE MUNICIPALITY AND IF A DEFICIENCY EXISTS
25 IN THE DRAIN FUND OR SINKING FUND FOR THE DRAIN 1 YEAR AFTER THE
26 LAST INSTALLMENT OF THE DEFICIENCY ASSESSMENT PROVIDED FOR IN
27 SECTION 280 BECOMES DELINQUENT, THE MUNICIPALITY SHALL

1 IMMEDIATELY ADVANCE TO THE COUNTY DRAIN FUND THE AMOUNT OF THE
2 DEFICIENCY. AFTER THE MUNICIPALITY MAKES THE ADVANCE, ALL
3 RECEIPTS OF THE DRAIN FUND FROM THE SALE OF DELINQUENT TAX LANDS,
4 WHICH HAD BEEN ASSESSED FOR THE DRAIN, SHALL BE PAID TO THE
5 MUNICIPALITY WITHIN 91 DAYS AFTER RECEIPT BY THE COUNTY
6 TREASURER.

7 Sec. 277. ~~Whenever lands in any city, village or township~~
8 ~~or combination thereof shall be assessed for all or any part of~~
9 ~~the cost of a drain, the~~ THE governing body of each ~~such~~
10 ~~cities, villages or townships~~ CITY, VILLAGE, OR TOWNSHIP IN
11 WHICH ARE LOCATED LANDS ASSESSED FOR ALL OR PART OF THE COST OF A
12 DRAIN, by resolution adopted prior to the issuance of drain
13 orders ~~and/or~~ OR bonds, OR BOTH, in anticipation of the payment
14 of the assessments for ~~such~~ THE drain, may agree that in the
15 event of any delinquency in the collection of the assessments
16 against lands in ~~such~~ THE cities, villages, or townships, the
17 cities, villages, or townships shall advance the amount of ~~such~~
18 THE delinquency from unobligated funds in the general fund to the
19 extent necessary to pay principal and interest on ~~such~~ THE
20 drain orders ~~and/or~~ OR bonds as ~~the same~~ THEY mature. ~~In~~
21 ~~the event that moneys are~~ IF MONEY IS so advanced, then the
22 cities, villages, or townships shall be reimbursed from the col-
23 lection of the said delinquent assessments against lands within
24 its boundaries. If the collections from special assessments
25 ~~shall~~ ARE not ~~be~~ sufficient to reimburse the cities,
26 villages, or townships, the ~~drain~~ commissioner of ~~such~~ THE
27 county OR DRAINAGE BOARD shall, within a 5-year period from the

1 date of advancement, reassess the drainage district as in the
2 first instance in order to provide for the repayment of the sums
3 so advanced. ~~: Provided, That this~~ THIS act shall not vali-
4 date any drain orders or bonds issued ~~prior to the effective~~
5 ~~date of this act~~ BEFORE MARCH 28, 1956.

6 SEC. 277A. (1) IF DRAINAGE DISTRICTS ARE CONSOLIDATED AS
7 PROVIDED FOR IN THIS ACT, THE CONSOLIDATED DISTRICT SHALL, EXCEPT
8 AS OTHERWISE PROVIDED IN THIS ACT, HAVE ALL THE RIGHTS AND POWERS
9 AND BE SUBJECT TO ALL LAWS APPLICABLE TO COUNTY OR INTERCOUNTY
10 DRAINAGE DISTRICTS, AS APPLICABLE.

11 (2) THE MERGING OF A DRAINAGE DISTRICT INTO A CONSOLIDATED
12 DISTRICT DOES NOT AFFECT THE OBLIGATION OF ANY BONDS ISSUED OR
13 CONTRACTS ENTERED INTO BY THE DISTRICT OR INVALIDATE THE LEVY,
14 EXTENSION, OR COLLECTION OF ANY TAXES OR SPECIAL ASSESSMENTS UPON
15 PROPERTY IN THE DEBTOR DISTRICT. THE BONDS AND CONTRACTS SHALL
16 BE TAKEN OVER AND ASSUMED BY THE CONSOLIDATED DISTRICT, AND ALL
17 OUTSTANDING SPECIAL ASSESSMENTS SHALL BE COLLECTED AND PAID OVER
18 TO THE CONSOLIDATED DISTRICT FOR THE PAYMENT OF THE OBLIGATIONS
19 PREVIOUSLY ISSUED OR CONTRACTS PREVIOUSLY ENTERED INTO BY THE
20 DEBTOR DISTRICT. IF FURTHER FUNDS ARE NECESSARY FOR THE PAYMENT
21 OF OBLIGATIONS PREVIOUSLY ISSUED OR CONTRACTS PREVIOUSLY ENTERED
22 INTO BY THE DEBTOR DISTRICT, THE COMMISSIONER OR DRAINAGE BOARD
23 OF THE CONSOLIDATED DISTRICT SHALL CONTINUE TO LEVY A SPECIAL
24 ASSESSMENT BASED ON THE SPECIAL ASSESSMENT ROLL CREATED TO
25 FINANCE THE OBLIGATIONS OR CONTRACTS. THE PROCEEDS OF THE SPE-
26 CIAL ASSESSMENT SHALL BE USED ONLY FOR THE PURPOSE OF PAYING THE
27 INDEBTEDNESS, AND THE INTEREST THEREON.

1 (3) IF THERE ARE FUNDS IN THE DRAIN ACCOUNT OF ANY OF THE
2 DISTRICTS TO BE CONSOLIDATED, THE FUNDS SHALL BE PLACED IN A SEP-
3 ARATE ACCOUNT FOR THE CONSOLIDATED DISTRICT AND SHALL BE USED TO
4 PAY EXPENSES INCURRED BY THE COMMISSIONER OR DRAINAGE BOARD FOR
5 THE CONSOLIDATED DISTRICT, EXCEPT AS FOLLOWS:

6 (A) IF LANDS ARE ADDED WHICH WERE NOT PREVIOUSLY LOCATED IN
7 A PETITIONING DISTRICT, FUNDS FROM EACH ACCOUNT WHERE THERE IS A
8 SURPLUS SHALL BE PAID OUT OR PRORATED IN THE SAME MANNER AS PRO-
9 VIDED FOR ABANDONED OR VACATED DRAINS AFTER THAT DISTRICT'S
10 INDEBTEDNESS FOR THE COST OF CONSOLIDATION HAS BEEN SATISFIED.

11 (B) IF 1 OF THE DISTRICTS CONSOLIDATED IS SPECIALLY BENE-
12 FITTED BY THE CONTINUED OPERATION AND MAINTENANCE OF PUMPING
13 EQUIPMENT OR OTHER MECHANICAL OPERATIONS, A SEPARATE ACCOUNT
14 SHALL BE MAINTAINED TO PROVIDE FOR PAYMENT FOR THE OPERATION AND
15 MAINTENANCE OF THE PUMPING EQUIPMENT OR OTHER MECHANICAL
16 OPERATION.

17 Sec. 278. If bonds or notes are issued and sold by the com-
18 missioner, installments of the drain ~~taxes~~ SPECIAL ASSESSMENTS
19 shall bear interest not to exceed a rate which is not greater
20 than 1% per annum more than the average rate of interest on the
21 bonds or notes from the date of the preparation of the assessment
22 roll until due. The bonds or notes may provide, if the commis-
23 sioner so determines, for the payment of interest semiannually.
24 The installments and the interest thereon shall, as collected, be
25 paid into the county treasury and placed to the credit of the
26 fund of the drain, to be used solely for the payment of bonds or
27 notes as they mature. Money collected in anticipation of the

1 maturity of the bonds or notes shall be deposited by the county
2 treasurer in a bank or banks to be designated by the COUNTY board
3 of commissioners. ~~of the county and the~~ THE interest received
4 ~~shall belong~~ BELONGS to the fund. Bonds or notes issued and
5 sold by the commissioner shall bear interest at not to exceed the
6 rate specified in section 2 of chapter 3 of ~~Act No. 202 of the~~
7 ~~Public Acts of 1943, as amended, being section 133.2 of the~~
8 ~~Michigan Compiled Laws~~ THE MUNICIPAL FINANCE ACT, 1943 PA 202,
9 MCL 133.2.

10 Sec. 279. Any person liable ~~to~~ FOR the payment of special
11 assessments ~~for benefits received from the construction of a~~
12 ~~drain hereunder~~ may pay the ~~same~~ ASSESSMENT in full with
13 interest to date at any time, subject to the right of reassess-
14 ment in case of A deficiency as ~~herein~~ provided. HOWEVER, A
15 PREPAYMENT MADE FOLLOWING THE ISSUANCE OF BONDS OR NOTES IS
16 SUBJECT TO THE FIRST-YEAR INTEREST ON THE BONDS OR NOTES. The
17 ~~foregoing~~ right of prepayment ~~shall extend to the~~ EXTENDS TO
18 THIS state or any political subdivision thereof, assessed at
19 large for a portion of the cost of ~~a~~ THE drain. Such payment
20 may be made to the ~~township treasurer~~ COMMISSIONER, who shall
21 give his OR HER receipt therefor and who shall transmit the
22 ~~same~~ RECEIPT to the county treasurer. The ~~latter official~~
23 ~~shall, on receipt of the same, give notice to the commissioner,~~
24 ~~who~~ COMMISSIONER shall make the necessary changes in the rolls
25 covering subsequent installments.

26 Sec. 280. (1) If, FOR ANY REASON, there is not sufficient
27 money in the fund in a particular drain at the time of the

1 maturity of the bonds last to mature, or any drain orders, to pay
2 all outstanding bonds or drain orders with interest, or to reim-
3 burse the county for money which it has been obliged to advance
4 pursuant to section 275, ~~whether such insufficiency is due to~~
5 ~~the anticipation of installments as provided in section 279, or~~
6 ~~to failure to sell any lands for delinquent taxes, or to any~~
7 ~~other cause, it shall be the duty of~~ the commissioner ~~to~~ OR
8 DRAINAGE BOARD SHALL at once levy an additional assessment. ~~as~~
9 ~~hereinbefore provided in such~~ THE ADDITIONAL ASSESSMENT SHALL BE
10 IN an amount as will make up the deficiency ~~which~~ AND shall be
11 spread in not to exceed 7 annual installments. ~~and if the~~
12 ~~commissioner determines that the entire amount, if spread in 1~~
13 ~~year, would be an undue burden or create unnecessary hardship, he~~
14 ~~or she may order it spread over any number of years up to but not~~
15 ~~exceeding 7.~~ If bonds or other evidences of indebtedness are
16 issued pursuant to the municipal finance act, ~~Act No. 202 of the~~
17 ~~Public Acts of 1943, as amended, being sections 131.1 to 139.3 of~~
18 ~~the Michigan Compiled Laws~~ 1943 PA 202, MCL 131.1 TO 139.3, to
19 refund the outstanding indebtedness of a drain district, the gov-
20 erning body of ~~such~~ THE drain district shall provide, subject
21 to the directions of the department of treasury or to the
22 requirements of ~~Act No. 202 of the Public Acts of 1943~~ THE
23 MUNICIPAL FINANCE ACT, 1943 PA 202, MCL 131.1 TO 139.3, for
24 ~~such~~ additional levies of assessments ~~prior to~~ BEFORE the
25 maturity of ~~such~~ THE refunding obligations ~~as~~ necessary to
26 prevent default in payment of interest on such obligations, and
27 FOR the maintenance of a ~~sinking~~ fund for ~~their~~ THE

1 retirement OF THE OBLIGATIONS. Every officer charged with the
2 determination of the amount of ~~taxes~~ SPECIAL ASSESSMENTS to be
3 raised, or the levying of ~~such taxes~~ THE SPECIAL ASSESSMENTS,
4 shall make or cause to be made the additional levies as
5 provided. Any surplus remaining after the payment of the bonds
6 and interest shall remain in the DRAIN FUND OF THE county trea-
7 sury and be used for the maintenance of the drain.

8 (2) ~~Such~~ THE additional assessments shall ~~only apply to~~
9 ~~drain orders or bonds issued after March 28, 1956 and shall be~~
10 apportioned, assessed, levied, and collected as provided in the
11 first instance. As to deficiency assessments levied for drain
12 orders or bonds issued after March 28, 1956, there shall be no
13 lands exempted therefrom, except those which at the time of such
14 additional assessments are owned or used as follows:

15 (a) Lands owned by the United States.

16 (b) Lands owned by the state of Michigan, except licensed
17 homestead lands. ~~, and except lands held under land contracts~~
18 ~~issued pursuant to Act No. 155 of the Public Acts of 1937, as~~
19 ~~amended, being sections 211.355a to 211.364, of the Michigan~~
20 ~~Compiled Laws.~~

21 (c) Lands owned by any county, city, village, township, or
22 school district and used for public purposes.

23 (d) Lands used exclusively for burial grounds.

24 (e) Lands dedicated to the public and actually used as a
25 ~~highway or alley~~ ROADWAY, and not used for gain.

26 (3) An additional assessment shall not be levied or
27 collected for the purpose of paying the principal or interest

1 upon any bonds or obligations ~~which have heretofore been~~ THAT
2 WERE held to be invalid ~~, and any such~~ BEFORE MARCH 28, 1956.
3 AN additional assessment shall not be apportioned, assessed,
4 levied, or collected for the purpose of paying any bonds, inter-
5 est, or obligations for the payment of which assessments have
6 heretofore been made.

7 Sec. 282. (1) The ~~drain~~ commissioner or drainage board
8 may direct the treasurer of any drainage district to invest any
9 surplus funds belonging to and under the control of the ~~drain~~
10 commissioner or drainage board as provided in section 1 of ~~Act~~
11 ~~No. 20 of the Public Acts of 1943, being section 129.91 of the~~
12 ~~Michigan Compiled Laws~~ 1943 PA 20, MCL 129.91. OTHERWISE, THE
13 FUNDS SHALL BE INVESTED IN SECURE INTEREST BEARING ACCOUNTS. THE
14 TREASURER OF THE DRAINAGE DISTRICT SHALL CREDIT EARNINGS FROM
15 INVESTMENTS UNDER THIS SECTION TO THE DRAINAGE DISTRICT FUND.

16 (2) If 2 or more drainage district funds ~~which are~~ under
17 control of the ~~drain~~ commissioner or drainage board have bal-
18 ances of less than \$1,000.00, those drainage district funds ~~may~~
19 SHALL be consolidated into 1 account for short-term investment.
20 ~~as directed by the drain commissioner.~~ A drainage district fund
21 shall not be consolidated if there is an immediate and apparent
22 need for expending that fund on the specific drain to which the
23 fund belongs.

24 (3) The interest earned by a fund consolidated under subsec-
25 tion (2) may be deposited in a segregated revolving maintenance
26 fund which the ~~drain~~ commissioner or drainage board may use for
27 temporarily financing necessary maintenance expenses on ~~an~~

1 ~~intracounty~~ A COUNTY or intercounty drain within that ~~drain~~
2 commissioner's or drainage board's jurisdiction. The revolving
3 maintenance fund shall be a fund separate from the revolving
4 drain fund provided for in chapter 12. The revolving maintenance
5 fund shall be accounted for, administered, and reimbursed in the
6 same manner as the revolving drain fund under section 303.

7 (4) If a drainage district fund has a balance of \$1,000.00
8 or more, the ~~drain~~ commissioner or drainage board may direct
9 that that fund be consolidated with other funds for investment
10 purposes. The interest earned, whether from a consolidated or
11 separate account, shall immediately be deposited in the drainage
12 district fund to which the principal belongs.

13 (5) The principal balances of each drainage district fund
14 shall be accounted for at all times and may only be spent by
15 order of the ~~drain~~ commissioner or drainage board on expenses
16 necessary for the operation and maintenance of the drain to which
17 the fund belongs.

18 Sec. 283. (1) The ~~drain~~ commissioner or drainage board
19 shall ~~use~~ DEPOSIT IN THE DRAIN FUND OF THE DRAINAGE DISTRICT
20 any surplus construction funds remaining in the construction fund
21 after completion of the project for the inspection, repair, and
22 maintenance of the drain ~~as provided in section 196~~ or shall
23 authorize the transfer of the funds to the bond and interest
24 account, if bonds were issued, in the amounts the ~~drain~~ commis-
25 sioner or drainage board considers proper.

26 (2) The drainage board or ~~drain~~ commissioner ~~shall~~ MAY
27 contract with a ~~public corporation~~ MUNICIPALITY if that ~~public~~

1 ~~corporation~~ MUNICIPALITY has been assessed for all or part of
2 the cost of the drain or if land in a ~~city, village, township,~~
3 ~~or combination thereof~~ MUNICIPALITY has been assessed for all or
4 any part of the cost of a drain. The contract shall provide that
5 after all outstanding drain orders or bonds are paid on a drain-
6 age district project, the ~~drain~~ commissioner or drainage board
7 ~~shall~~ MAY authorize the respective county treasurers to pay
8 ~~over~~ any portion of the surplus THAT THE COMMISSIONER CONSIDERS
9 not needed for ~~more than~~ the cost of inspection, repair, and
10 maintenance of the drain as provided in ~~section 196~~ CHAPTER 8
11 to ~~the county, township, city, or village in which the drain was~~
12 ~~located or in which assessments for benefits have been assessed~~
13 ~~and collected~~ SUCH MUNICIPALITIES. The payments shall be on a
14 pro rata basis in direct proportion to the amounts assessed and
15 collected from each ~~county, city, village, or township~~
16 MUNICIPALITY. The contract shall also provide that upon receipt
17 of the surplus funds the ~~county, city, village, or township~~
18 MUNICIPALITY shall utilize those surplus funds to alleviate
19 drainage problems in ~~their respective jurisdictions~~ ITS
20 JURISDICTION.

21 (3) If state TRUNK LINE highway funds are involved in a
22 project, the ~~drain~~ commissioner or drainage board, upon comple-
23 tion of a ~~construction~~ project, ~~shall~~ AND AFTER PAYMENT OF
24 ALL OUTSTANDING BONDS OR NOTES MAY return TO THE STATE TRANSPOR-
25 TATION DEPARTMENT, on a pro rata basis, surplus construction
26 funds in excess of the amount CONSIDERED necessary BY THE
27 COMMISSIONER to pay for inspection, repair, and maintenance of

1 the drain as provided in ~~section 196 to the state transportation~~
 2 ~~department for the construction, maintenance, and administration~~
 3 ~~of state highways~~ CHAPTER 8.

4 ~~(4) As used in this section, "public corporation" includes~~
 5 ~~a city, village, township, or county, or the state.~~

6 CHAPTER 12 ~~—~~

7 REVOLVING FUNDS FOR DRAINS ~~—~~

8 Sec. 301. At the October session of the COUNTY board of
 9 ~~supervisors~~ COMMISSIONERS OF EACH COUNTY, ~~each~~ THE board
 10 shall appropriate and collect by general taxation from the tax-
 11 able property within ~~their respective counties~~ THE COUNTY for
 12 the purpose of creating a revolving drain fund, ~~such sum as said~~
 13 ~~board may deem~~ THE SUM THAT THE BOARD CONSIDERS necessary.
 14 ~~Said~~ THE revolving fund ~~when so created~~ shall be used and
 15 disposed of solely as provided in this chapter.

16 Sec. 302. (1) The revolving fund may be used for paying ANY
 17 OF the FOLLOWING:

18 (A) THE engineer or surveyor for ~~his~~ services in laying
 19 out a drainage district. ~~, also any~~

20 (B) ANY necessary assistance ~~therefor and to pay any and~~
 21 ~~all other~~ FOR THE ENGINEER OR SURVEYOR.

22 (C) OTHER LEGAL, ENGINEERING, NATURAL RESOURCE IMPACT
 23 ASSESSMENT, OR CONSULTING services to the date of letting the
 24 drain contract. ~~for paying members~~

25 (D) MEMBERS of boards of determination for services per-
 26 formed under this act. ~~, for necessary~~

1 (E) NECESSARY repairs on old drains. ~~, and also for paying~~
2 ~~drain~~

3 (F) DRAIN orders that are due not in excess of ~~-\$2,000.00-~~
4 \$5,000.00 if authorized by the COUNTY board of ~~supervisors-~~
5 COMMISSIONERS.

6 (2) Orders drawn by the DRAIN commissioner on the revolving
7 fund may be made payable upon the performance of services ~~herein~~
8 ~~defined~~ LISTED IN SUBSECTION (1). From ~~said~~ THE revolving
9 fund may be paid the services ~~herein mentioned~~ LISTED IN
10 SUBSECTION (1) on any drain or drainage district affecting more
11 than 1 county. ~~Such~~ THE total expense ~~is~~ SHALL BE prorated
12 among the ~~several~~ counties affected according to the amount
13 apportioned to be paid by and in ~~said counties respectively for~~
14 ~~said~~ EACH COUNTY FOR THE drain. ~~Any and all orders~~ ORDERS for
15 services rendered or expenses incurred after the date of letting
16 the drain contract shall be paid in the manner prescribed in
17 chapter 10. ~~, being sections 241 to 248.~~

18 Sec. 303. The county treasurers shall carry as a separate
19 account upon the books of their office a revolving fund and all
20 accounts and items pertaining thereto. A record shall be kept of
21 the amount of money paid from the revolving fund for the use and
22 benefit of any particular drainage district and upon payment to
23 the county treasurer of the ~~taxes assessed~~ ASSESSMENTS LEVIED
24 in the particular drainage district, the county treasurer, out of
25 the moneys received, shall transfer to the revolving fund pro
26 rata according to the number of installments of taxes the sum
27 expended.

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1 Sec. 304. The ~~said~~ revolving fund shall be deposited in
2 ~~the bank of the county offering the highest rate of interest on~~
3 ~~daily balances, final determination to be made by the board of~~
4 ~~supervisors of the particular county, the~~ AN AUTHORIZED DEPOSI-
5 TORY FOR COUNTY FUNDS. THE interest ~~so received to~~ EARNED ON
6 THE FUND SHALL be paid into and become a part of ~~said~~ THE
7 fund.

8 Sec. 306. ~~Whenever~~ IF revolving fund ~~moneys have~~ MONEY
9 HAS been expended or a drainage district has become obligated to
10 pay expenses for engineering, legal, ~~and~~ OR administrative
11 services, by action of the ~~drain~~ commissioner or drainage board
12 and ~~no~~ AN improvement has NOT been completed ~~subsequent to the~~
13 ~~commissioner's order designating~~ AFTER THE ENTRY OF THE ORDER
14 ESTABLISHING a drainage district or ~~entry of the first order of~~
15 ~~determination as prescribed in section 72 where~~ THE ORDER OF
16 NECESSITY FOR an intracounty drain, ~~is involved,~~ the ~~drain~~
17 commissioner of ~~such~~ THE county which has expended such revolv-
18 ing fund ~~moneys~~ MONEY may report ~~such~~ THAT fact to the board
19 of ~~supervisors~~ COMMISSIONERS. If ~~no~~ AN improvement ~~has~~
20 ~~been~~ IS NOT completed within ~~a period of 5 years subsequent to~~
21 ~~the~~ 2 YEARS AFTER THE DRAIN commissioner's ~~order designating~~
22 ENTRY OF THE ORDER ESTABLISHING a drainage district or ~~entry of~~
23 ~~the first order of determination as prescribed in section 72, the~~
24 ~~drain~~ THE ORDER OF NECESSITY, THE commissioner of such county
25 shall report ~~such~~ THAT fact to the COUNTY board of
26 ~~supervisors~~ COMMISSIONERS. If the sum involved is too small to
27 justify spreading the ~~same~~ SUM over the designated DRAINAGE

1 district, ~~above referred to, such~~ THE COUNTY board of
2 ~~supervisors~~ COMMISSIONERS may order the sum to be spread
3 against the property of the original petitioners according to
4 ~~such percentage as the commissioners shall deem~~ THE PERCENTAGE
5 THAT THE COMMISSIONER CONSIDERS just and equitable, based on the
6 same benefit theory as if the improvement had been completed. If
7 the sum involved is large enough to, in the opinion of the COUNTY
8 board of ~~supervisors~~ COMMISSIONERS, create undue hardship on
9 the original petitioners, the COUNTY board of ~~supervisors~~
10 COMMISSIONERS may order the ~~same~~ SUM spread over ~~such~~ THE
11 designated district and the DRAIN commissioner shall apportion
12 the ~~cost thereof~~ SUM to the parties benefited in the district
13 as provided in chapter 7 for the purpose of permitting a review
14 of the roll as to fairness of the apportionment only.

15 Sec. 307. ~~Whenever~~ IF revolving fund ~~moneys have~~ MONEY
16 HAS been expended and ~~no improvement has been completed subse-~~
17 ~~quent to the order designating a drainage district as prescribed~~
18 ~~in section 105 of this act~~ AN IMPROVEMENT IS NOT COMPLETED
19 WITHIN 2 YEARS AFTER THE ENTRY OF THE ORDER ESTABLISHING THE
20 DRAINAGE DISTRICT where an intercounty drain is involved, ~~within~~
21 ~~a period of 5 years,~~ the drainage board ~~created in section 102~~
22 ~~of this act~~ shall apportion the cost as between counties. Any
23 ~~drain~~ commissioner feeling aggrieved by ~~such~~ THE appor-
24 tionment may request review by the board of review, ~~provided in sec-~~
25 ~~tion 106 of this act, and such board shall proceed to review the~~
26 ~~same~~ AND THE BOARD OF REVIEW SHALL REVIEW THE APPORTIONMENT as
27 provided in this act. The decisions of the board of review

1 ~~shall be~~ ARE final. Thereafter, the amount apportioned to each
2 county shall be recovered by ~~each~~ THAT county as ~~above~~
3 ~~outlined~~ PROVIDED for the recovery of revolving fund ~~moneys~~
4 MONEY expended for an intracounty drain in section 306. ~~of this~~
5 ~~act.~~

6 CHAPTER 13 ~~—~~

7 ~~HIGHWAYS~~ ROADWAYS, RAILROADS, UTILITIES, AND OTHER STRUCTURES

8 Sec. 322. (1) ~~When any~~ IF A drain crosses a ~~highway~~
9 ROADWAY, the necessary bridge or culvert shall be constructed on
10 the center line of the ~~highway~~ ROADWAY as located by survey,
11 and in accordance with plans and specifications which shall be
12 approved by the ~~county road commission having jurisdiction, or~~
13 ~~by the state highway commissioner if such highway is a state~~
14 ~~trunk line~~ ROADWAY AUTHORITY UNDER A PERMIT UNDER SECTION 7.

15 The cost of constructing the necessary bridge or culvert shall be
16 charged in the first instance as part of the cost of construction
17 of ~~such~~ THE drain. The ~~board of county road commissioners or~~
18 ~~the state highway commissioner~~ ROADWAY AUTHORITY shall assume
19 and bear ~~such~~ A portion of the cost of construction, based upon
20 benefits, as may be agreed upon with the ~~drain~~ commissioner.
21 ~~In such case, the~~ THE contract for the construction of the
22 bridge shall not be let by the ~~drain~~ commissioner without the
23 written consent of the ~~state highway commissioner or the board~~
24 ~~of county road commissioners.~~ Thereafter such ROADWAY
25 AUTHORITY.

26 (2) AFTER CONSTRUCTION, THE bridge or culvert ~~constructed~~
27 ~~under the provisions of this act~~ shall be maintained by the

1 ~~county road commission or state highway commissioner. Any such~~
2 ROADWAY AUTHORITY.

3 (3) AN expense charged to the state ~~highway commissioner~~
4 TRANSPORTATION COMMISSION UNDER THIS SECTION shall be ~~met~~ PAID
5 out of any funds appropriated for the state ~~highway~~
6 TRANSPORTATION department that may be available therefor. ~~;~~ and
7 ~~any such expense to be borne by~~ AN EXPENSE CHARGED TO the board
8 of county road commissioners UNDER THIS SECTION shall be paid out
9 of ~~moneys~~ MONEY in the county road fund not otherwise
10 appropriated.

11 (4) As part of ~~such~~ THE drain, there shall be constructed
12 at least 1 bridge or culvert across such drain connecting the
13 ~~highway (except~~ ROADWAY WITH EACH FARM ENTRANCE, UNLESS THE
14 ROADWAY IS A limited access ~~highways~~ HIGHWAY established under
15 ~~Act No. 205 of the Public Acts of 1941, as amended, being sec-~~
16 ~~tions 252.51 to 252.64 of the Compiled Laws of 1948), with each~~
17 ~~farm entrance, and when~~ 1941 PA 205, MCL 252.51 TO 252.64. IF a
18 drain crosses a ~~farm or any portion thereof there shall be con-~~
19 ~~structed 1 bridge, culvert or ford across the drain connecting~~
20 ~~the portions of the farm disconnected by the drain, which~~ PARCEL
21 OR TRACT OF LAND AND WILL DIMINISH ACCESS TO PORTIONS OF THE
22 PARCEL OR TRACT DISCONNECTED BY THE DRAIN, 1 BRIDGE, CULVERT, OR
23 FORD SHALL BE CONSTRUCTED ACROSS THE DRAIN TO CONNECT THOSE POR-
24 TIONS OF THE PARCEL OR TRACT SO THAT THE DEGREE OF ACCESS IS NOT
25 DIMINISHED. THE COST OF CONSTRUCTION OF THE bridge, culvert, or
26 ford shall also be charged in the first instance as a part of the
27 construction of ~~such~~ THE drain. ~~, after which such~~ AFTER

1 CONSTRUCTION OF THE BRIDGE, CULVERT, OR FORD, THE bridge,
2 culvert, or ford shall be maintained by the owner of the ~~land~~
3 TRACT.

4 (5) If the ~~drain~~ commissioner ~~shall make future~~ OR
5 DRAINAGE BOARD MAINTAINS OR MAKES improvements ~~such as widening,~~
6 ~~deepening, straightening or relocating such drain, but not clean~~
7 ~~out alone, there shall be constructed the~~ TO A DRAIN, necessary
8 bridges, culverts, and fords MAY BE CONSTRUCTED OR MAINTAINED as
9 ~~parts~~ PART of ~~such improvements~~ THE DRAIN MAINTENANCE OR
10 IMPROVEMENT.

11 (6) THE ENGINEER, WHEN NECESSARY, SHALL RECOMMEND THE SIZE
12 AND TYPE OF CONSTRUCTION FOR NECESSARY BRIDGES, CULVERTS, AND
13 FORDS.

14 Sec. 322b. If any person desires during construction or
15 reconstruction of a ~~highway~~ ROADWAY to install a drain for
16 agricultural benefits in lands adjacent to any ~~highway~~ ROADWAY,
17 and if a satisfactory outlet cannot be secured on the upper side
18 of the ~~highway~~ ROADWAY right-of-way and the drain must be
19 projected across the right-of-way to reach an outlet which may be
20 legally utilized as an outlet and is suitable for such purpose,
21 the expense of both material and labor used in installing the
22 drain across the right-of-way shall be paid from funds available
23 for the ~~highway~~ ROADWAY affected if the ~~highway~~ ROADWAY
24 authority is notified of the necessity of the drain sufficiently
25 in advance of the construction or reconstruction of the ~~highway~~
26 ROADWAY so that the drain may be installed and the ~~highway~~
27 ROADWAY constructed or reconstructed in the same operation.

1 Sec. 323. Before a drain ~~shall be~~ IS constructed along a
2 ~~public highway, the highway authorities having jurisdiction over~~
3 ~~the highway shall be consulted and their consent shall be~~
4 ~~obtained in writing, as~~ ROADWAY, THE COMMISSIONER SHALL CONSULT
5 THE ROADWAY AUTHORITY AND OBTAIN ITS WRITTEN CONSENT to the pro-
6 posed location OF THE DRAIN and ~~what~~ THE disposition ~~shall~~ TO
7 be made of all material excavated. ~~Whenever~~ IF an apportion-
8 ment is made against a state trunk line highway, the amount of
9 the assessment based on such apportionment shall be paid out of
10 any state ~~trunk line highway~~ TRANSPORTATION funds on hand. ~~in~~
11 ~~the state treasury. On or before December 1 of the year when~~
12 ~~such assessment is made, the drain commissioner shall certify to~~
13 ~~the auditor general the amount due from the state to such drain-~~
14 ~~age district by reason of the assessment of benefits, and the~~
15 ~~auditor general shall, if satisfied of the correctness of such~~
16 ~~certificate, cause the same to be paid within 30 days~~
17 ~~thereafter.~~

18 ~~When a ditch or drain has been constructed prior to 1923~~
19 ~~primarily for drainage of private lands, and constructed along a~~
20 ~~public highway, and the records including the original survey of~~
21 ~~such drain are not of public record nor turned over to the county~~
22 ~~drain commissioner, or have not been entered in the records of~~
23 ~~the county drain commissioner as a county drain, then the actual~~
24 ~~location of such drain shall be sufficient to make such drain~~
25 ~~comply with the provisions of this act with respect to the loca-~~
26 ~~tion thereof, and such drain shall be a county drain upon~~
27 ~~compliance with the other provisions of this act with respect to~~

1 county drains. ~~No proceedings shall be instituted for the~~
 2 ~~widening of such drain or the deepening thereof below its origi-~~
 3 ~~nal bottom.~~

4 Sec. 324. (1) ~~Whenever~~ IF it is necessary or more conven-
 5 ient for the proper drainage of ~~any highway~~ A COUNTY ROAD in
 6 this state that the surplus water be taken onto or across the
 7 land adjacent thereto, the county road commission of the county
 8 in which ~~said highway~~ THE COUNTY ROAD is situated may secure
 9 the right-of-way and may open such drain or outlet for the water,
 10 and for these purposes may use ~~any highway moneys~~ THE COUNTY
 11 ROAD MONEY of the township in which ~~said highway~~ THE COUNTY
 12 ROAD is situated, not otherwise appropriated, and ~~such~~ ANY sums
 13 ~~as may be~~ voted for that use by the electors of the townships.

14 (2) The county road commission shall secure the right-of-way
 15 for ~~any such~~ THE drain by gift or purchase from the owners of
 16 the land to be crossed by ~~such~~ THE drain. ~~; but in case of~~
 17 ~~purchase the~~ A purchase price must be approved by the township
 18 board whenever township funds are involved, before any ~~money be~~
 19 ~~paid thereon~~ PAYMENT IS MADE. ~~Such~~ THE right-of-way shall be
 20 acquired by deed duly executed by the owner or owners of the
 21 lands ~~sought~~ to be crossed by the ~~said~~ drain, and shall be
 22 taken in the name of the township ~~wherein the same~~ WHERE
 23 RIGHT-OF-WAY is located. ~~, and~~ THE DEED SHALL BE filed in the
 24 office of the register of deeds of the county before any
 25 ~~highway~~ COUNTY ROAD money shall be expended in opening ~~such~~
 26 THE drain outside the ~~highway~~ COUNTY ROAD limits.

1 ~~Before the township board approves the purchase price of~~
2 ~~any drain right-of-way under this section, the county road~~
3 ~~commission shall submit to the board for its approval details of~~
4 ~~the proposed drain, with specifications that the drain shall be~~
5 ~~constructed in accordance with good health and sanitation stan-~~
6 ~~dards and in such a manner as not to constitute a hazard to~~
7 ~~health or safety and that in construction of the drain the town-~~
8 ~~ship board shall approve the use of the land upon which the drain~~
9 ~~is to be located.~~

10 Sec. 326. On the completion by the county road commission
11 of ~~any~~ A drain, ~~constructed under the provisions of this act,~~
12 ~~it shall be the duty of said~~ THE county road commission ~~to~~
13 SHALL file in the office of the ~~drain~~ commissioner a detailed
14 report of the construction of ~~such~~ THE drain, giving the date
15 of construction, the termini and general course ~~thereof,~~
16 ~~together with~~ OF THE DRAIN, AND a copy of the deed by which the
17 right-of-way therefor was secured. ~~Nothing in the provisions of~~
18 ~~the preceding sections shall be construed as giving to~~ THIS
19 CHAPTER DOES NOT GIVE the county road commission power to ~~lay~~
20 ~~out and~~ construct drains having any other purpose than the
21 drainage of ~~highways~~ COUNTY ROADS.

22 Sec. 327. (1) ~~In case it becomes~~ IF IT IS necessary for
23 the construction or maintenance of ~~any highway~~ A ROADWAY to
24 take the surplus water across adjacent lands, the ~~state, county~~
25 ~~or township highway commissioner or county road commissioners may~~
26 ~~make under his or their name of office an application or petition~~
27 ~~to the drain commissioner of the county in which such highway is~~

~~1 situated to lay out and designate a drainage district, locate and
2 establish a drain, clean out, widen, deepen, straighten or extend
3 an established drain. Such application or petition shall conform
4 to the law regulating applications or petitions for the laying
5 out and designating a drainage district, locating and establish-
6 ing of drains, and cleaning out, widening, deepening, straighten-
7 ing and extending established drains, and shall require no other
8 signature than his own as highway commissioner or county road
9 commissioners. Such application or petition shall have the same
10 force and effect, and be subject in other respects to the same
11 laws and regulations that govern other such applications or peti-
12 tions and shall confer the same jurisdiction and authority on the
13 county drain commissioner to lay out and designate a drainage
14 district, locate and establish a drain, or clean out, widen,
15 deepen, straighten or extend an established drain: Provided,
16 That in cases where the state highway commissioner makes such
17 application or petition he shall serve a copy of such application
18 or petition on the director of agriculture, who shall within 30
19 days hold a meeting at some place in the drainage district for
20 the purpose of determining the practicability or necessity of
21 such drain, and no board of determination shall be necessary to
22 pass on those questions. Said meeting shall be held, notice
23 given and all persons interested may be heard in the same manner
24 as provided in section 102 or section 122 of this act. The
25 determination of the director of agriculture shall be filed with
26 the drain commissioner. ROADWAY AUTHORITY MAY FILE A PETITION
27 WITH THE COMMISSIONER OF THE COUNTY IN WHICH THE ROADWAY IS~~

1 SITUATED TO ESTABLISH A DRAINAGE DISTRICT AND A COUNTY OR
2 INTERCOUNTY DRAIN OR TO MAINTAIN OR IMPROVE A DRAIN. EXCEPT AS
3 PROVIDED IN SUBSECTIONS (2) AND (3), THE PETITION AND PROCEEDINGS
4 ARE SUBJECT TO CHAPTER 3, 8, OR 8A, AS APPLICABLE, AND OTHER PRO-
5 VISIONS OF THIS ACT.

6 (2) THE ROADWAY AUTHORITY IS THE ONLY PETITIONER REQUIRED ON
7 A PETITION UNDER THIS SECTION.

8 (3) IF THE PETITIONING ROADWAY AUTHORITY IS THE STATE TRANS-
9 PORTATION COMMISSION, ALL OF THE FOLLOWING APPLY:

10 (A) IN ADDITION TO FILING THE PETITION WITH THE COMMISSIONER
11 OF THE COUNTY IN WHICH THE ROADWAY IS LOCATED, THE STATE TRANS-
12 PORTATION COMMISSION SHALL PROMPTLY SERVE A COPY OF THE PETITION
13 ON THE DIRECTOR OF AGRICULTURE.

14 (B) THE DIRECTOR OF AGRICULTURE SHALL EXERCISE THE POWERS
15 AND DUTIES OF THE BOARD OF DETERMINATION, FOR A COUNTY DRAIN, OR
16 THE DRAINAGE BOARD, FOR AN INTERCOUNTY DRAIN, UP TO AND INCLUDING
17 THE FILING OF THE ORDER OF NECESSITY. THE DIRECTOR OF AGRICUL-
18 TURE SHALL CONDUCT THE FIRST HEARING UNDER CHAPTER 3, 8, OR 8A,
19 AS APPLICABLE, NOT LATER THAN 63 DAYS AFTER THE STATE TRANSPORTA-
20 TION COMMISSION SERVES THE COPY OF THE PETITION ON THE DIRECTOR
21 OF AGRICULTURE.

22 Sec. 328. ~~Before the department of state highways may com-~~
23 ~~mence the construction of a state highway, the engineering plans~~
24 ~~of the state highway relative to county drains shall be forwarded~~
25 ~~to the drain commissioner of each county where the state highway~~
26 ~~is to be constructed.~~ BEFORE A PERSON LAYS OR CONSTRUCTS A
27 CABLE, PIPELINE, SEWER, CONDUIT, ROADWAY, CULVERT, BRIDGE, OR

1 OTHER STRUCTURE ACROSS A COUNTY OR INTERCOUNTY DRAIN, THE PERSON
2 SHALL FORWARD RELEVANT ENGINEERING PLANS TO THE COMMISSIONER OR
3 DRAINAGE BOARD, RESPECTIVELY, FOR REVIEW AND WRITTEN APPROVAL
4 UPON TERMS AND CONDITIONS THAT ARE REASONABLE AND PROPER TO PRE-
5 VENT INTERFERENCE WITH THE DRAIN.

6 SEC. 329. IF THE ROADWAY AUTHORITY REQUESTS OR ORDERS THAT
7 AN EXISTING LEGALLY ESTABLISHED DRAIN WITHIN THE RIGHT-OF-WAY OF
8 THE ROADWAY BE RELOCATED OUTSIDE THE ROADWAY RIGHT-OF-WAY, THE
9 COST OF RELOCATING THE DRAIN SHALL BE BORNE BY THE ROADWAY
10 AUTHORITY.

11 SEC. 330. (1) IF IT IS NECESSARY TO ESTABLISH, CONSTRUCT,
12 MAINTAIN, OR IMPROVE A DRAIN ACROSS THE RIGHT-OF-WAY OR ROADBED
13 OF ANY RAILROAD OR RAILWAY COMPANY, TELEPHONE OR TELEGRAPH COM-
14 PANY, OR DAM, ELECTRIC, CABLE, WATER, OIL, GAS, PIPELINE, OR
15 OTHER UTILITY COMPANY, THE COMMISSIONER OR DRAINAGE BOARD SHALL
16 ACQUIRE ANY PROPERTY OR INTERESTS IN PROPERTY NECESSARY FOR THAT
17 PURPOSE UNDER SECTION 7. THE COMMISSIONER OR DRAINAGE BOARD
18 SHALL SUBSEQUENTLY GIVE NOTICE OF THE NECESSITY TO CROSS THE
19 RIGHT-OF-WAY OR ROADBED. NOTICE SHALL BE PROVIDED BY FIRST-CLASS
20 MAIL TO THE GENERAL OFFICE OF THE COMPANY OR THE OFFICE OF THE
21 REGISTERED AGENT OF THE COMPANY. THE NOTICE SHALL INCLUDE THE
22 LOCATION OF THE PROPOSED CROSSING, THE NAME OF THE DRAIN, THE
23 PLANS AND SPECIFICATIONS FOR THE CROSSING AND FOR THE METHOD OF
24 CONSTRUCTING THE CROSSING, AND A SCHEDULE FOR CONSTRUCTING THE
25 CROSSING.

26 (2) WITHIN 42 DAYS AFTER RECEIPT OF THE NOTICE, THE COMPANY
27 SHALL DELIVER TO THE COMMISSIONER OR DRAINAGE BOARD BY

1 FIRST-CLASS MAIL NOTICE WHETHER IT APPROVES OR OBJECTS TO THE
2 LOCATION OF THE CROSSING AND THE PLANS AND SPECIFICATIONS FOR THE
3 CROSSING AND FOR THE METHOD OF CONSTRUCTING THE CROSSING. THE
4 NOTICE SHALL STATE THE REASONS FOR ANY OBJECTION. IF THE COMPANY
5 APPROVES OF OR FAILS TO OBJECT TO THE CROSSING, THE COMMISSIONER
6 OR DRAINAGE BOARD MAY PROCEED WITH THE CROSSING. IF THE COMPANY
7 OBJECTS TO THE CROSSING, THE COMMISSIONER OR DRAINAGE BOARD MAY
8 DO ANY OF THE FOLLOWING:

9 (A) GIVE A REVISED NOTICE OF CROSSING UNDER SUBSECTION (1).
10 THE REVISED NOTICE OF CROSSING SHALL BE DESIGNED TO RESOLVE 1 OR
11 MORE OF THE REASONS FOR OBJECTION OF THE ORIGINAL NOTICE OF
12 CROSSING. THE REVISED NOTICE OF CROSSING IS SUBJECT TO THE SAME
13 REQUIREMENTS AND PROCEDURES AS THE ORIGINAL NOTICE OF CROSSING
14 UNDER THIS SECTION.

15 (B) SUBMIT THE DISPUTE TO BINDING ARBITRATION BY A MEMBER OF
16 THE AMERICAN ARBITRATION ASSOCIATION OR ITS SUCCESSOR UNDER THE
17 COMMERCIAL ARBITRATION RULES OF THE AMERICAN ARBITRATION ASSOCIA-
18 TION OR ITS SUCCESSOR. THE ARBITRATOR MAY AWARD ATTORNEY FEES OR
19 ARBITRATION FEES TO THE PREVAILING PARTY. AT THE REQUEST OF
20 EITHER PARTY, THE DECISION OF THE ARBITRATOR MAY BE ENTERED IN
21 AND ENFORCED BY THE CIRCUIT COURT OF THE COUNTY IN WHICH THE
22 CROSSING IS PROPOSED.

23 (C) PETITION THE CIRCUIT COURT OF THE COUNTY IN WHICH THE
24 CROSSING IS PROPOSED TO BE LOCATED TO ORDER THE COMPANY TO ALLOW
25 THE COMMISSIONER OR DRAINAGE BOARD TO CONSTRUCT THE CROSSING.
26 THE CIRCUIT COURT SHALL, IF IT FINDS THAT THERE IS A LEGAL RIGHT
27 TO THE CROSSING, ISSUE A WRIT OF MANDAMUS ORDERING THE COMPANY TO

1 ALLOW THE COMMISSIONER OR DRAINAGE BOARD TO CONSTRUCT THE
2 CROSSING. THE COMMISSIONER OR DRAINAGE BOARD SHALL GIVE THE COM-
3 PANY AT LEAST 14 DAYS' NOTICE OF THE PETITION TO THE CIRCUIT
4 COURT AND THE PROCEEDINGS SHALL FOLLOW THE PRACTICE OF CIRCUIT
5 COURTS IN MANDAMUS PROCEEDINGS. THE MATTER SHALL BE HEARD AND
6 DETERMINED AS SPEEDILY AS PRACTICABLE. THE COURT MAY AWARD COSTS
7 AND ATTORNEY FEES TO THE PREVAILING PARTY.

8 CHAPTER 17 ~~—~~

9 ABANDONED AND VACATED DRAINS--DISPOSAL OF FUNDS ~~—~~

10 Sec. 391. (1) Any drain or part thereof ~~which has ceased~~
11 ~~to be of public utility and~~ THAT is no longer necessary ~~or con-~~
12 ~~ducive to the~~ FOR public health, PUBLIC convenience, ~~and~~ OR
13 PUBLIC welfare may be declared to be abandoned and vacated in the
14 manner ~~herein~~ provided IN THIS SECTION.

15 (2) Any ~~5 freeholders of lands~~ OWNERS OF LAND in a drain-
16 age district or the governing body of any ~~public corporation~~
17 MUNICIPALITY in whose limits a drain or part thereof is located
18 may petition for the abandonment and vacation of ~~a~~ THE drain or
19 part thereof. The petition shall be addressed to and filed with
20 the DRAIN commissioner or drainage board having jurisdiction of
21 ~~such~~ THE drain. The commissioner or drainage board shall hold
22 a meeting to hear objections to the petition and to the abandon-
23 ment and vacation of ~~a~~ THE drain or part thereof ~~therein~~
24 requested IN THE PETITION, and shall give notice of ~~such~~ THE
25 meeting ~~by posting in 5 public places in the drainage district~~
26 ~~and by publication in a newspaper of general circulation in the~~
27 ~~drainage district which posting and publication shall occur at~~

1 ~~least 10 days before the date of such meeting~~ UNDER SECTION 8.
2 ~~Private rights of persons acquired by reason of the establish-~~
3 ~~ment and construction of such drain or part thereof shall not be~~
4 ~~interfered with, or in any way be impaired by such abandonment~~
5 ~~and vacation. If it is determined at such~~

6 (3) IF THE COMMISSIONER OR DRAINAGE BOARD DETERMINES AT THE
7 meeting that the drain or part thereof should be abandoned and
8 vacated, the commissioner or drainage board shall issue an order
9 to that effect. ~~and file the same with the commissioner of the~~
10 ~~county or counties involved. Easements~~ AN ORDER OF ABANDONMENT
11 SHALL NOT BE MADE UNDER THIS SECTION OR MONEY DISBURSED UNDER
12 SECTION 392 UNLESS ALL DEBTS OF THE DRAIN ARE SATISFIED. THE
13 COMMISSIONER OR DRAINAGE BOARD MAY LEVY A SPECIAL ASSESSMENT TO
14 SATISFY ANY SUCH DEBT, INCLUDING REIMBURSEMENT TO THE DRAIN
15 REVOLVING FUND, BEFORE AN ORDER IS ENTERED OR DISBURSEMENTS ARE
16 MADE. SUBJECT TO SUBSECTION (4), EASEMENTS or rights-of-way for
17 the drain or part thereof abandoned and vacated or easements or
18 portions thereof no longer necessary for drainage purposes shall
19 be conveyed or released by the commissioner or drainage board on
20 behalf of the drainage district. ~~If it be contemplated to con-~~
21 ~~struct a new drain or part thereof on or near the line of an~~
22 ~~existing drain or part thereof this may be accomplished without~~
23 ~~abandonment and vacation of the~~

24 (4) THE existing drain or part thereof ~~and the~~ NEED NOT BE
25 ABANDONED OR VACATED IF IT IS ANTICIPATED THAT A DRAIN OR PART
26 THEREOF WILL BE CONSTRUCTED OR RELOCATED ON OR NEAR THE LINE OF
27 THE EXISTING DRAIN. THE easements or rights-of-way of the

1 existing drain or part thereof may be used for this purpose. →
2 ~~Provided, however, That~~ HOWEVER, if the contemplated project
3 materially damages the property owner beyond the existing ease-
4 ment, or if it materially burdens the existing easement, then the
5 commissioner or drainage board shall secure an additional ease-
6 ment for the contemplated project. ~~It shall not be necessary to~~
7 ~~abandon and vacate an~~ AN existing drain or part thereof made
8 unnecessary by a new drain or part thereof NEED NOT BE ABANDONED
9 OR VACATED until the new drain is constructed and ready for
10 service.

11 Sec. 392. (1) ~~Whenever any~~ IF A drain ~~shall have been~~
12 IS declared vacated and abandoned IN ITS ENTIRETY, as provided in
13 section 391, ~~it shall be the duty of~~ the DRAIN commissioner
14 ~~to~~ SHALL serve notice thereof forthwith upon the county trea-
15 surer of the county or counties in which the drainage district,
16 or any portion thereof, is situated. If there be any money cred-
17 ited to or belonging to the fund of such vacated and abandoned
18 drain, ~~it shall be the duty of~~ THE COMMISSIONER OR DRAINAGE
19 BOARD MAY IN ITS DISCRETION PREPARE A REVISED ROLL TO ALLOCATE A
20 PROPORTIONATE REFUND AMOUNT OF ANY SUCH FUND TO ALL THE LANDS
21 THAT WERE ASSESSED FOR THE COSTS OF THE VACATED AND ABANDONED
22 DRAIN. IF THE COMMISSIONER OR DRAINAGE BOARD PREPARES SUCH A
23 REVISED ROLL, the county treasurer or treasurers ~~to transfer and~~
24 ~~pay over the same~~ SHALL PAY THE REFUND AMOUNT to the treasurer
25 or treasurers of the township or townships in which the drain was
26 located or in which assessments for benefits to be received from

1 such drain have been assessed and collected. ~~Provided, That~~
 2 ~~in all cases where~~

3 (2) IF the amount of ~~such~~ THE money ~~belonging to~~ IN the
 4 drain fund of ~~such~~ THE drain ~~, in the hands of the county~~
 5 ~~treasurer, shall be~~ IS insufficient to permit the refunding and
 6 paying over to such township treasurers all of the ~~moneys~~ MONEY
 7 assessed and collected in such townships, the county treasurer
 8 shall prorate the amounts so paid, ~~and each~~ LESS ALL COSTS
 9 ASSOCIATED WITH THE ABANDONMENT OF THE DRAIN. EACH township
 10 treasurer ~~shall be~~ IS entitled to receive such proportion of
 11 the ~~moneys~~ MONEY remaining in the fund of the vacated or aban-
 12 doned drain as the total amount of the assessments levied and
 13 collected in his OR HER township ~~and becoming a part of such~~
 14 FOR THE drain fund ~~shall~~ bear to all of the ~~moneys~~ MONEY
 15 assessed and collected and making up ~~such~~ THE fund. ~~In case~~
 16 IF it is necessary to prorate in ~~the~~ THIS manner, ~~provided,~~
 17 the county treasurer shall furnish to each township treasurer a
 18 statement showing the amount of money in the fund ~~at the time~~
 19 ~~such~~ WHEN THE drain was declared vacated and abandoned, and the
 20 various amounts assessed and collected for ~~such~~ THE DRAIN fund
 21 from the different townships entitled to share in the disburse-
 22 ment thereof.

23 Sec. 393. Upon receiving such money, and the accompanying
 24 statement, if required to be furnished hereby, the township trea-
 25 surer shall give his OR HER receipt therefor to the county
 26 treasurer. ~~He~~ THE TOWNSHIP TREASURER shall also serve notice
 27 upon each person, firm or corporation who, as shown by the

1 records of his OR HER office, shall have paid a special ~~tax~~
2 ASSESSMENT for benefits received or to be received from the con-
3 struction of such drain, that ~~such~~ THE drain has been declared
4 vacated and abandoned and that the payment ~~as aforesaid~~ has
5 been made to ~~him~~ THE TOWNSHIP TREASURER by the county
6 treasurer. Similar notice shall also be served upon the township
7 board and shall be published for 2 successive weeks in ~~some~~ A
8 newspaper published and circulating in ~~said~~ THE county.
9 ~~Thereupon, every~~ UPON DEMAND, THE TOWNSHIP TREASURER SHALL
10 REIMBURSE such person, firm, or corporation ~~shall be entitled to~~
11 ~~demand and receive from said township treasurer~~ FOR the amount
12 of the special assessment that ~~such~~ THE person, firm, or corpo-
13 ration ~~may have so~~ paid. The amount of the special ~~tax~~
14 ASSESSMENT for the construction of ~~such~~ THE drain that may have
15 been assessed and collected from the township at large shall be
16 credited to and paid into the contingency fund in the township
17 treasury. ~~∴ Provided, however, That~~ HOWEVER, if the amount of
18 money paid over to the township treasurer by the county treasurer
19 ~~in the manner aforesaid~~ is less than the aggregate amount of
20 special assessments levied and collected in such township for the
21 construction of such drain and the ~~tax~~ ASSESSMENT levied and
22 collected upon and from the township at large, then the township
23 treasurer shall prorate ~~the payments~~ to each such person, firm,
24 or corporation and the amount to be paid into the general fund in
25 the township treasury ~~∴ and each such person, firm or corpora-~~
26 ~~tion and the contingency fund in the township treasury shall be~~
27 ~~entitled to receive~~ such proportion of the amount of the

1 ~~special~~ assessment ~~or tax~~ paid thereby as the amount of money
2 paid to the township treasurer by the county treasurer ~~shall~~
3 ~~bear~~ BEARS to the total amount of special assessments and taxes
4 levied and collected in said township and paid into the fund for
5 the construction of said drain.

6 Sec. 395. (1) ~~The county drain commissioner may relinquish~~
7 ~~jurisdiction and control to a township, city or village of any~~
8 ~~county drainage district upon which there is no outstanding~~
9 ~~indebtedness or contract liability and which is wholly located~~
10 ~~within the boundaries of a township, city or village, and there-~~
11 ~~after the county drain commissioner shall be relieved of, and the~~
12 ~~township, city or village shall assume, the maintenance, juris-~~
13 ~~diction, control and operation thereof and its future operation~~
14 ~~shall be financed in the same manner as is provided for special~~
15 ~~assessment districts within such township, city or village:~~
16 ~~Provided, That such proceeding shall have first been approved by~~
17 ~~a majority of the members elect of the county board of supervi-~~
18 ~~sors and by the resolution of the governing body of the township,~~
19 ~~city or village in which such drain is located. Any money which~~
20 ~~shall be in the drain fund of any such drainage district at the~~
21 ~~time jurisdiction over it is transferred as provided in this sec-~~
22 ~~tion shall be distributed in the same manner as is provided in~~
23 ~~sections 391 to 394, inclusive, of this act in the case of aban-~~
24 ~~doned or vacated drains.~~ THE COMMISSIONER, FOR A COUNTY DRAIN,
25 OR THE DRAINAGE BOARD, FOR AN INTERCOUNTY DRAIN, MAY RELINQUISH
26 JURISDICTION OVER ALL OR PART OF A DRAIN TO A COUNTY, TOWNSHIP,
27 CITY, OR VILLAGE IF ALL OF THE FOLLOWING REQUIREMENTS ARE MET:

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1 (A) THE COUNTY, TOWNSHIP, CITY, OR VILLAGE REQUESTS OR
2 CONSENTS TO THE RELINQUISHMENT BY RESOLUTION OF ITS GOVERNING
3 BODY. IF THE RELINQUISHMENT IS TO A COUNTY, THE RESOLUTION OF
4 THE COUNTY BOARD OF COMMISSIONERS SHALL SPECIFY THE COUNTY
5 AGENCY, SUCH AS THE BOARD OF PUBLIC WORKS, COMMISSIONER, BOARD OF
6 COUNTY ROAD COMMISSIONERS, OR PARKS AND RECREATION COMMISSION,
7 THAT WILL EXERCISE JURISDICTION OVER THE DRAIN OR PART OF THE
8 DRAIN.

9 (B) IF THE RELINQUISHMENT IS TO A TOWNSHIP, CITY, OR VIL-
10 LAGE, THE RELINQUISHMENT IS APPROVED BY RESOLUTION OF A MAJORITY
11 OF THE MEMBERS OF THE COUNTY BOARD OF COMMISSIONERS.

12 (C) THE DRAIN OR PART OF THE DRAIN IS LOCATED WHOLLY WITHIN
13 THE BOUNDARIES OF THE COUNTY, TOWNSHIP, CITY, OR VILLAGE TO WHICH
14 IT IS TO BE RELINQUISHED.

15 (D) THE DRAINAGE DISTRICT HAS NO OUTSTANDING INDEBTEDNESS OR
16 CONTRACT LIABILITY. INDEBTEDNESS OR CONTRACT LIABILITY THAT WILL
17 BE PAID IN FULL AT THE TIME OF THE RELINQUISHMENT IS NOT CONSID-
18 ERED TO BE OUTSTANDING FOR THE PURPOSES OF THIS SUBDIVISION.

19 (2) UPON RELINQUISHMENT OF JURISDICTION OVER THE DRAIN OR
20 PART OF THE DRAIN, THE COMMISSIONER OR DRAINAGE BOARD IS RELIEVED
21 OF, AND THE COUNTY, TOWNSHIP, CITY, OR VILLAGE SHALL ASSUME,
22 JURISDICTION OVER THE DRAIN OR PART OF THE DRAIN, INCLUDING
23 RESPONSIBILITY FOR THE MAINTENANCE, CONTROL, AND OPERATION OF THE
24 DRAIN OR PART OF THE DRAIN. EASEMENTS AND RIGHTS OF WAY FOR THE
25 DRAIN OR PART OF THE DRAIN ARE TRANSFERRED TO THE COUNTY, TOWN-
26 SHIP, CITY, OR VILLAGE TO WHICH THE DRAIN OR PART OF THE DRAIN IS

1 RELINQUISHED. IF JURISDICTION OVER THE ENTIRE DRAIN IS
2 RELINQUISHED, THE DRAINAGE DISTRICT IS DISSOLVED.

3 (3) ANY MONEY IN THE DRAIN FUND SHALL BE USED TO PAY ANY
4 INDEBTEDNESS OR CONTRACT LIABILITY OF THE DRAINAGE DISTRICT. IF
5 JURISDICTION OVER THE ENTIRE DRAIN IS RELINQUISHED, THE BALANCE
6 SHALL BE TURNED OVER TO THE COUNTY, TOWNSHIP, CITY, OR VILLAGE
7 ASSUMING JURISDICTION. IF JURISDICTION OVER PART OF THE DRAIN IS
8 BEING RELINQUISHED, THERE SHALL BE TURNED OVER TO THE COUNTY,
9 TOWNSHIP, CITY, OR VILLAGE ASSUMING JURISDICTION THAT PORTION OF
10 THE BALANCE EQUAL TO THE RATIO OF THE COSTS OF OPERATION AND
11 MAINTENANCE OF THAT PART OF THE DRAIN TO THE COSTS OF OPERATION
12 AND MAINTENANCE OF THE ENTIRE DRAIN. THE BALANCE TURNED OVER TO
13 A COUNTY, TOWNSHIP, CITY, OR VILLAGE SHALL BE DEPOSITED IN A SEP-
14 ARATE FUND AND SHALL BE USED SOLELY FOR THE DRAIN OR PART OF THE
15 DRAIN OVER WHICH JURISDICTION IS ASSUMED.

16

CHAPTER 18 —

17 OBSTRUCTIONS IN DRAINS; SEWAGE; MISCELLANEOUS PROVISIONS —

18 Sec. 421. ~~Whenever any person shall obstruct any estab-~~
19 ~~lished drain, it shall be the duty of the commissioner to cause~~
20 ~~such obstruction to be removed. Any lessening of the area of a~~
21 ~~drain, which area shall be a cross section of the drain, shall be~~
22 ~~deemed to be an obstruction. The person causing such obstruction~~
23 ~~shall be liable for the expense attendant upon the removal there-~~
24 ~~of, together with the charges of the commissioner, and the same~~
25 ~~shall be a lien upon the lands of the party causing or permitting~~
26 ~~such obstruction, and all of the expense shall by the~~
27 ~~commissioner be reported to the board of supervisors, together~~

~~1 with the report of his doings in the premises, and by said board
2 ordered spread upon the land of the offending party, should the
3 same remain unpaid: Provided, That the offending party causing
4 such obstruction shall be given a notice in writing of at least 5
5 days to remove such obstruction.~~

6 (1) IF A PERSON CAUSES THE OBSTRUCTION OF A DRAIN, THE COM-
7 MISSIONER OR DRAINAGE BOARD SHALL PROCEED UNDER SUBSECTION (2),
8 (3), OR (4). AN OBSTRUCTION IS ANY LESSENING OF THE
9 CROSS-SECTION OF A DRAIN INCLUDING, BUT NOT LIMITED TO, THAT
10 RESULTING FROM ANY RAILROAD, BRIDGE, CABLE, PIPELINE, SEWER, CON-
11 DUIT, ROADWAY, CULVERT, OR OTHER STRUCTURE. OBSTRUCTION DOES NOT
12 INCLUDE CONSTRUCTION OF A STRUCTURE AS APPROVED UNDER SECTION 328
13 OR A FILTER STRIP.

14 (2) BY FIRST-CLASS MAIL OR PERSONAL SERVICE, THE COMMIS-
15 SIONER OR DRAINAGE BOARD SHALL GIVE THE PERSON CAUSING THE
16 OBSTRUCTION A WRITTEN NOTICE TO REMOVE OR MODIFY THE
17 OBSTRUCTION. BEGINNING 21 DAYS AFTER THE NOTICE IS DELIVERED TO
18 THE PERSON, IF THE PERSON HAS NOT SO REMOVED OR MODIFIED THE
19 OBSTRUCTION OR MADE ARRANGEMENTS SATISFACTORY TO THE COMMISSIONER
20 OR DRAINAGE BOARD FOR REMOVAL OR MODIFICATION OF THE OBSTRUCTION,
21 THE COMMISSIONER OR DRAINAGE BOARD MAY CAUSE THE OBSTRUCTION TO
22 BE REMOVED OR MODIFIED.

23 (3) THE COMMISSIONER OR DRAINAGE BOARD MAY BRING AN ACTION
24 IN THE CIRCUIT COURT OF THE COUNTY IN WHICH THE OBSTRUCTION IS
25 LOCATED TO COMPEL THE PERSON TO REMOVE OR MODIFY THE
26 OBSTRUCTION.

1 (4) IF, IN THE OPINION OF THE COMMISSIONER OR DRAINAGE
2 BOARD, THE OBSTRUCTION CREATES AN EMERGENCY CONDITION THAT
3 ENDANGERS THE PUBLIC HEALTH, SAFETY, CONVENIENCE, OR WELFARE OR
4 CROPS OR OTHER PROPERTY, THE COMMISSIONER OR DRAINAGE BOARD,
5 AFTER GIVING REASONABLE NOTICE TO THE PERSON CAUSING THE OBSTRUC-
6 TION, MAY REMOVE OR MODIFY THE OBSTRUCTION. THE NOTICE SHALL
7 SPECIFY THE REASONS FOR THE ACTION.

8 (5) THE PERSON CAUSING THE OBSTRUCTION IS LIABLE TO THE COM-
9 MISSIONER OR DRAINAGE BOARD FOR THE EXPENSE OF REMOVAL OR MODIFI-
10 CATION OF THE OBSTRUCTION UNDER SUBSECTION (2) OR (4). IF THE
11 PERSON DOES NOT PAY THE COMMISSIONER OR DRAINAGE BOARD THE FULL
12 AMOUNT OF THE EXPENSE WITHIN 30 DAYS AFTER BEING BILLED FOR THE
13 AMOUNT, THE COMMISSIONER OR DRAINAGE BOARD SHALL REPORT THE
14 UNPAID PORTION OF THE EXPENSE TO THE COUNTY BOARD OF COMMISSION-
15 ERS, TOGETHER WITH A REPORT OF THE WORK PERFORMED. THE COUNTY
16 BOARD OF COMMISSIONERS MAY CERTIFY THE UNPAID AMOUNT OF THE
17 EXPENSE TO THE PROPER TAX COLLECTING OFFICER TO BE ENTERED IN A
18 SEPARATE COLUMN ON THE NEXT TAX ROLL AGAINST THOSE PARCELS OF
19 LAND OF THE PERSON CAUSING OR PERMITTING THE OBSTRUCTION THAT ARE
20 LOCATED IN WHOLE OR PART WITHIN THE DRAINAGE DISTRICT OR ARE
21 TRAVERSED BY THE DRAIN. IF THE COUNTY BOARD OF COMMISSIONERS SO
22 CERTIFIES THE UNPAID AMOUNT OF THE EXPENSE, ALL OF THE FOLLOWING
23 APPLY:

24 (A) THE UNPAID AMOUNT SHALL ACCRUE SIMPLE INTEREST AT THE
25 SAME RATE AS CHARGED BY THE DEPARTMENT OF TREASURY ON DELINQUENT
26 STATE TAXES.

1 (B) THERE IS A LIEN UPON THOSE PARCELS FOR THE TOTAL UNPAID
2 AMOUNT OF THE EXPENSE.

3 (C) THE TOTAL UNPAID AMOUNT OF THE EXPENSE MAY BE COLLECTED
4 IN THE SAME MANNER AS AD VALOREM PROPERTY TAXES UNDER THE GENERAL
5 PROPERTY TAX ACT, 1893 PA 206, MCL 211.1 TO 211.157. HOWEVER, A
6 PARCEL IS NOT SUBJECT TO SALE UNDER SECTION 60 OF THE GENERAL
7 PROPERTY TAX ACT, 1893 PA 206, MCL 211.60, FOR NONPAYMENT OF THE
8 EXPENSE UNLESS THE PARCEL IS ALSO SUBJECT TO SALE FOR DELINQUENT
9 PROPERTY TAXES.

10 (D) UPON PAYMENT OF THE TOTAL AMOUNT DUE, THE LIEN IS DIS-
11 CHARGED AND, IF THE COMMISSIONER OR DRAINAGE BOARD HAS RECORDED
12 THE LIEN, THE COMMISSIONER OR DRAINAGE BOARD SHALL FILE A CERTIF-
13 ICATE OF DISCHARGE OF THE LIEN.

14 (6) THE REMOVAL OR MODIFICATION OF THE OBSTRUCTION SHALL NOT
15 BE CONSIDERED AN ELEMENT OF DAMAGES IN PROCEEDINGS TO MAINTAIN OR
16 IMPROVE A DRAIN.

17 (7) This ~~provision as to obstruction of any drain shall~~
18 SECTION DOES not apply ~~where~~ IF the obstruction was caused by
19 natural causes. ~~, but~~ HOWEVER, the owner of ~~the stock who~~
20 shall permit his horses, cattle, pigs and other stock LIVESTOCK
21 PERMITTED to obstruct any drain ~~by tramping in it shall be~~
22 ~~deemed~~ IS CONSIDERED to be the party causing such obstruction.
23 ~~Nothing contained in this section shall in any way impede or bar~~
24 ~~the right of any person to make criminal complaint under any~~
25 ~~existing law for any obstruction of a drain.~~

26 (8) THIS SECTION DOES NOT IMPEDE OR BAR THE RIGHT OF THE
27 COMMISSIONER, DRAINAGE BOARD, OR ANY OTHER PERSON TO SEEK RELIEF

1 UNDER ANY OTHER PERTINENT PROVISIONS OF THIS ACT INCLUDING BUT
2 NOT LIMITED TO CIVIL OR CRIMINAL REMEDIES.

3 Sec. 422. (1) ~~Railroad or railway companies, telephone,~~
4 ~~telegraph, or pipeline companies and other utilities shall not~~
5 ~~obstruct established drains, nor shall they lessen the area of~~
6 ~~any drain through their track bed or right of way. The area~~
7 ~~herein referred to is a cross section of the drain. In case any~~
8 ~~such company or utility, without legal right, has constructed or~~
9 ~~shall construct any bridge, culvert, pipeline or conduit over any~~
10 ~~established drain whereby the area aforesaid is decreased, the~~
11 ~~removal of such bridge, culvert, pipeline or conduit shall not be~~
12 ~~deemed an element of damage in proceedings to deepen and widen~~
13 ~~such drain through such track bed or right of way. In case it is~~
14 ~~proposed to construct a pipeline, sewer or conduit within, over~~
15 ~~or across any county, such construction shall be of a nature and~~
16 ~~laid at such a depth at the point of crossing of any established~~
17 ~~public drain as will not interfere with said established public~~
18 ~~drain. The consent of the county drain commissioner or board of~~
19 ~~public works of any municipality shall be obtained before the~~
20 ~~work of such construction is commenced and such drain commis-~~
21 ~~sioner is hereby authorized to grant such consent upon such terms~~
22 ~~and conditions as may be reasonable and proper under the circum-~~
23 ~~stances then existing. In case any railroad or railway company,~~
24 ~~telephone, telegraph or pipeline company or other utilities shall~~
25 ~~obstruct any established drain, or has constructed or shall con-~~
26 ~~struct any bridge, culvert, pipeline or conduit, sewer or other~~
27 ~~structure over, under or through any established drain, leaving~~

~~1 less capacity to the drain than such drain is legally entitled
2 to, in accordance with the rights for such drain as established
3 by proper drain proceedings or as established by other legal
4 methods prior to the date of construction of any such obstruc-
5 tion, the county drain commissioner or the board of public works,
6 as the case may be, may, by mandamus proceedings in the circuit
7 court of the county in which such obstruction shall occur, compel
8 the removal of such obstruction. If necessary, issues of fact
9 may be framed in such proceedings. In case the court shall find
10 such drain to have been obstructed, it shall issue a preemptory
11 mandamus compelling such company to remove such obstruction. The
12 court may award costs in its discretion as in other mandamus
13 proceedings. The practice herein shall be the same as in other
14 motions for mandamus. THE COMMISSIONER OR DRAINAGE BOARD,
15 INCLUDING AN AGENT OR EMPLOYEE OF THE COMMISSIONER OR DRAINAGE
16 BOARD, MAY ENTER UPON PROPERTY NOT WITHIN A DRAINAGE DISTRICT TO
17 REMOVE OR MODIFY AN OBSTRUCTION IN A NATURAL WATERCOURSE THAT
18 SERVES AS AN OUTLET FOR A COUNTY OR INTERCOUNTY DRAIN BUT THAT IS
19 NOT ITSELF A DRAIN. THE ENTRY SHALL BE MADE PURSUANT TO A WRIT-
20 TEN AGREEMENT WITH THE LANDOWNER. THE AGREEMENT SHALL SPECIFY
21 THAT THE COMMISSIONER OR DRAINAGE BOARD SHALL RESTORE THE PROP-
22 ERTY TO SUBSTANTIALLY THE SAME CONDITION AS BEFORE THE ENTRY OR
23 SHALL SPECIFY THAT THE COMMISSIONER OR DRAINAGE BOARD SHALL MAKE
24 RESTITUTION FOR ACTUAL DAMAGE RESULTING FROM THE ENTRY. THE
25 ENTRY SHALL BE MADE UPON REASONABLE NOTICE TO THE LANDOWNER AND
26 AT A REASONABLE HOUR. THE LANDOWNER OR HIS OR HER REPRESENTATIVE
27 SHALL BE GIVEN A REASONABLE OPPORTUNITY TO ACCOMPANY THE~~

1 COMMISSIONER OR DRAINAGE BOARD OR THEIR AGENTS OR EMPLOYEES
2 DURING THE ENTRY UPON THE PROPERTY.

3 (2) IF ENTRY UNDER SUBSECTION (1) HAS BEEN DENIED, THE COM-
4 MISSIONER OR DRAINAGE BOARD MAY COMMENCE A CIVIL ACTION IN THE
5 CIRCUIT COURT IN THE COUNTY IN WHICH THE PROPERTY OR ANY PART OF
6 THE PROPERTY IS LOCATED FOR AN ORDER PERMITTING ENTRY. THE COM-
7 PLAINT SHALL STATE THE FACTS MAKING THE ENTRY NECESSARY, THE DATE
8 ON WHICH ENTRY IS SOUGHT, AND THE DURATION AND THE METHOD PRO-
9 POSED FOR PROTECTING THE DEFENDANT AGAINST DAMAGE. THE COURT MAY
10 GRANT A LIMITED LICENSE FOR ENTRY UPON SUCH TERMS AS JUSTICE AND
11 EQUITY REQUIRE, INCLUDING THE FOLLOWING:

12 (A) A DESCRIPTION OF THE PURPOSE OF THE ENTRY.

13 (B) THE SCOPE OF ACTIVITIES THAT ARE PERMITTED.

14 (C) THE TERMS AND CONDITIONS OF THE ENTRY WITH RESPECT TO
15 THE TIME, PLACE, AND MANNER OF THE ENTRY.

16 (3) AN ENTRY MADE PURSUANT TO THIS SECTION SHALL BE MADE IN
17 A MANNER THAT MINIMIZES ANY DAMAGE TO THE PROPERTY AND ANY HARD-
18 SHIP, BURDEN, OR DAMAGE TO A PERSON IN LAWFUL POSSESSION OF THE
19 PROPERTY.

20 (4) THE REMOVAL OR MODIFICATION OF AN OBSTRUCTION UNDER THIS
21 SECTION IS SUBJECT TO THE EXPENDITURE LIMITS AND OTHER PROCEDURES
22 FOR NECESSARY MAINTENANCE OR REPAIR OF A DRAIN UNDER CHAPTER 8.
23 IN ADDITION, THE COMMISSIONER OR DRAINAGE BOARD SHALL OBTAIN ANY
24 PERMITS FOR THE REMOVAL OR MODIFICATION REQUIRED UNDER STATE OR
25 FEDERAL LAW.

26 Sec. 423. (1) A person shall not continue to discharge or
27 permit to be discharged into any county drain or intercounty

1 drain of ~~the~~ THIS state FROM A POINT SOURCE OR NONPOINT SOURCE
2 any sewage, ~~or~~ waste, OR OTHER matter capable of producing in
3 the drain detrimental deposits, objectionable odor nuisance,
4 injury to drainage conduits or OTHER structures, or capable of
5 producing such pollution of the waters of the state receiving the
6 flow from the ~~drains~~ DRAIN as to injure livestock, destroy fish
7 life, DEGRADE WATER QUALITY, or be injurious to public health.
8 This section does not prohibit the conveyance of sewage or other
9 waste through drains or sewers that will not produce these inju-
10 ries and that comply with section 3112 ~~of part 31 (water~~
11 ~~resources protection)~~ of the natural resources and environmental
12 protection act, ~~Act No. 451 of the Public Acts of 1994, being~~
13 ~~section 324.3112 of the Michigan Compiled Laws 1994 PA 451,~~
14 MCL 324.3112.

15 (2) Disposal plants, filtration beds, and other mechanical
16 devices to properly purify the flow of ~~any~~ A drain may be con-
17 structed as a part of ~~any established~~ THE drain. ~~, and the~~
18 THE cost of construction OF SUCH PURIFICATION FACILITIES shall be
19 paid for in the same manner as provided for in this act for other
20 drainage costs. ~~Plants, beds, or devices~~ THE PURIFICATION
21 FACILITIES may be described in the petition ~~for the location,~~
22 ~~establishment and construction of drains or in the petition for~~
23 ~~the cleaning, widening, deepening, straightening, or extending of~~
24 ~~drains, or in the application for the laying out of a drainage~~
25 ~~district~~ TO ESTABLISH A DRAINAGE DISTRICT AND ESTABLISH AND CON-
26 STRUCT A DRAIN OR TO MAINTAIN OR IMPROVE A DRAIN. Petitions for
27 the construction of ~~plants, beds, and devices~~ THE PURIFICATION

1 FACILITIES for use on any established drain may be filed by the
2 same persons and shall be received and all proceedings on the
3 petitions SHALL BE HELD in the same manner as ~~other petitions~~
4 for any drainage construction under this act.

5 (3) If the department of environmental quality determines
6 that sewage or wastes carried by any county or intercounty drain
7 constitutes unlawful discharge as prescribed by section 3109 or
8 3112 ~~of part 31 of Act No. 451 of the Public Acts of 1994,~~
9 ~~being sections 324.3109 and 324.3112 of the Michigan Compiled~~
10 ~~Laws~~ THE NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT,
11 1994 PA 451, MCL 324.3109 AND 324.3112, that 1 or more users of
12 the drain are responsible for the discharge of sewage or other
13 wastes into the drain, and that the cleaning out of the drain or
14 the construction of disposal plants, filtration beds, or other
15 mechanical devices to purify the flow of the drain is necessary,
16 the department of environmental quality may issue to the ~~drain~~
17 commissioner, FOR A COUNTY DRAIN, OR DRAINAGE BOARD, FOR AN
18 INTERCOUNTY DRAIN, an order of determination identifying such
19 users and pollutants, under section 3112 of ~~Act No. 451 of the~~
20 ~~Public Acts of 1994, being section 324.3112 of the Michigan~~
21 ~~Compiled Laws~~ THE NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION
22 ACT, 1994 PA 451, MCL 324.3112. The order of determination con-
23 stitutes a petition ~~calling~~ for the construction of ~~disposal~~
24 PURIFICATION facilities or other appropriate measures by which
25 the unlawful discharge may be abated or purified. The order of
26 determination serving as a petition is in lieu of the
27 ~~determination~~ ORDER of necessity ~~by a drainage board pursuant~~

1 ~~to chapter 20 or 21 or section 122 or 192 or a determination of~~
2 ~~necessity by a board of determination pursuant to section 72 or~~
3 ~~191, whichever is applicable~~ UNDER CHAPTER 3. A copy of the
4 findings of the department shall be attached to the order of
5 determination. ~~which~~ THE ORDER OF DETERMINATION shall require
6 ~~no other~~ THE signature ~~than that~~ of the director of the
7 department of environmental quality ONLY.

8 (4) Upon receipt of the order of determination, the ~~drain~~
9 commissioner or the drainage board shall proceed as provided in
10 this act to ~~locate, establish,~~ ESTABLISH and construct a
11 drain. If the responsible users of the drain are determined to
12 be ~~public corporations~~ MUNICIPALITIES in the drainage district,
13 the ~~drain~~ commissioner or the drainage board shall proceed as
14 provided in ~~chapters 20 and 21, as may be appropriate~~
15 CHAPTER 3, using the order of determination as the final order of
16 determination of the drainage board. If the responsible users
17 are determined to be private persons, the ~~drain~~ commissioner OR
18 DRAINAGE BOARD shall proceed as provided in ~~chapters 8 and 9~~
19 CHAPTER 8, using the order of determination as the first order of
20 determination.

21 (5) ~~(4)~~ Plans and specifications for the construction OF
22 PURIFICATION FACILITIES as part of a drain ~~of any disposal~~
23 ~~plant, filtration bed, or other mechanical device to properly~~
24 ~~purify the flow of the drain~~ shall be prepared by the ~~drain~~
25 commissioner or the drainage board. Contracts for construction
26 shall be let in the manner provided in this act. ~~To meet~~ THE
27 COMMISSIONER OR DRAINAGE BOARD SHALL APPORTION the cost of any

1 preliminary engineering studies for the construction of
 2 ~~abatement or~~ purification facilities ~~, the drain commissioner~~
 3 ~~or the drainage board shall apportion the cost among the several~~
 4 ~~parcels of land, highways, and municipalities benefited thereby~~
 5 ~~in the same manner as provided in chapter 7 or against the public~~
 6 ~~corporations affected by the order of determination in the same~~
 7 ~~manner as provided in chapters 20 and 21~~ IN THE SAME MANNER AS
 8 PROVIDED IN CHAPTER 7, AS APPLICABLE. The costs and charges for
 9 maintenance shall be apportioned and assessed each year. If the
 10 apportionment is the same as the last recorded apportionment, a
 11 day of review or a hearing on apportionments is not necessary,
 12 but if the apportionment is changed, notice of a day of review or
 13 a hearing on apportionments shall be given to each person whose
 14 percentage is raised.

15 (6) ~~(5)~~ Land may be acquired as a site for the construc-
 16 ~~tion of such plants, beds, and devices, and releases of land may~~
 17 ~~be obtained in the same manner as provided in this act for other~~
 18 ~~lands acquired for right of way~~ PURIFICATION FACILITIES UNDER
 19 SECTION 7.

20 (7) ~~(6)~~ A person shall not connect ~~sewage or other waste~~
 21 to a county or intercounty drain, OR TO A DRAIN UNDER THE JURIS-
 22 DICTION OF THE STATE TRANSPORTATION DEPARTMENT OR BOARD OF COUNTY
 23 ROAD COMMISSIONERS THAT CONNECTS TO A COUNTY OR INTERCOUNTY
 24 DRAIN, except with the written approval of the appropriate com-
 25 missioner or the drainage board ~~indorsed~~ ENDORSED upon a writ-
 26 ten application for such service and the payment of a service
 27 fee. ~~of~~ THE SERVICE FEE SHALL not ~~to~~ exceed \$50.00 for each

1 connection. ~~to a covered drain.~~ The application shall include
2 information showing that all other local, state, and federal
3 approvals related to the sewage or waste have been obtained.

4 (8) ~~(7)~~ The fee provided for in subsection ~~(6)~~ (7) shall
5 be set and collected by the ~~drain~~ commissioner, as approved by
6 the county board of commissioners or the drainage board, and
7 deposited with the county treasurer, to be credited to the drain
8 fund set up for the maintenance or construction of the drain.
9 The commissioner or the drainage board shall keep a record of
10 applications made and the action on the applications. The com-
11 missioner or the drainage board may reject applications for or
12 require such modification in requested applications for ~~sewer~~
13 connections to county drains as necessary to attain the objec-
14 tives set forth in this section.

15 (9) ~~(8)~~ Subject to the review and approval of the depart-
16 ment of environmental quality, the ~~drain~~ commissioner or drain-
17 age board may study the ~~requirements of persons~~ NEED for flood
18 control or ~~drainage~~ POLLUTION CONTROL projects ~~including~~ FOR
19 THE PROTECTION OF THE PUBLIC HEALTH, SAFETY, AND WELFARE. SUCH
20 PROJECTS MAY INCLUDE sewage disposal systems, storm sewers, sani-
21 tary sewers, combined sanitary and storm sewers, sewage treatment
22 plants, ~~and all~~ OR other plants, works, instrumentalities, and
23 properties useful ~~in connection with~~ FOR the collection, treat-
24 ment, ~~and~~ OR disposal of sewage and industrial wastes or agri-
25 cultural wastes or run-off. ~~, to abate pollution or decrease the~~
26 ~~danger of flooding. The objective of such studies shall be that~~
27 ~~sewers, drains, and sewage disposal facilities are made available~~

1 ~~to persons situated within the territorial limits of any drainage~~
2 ~~district or proposed drainage district as necessary for the pro-~~
3 ~~tection of public health and the promotion of the general~~
4 ~~welfare.~~

5 (10) ~~-(9)-~~ The drainage board or ~~drain~~ commissioner may
6 cooperate, negotiate, and enter into contracts with ~~other gov-~~
7 ~~ernmental units and agencies or with any public or private corpo-~~
8 ~~ration including the United States of America, and to take such~~
9 ~~steps and perform such acts and execute such documents as may be~~
10 ~~necessary to take advantage of any act of the congress of the~~
11 ~~United States which may make available funds~~ A PRIVATE CORPORA-
12 TION, A MUNICIPALITY, THIS STATE, THE FEDERAL GOVERNMENT, OR AN
13 AGENCY OF ANY OF THESE MAY OBTAIN FUNDS AVAILABLE UNDER FEDERAL
14 LAW for any of the purposes described in this section.

15 (11) ~~-(10)-~~ Failure to comply with any of the provisions of
16 this section subjects the offender to the penalties described in
17 section 602. However, for each offense, a person who violates
18 subsection ~~-(6)-~~ (7) is guilty of a misdemeanor punishable by a
19 fine of not more than \$25,000.00 or imprisonment for not more
20 than ~~-90-~~ 93 days, or both. In addition, the person may be
21 required to pay the costs of prosecution and the costs of any
22 emergency abatement measures taken to protect public health or
23 the environment. Payment of a fine or costs under this subsec-
24 tion does not relieve a person of liability for damage to natural
25 resources or for response activity costs under the natural
26 resources and environmental protection act, ~~Act No. 451 of the~~

1 ~~Public Acts of 1994, being sections 324.101 to 324.90106 of the~~
2 ~~Michigan Compiled Laws 1994 PA 451, MCL 324.101 TO 324.90106.~~

3 ~~(11) As used in this section, "person" means an individual,~~
4 ~~partnership, public or private corporation, association, govern-~~
5 ~~mental entity, or other legal entity.~~

6 (12) IF A COMMISSIONER HAS REASON TO BELIEVE THAT A PERSON
7 IS VIOLATING SUBSECTION (7) WITHIN THE COMMISSIONER'S COUNTY, THE
8 COMMISSIONER SHALL PROMPTLY REPORT THE VIOLATION TO THE DEPART-
9 MENT OF ENVIRONMENTAL QUALITY, THE COUNTY HEALTH DEPARTMENT, AND
10 THE COUNTY PROSECUTING ATTORNEY.

11 Sec. 425. (1) ~~A landowner in the~~ ONE OR MORE LANDOWNERS
12 IN A drainage district whose land requires additional drainage
13 may ~~petition~~ MAKE A WRITTEN REQUEST TO the DRAIN commissioner
14 OR DRAINAGE BOARD for permission to construct an open or closed
15 drain, or a combination thereof, to a regularly established
16 drain, and permission shall be granted by the commissioner or
17 drainage board ~~when~~ IF, in ~~their opinion~~ THE OPINION OF THE
18 COMMISSIONER OR THE DRAINAGE BOARD, ~~the nature of~~ the ground to
19 be crossed ~~will admit thereof~~ IS SUITABLE FOR A DRAIN and the
20 surface of the land can be restored. ~~and for~~ FOR that purpose
21 the drain may traverse the lands of other ~~freeholders~~
22 LANDOWNERS in the district. Before permission may be granted by
23 the DRAIN commissioner OR DRAINAGE BOARD, consent in writing by
24 the owner or owners of the lands to be traversed by the proposed
25 drain shall be obtained. THE LANDOWNER OR LANDOWNERS GRANTED
26 PERMISSION TO CONSTRUCT THE DRAIN SHALL OBTAIN ANY PERMITS
27 REQUIRED UNDER THE NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

1 ACT, 1994 PA 451, MCL 324.101 TO 324.90106, OR ANY OTHER STATE OR
2 FEDERAL LAW.

3 (2) If permission TO CONSTRUCT THE DRAIN ACROSS ADJOINING
4 PROPERTIES is refused by the owner or owners, ~~of the lands to be~~
5 ~~traversed by the proposed drain,~~ the drain may be established
6 ~~by following the provisions of this act governing the location,~~
7 ~~establishment, and construction of county or intercounty drainage~~
8 ~~districts and drains therein.~~ AS OTHERWISE PROVIDED IN THIS ACT,
9 SUBJECT TO BOTH OF THE FOLLOWING:

10 (A) The entire expense ~~thereof~~ TO DESIGN AND CONSTRUCT A
11 DRAIN UNDER THIS SECTION shall be borne by the ~~petitioner,~~ and
12 ~~the construction of an open or closed drain or combination~~
13 ~~thereof shall be done at a time and in a manner as the commis-~~
14 ~~sioner or drainage board shall prescribe. When drains are con-~~
15 ~~structed, the drain entrance shall be substantially protected~~
16 ~~from driftwood and debris. An application to lay out and desig-~~
17 ~~nate a drainage district or petition to locate, establish, and~~
18 ~~construct a drain under the foregoing provisions of this section~~
19 ~~shall only require the signature of the petitioning landowner or~~
20 ~~owners, other provisions of this act notwithstanding. If permis-~~
21 ~~sion is granted to tile the source of a drain, the commissioner~~
22 ~~shall further prescribe the amount and part of the drain to be~~
23 ~~tiled and the manner of tiling.~~ PETITIONERS.

24 (B) THE COMMISSIONER OR DRAINAGE BOARD SHALL PRESCRIBE THE
25 NATURE AND TYPE OF CONSTRUCTION OF THE DRAIN AND THE TIME AT
26 WHICH THE DRAIN SHALL BE CONSTRUCTED BY THE PETITIONERS.

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1 (3) NOT MORE THAN 56 DAYS AFTER THE COMMENCEMENT OF
2 CONSTRUCTION OF A DRAIN TO A REGULARLY ESTABLISHED DRAIN UNDER
3 SUBSECTION (1) OR (2), THE DRAIN COMMISSIONER OR DRAINAGE BOARD
4 SHALL CONDUCT A HEARING FOR REAPPORTIONMENT OF BENEFITS FOR THE
5 REGULARLY ESTABLISHED DRAIN AS IF A PETITION FOR REAPPORTIONMENT
6 HAD BEEN FILED UNDER SECTION 163. THE DRAIN COMMISSIONER OR
7 DRAINAGE BOARD SHALL REAPPORTION BENEFITS TAKING ACCOUNT OF THE
8 INCREASED FLOW TO THE REGULARLY ESTABLISHED DRAIN FROM THE DRAIN
9 CONSTRUCTED UNDER SUBSECTION (1), AMONG OTHER RELEVANT FACTORS.

10 (4) THE DRAIN COMMISSIONER OR DRAINAGE BOARD SHALL CHARGE A
11 PERSON WHO CONSTRUCTS A DRAIN UNDER SUBSECTION (1) OR (2) AN
12 ANNUAL MAINTENANCE FEE BASED ON THE INCREASED FLOW OF WATER TO
13 THE REGULARLY ESTABLISHED DRAIN. THE FEE SHALL BE DEPOSITED IN
14 THE DRAIN FUND OF THE DRAINAGE DISTRICT.

15 (5) A person through whose land an open drain has been
16 ~~established and~~ constructed UNDER THIS ACT may make a written
17 request to the ~~county drain~~ commissioner OR DRAINAGE BOARD to
18 be permitted, at ~~his own expense, to tile and cover with earth~~
19 ~~the whole or a part thereof that may traverse his land, and the~~
20 NO EXPENSE TO THE DISTRICT, TO ENCLOSE THAT PART OF THE DRAIN
21 THAT TRAVERSES HIS OR HER LAND. THE commissioner may grant the
22 request SUBJECT TO RECEIPT OF A NEW EASEMENT, but in doing so
23 ~~he~~ shall prescribe the size of ~~the~~ tile AND TYPE OF
24 CONSTRUCTION to be used. THE COMMISSIONER OR DRAINAGE BOARD MAY
25 REQUIRE A DEPOSIT OR BOND TO GUARANTEE CONSTRUCTION. A permit
26 shall not be issued to ~~tile or crock an established drain that~~
27 ENCLOSE ANY PORTION OF A COUNTY OR INTERCOUNTY DRAIN IF THE

1 ENCLOSURE will decrease the ~~area~~ DESIGN CAPACITY of the drain
2 as LAST established.

3 Sec. 429. ~~Subject~~ A COMMISSIONER, SUBJECT to the ~~consent~~
4 ~~and~~ approval of the ~~several boards of supervisors of this state~~
5 ~~and the~~ COUNTY BOARD OF COMMISSIONERS, OR THE DRAINAGE BOARD OF
6 AN INTERCOUNTY DRAINAGE DISTRICT, SUBJECT TO THE APPROVAL OF THE
7 COUNTY boards of ~~supervisors~~ COMMISSIONERS of the counties com-
8 prising THE intercounty drainage ~~districts, the several county~~
9 ~~drain commissioners and the drainage boards of intercounty drain-~~
10 ~~age districts are hereby authorized to grant unto~~ DISTRICT, MAY
11 GRANT TO the United States ~~of America~~ the right to use all the
12 easements and rights-of-way conveyed to ~~their respective drain-~~
13 ~~age districts~~ THE DRAINAGE DISTRICT or to any county or counties
14 lying wholly or in part in ~~such districts~~ THE DRAINAGE
15 DISTRICT, for the construction and maintenance of ~~any~~ A county
16 or intercounty drain by the United States in connection with any
17 flood control project undertaken by the United States, ~~acting~~
18 ~~through its war department or any other federal department or~~
19 ~~agency~~ INCLUDING ANY AGENCY OF THE UNITED STATES. ~~In such~~
20 ~~cases in which~~ IF the work is to be performed at the expense of
21 the United States, it ~~shall not be~~ IS NOT necessary for the
22 ~~drain~~ commissioner or drainage board to advertise for bids or
23 to let contracts for the construction or maintenance of ~~any~~
24 ~~such~~ THE flood control project.

25 Sec. 430. (1) ~~Whenever any~~ IF A county or intercounty
26 drain is used for the transportation of sanitary sewage, the
27 county or counties within whose boundaries the drainage district

1 lies may contract under ~~the provisions of Act No. 129 of the~~
2 ~~Public Acts of 1943, as amended, being sections 123.231 to~~
3 ~~123.235 of the Compiled Laws of 1948,~~ 1943 PA 129, MCL 123.231
4 TO 123.236, or any other applicable act, for the disposal of
5 sewage therefrom, including any storm water necessarily mixed
6 therewith. ~~In such case~~ IF SUCH A CONTRACT IS ENTERED INTO,
7 the ~~drain~~ commissioner or the drainage board may fix and col-
8 lect charges to cover the cost of the treatment and disposal of
9 sanitary sewage. ~~Such~~ THE charges shall be approved by the
10 majority vote of the members-elect of the COUNTY board of
11 ~~supervisors~~ COMMISSIONERS. The charges may be made to each
12 user of the services or may be made to ~~public corporations~~
13 MUNICIPALITIES. Contracts for periods not exceeding 50 years may
14 be made between the county and ~~public corporations~~
15 MUNICIPALITIES to be so served, in respect to sewage disposal
16 services, when approved by the governing bodies of the several
17 parties thereto.

18 (2) Charges for sewage disposal services furnished to ~~any~~
19 A premises shall be a lien ~~thereon~~ ON THE PREMISES from the
20 date ~~such~~ THE charges are due. ~~and any charges~~ CHARGES delin-
21 quent for 6 months or more shall be certified annually to the
22 proper tax assessing officer or agency who shall enter the ~~same~~
23 CHARGES upon the next tax roll against the premises to which
24 ~~such~~ THE services ~~shall have been rendered, and the~~ WERE
25 RENDERED. THE charges shall be collected and the lien shall be
26 enforced in the same manner as provided for the collection of
27 taxes assessed upon ~~such~~ THE roll and the enforcement of the

1 TAX lien. ~~therefor.~~ The time and manner of certification and
2 the other details in respect to the collection of ~~such~~ THE
3 charges and the enforcement of ~~such~~ THE lien shall be pre-
4 scribed by the governing body of the ~~public corporation~~
5 MUNICIPALITY in which the lands are located. The payment of
6 charges for sewage disposal services to any premises may be
7 enforced by discontinuing either the water service or the sewage
8 disposal service to ~~such~~ THE premises, or both.

9 (3) The charges for sewage disposal services may also
10 include the cost of the operation and maintenance of any physical
11 structures and any administrative expenses in connection with the
12 transportation, treatment, and disposal of sanitary sewage.

13 Sec. 431. (1) ~~The drain commissioner or drainage board may~~
14 ~~contract or make agreements with the federal government, includ-~~
15 ~~ing any agency thereof, whereby the federal government will pay~~
16 ~~the whole or any part of the cost of the project or will perform~~
17 ~~the whole or any part of the work connected therewith, which con-~~
18 ~~tract or agreement~~ THE COMMISSIONER OR DRAINAGE BOARD MAY CON-
19 TRACT WITH THE FEDERAL GOVERNMENT OR ANY OTHER PERSON WITH
20 RESPECT TO THE ESTABLISHMENT, CONSTRUCTION, OPERATION, IMPROVE-
21 MENT, MAINTENANCE, USE, OR SERVICES OF ANY DRAIN, OR THE PAYMENT
22 OF THE COST FOR ANY DRAIN. A CONTRACT OR AGREEMENT WITH THE FED-
23 ERAL GOVERNMENT may include any specific terms required by act of
24 congress or federal regulation, not in conflict with state law,
25 as a condition for participation on the part of the federal
26 government. ~~The drain commissioner or drainage board may~~
27 ~~contract or make agreements with any private corporation or with~~

1 ~~any public corporation, including any agency thereof, in respect~~
2 ~~to any matter connected with the construction, operation or main-~~
3 ~~tenance of any flood control or drainage project or combination~~
4 ~~thereof.~~ The contract or agreement may provide that any payments
5 made or work done by ~~the public corporation~~ A MUNICIPALITY
6 shall relieve it in whole or in part from assessment for the cost
7 of the project. ~~No construction~~

8 (2) CONSTRUCTION work shall NOT be undertaken by the ~~drain-~~
9 commissioner or drainage board until bids have been advertised
10 for and received for the performance of ~~such~~ THE work, but this
11 ~~provision shall~~ REQUIREMENT DOES not apply to work to be per-
12 formed solely by the federal government or a ~~public corporation~~
13 MUNICIPALITY at its expense.

14 (3) The ~~drain~~ commissioner or drainage board may ~~contract~~
15 ~~or make agreements with private and public corporations and with~~
16 ~~the federal government including any agency thereof~~ COOPERATE,
17 CONTRACT, OR MAKE AGREEMENTS WITH THE FEDERAL GOVERNMENT OR ANY
18 OTHER PERSON for the purpose of expanding any flood control or
19 drainage project or combination thereof to include the conserva-
20 tion and utilization of soil and water for recreation and other
21 beneficial purposes. The contracts or agreements shall provide
22 for an equitable sharing of the costs of the expanded flood con-
23 trol or drainage project or combination thereof and the cost
24 borne by a drainage district shall not be in excess of the amount
25 which can be attributed solely to drainage and flood control.
26 ~~The drain commissioner or drainage board, may acquire by gift or~~
27 ~~purchase the necessary lands, and rights of way for the purposes~~

~~1 of any expanded flood control or drainage project or combination~~
~~2 thereof. The drain commissioner or drainage board may acquire by~~
~~3 condemnation proceedings similar to those provided in chapter 4~~
~~4 and chapter 6 of this act, the necessary lands and rights of way~~
~~5 for any expanded flood control or drainage project or combination~~
~~6 thereof which shall be undertaken jointly with a public corpora-~~
~~7 tion or the federal government. The drain commissioner or~~
~~8 drainage board may pay for the costs of lands taken by~~
~~9 condemnation~~ ACQUIRING PROPERTY for an expanded flood control or
10 drainage project or combination thereof, undertaken jointly with
11 a ~~public corporation~~ MUNICIPALITY or the federal government,
12 but the ~~public corporation~~ MUNICIPALITY or federal government
13 shall promptly reimburse the drainage district for all costs of
14 acquisition in excess of those costs directly attributable to
15 drainage and flood control.

~~16 The term "public corporation" includes the state, counties,~~
~~17 cities, villages, townships, metropolitan districts and authori-~~
~~18 ties created by or pursuant to state statutes.~~

19 CHAPTER 23 —

20 ~~PENALTIES.~~ SANCTIONS

21 Sec. 601. ~~If any~~ A DRAIN commissioner WHO is interested
22 directly or indirectly in the profits of any contract, job, work
23 or services, other than official services, to be performed for
24 the drainage district ~~, he is deemed to be~~ IS guilty of a
25 misdemeanor. ~~, and the office of such commissioner shall be~~
26 ~~deemed vacant and the commissioner so convicted shall be~~
27 ~~incapable of again holding~~ UPON CONVICTION, HE OR SHE VACATES

1 OFFICE AND BECOMES INELIGIBLE TO AGAIN HOLD the office of
2 ~~county~~ drain commissioner.

3 Sec. 602. ~~If any person shall wilfully~~ A PERSON WHO
4 WILLFULLY or maliciously ~~remove any~~ REMOVES A section or grade
5 stake set along the line of ~~any drain, or obstruct or injure any~~
6 ~~drain, he shall be deemed~~ A DRAIN OR OBSTRUCTS OR DAMAGES A
7 DRAIN IS guilty of a misdemeanor, ~~and upon conviction thereof~~
8 ~~shall be punished~~ PUNISHABLE by a fine OF not ~~exceeding~~ MORE
9 THAN \$100.00 and ~~the~~ costs of prosecution, or in default of the
10 payment ~~thereof~~ OF THE FINE, by imprisonment ~~in the county~~
11 ~~jail not exceeding 90~~ FOR NOT MORE THAN 93 days.

12 SEC. 603. (1) A PERSON WHO WILLFULLY PROHIBITS, PREVENTS,
13 OR OBSTRUCTS THE COMMISSIONER OR DRAINAGE BOARD OR THEIR AGENTS,
14 EMPLOYEES, OR CONTRACTORS FROM DOING EITHER OF THE FOLLOWING IS
15 GUILTY OF A MISDEMEANOR:

16 (A) GOING UPON LAND FOR THE PURPOSE OF EXAMINING THE LAND OR
17 MAKING SURVEYS IN CONNECTION WITH THE WORK OF THE COMMISSIONER OR
18 DRAINAGE BOARD.

19 (B) GOING UPON A RIGHT-OF-WAY OF THE DISTRICT WITH THEIR
20 EMPLOYEES, TOOLS, MACHINERY, INSTRUMENTS, AND OTHER EQUIPMENT FOR
21 THE PURPOSE OF CONSTRUCTING, RECONSTRUCTING, REPAIRING, OR MAIN-
22 TAINING THE WORK OF THE COMMISSIONER OR DRAINAGE BOARD.

23 (2) SUBSECTION (1) DOES NOT APPLY UNLESS THE COMMISSIONER
24 HAS GIVEN NOTICE BY FIRST-CLASS MAIL TO THE OWNER OF THE LAND
25 WHOSE NAME APPEARS ON THE LAST CITY OR TOWNSHIP TAX ROLL THAT THE
26 COMMISSIONER OR DRAINAGE BOARD OR THEIR AGENTS, EMPLOYEES, OR

1 CONTRACTORS WILL GO UPON THE LAND OR UPON THE RIGHT-OF-WAY TO
2 WHICH THE LAND IS SUBJECT.

3 (3) SUBSECTION (2) DOES NOT APPLY IF THE ADDRESS OF THE
4 OWNER OF THE LAND DOES NOT APPEAR ON THE TAX ROLL.

5 (4) SUBSECTION (1) SHALL NOT BE CONSTRUED TO INTERFERE WITH
6 THE LAWFUL EXERCISE OF FREEDOM OF EXPRESSION.

7 CHAPTER 24 —

8 REPEALS AND SAVING CLAUSES —

9 Sec. 622. ~~In cases where the law shall have been~~ IF THIS
10 ACT IS amended during the progress of any drain proceedings,
11 ~~such~~ THE proceedings shall not be invalidated by ~~any such~~ THE
12 amendment, but may be continued to completion, and each step
13 shall be governed by the law in force at the time ~~such step was~~
14 THE STEP IS taken. Any drain proceedings pending when ~~this~~ AN
15 AMENDATORY act takes effect shall be completed in the manner pre-
16 scribed ~~in~~ BY this act AS AMENDED.

17 Sec. 623. ~~This act shall not impair or affect~~ NEITHER
18 THIS ACT NOR ANY AMENDMENT TO THIS ACT IMPAIRS OR AFFECTS any act
19 done, offense committed, or right accruing, accrued, or acquired,
20 or liability, penalty, forfeiture, or punishment incurred ~~prior~~
21 ~~to the time this act takes~~ BEFORE THIS ACT OR THE AMENDMENT TOOK
22 effect, but the same may be enjoyed, asserted, enforced,
23 prosecuted, or inflicted, as fully and to the same extent as if
24 this act ~~had not been passed~~ OR THE AMENDATORY ACT HAD NOT BEEN
25 ENACTED.

CHAPTER 26

APPEAL AND REVIEW

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SEC. 641. (1) APPEALS TO THE CIRCUIT COURT UNDER THIS CHAPTER SHALL BE TRIED DE NOVO.

(2) EXCEPT AS OTHERWISE PROVIDED IN THIS ACT, AN ACTION INVOLVING AN INTERCOUNTY DRAIN MAY BE BROUGHT IN THE CIRCUIT COURT OF A COUNTY IN WHICH A PART OF THE INTERCOUNTY DRAINAGE DISTRICT IS ESTABLISHED. THIS SECTION IS SUBJECT TO THE MICHIGAN RULES OF COURT.

(3) IF PROCEEDINGS ARE INITIATED UNDER THIS CHAPTER, THE COMMISSIONER OR DRAINAGE BOARD SHALL PROMPTLY REQUEST THE CERTIFIED COURT REPORT, STENOMASK REPORTER, OR COURT RECORDER WHO KEPT A VERBATIM RECORD OF ANY RELEVANT HEARING UNDER THIS ACT TO FURNISH A TRANSCRIPT OF THE HEARING TO THE COURT IN WHICH PROCEEDINGS UNDER THIS CHAPTER ARE INITIATED. UPON REQUEST OF THE COMMISSIONER OR DRAINAGE BOARD, THE REPORTER OR RECORDER SHALL PROMPTLY FURNISH THE TRANSCRIPT.

SEC. 642. A PERSON AGGRIEVED BY A FINAL DECISION OF A DRAIN COMMISSIONER, DRAINAGE BOARD, OR BOARD OF DETERMINATION MAY FILE AN APPEAL OF THE DECISION WITH THE CIRCUIT COURT NOT MORE THAN 21 DAYS AFTER THE DECISION IS MADE.

SEC. 643. (1) FOR AN INTERCOUNTY DRAIN, IF A COMMISSIONER CONSIDERS THE APPORTIONMENT BETWEEN THE COUNTIES TO BE UNFAIR, THE COMMISSIONER MAY HAVE THE APPORTIONMENT REVIEWED BY AN ARBITRATION BOARD COMPOSED OF DISINTERESTED COMMISSIONERS. WITHIN 28 DAYS AFTER THE ORDER ESTABLISHING THE APPORTIONMENT, THE COMMISSIONER SHALL FILE WITH THE DIRECTOR OF AGRICULTURE A SIGNED

1 CLAIM FOR REVIEW BY ARBITRATION IN WHICH THE COMMISSIONER SHALL
2 STATE BRIEFLY IN WHAT RESPECT HE OR SHE CONSIDERS THE APPORTION-
3 MENT UNFAIR AND REQUEST A REVIEW BY ARBITRATION. NOT MORE THAN
4 14 DAYS AFTER RECEIPT OF THE CLAIM FOR REVIEW BY ARBITRATION, THE
5 DIRECTOR OF AGRICULTURE SHALL FORWARD TO THE COMMISSIONER OF EACH
6 COUNTY TO WHICH A PERCENTAGE OF BENEFITS HAS BEEN APPORTIONED A
7 COPY OF THE CLAIM FOR REVIEW BY ARBITRATION. EACH COMMISSIONER
8 SHALL SELECT 1 DISINTERESTED COMMISSIONER TO BE A MEMBER OF THE
9 ARBITRATION BOARD AND, WITHIN 14 DAYS, SHALL NOTIFY THE DEPART-
10 MENT OF AGRICULTURE OF HIS OR HER SELECTION. THE DIRECTOR OF
11 AGRICULTURE, AT THE EARLIEST DATE CONSISTENT WITH THE OPEN MEET-
12 INGS ACT, 1976 PA 267, MCL 15.261 TO 15.275, BUT NOT LATER THAN
13 28 DAYS AFTER THE NOTICE, SHALL NOTIFY THE SELECTED COMMISSIONERS
14 OF A DATE AND TIME THEY SHALL MEET IN THE OFFICE OF THE DIRECTOR
15 OF AGRICULTURE IN LANSING. AT THE MEETING, THEY SHALL COMPLETE
16 THE ARBITRATION BOARD BY SELECTING 1 OR 2 MORE DISINTERESTED COM-
17 MISSIONERS, AS APPROPRIATE SO THE ARBITRATION BOARD HAS AN ODD
18 NUMBER OF MEMBERS.

19 (2) UPON SELECTION OF THE FINAL MEMBERS OF THE ARBITRATION
20 BOARD, THOSE MEMBERS PRESENT SHALL SET A DATE, TIME, AND PLACE IN
21 AN AFFECTED COUNTY FOR A FIRST FULL MEETING OF THE ARBITRATION
22 BOARD. NOTICE OF THE MEETING SHALL BE SERVED PERSONALLY OR BY
23 FIRST-CLASS MAIL AT LEAST 14 DAYS BEFORE THE MEETING ON THE
24 COUNTY CLERK OF EACH AFFECTED COUNTY AND THE CLERK OF EACH TOWN-
25 SHIP IN EACH AFFECTED COUNTY. THE ARBITRATION BOARD SHALL PUB-
26 LISH A NOTICE OF THE MEETING ONCE A WEEK FOR 2 CONSECUTIVE WEEKS
27 BEFORE THE MEETING IN A NEWSPAPER PUBLISHED AND OF GENERAL

1 CIRCULATION IN THE COUNTIES AFFECTED. THE FIRST PUBLICATION
2 SHALL BE AT LEAST 14 DAYS BEFORE THE MEETING. THE DIRECTOR OF
3 AGRICULTURE SHALL NOTIFY THE 1 OR 2 COMMISSIONERS SELECTED OF
4 THEIR APPOINTMENT AND OF THE DATE, TIME, AND PLACE OF THE NEXT
5 MEETING OF THE ARBITRATION BOARD.

6 (3) THE ARBITRATION BOARD SHALL CONVENE AT THE TIME, DATE,
7 AND PLACE SPECIFIED, TAKE TESTIMONY FROM THE AFFECTED PARTIES,
8 ELECT A CHAIRPERSON AND SECRETARY, AND REVIEW THE FAIRNESS OF THE
9 APPORTIONMENT BETWEEN THE COUNTIES. THE ARBITRATION BOARD MAY
10 ADJOURN UNTIL THE REVIEW IS COMPLETED. THE FINDINGS SHALL BE
11 MADE AND SIGNED BY ALL THE MEMBERS ATTESTING THE DETERMINATION OF
12 THE MAJORITY OF THE ARBITRATION BOARD, AND THE DETERMINATION BY
13 THE MAJORITY OF THE ARBITRATION BOARD IS FINAL AND CONCLUSIVE AS
14 TO THE FAIRNESS OF THE APPORTIONMENT. COMMISSIONERS SO APPOINTED
15 SHALL BE COMPENSATED IN THE SAME AMOUNT AND MANNER AS MEMBERS OF
16 THE COUNTY BOARD OF COMMISSIONERS IN THEIR RESPECTIVE COUNTIES.
17 OTHER COSTS OF THE ARBITRATION BOARD SHALL BE BORNE BY THE
18 DISTRICT.

19 SEC. 644. (1) THE OWNER OF ANY LAND IN THE DRAINAGE DIS-
20 TRICT OR ANY MUNICIPALITY THAT IS AGGRIEVED BY THE APPORTIONMENT
21 OF BENEFITS MADE BY A COMMISSIONER UNDER CHAPTER 7, NOT MORE THAN
22 28 DAYS AFTER THE DAY OF REVIEW OF THE APPORTIONMENT, MAY APPEAL
23 THE APPORTIONMENT BY FILING WITH THE CIRCUIT COURT FOR THE COUNTY
24 WHERE THE LAND OR MUNICIPALITY IS LOCATED A NOTICE OF APPEAL
25 REQUESTING THE APPOINTMENT OF A BOARD OF REVIEW AND A BOND. THE
26 BOND SHALL BE IN SUCH SUM AS THE CIRCUIT JUDGE MAY REQUIRE, WITH
27 1 OR MORE SURETIES TO BE APPROVED BY THE CIRCUIT JUDGE,

1 CONDITIONED UPON THE PAYMENT OF THE COMPENSATION, MILEAGE, AND
2 EXPENSES OF THE BOARD OF REVIEW IF THE APPORTIONMENT MADE BY THE
3 COMMISSIONER IS SUSTAINED.

4 (2) THE APPEAL MAY BE TAKEN BY THE CHAIRPERSON OF THE COUNTY
5 BOARD OF COMMISSIONERS ON BEHALF OF THE COUNTY, THE CHAIRPERSON
6 OF THE BOARD OF COUNTY ROAD COMMISSIONERS ON BEHALF OF THE ROAD
7 COMMISSION, THE MAYOR OF ANY CITY ON BEHALF OF THE CITY, THE
8 SUPERVISOR ON BEHALF OF A TOWNSHIP, OR THE PRESIDENT OF A VILLAGE
9 ON BEHALF OF THE VILLAGE WHEN AUTHORIZED BY THE COUNTY BOARD OF
10 COMMISSIONERS, THE BOARD OF COUNTY ROAD COMMISSIONERS, THE VIL-
11 LAGE OR CITY COUNCIL, OR THE TOWNSHIP BOARD, RESPECTIVELY. ONLY
12 1 BOARD SHALL BE APPOINTED BY THE CIRCUIT COURT.

13 (3) PROCEEDINGS FOR A PROJECT SHALL CONTINUE UNINTERRUPTED
14 BY AN APPEAL UNDER THIS SECTION.

15 SEC. 645. (1) UPON THE CIRCUIT COURT'S RECEIPT OF A NOTICE
16 OF APPEAL UNDER SECTION 644, THE CHIEF OR ONLY JUDGE OF THE CIR-
17 CUIT COURT SHALL IMMEDIATELY NOTIFY THE COMMISSIONER IN WRITING
18 OF THE APPEAL, AND SHALL THEN MAKE AN ORDER APPOINTING 3 MEMBERS
19 OF A BOARD OF REVIEW AND 1 ALTERNATE MEMBER. THE MEMBERS AND
20 ALTERNATE SHALL BE DISINTERESTED AND COMPETENT LANDOWNERS OF THE
21 COUNTY, NOT RESIDENTS OF THE TOWNSHIP OR TOWNSHIPS AFFECTED BY
22 THE DRAIN. THE ALTERNATE MEMBER SHALL SERVE IF A REGULAR MEMBER
23 NEGLECTS, REFUSES, OR IS UNABLE TO SERVE. IMMEDIATELY AFTER
24 MAKING THE APPOINTMENTS, THE COURT SHALL, WITH THE CONCURRENCE OF
25 THE COMMISSIONER, FIX THE TIME AND PLACE FOR A MEETING OF THE
26 BOARD OF REVIEW TO REVIEW THE APPORTIONMENTS. THE MEETING SHALL
27 BE HELD NOT LESS THAN 14 OR MORE THAN 21 DAYS AFTER THE DATE OF

1 FILING THE NOTICE OF APPEAL. THE COURT SHALL THEN NOTIFY THE
2 PERSONS SO APPOINTED OF THEIR APPOINTMENT AND OF THE TIME AND
3 PLACE OF MEETING. CONSISTENT WITH SECTION 8, THE COURT SHALL
4 ALSO NOTIFY EACH LANDOWNER AND MUNICIPALITY LIABLE FOR AN
5 ASSESSMENT. PROOF OF SERVICE OF THE NOTICES UNDER THIS SUBSEC-
6 TION SHALL BE MADE BY THE PERSON SERVING THE NOTICES AND BE FILED
7 IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT.

8 (2) AT THE HEARING, THE BOARD OF REVIEW SHALL BE SWORN BY
9 THE COMMISSIONER TO FAITHFULLY DISCHARGE THE DUTIES OF THE BOARD
10 OF REVIEW.

11 (3) MEMBERS OF THE BOARD OF REVIEW SHALL RECEIVE COMPENSA-
12 TION, MILEAGE, AND EXPENSES IN THE SAME MANNER AND AMOUNT AS A
13 BOARD OF DETERMINATION.

14 SEC. 646. (1) THE BOARD OF REVIEW AT THE TIME, DATE, AND
15 PLACE SPECIFIED IN THE NOTICE SHALL HEAR THE PROOFS AND ALLEGA-
16 TIONS OF THE PARTIES IN RESPECT TO AN APPEAL, MAY PROCEED TO VIEW
17 THE LANDS BENEFITED BY THE DRAIN OR PROJECT, AND SHALL REVIEW ALL
18 OF THE APPORTIONMENTS MADE BY THE COMMISSIONER ON THE DRAIN OR
19 PROJECT. IF IN THE JUDGMENT OF THE BOARD OF REVIEW THERE IS A
20 MANIFEST ERROR OR INEQUALITY IN THE APPORTIONMENTS, THE BOARD OF
21 REVIEW SHALL PREPARE A PROPOSED DECISION MAKING THE CHANGES IN
22 THE APPORTIONMENT THAT THE BOARD OF REVIEW CONSIDERS JUST AND
23 EQUITABLE AND SHALL ADJOURN THE REVIEW FOR NOT MORE THAN 21 DAYS
24 FROM THE DATE OF THE MEETING SPECIFIED IN THE FIRST NOTICE. THE
25 BOARD OF REVIEW SHALL GIVE NOTICE OF THE ADJOURNMENT IN THE
26 MANNER PROVIDED IN SECTION 8(2) AND (3), AND BY POSTING NOTICE IN
27 THE OFFICE OF THE COMMISSIONER BY THE DATE BY WHICH MAILING OF

1 THE NOTICE IS REQUIRED UNDER SECTION 8(2). HOWEVER, THE BOARD OF
2 REVIEW NEED ONLY PROVIDE NOTICE TO PERSONS THAT THE BOARD OF
3 REVIEW BELIEVES MAY BE AFFECTED BY ITS FINAL DECISION.

4 (2) UPON RECONVENING, THE BOARD OF REVIEW SHALL HEAR ANY
5 FURTHER PROOFS AND ALLEGATIONS RELEVANT TO THE PROPOSED DECISION
6 OF THE BOARD OF REVIEW. THE BOARD OF REVIEW MAY VIEW LANDS AND
7 SHALL REVIEW APPORTIONMENTS THAT ARE THE SUBJECT OF THE FURTHER
8 PROOFS AND ALLEGATIONS.

9 (3) THE BOARD SHALL MAKE ITS FINAL DECISION, WHICH SHALL NOT
10 AFFECT ANY PERSON TO WHOM NOTICE WAS NOT PROVIDED UNDER SUBSEC-
11 TION (1). THE DECISION OF THE BOARD OF REVIEW SHALL BE IN WRIT-
12 ING AND SIGNED BY THE BOARD MEMBERS AGREEING WITH THE DECISION,
13 AND SHALL BE DELIVERED TO THE COMMISSIONER WITHIN 14 DAYS OF THE
14 CLOSE OF THE MEETING TOGETHER WITH OTHER RECORDS RELATING TO THE
15 DECISION.

16 (4) IF THE BOARD OF REVIEW MAKES CHANGES IN THE APPORTION-
17 MENT, THE CHANGES SHALL BE MADE BY THE COMMISSIONER WITHOUT
18 NECESSITY FOR A NEW DAY OF REVIEW OR NOTICE TO THE DISTRICT OF
19 THE CHANGES MADE BY THE BOARD OF REVIEW.

20 SEC. 647. THE COMMISSIONER SHALL GIVE NOTICE TO THE DIS-
21 TRICT OF THE DECISION OF THE BOARD OF REVIEW AS PROVIDED IN SEC-
22 TION 8. IF THE APPORTIONMENT MADE BY THE COMMISSIONER IS SUS-
23 TAINED, THE PERSON APPEALING IS SEVERALLY LIABLE FOR ALL COSTS
24 INCURRED BY THE APPEAL AND THE SAME PROCEEDINGS SHALL BE HAD
25 THROUGHOUT IN ALL RESPECTS IN THE APPEAL AS TO THE BENEFITS AND
26 LIABILITIES AS IN THE CASE OF AN APPEAL FROM AN INDIVIDUAL
27 APPORTIONMENT. HOWEVER, ONLY 1 BOARD OF REVIEW SHALL BE

1 APPOINTED BY THE CIRCUIT COURT FOR A DRAIN. THE BOARD OF REVIEW
2 MAY ADJOURN ANY HEARING BEFORE THEM FROM TIME TO TIME AS JUSTICE
3 MAY REQUIRE, NOT EXCEEDING IN ALL 21 DAYS FROM THE DATE OF THEIR
4 FIRST MEETING.

5 Enacting section 1. Sections 4, 5, 11, 21a, and 22,
6 chapters 4, 5, and 6, sections 153, 155 to 161, 193, 194, 195,
7 196, 197, 198, 246, 248, 268, 271, 272, 281, 321, and 325, chap-
8 ters 14, 15, and 16, sections 424, 426, 427, 428, 432, 433, and
9 434, chapters 19 to 21, section 621, and chapter 25 of the drain
10 code of 1956, 1956 PA 40, MCL 280.4, 280.5, 280.11, 280.21a,
11 280.22, 280.71 to 280.135, 280.153, 280.155 to 280.161, 280.193,
12 280.194, 280.195, 280.196, 280.197, 280.198, 280.246, 280.248,
13 280.268, 280.271, 280.272, 280.281, 280.321, 280.325, 280.341 to
14 280.384, 280.424, 280.426, 280.427, 280.428, 280.432, 280.433,
15 280.434, 280.441 to 280.549, 280.625 to 280.630, and 280.621, are
16 repealed.