

SUBSTITUTE FOR
HOUSE BILL NO. 6151

A bill to amend 1956 PA 40, entitled
"The drain code of 1956,"
by amending section 154 (MCL 280.154), as amended by 2010 PA 339.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 154. (1) **EXCEPT FOR MAINTENANCE OR REPAIR OF A DRAIN**
2 **UNDER SECTION 196, THE COMMISSIONER SHALL ADVERTISE FOR THE RECEIPT**
3 **OF BIDS AT A SPECIFIED TIME, DATE, AND LOCATION. IF THE DRAIN**
4 **COMMISSIONER DIRECTLY OR INDIRECTLY MAINTAINS AN OFFICIAL INTERNET**
5 **PRESENCE, THE ADVERTISEMENT FOR THE RECEIPT OF BIDS SHALL BE POSTED**
6 **ON A PORTION OF THE WEBSITE THAT IS FULLY ACCESSIBLE TO THE PUBLIC**
7 **AT LEAST 10 DAYS BEFORE AND MAINTAINED THROUGH THE DATE SET FOR THE**
8 **RECEIPT OF BIDS. IF THE DRAIN COMMISSIONER DOES NOT MAINTAIN AN**
9 **OFFICIAL INTERNET PRESENCE, THE ADVERTISEMENT SHALL BE SO POSTED**
10 **AND MAINTAINED ON THE COUNTY WEBSITE.**

1 (2) The commissioner shall give notice, as described in
 2 subsection ~~(3)~~ for the receiving of bids for the construction of
 3 the drain and for the holding **THIS SECTION**, of a public meeting to
 4 review the apportionment of benefits. The ~~EXCEPT FOR A PROJECT~~
 5 **UNDER SECTION 196, THE** meeting shall be not less than 5 ~~nor more~~
 6 than ~~30~~ **45** days after the date set for receiving bids.

7 (3) ~~(2)~~ The notice under subsection ~~(1)~~ shall be given by
 8 publication of ~~at least 2 insertions~~ in a newspaper published and
 9 of general circulation in the county. ~~The first publication shall~~
 10 be at least 10 days before the date set for receiving bids. **OF THE**
 11 **REVIEW OF THE APPORTIONMENT.**

12 (4) ~~(3)~~ The drain commissioner shall also send the notice
 13 under subsection ~~(1)~~ **(2)** by first-class mail at least 10 days
 14 before the date of the meeting to review **OF** the apportionment of
 15 benefits, to each person whose name appears ~~upon~~ **ON** the last city
 16 or township tax assessment roll as owning land within the special
 17 assessment district, at the address shown on the roll. ~~If an~~
 18 ~~address does not appear on the roll, then notice~~ **NOTICE** need not be
 19 mailed to the ~~A~~ **PERSON WHOSE ADDRESS DOES NOT APPEAR ON THE ROLL.**
 20 The drain commissioner shall make an affidavit of the mailing and
 21 shall recite in the affidavit that ~~the persons to whom~~ the notice
 22 was mailed ~~constitute~~ **TO** all of the persons whose names and
 23 addresses appear ~~upon~~ **ON** the tax rolls as owning land within the
 24 ~~particular~~ special assessment district. The affidavit is conclusive
 25 proof that notice was mailed to each person to whom notice is
 26 required to be mailed. If notice has been sent by first-class mail
 27 as provided in this ~~section,~~ **SUBSECTION**, the failure to receive

1 notice by mail does not constitute a jurisdictional defect
 2 invalidating a drain proceeding or ~~tax~~. **ASSESSMENT**. If the board of
 3 determination determines that the drain is necessary for the
 4 protection of the public health and that the whole cost of the
 5 drain, except that part which may be apportioned for benefits to
 6 highways, shall be apportioned to municipalities, then mailing of
 7 individual notices to persons owning land within the special
 8 assessment district as provided in this subsection is not required.

9 **(5)** ~~(4) The~~ **AT LEAST 10 DAYS BEFORE THE DATE OF THE REVIEW OF**
 10 **THE APPORTIONMENT, THE DRAIN COMMISSIONER SHALL SERVE THE** notice
 11 under subsection ~~(1) shall be~~ **(2) personally served OR BY CERTIFIED**
 12 **MAIL** on the county clerk and **ON** 1 or more members of the road
 13 commission of a county, ~~or road district,~~ the supervisor of a
 14 township, the ~~mayer~~ **CLERK** of a city, and the ~~president~~ **CLERK** of a
 15 village to be assessed at large.

16 **(6)** ~~(5) The~~ notice under subsection ~~(1)~~ **(2)** shall contain all
 17 of the following:

18 ~~— (a) The date, time, and place of receiving bids.~~

19 **(A)** ~~(b) The~~ date, time, and place of the meeting to review the
 20 apportionment of benefits.

21 **(B)** ~~(c) A~~ **SUBJECT TO SUBSECTION (8), A** statement that, at the
 22 meeting to review the apportionment of benefits, the drain
 23 commissioner will have available to review the tentative
 24 apportionments against parcels and municipalities within the
 25 drainage district.

26 **(C) FOR NOTICE MAILED TO A PERSON UNDER SUBSECTION (4), THE**
 27 **ESTIMATED PERCENTAGE AND DOLLAR AMOUNT APPORTIONED TO THAT PERSON'S**

1 **LAND, THE ESTIMATED ANNUAL TOTAL OF ALL PROJECT ASSESSMENTS, AND**
 2 **THE ESTIMATED PROJECT ASSESSMENT DURATION.**

3 (d) A statement that drain assessments against land will be
 4 collected in the same manner as property taxes.

5 (e) A statement that if drain assessments against land are
 6 collected by installment, the land owner may pay the assessments in
 7 full with any interest to date at any time and thereby avoid
 8 further interest charges.

9 (f) The name of each county, township, city, or village to be
 10 assessed at large.

11 **(G) THE NAME AND NUMBER OF THE DRAIN.**

12 **(H) THE ADDRESS OF A WEBSITE, AS PROVIDED FOR IN SUBSECTION**
 13 **(7), AND A STATEMENT THAT THE FOLLOWING ADDITIONAL INFORMATION CAN**
 14 **BE FOUND AT THAT ADDRESS:**

15 (i) ~~(g)~~ A description of the land constituting the special
 16 assessment district for the drain. The description may be stated by
 17 designating the boundaries of the special assessment district by
 18 streets, highways, parcels, or tracts of land or by describing the
 19 tracts or parcels of land constituting the district. ~~A tract or~~
 20 ~~parcel need not be subdivided beyond the point where the whole of~~
 21 ~~the tract or parcel is within the drainage district.~~ **IF A PARCEL OR**
 22 **TRACT IS PARTIALLY LOCATED WITHIN THE DISTRICT, FOR THE PURPOSES OF**
 23 **THE NOTICE DESCRIPTION ONLY, THE DRAIN COMMISSIONER MAY CONSIDER**
 24 **THE ENTIRE PARCEL OR TRACT TO BE LOCATED IN THE DISTRICT.**

25 ~~(h) The name or number of the drain.~~

26 (ii) ~~(i)~~ The number and length of sections, the average depth
 27 and width of each section, and if the drain will be a closed drain,

1 the amount and specifications of all tile or pipe required.

2 **(iii)** ~~(j)~~—The location, number, type, and size of all culverts
3 and bridges.

4 **(iv)** ~~(k)~~—The conditions upon which the contract will be
5 awarded.

6 ~~(6) The notice under subsection (1) need not contain minutes
7 of survey or a table of cuttings. These shall be kept on file in
8 the office of the drain commissioner.~~

9 **(7) IF THE DRAIN COMMISSIONER DIRECTLY OR INDIRECTLY MAINTAINS
10 AN OFFICIAL INTERNET PRESENCE, THE INFORMATION DESCRIBED IN
11 SUBSECTION (6) (A), (B), AND (D) TO (H) SHALL BE POSTED ON A PORTION
12 OF THE WEBSITE THAT IS FULLY ACCESSIBLE TO THE PUBLIC AND
13 MAINTAINED THROUGH THE DATE OF THE MEETING TO REVIEW THE
14 APPORTIONMENT OF BENEFITS. IF THE DRAIN COMMISSIONER DOES NOT
15 MAINTAIN AN OFFICIAL INTERNET PRESENCE, THE INFORMATION SHALL BE SO
16 POSTED AND MAINTAINED ON THE COUNTY WEBSITE.**

17 **(8) NOTWITHSTANDING THE INFORMATION PROVIDED IN THE NOTICE
18 UNDER SUBSECTION (5) (C), THE DRAIN COMMISSIONER MAY MAKE SUBSEQUENT
19 ADJUSTMENTS THAT THE COMMISSIONER OR DRAINAGE BOARD CONSIDERS
20 NECESSARY TO THE ESTIMATED APPORTIONMENT PERCENTAGE, ESTIMATED
21 ANNUAL PROJECT ASSESSMENT, OR ESTIMATED PROJECT ASSESSMENT DURATION
22 WITHOUT FURTHER NOTICE OR AN ADDITIONAL MEETING TO REVIEW THE
23 APPORTIONMENT OF BENEFITS.**

24 **(9)** ~~(7) Bids~~ **EXCEPT FOR A PROJECT UNDER SECTION 196, BIDS**
25 shall be received and the total cost of the drain shall be computed
26 before the ~~time set for~~ review of the apportionment. The
27 computation shall be open to inspection. If the computation is not

1 completed before the ~~day of~~ review **OF THE APPORTIONMENT**, the **DRAIN**
 2 **COMMISSIONER SHALL ADJOURN THE** review ~~may be adjourned~~ from time to
 3 time, not more than 20 days in all, for the completion of the
 4 computation, or **SHALL CALL** a new ~~hearing may be called with similar~~
 5 ~~notice, by publication and service at least 10 days before the~~
 6 ~~hearing.~~ **MEETING TO REVIEW THE APPORTIONMENT OF BENEFITS AND GIVE**
 7 **NOTICE AS PROVIDED IN SUBSECTIONS (3) TO (6)**. If the contracts on
 8 which the computation was based are not executed and new contracts
 9 are let at a higher price, the computation shall be corrected and a
 10 new review held with a ~~similar notice~~ **AS PROVIDED IN SUBSECTIONS**
 11 **(3) TO (6)**.

12 (10) At the date, time, and place ~~fixed~~ **SPECIFIED** in the
 13 notice, or at another date, time, and place to which the county
 14 drain commissioner may adjourn the ~~hearing,~~ **MEETING**, the
 15 apportionment of benefits and the lands constituting the special
 16 assessment district shall be subject to review for at least 1 day.
 17 The review shall be held open from 9 a.m. until 5 p.m. At the
 18 review, the county clerk or the county road commission may appear
 19 on behalf of the county, ~~or a road district;~~ the supervisor of a
 20 township may appear on behalf of a township, ~~+~~ the mayor or an
 21 officer of the city designated by the mayor may appear ~~for~~ **ON**
 22 **BEHALF OF** a city, ~~+~~ **AND** the president may appear on behalf of a
 23 village. At the review the county drain commissioner shall ~~hear~~ **DO**
 24 **ALL OF THE FOLLOWING:**

25 (A) **HEAR** the proofs and allegations. ~~+~~ ~~shall carefully~~

26 (B) **CAREFULLY** reconsider and review the description of land
 27 ~~comprised~~ within the special assessment district ~~+~~ ~~the several~~

1 descriptions and **THE** apportionment of benefits. ~~and shall define~~

2 **(C) DEFINE** and equalize the land as is just and equitable.

3 **(11)** ~~(8)~~ If an apportionment of benefits is made against a

4 state trunk line highway, unless the director of the state

5 transportation department consents in writing to the apportionment,

6 the drain commissioner ~~, at least 20 days before the review on the~~

7 highway, shall notify by ~~registered~~ **CERTIFIED** mail the director of

8 the state transportation department of the percentage apportioned

9 against the highway and the date, time, and place ~~fixed~~ for a

10 review of apportionment of benefits **BY THE DRAIN COMMISSIONER UNDER**

11 **SUBSECTION (2). THE NOTICE SHALL BE MAILED AT LEAST 20 DAYS BEFORE**

12 **THE REVIEW OF THE APPORTIONMENT.** If the director of the state

13 transportation department **INSTEAD** desires to have the apportionment

14 of benefits reviewed by the director of the department of

15 agriculture **AND RURAL DEVELOPMENT**, the director of the state

16 transportation department, within 10 days from the receipt of the

17 notice, shall file with the drain commissioner an objection to the

18 apportionment. The drain commissioner shall notify the director of

19 the department of agriculture **AND RURAL DEVELOPMENT** of the date,

20 time, and place fixed for the review of apportionments, and at the

21 meeting the director of the department of agriculture **AND RURAL**

22 **DEVELOPMENT**, or a deputy of the director, shall review the

23 apportionment made against the state trunk line highway and listen

24 to the proofs and allegations of the parties, and may view the

25 highway benefited. The ~~action and~~ **WRITTEN** decision on the

26 apportionment under this subsection ~~, when reduced to writing,~~ is

27 final.

1 Enacting section 1. This amendatory act takes effect 90 days
2 after the date it is enacted into law.