

# HOUSE BILL No. 6151

June 12, 2018, Introduced by Reps. Johnson and Reilly and referred to the Committee on Local Government.

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.**

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

10           (3) ~~(2)~~ The notice ~~under subsection (1)~~ shall be given by

1 publication ~~of at least 2 insertions~~ in a newspaper published and  
 2 of general circulation in the county ~~. The first publication shall~~  
 3 ~~be at least 10 days before the date set for receiving bids.~~ **OF THE**  
 4 **REVIEW OF THE APPORTIONMENT.**

5 (4) ~~(3)~~ The drain commissioner shall also send the notice  
 6 under subsection ~~(1)~~ **(2)** by first-class mail at least 10 days  
 7 before the date of the ~~meeting to review~~ **OF** the apportionment of  
 8 benefits ~~, to each person whose name appears upon~~ **ON** the last city  
 9 or township tax assessment roll as owning land within the special  
 10 assessment district, at the address shown on the roll. ~~If an~~  
 11 ~~address does not appear on the roll, then notice~~ **NOTICE** need not be  
 12 mailed to the ~~A~~ person **WHOSE ADDRESS DOES NOT APPEAR ON THE ROLL.**  
 13 The drain commissioner shall make an affidavit of the mailing and  
 14 shall recite in the affidavit that ~~the persons to whom~~ the notice  
 15 was mailed ~~constitute~~ **TO** all of the persons whose names and  
 16 addresses appear ~~upon~~ **ON** the tax rolls as owning land within the  
 17 ~~particular~~ special assessment district. The affidavit is conclusive  
 18 proof that notice was mailed to each person to whom notice is  
 19 required to be mailed. If notice has been sent by first-class mail  
 20 as provided in this ~~section,~~ **SUBSECTION**, the failure to receive  
 21 notice by mail does not constitute a jurisdictional defect  
 22 invalidating a drain proceeding or ~~tax.~~ **ASSESSMENT.** If the board of  
 23 determination determines that the drain is necessary for the  
 24 protection of the public health and that the whole cost of the  
 25 drain, except that part which may be apportioned for benefits to  
 26 highways, shall be apportioned to municipalities, then mailing of  
 27 individual notices to persons owning land within the special

1 assessment district as provided in this subsection is not required.

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

9 ~~(6) (5) The~~ notice under subsection ~~(1)~~ **(2)** shall contain all  
 10 of the following:

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

12 ~~(A) (b) The~~ date, time, and place of the meeting to review the  
 13 apportionment of benefits.

14 ~~(B) (c) A~~ **SUBJECT TO SUBSECTION (8), A** statement that, at the  
 15 meeting to review the apportionment of benefits, the drain  
 16 commissioner will have available to review the tentative  
 17 apportionments against parcels and municipalities within the  
 18 drainage district.

19 **(C) FOR NOTICE MAILED TO A PERSON UNDER SUBSECTION (4), THE**  
 20 **ESTIMATED PERCENTAGE AND DOLLAR AMOUNT APPORTIONED TO THAT PERSON'S**  
 21 **LAND, THE ESTIMATED ANNUAL TOTAL OF ALL PROJECT ASSESSMENTS, AND**  
 22 **THE ESTIMATED PROJECT ASSESSMENT DURATION.**

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

25 (e) A statement that if drain assessments against land are  
 26 collected by installment, the land owner may pay the assessments in  
 27 full with any interest to date at any time and thereby avoid

1 further interest charges.

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

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

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

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

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

19 **(ii)** ~~(i)~~—The number and length of sections, the average depth  
20 and width of each section, and if the drain will be a closed drain,  
21 the amount and specifications of all tile or pipe required.

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

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

26 ~~—(6) The notice under subsection (1) need not contain minutes~~  
27 ~~of survey or a table of cuttings. These shall be kept on file in~~

1 ~~the office of the drain commissioner.~~

2           **(7) THE DRAIN COMMISSIONER SHALL POST THE INFORMATION**  
 3 **DESCRIBED IN SUBSECTION (6) (A), (B), AND (D) TO (H) ON THE DRAIN**  
 4 **COMMISSIONER'S WEBSITE AND MAINTAIN THE POSTING THROUGH THE DATE OF**  
 5 **THE MEETING TO REVIEW THE APPORTIONMENT OF BENEFITS. IF THE DRAIN**  
 6 **COMMISSIONER DOES NOT HAVE A WEBSITE, THE INFORMATION SHALL BE**  
 7 **POSTED ON THE COUNTY WEBSITE.**

8           **(8) NOTWITHSTANDING THE INFORMATION PROVIDED IN THE NOTICE**  
 9 **UNDER SUBSECTION (5) (C), THE DRAIN COMMISSIONER MAY MAKE SUBSEQUENT**  
 10 **ADJUSTMENTS THAT THE COMMISSIONER OR DRAINAGE BOARD CONSIDERS**  
 11 **NECESSARY TO THE ESTIMATED APPORTIONMENT PERCENTAGE, ANNUAL PROJECT**  
 12 **ASSESSMENT, OR PROJECT ASSESSMENT DURATION WITHOUT FURTHER NOTICE**  
 13 **OR AN ADDITIONAL MEETING TO REVIEW THE APPORTIONMENT OF BENEFITS.**

14           **(9) ~~(7) Bids~~ EXCEPT FOR A PROJECT UNDER SECTION 196, BIDS**  
 15 **shall be received and the total cost of the drain shall be computed**  
 16 **before the ~~time set for~~ review of the apportionment. The**  
 17 **computation shall be open to inspection. If the computation is not**  
 18 **completed before the ~~day of~~ review **OF THE APPORTIONMENT**, the **DRAIN****  
 19 **COMMISSIONER SHALL ADJOURN THE** ~~review may be adjourned from time to~~  
 20 ~~time, not more than 20 days in all, for the completion of the~~  
 21 ~~computation, or SHALL CALL a new hearing may be called with similar~~  
 22 ~~notice, by publication and service at least 10 days before the~~  
 23 ~~hearing.~~ **MEETING TO REVIEW THE APPORTIONMENT OF BENEFITS AND GIVE**  
 24 **NOTICE AS PROVIDED IN SUBSECTIONS (3) TO (6).** If the contracts on  
 25 which the computation was based are not executed and new contracts  
 26 are let at a higher price, the computation shall be corrected and a  
 27 new review held with a ~~similar notice~~ **AS PROVIDED IN SUBSECTIONS**

1 (3) TO (6).

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

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

16 (B) **CAREFULLY** reconsider and review the description of land  
 17 ~~comprised~~ within the special assessment district, ~~the several~~  
 18 descriptions and **THE** apportionment of benefits. ~~and shall define~~

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

20 (11) ~~(8)~~ If an apportionment of benefits is made against a  
 21 state trunk line highway, unless the director of the state  
 22 transportation department consents in writing to the apportionment,  
 23 the drain commissioner, ~~at least 20 days before the review on the~~  
 24 ~~highway~~, shall notify by ~~registered~~**CERTIFIED** mail the director of  
 25 the state transportation department of the percentage apportioned  
 26 against the highway and the date, time, and place ~~fixed~~ for a  
 27 review of apportionment of benefits **BY THE DRAIN COMMISSIONER UNDER**

1 **SUBSECTION (2). THE NOTICE SHALL BE MAILED AT LEAST 20 DAYS BEFORE**  
2 **THE REVIEW OF THE APPORTIONMENT.** If the director of the state  
3 transportation department **INSTEAD** desires to have the apportionment  
4 of benefits reviewed by the director of the department of  
5 agriculture **AND RURAL DEVELOPMENT**, the director of the state  
6 transportation department, within 10 days from the receipt of the  
7 notice, shall file with the drain commissioner an objection to the  
8 apportionment. The drain commissioner shall notify the director of  
9 the department of agriculture **AND RURAL DEVELOPMENT** of the date,  
10 time, and place fixed for the review of apportionments, and at the  
11 meeting the director of the department of agriculture **AND RURAL**  
12 **DEVELOPMENT**, or a deputy of the director, shall review the  
13 apportionment made against the state trunk line highway and listen  
14 to the proofs and allegations of the parties, and may view the  
15 highway benefited. The ~~action and~~ **WRITTEN** decision on the  
16 apportionment under this subsection ~~, when reduced to writing,~~ is  
17 final.

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