

HOUSE BILL No. 6152

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) The commissioner shall give notice as described
2 in subsection (3) for the receiving of bids for the construction of
3 the drain and for the holding of a public meeting to review the
4 apportionment of benefits. The meeting shall be not less than 5 nor
5 more than 30 days after the date set for receiving bids.

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

1 (3) The drain commissioner shall also send the notice under
2 subsection (1) by first-class mail at least ~~10~~**30** days before the
3 date of the ~~meeting to review~~ **OF** the apportionment of benefits ~~, to~~
4 each person whose name appears upon the last city or township tax
5 assessment roll as owning land within the special assessment
6 district, at the address shown on the roll. ~~If an address does not~~
7 ~~appear on the roll, then notice~~ **NOTICE** need not be mailed to ~~the~~ **A**
8 person **WHOSE ADDRESS DOES NOT APPEAR ON THE ROLL**. The drain
9 commissioner shall make an affidavit of the mailing and shall
10 recite in the affidavit that ~~the persons to whom the notice was~~
11 mailed ~~constitute~~ **TO** all of the persons whose names and addresses
12 appear upon the tax rolls as owning land within the ~~particular~~
13 special assessment district. The affidavit is conclusive proof that
14 notice was mailed to each person to whom notice is required to be
15 mailed. If notice has been sent by first-class mail as provided in
16 this ~~section,~~ **SUBSECTION**, the failure to receive notice by mail
17 does not constitute a jurisdictional defect invalidating a drain
18 proceeding or ~~tax.~~ **ASSESSMENT**. If the board of determination
19 determines that the drain is necessary for the protection of the
20 public health and that the whole cost of the drain, except that
21 part which may be apportioned for benefits to highways, shall be
22 apportioned to municipalities, then mailing of individual notices
23 to persons owning land within the special assessment district as
24 provided in this subsection is not required.

25 (4) ~~The~~ **AT LEAST 30 DAYS BEFORE THE DATE OF THE REVIEW OF THE**
26 **APPORTIONMENT, THE DRAIN COMMISSIONER SHALL SERVE THE** notice under
27 subsection (1) ~~shall be personally served~~ **OR BY CERTIFIED MAIL** on

1 the county clerk and **ON** 1 or more members of the road commission of
2 a county ~~or road district,~~ the ~~supervisor~~-**CLERK** of a township, the
3 ~~mayor~~-**CLERK** of a city, and the ~~president~~-**CLERK** of a village to be
4 assessed at large.

5 (5) The notice under subsection (1) shall contain all of the
6 following:

7 (a) The date, time, and place of receiving bids.

8 (b) The date, time, and place of the meeting to review the
9 apportionment of benefits.

10 (c) A statement that, at the meeting to review the
11 apportionment of benefits, the drain commissioner will have
12 available to review the tentative apportionments against parcels
13 and municipalities within the drainage district.

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

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

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

22 (g) A description of the land constituting the special
23 assessment district for the drain. The description may be stated by
24 designating the boundaries of the special assessment district by
25 streets, highways, parcels, or tracts of land or by describing the
26 tracts or parcels of land constituting the district. ~~A tract or~~
27 ~~parcel need not be subdivided beyond the point where the whole of~~

1 ~~the tract or parcel is within the drainage district.~~ **IF A PARCEL OR**
2 **TRACT IS PARTIALLY LOCATED WITHIN THE DISTRICT, FOR THE PURPOSES OF**
3 **THE NOTICE DESCRIPTION ONLY, THE DRAIN COMMISSIONER MAY CONSIDER**
4 **THE ENTIRE PARCEL OR TRACT TO BE LOCATED IN THE DISTRICT.**

5 (h) The name or number of the drain.

6 (i) The number and length of sections, the average depth and
7 width of each section, and if the drain will be a closed drain, the
8 amount and specifications of all tile or pipe required.

9 (j) The location, number, type, and size of all culverts and
10 bridges.

11 (k) The conditions upon which the contract will be awarded.

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

15 (7) Bids shall be received and the total cost of the drain
16 shall be computed before the ~~time set for~~ review of the
17 apportionment. The computation shall be open to inspection. If the
18 computation is not completed before the ~~day of~~ review **OF THE**
19 **APPORTIONMENT**, the **DRAIN COMMISSIONER SHALL ADJOURN THE** review ~~may~~
20 ~~be adjourned~~ from time to time, not more than 20 days in all, for
21 the completion of the computation, or **SHALL CALL** a new hearing ~~may~~
22 ~~be called with similar notice, by publication and service at least~~
23 ~~10 days before the hearing.~~ **MEETING TO REVIEW THE APPORTIONMENT OF**
24 **BENEFITS AND GIVE NOTICE AS PROVIDED IN SUBSECTIONS (2) TO (5).** If
25 the contracts on which the computation was based are not executed
26 and new contracts are let at a higher price, the computation shall
27 be corrected and a new review held with a ~~similar~~ notice **AS**

1 **PROVIDED IN SUBSECTIONS (2) TO (5).**

2 (8) 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 (9) ~~(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 (1). 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.