

# HOUSE BILL No. 6402

September 27, 2018, Introduced by Rep. Hughes and referred to the Committee on Local Government.

A bill to amend 1956 PA 40, entitled "The drain code of 1956," by amending sections 30, 72, 155, 156, 157, 158, 159, 160, 246, 261, 381, 382, and 424 (MCL 280.30, 280.72, 280.155, 280.156, 280.157, 280.158, 280.159, 280.160, 280.246, 280.261, 280.381, 280.382, and 280.424), section 72 as amended by 1987 PA 60.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 30. ~~It shall be the duty of each~~ **A** commissioner ~~to~~ **SHALL**  
 2       make and keep a full financial statement of each drainage district.  
 3       The commissioner shall also make and keep in his **OR HER** office, in  
 4       a book, ~~to be provided for that purpose~~ a complete record of each  
 5       drainage district. ~~, which~~ **THE** record shall include a copy of the  
 6       application for laying out and designating ~~such~~ **THE** district, of

1 the petition for the drain, of the minutes of the survey, of the  
 2 releases of the right of way, ~~where the same have been released,~~ **OF**  
 3 **CONDEMNATION PROCEEDINGS IF INSTITUTED TO OBTAIN A PROPERTY**  
 4 **INTEREST NECESSARY FOR THE DRAIN**, of the orders of determination of  
 5 the necessity for and of the establishment of the drain, and of the  
 6 apportionment and assessment of benefits therefor. ~~Where special~~  
 7 ~~commissioners have been called, it shall also contain a copy of the~~  
 8 ~~application to the probate court, of the return of the special~~  
 9 ~~commissioners and of all other papers in his office necessary to~~  
 10 ~~show a complete history of each drainage district, all of which~~  
 11 ~~said original papers shall then be enrolled and filed in the office~~  
 12 ~~of the county drain commissioner. No drain tax~~ **FOR THE DRAIN. A**  
 13 **DRAIN ASSESSMENT** shall **NOT** be spread until all the records required  
 14 have been deposited and filed in the office of the county drain  
 15 commissioner.

16 Sec. 72. (1) As soon as practicable after the filing of a  
 17 petition **UNDER SECTION 71**, the commissioner authorized to act on  
 18 the petition, ~~if not disqualified under section 381 to make the~~  
 19 ~~apportionment of benefits,~~ may appoint a board of determination  
 20 composed of 3 disinterested property owners. ~~If~~ **HOWEVER, IF** the  
 21 commissioner is disqualified or chooses not to appoint the board of  
 22 determination, the commissioner shall immediately file a copy of  
 23 the petition with the chairperson of the county board of  
 24 commissioners, together with a statement signed by the commissioner  
 25 ~~showing~~ that he or she is disqualified or chooses not to act in  
 26 appointing a board of determination. ~~Upon~~ **AS SOON AS PRACTICABLE**  
 27 **AFTER** receiving a copy of the petition and certificate, the

1 chairperson of the county board of commissioners ~~, if not privately~~  
2 ~~interested, as soon as practicable,~~ shall appoint a board of  
3 determination composed of 3 disinterested property owners and shall  
4 immediately notify the drain commissioner of the names and  
5 addresses of those appointed. ~~If~~ **HOWEVER, IF** the chairperson of the  
6 board of commissioners has a private interest in the proceedings,  
7 the drain committee of the county board of commissioners shall  
8 appoint the board of determination. Members of boards of  
9 determination shall be residents of the county but not of a  
10 township, city, or village affected by the drain, and ~~may~~ **SHALL** not  
11 be members of the county board of commissioners of the county.

12 (2) A meeting of the board of determination shall be called  
13 within the drainage district at a convenient place to be designated  
14 by the drain commissioner. The board of determination meeting also  
15 may be held at a public building within the city, village, or  
16 township in which the drain is located. ~~If 1 of these~~ **AN INDIVIDUAL**  
17 appointed to the board of determination fails or refuses to serve,  
18 the drain commissioner shall appoint a successor.

19 (3) The per diem compensation, mileage, and expenses of a  
20 member of the board of determination shall be the same as the  
21 county board of commissioners of the county. In counties where  
22 commissioners are not paid on a per diem basis, the compensation,  
23 mileage, and expenses shall be fixed by the drain commissioner. The  
24 members of the board of determination shall not receive more than 1  
25 per diem for a day no matter how many separate matters are  
26 considered on that day.

27 (4) Upon request, the county drain commissioner shall inform

1 in writing the requesting state legislator who represents ~~that~~  
2 ~~portion of the~~ area in which the proposed drain improvement is to  
3 be constructed of the names and addresses of the persons appointed  
4 to a board of determination.

5 (5) ~~(2)~~—The drain commissioner shall give public notice of the  
6 time, date, and place of the meeting of the board of determination  
7 in the manner required by the open meetings act, ~~Act No. 267 of the~~  
8 ~~Public Acts of 1976, as amended, being sections~~ **1976 PA 267, MCL**  
9 ~~15.261 to 15.275, of the Michigan Compiled Laws,~~ and by publication  
10 in a newspaper of general circulation in the county at least 10  
11 days before the meeting. Notice also shall be served on the county  
12 clerk and on the clerk of each township, city, and village in the  
13 district, personally or by registered mail, at least 10 days before  
14 the meeting. The drain commissioner also shall send notice, by  
15 first class mail, of the time, date, and place of the meeting, to  
16 each person whose name appears on the last city, village, or  
17 township tax assessment roll as owning land within the special  
18 assessment district, at the address shown on the roll. If an  
19 address does not appear on the roll, a notice need not be mailed to  
20 the person. The drain commissioner shall make an affidavit of the  
21 mailing and shall recite in the affidavit that the persons to whom  
22 the notice was mailed constitute all of the persons whose names and  
23 addresses appear upon the tax rolls as owning land within the  
24 ~~particular special~~ assessment district. The affidavit ~~shall be~~ **IS**  
25 conclusive proof that notice was mailed to each person to whom  
26 notice is required to be mailed pursuant to this section. The  
27 failure **OF A PERSON** to receive a notice by mail ~~shall not~~

1 ~~constitute~~ **IS NOT** a jurisdictional defect invalidating a drain  
2 proceeding or tax, or both, if notice has been sent **TO THAT PERSON**  
3 by first class mail as provided in this section. Expenses of  
4 notification shall be paid by the drainage district when created.

5       **(6)** ~~(3)~~ At the time and place ~~fixed~~ **SPECIFIED** in the notice,  
6 the board of determination shall meet, elect a chairperson and  
7 secretary, and ~~proceed to~~ determine the necessity of the proposed  
8 drain and whether the drain is conducive to public health,  
9 convenience, or welfare. The board of determination, if it  
10 considers it necessary, shall require the county drain commissioner  
11 to obtain from the county treasurer a statement showing the amount  
12 of taxes and special assessments levied against the land in the  
13 proposed drainage district on the tax rolls for the immediately  
14 preceding 3 years and the amount of the taxes and assessments  
15 remaining unpaid. If it appears from the statement that 25% or more  
16 of the taxes are unpaid on the lands, further action **ON THE**  
17 **PETITION** shall not be taken.

18       **(7)** After hearing the evidence offered, the board of  
19 determination, ~~shall make its determination on~~ **BY MAJORITY VOTE OF**  
20 **ITS MEMBERS, SHALL DETERMINE** the necessity of the drain and whether  
21 the drain is conducive to public health, convenience, or welfare.  
22 If the board of determination finds ~~, by a majority vote of the~~  
23 ~~members,~~ that the drain is not necessary and conducive to public  
24 health, convenience, or welfare, the board of determination shall  
25 file with the commissioner an order dismissing the petition, and a  
26 further petition for the drain shall not be entertained within 1  
27 year after the determination. If the board of determination, by a

1 majority vote, finds **THAT** the ~~drain proposed to be~~ **DRAIN IS**  
 2 necessary and conducive to the public health, convenience, or  
 3 welfare, the board of determination shall make an order to that  
 4 effect and file the order with the commissioner. If the board of  
 5 determination finds that a portion of the construction of the  
 6 proposed drain is necessary for the protection of the public health  
 7 in 1 or more cities, villages, ~~and~~ **OR** townships, the order shall  
 8 set forth the determination ~~giving the names of~~ **AND IDENTIFY** the  
 9 municipalities receiving benefit for health. If the board of  
 10 determination determines that the whole cost, except that to be  
 11 levied against state or county highways for highway benefits, is  
 12 necessary for the public health, the cost shall be levied against  
 13 the townships, villages, and cities at large, and it ~~shall~~ **IS** not  
 14 ~~be~~ necessary, in a subsequent order or notice to describe or refer  
 15 to land included in or comprising the drainage district. ~~Upon~~  
 16 ~~filing of the order of determination by~~

17 **(8) WITHIN 10 DAYS AFTER** the board of determination **FILES THE**  
 18 **ORDER OF DETERMINATION UNDER SUBSECTION (7)**, the drain commissioner  
 19 ~~, within 10 days of filing,~~ shall notify each **LIABLE** municipality  
 20 that it is liable to pay a percent of the cost of construction of  
 21 the drain by reason of benefits at large for public health. The  
 22 governing body of the township, city, or village, within 20 days  
 23 after receipt of the notification by registered mail from the drain  
 24 commissioner, may appeal the order of the board of determination to  
 25 the ~~probate~~ **CIRCUIT** court having jurisdiction in the county in  
 26 which the township, city, or village is located. ~~Upon receipt of~~  
 27 ~~the order of the board of determination, and if~~ **IF** an appeal has

1 not been **TIMELY** taken by a municipality to the ~~probate~~**CIRCUIT**  
2 court, the commissioner ~~, after 20 days,~~ shall make his or her  
3 first order of determination in writing, giving the name or number  
4 of the drainage district. The commissioner shall establish the  
5 commencement, route, terminus, and type of construction of the  
6 drain, ~~a copy of which order he or she shall file,~~ **AND**, within 15  
7 days, **FILE A COPY OF THE ORDER** in his or her office. If an appeal  
8 is taken to the ~~probate~~**CIRCUIT** court by a municipality, the  
9 commissioner shall file his or her first order of determination  
10 after the appeal procedures are terminated.

11 Sec. 155. The owner of any land in the drainage district or  
12 any city, township, village, ~~district or county~~ having control of  
13 any highway ~~which may feel aggrieved by the apportionment of~~  
14 ~~benefits so made by the commissioner,~~ may, within ~~10~~**20** days after  
15 the day of review of ~~such apportionments,~~ **THE APPORTIONMENT UNDER**  
16 **SECTION 154**, appeal therefrom ~~and for such purpose make an~~  
17 ~~application to the probate court of the proper county for the~~  
18 ~~appointment of a board of review,~~ **THE APPORTIONMENT** by filing with  
19 ~~said probate~~ **THE CIRCUIT** court a notice of appeal and at the same  
20 ~~time filing with said court a bond in such sum as the judge of~~  
21 ~~probate may require,~~ **A BOND IN A SUM REQUIRED BY THE CIRCUIT COURT**,  
22 with 1 or more sureties to be approved by the ~~judge of probate~~  
23 **CIRCUIT COURT**, conditioned upon the payment of all costs in case  
24 the apportionment made by the commissioner ~~shall be~~ **IS** sustained.  
25 Such **AN** appeal may be taken by the **BOARD OF** county ~~or district road~~  
26 commissioners in behalf of the county ~~,~~ **OR BY** the mayor of any city  
27 in behalf of the city, by the supervisor in behalf of any township,

1 or ~~by~~ the president of any village in behalf of the village when  
 2 authorized by the ~~village or city council, township board or road~~  
 3 ~~commission, respectively. Only 1 board shall be appointed by such~~  
 4 ~~probate court.~~ **RESPECTIVE LEGISLATIVE BODY.**

5 Sec. 156. (1) The ~~probate~~ **CIRCUIT** court, **IMMEDIATELY** upon  
 6 receipt of any ~~such application as hereinbefore provided for shall~~  
 7 ~~forthwith~~ **A NOTICE OF APPEAL AND BOND UNDER SECTION 155, SHALL**  
 8 notify the commissioner in writing of ~~such~~ **THE** appeal, and shall  
 9 ~~thereupon~~ **THEN** make an order appointing 3 disinterested and  
 10 competent freeholders of ~~such~~ **THE** county, **WHO ARE** not residents of  
 11 ~~the~~ **A** township ~~or townships~~ affected by said ~~THE~~ drain, as members  
 12 ~~of a board of review. The persons so appointed shall constitute the~~  
 13 ~~board of review.~~ **THE CIRCUIT COURT SHALL APPOINT ONLY 1 BOARD OF**  
 14 **REVIEW FOR ALL APPEALS OF THE APPORTIONMENT OF BENEFITS FOR A**  
 15 **SINGLE DRAIN.** The court shall ~~thereupon~~, **THEN**, with the concurrence  
 16 of the commissioner, immediately fix the time and place ~~when and~~  
 17 ~~where said~~ **FOR A MEETING OF THE** board of review shall meet to  
 18 review said ~~apportionments, which time~~ **THE APPORTIONMENT. THE**  
 19 **MEETING** shall **BE HELD** not be less than 10 nor more than 15 days  
 20 from the date of filing ~~such~~ **THE** appeal.

21 (2) The commissioner shall ~~thereupon~~ **THEN** give notice to the  
 22 persons so appointed of their appointment and of the time and place  
 23 of meeting, ~~and~~ shall give notice of ~~such~~ **THE** meeting by posting  
 24 ~~notices~~ in at least 5 public places in each township forming a part  
 25 of the drainage district, and shall serve a ~~like~~ **SIMILAR** notice  
 26 upon the appellant if ~~he be~~ **THE APPELLANT IS** a resident of any  
 27 township affected. ~~Such~~ **THE** notice **TO THE APPELLANT** shall be made



1 **GIVEN BY PERSONAL SERVICE** not less than 5 days before the day of  
 2 **THE** hearing. ~~and shall be made by personal service.~~ Proof of  
 3 service of **THE** notice of appeal shall be made by the person serving  
 4 said **THE** notice and be filed in the ~~office of the judge of~~  
 5 ~~probate.~~ **CIRCUIT COURT.**

6 (3) ~~At such hearing the board of review shall have the right,~~  
 7 ~~and it shall be their duty, to review all apportionments for~~  
 8 ~~benefits made by the commissioner on such drain.~~ The persons so  
 9 appointed shall be sworn by the commissioner to faithfully  
 10 discharge the duties of ~~such~~ **THE** board of review.

11 Sec. 157. (1) The board of review shall proceed at the time ~~7~~  
 12 ~~date,~~ and place specified in the notice **UNDER SECTION 156(2)** to  
 13 hear the proofs and allegations of the parties in respect to ~~an~~ **THE**  
 14 appeal, shall proceed to view the lands benefited by the drain and  
 15 shall review the ~~apportionments~~ **APPORTIONMENT OF BENEFITS** made by  
 16 the commissioner on the drain. If in ~~their~~ **THE BOARD OF REVIEW'S**  
 17 judgment there is a manifest error or inequality in the  
 18 ~~apportionments they~~ **APPORTIONMENT, THE BOARD** shall order and make  
 19 the changes in the apportionment ~~as they may consider~~ **THAT IT**  
 20 **CONSIDERS** just and equitable.

21 (2) If the board of review upon personal examination finds  
 22 that a land liable to be assessed for the construction of the drain  
 23 is not included in the drainage district made by the commissioner,  
 24 ~~they~~ **THE BOARD** shall add the land to the drainage district of the  
 25 drain and shall adjourn the review to another time or **ANOTHER** place  
 26 **AND TIME**, ~~as they consider proper,~~ but not ~~in all~~ more than 20 days  
 27 ~~from and~~ **CUMULATIVELY** after the time of review first advertised.

1 The notice of the adjournment shall contain a description of lands  
 2 added to the drainage district. The notice shall be given at least  
 3 10 days before the adjourned day of review. ~~Should~~**IF** the owners of  
 4 land liable to an assessment ~~be~~**ARE** nonresidents of the county,  
 5 personal notice shall be served on the owners, or a notice shall be  
 6 published **AT LEAST TWICE** in a ~~weekly~~ newspaper published in the  
 7 county, ~~of at least 2 insertions,~~ giving the description of the  
 8 land added to the assessment district and ~~giving~~ the time, date,  
 9 and place where the board ~~shall~~**WILL** meet.

10 (3) The action and decision of the board ~~shall be~~**ARE** final.  
 11 The action and decision shall be ~~reduced to~~**IN** writing, ~~and signed~~  
 12 by a majority of the board making the decision, and ~~shall be~~  
 13 delivered to the commissioner together with other papers relating  
 14 to the decision.

15 Sec. 158. ~~In case~~**IF** the apportionment of the commissioner  
 16 ~~shall be~~**IS** sustained by ~~such~~**THE** board of review **UNDER SECTION**  
 17 **157**, the appellant shall pay the whole costs and expenses of ~~such~~  
 18 **THE** appeal. ~~Such~~**THE** costs and expenses shall be ~~ascertained and~~  
 19 determined by the ~~judge of probate,~~**CIRCUIT COURT**, and if not paid  
 20 the appellant ~~shall be~~**IS** liable on ~~his~~**THE** bond **UNDER SECTION 155**  
 21 for the full amount of ~~such~~**THE** costs in an action at law, ~~to be~~  
 22 ~~brought~~ by the commissioner on the bond before any court having  
 23 competent jurisdiction.

24 Sec. 159. ~~Should any or all of the persons so~~**IF ANY PERSON**  
 25 appointed **UNDER SECTION 156** as **A MEMBER OF** a board of review  
 26 ~~neglect or refuse~~**NEGLECTS, REFUSES, OR IS UNABLE** to serve, ~~or be~~  
 27 ~~unable to act,~~ the commissioner shall adjourn the hearing for a

1 sufficient length of time, not exceeding ~~in all~~ 10 days  
 2 **CUMULATIVELY**, to enable ~~him~~ **THE COMMISSIONER** to apply to the  
 3 ~~probate~~ **CIRCUIT** court, ~~for the appointment of other persons to act~~  
 4 ~~on such board of review~~ **A REPLACEMENT** and shall make **A** public  
 5 announcement of the time and place of ~~such~~ **THE** adjournment. The  
 6 review shall ~~thereupon be deemed a continuous proceeding and~~ **IN**  
 7 **THAT CASE**, no further notice shall be **IS** required. The ~~probate~~  
 8 **CIRCUIT** court shall, upon the showing being made, ~~either that any~~  
 9 ~~or all the persons~~ **PERSON** appointed as aforesaid have neglected,  
 10 refused, or were **WAS** unable to act as the case may be and of the  
 11 adjourned day of meeting, at ~~once~~ **IMMEDIATELY** by order appoint ~~such~~  
 12 ~~other~~ **ANOTHER** person ~~or persons~~ duly qualified to fill ~~such~~ **THE**  
 13 vacancy. And ~~the~~ **THE** commissioner shall notify ~~the~~ **EACH** person ~~or~~  
 14 ~~persons so~~ appointed to fill ~~such~~ **A** vacancy of his **OR HER**  
 15 appointment and of the adjourned day of meeting. ~~The person so~~  
 16 ~~appointed shall have the same power and perform the same duties as~~  
 17 ~~are herein provided for the board of review in the first instance.~~  
 18       Sec. 160. ~~In case the apportionment made by the commissioner~~  
 19 ~~is sustained, the individual, county, township, city or village~~  
 20 ~~appealing shall be severally liable for all costs incurred by such~~  
 21 ~~appeal and the same proceedings shall be had throughout in all~~  
 22 ~~respects in said appeal as to the benefits and liabilities in case~~  
 23 ~~of an appeal from an individual apportionment: Provided, That only~~  
 24 ~~1 board of review shall be appointed by such probate court for any~~  
 25 ~~one drain. The board of review herein provided for may adjourn any~~  
 26 ~~hearing before them from time to time as justice may require, not~~  
 27 ~~exceeding in all~~ 20 days **CUMULATIVELY** from the date of ~~their~~ **ITS**

1 first meeting.

2       Sec. 246. Newspaper publishers shall receive legal rates for  
 3 advertising. The ~~judge of probate~~ **CIRCUIT COURT** shall receive 10  
 4 cents per folio for making exemplified copies of any proceedings  
 5 had in the ~~probate~~ **CIRCUIT** court. and ~~\$2.00 for the appointment of~~  
 6 ~~special commissioners, including certified copy of the order of the~~  
 7 ~~appointment. Special commissioners may be appointed to determine~~  
 8 ~~the necessity of drains and the necessity of taking property for~~  
 9 ~~the use of such improvement and appraise damages therefor. Members~~  
 10 of boards of review, boards of determination, surveyors and  
 11 attorneys employed, shall present their account for services  
 12 rendered and expenses under oath to the board of county auditors in  
 13 a county having a board of auditors or to the ~~judge of probate~~  
 14 **CIRCUIT COURT** in other counties. ~~, and it shall be the duty of said~~  
 15 ~~board or judge to~~ **THE BOARD OF COUNTY AUDITORS OR CIRCUIT COURT**  
 16 **SHALL** audit and allow the ~~said~~ accounts and direct ~~the same to be~~  
 17 ~~paid~~ **THEIR PAYMENT** from the revolving drain fund of the county. +  
 18 ~~Provided, That in case~~ **HOWEVER, IF** the board of determination ~~or~~  
 19 ~~special commissioners determine said~~ **DETERMINES THAT THE** proposed  
 20 drain is not necessary, payment for all such service shall be made  
 21 from the general fund of the county.

22       Sec. 261. **(1)** Within 10 days after the letting of contracts,  
 23 or in case of an appeal, ~~then forthwith after such appeal shall~~  
 24 ~~have been~~ **IMMEDIATELY AFTER THE APPEAL IS** decided, the commissioner  
 25 shall ~~make a computation of~~ **COMPUTE** the entire cost of such ~~THE~~  
 26 drain, ~~which shall include (1) all the~~ **INCLUDING ALL OF THE**  
 27 **FOLLOWING:**

1           **(A) THE** expense of laying out and designating the drainage  
 2 district, ~~which item of expense shall include the entire~~ **INCLUDING**  
 3 **THE** cost of the survey. ~~;(2) the~~

4           **(B) THE** expense of locating, establishing, and constructing  
 5 the drain. ~~;(3) the~~

6           **(C) THE** fees and expenses of ~~special commissioners;~~ ~~(4) the~~  
 7 **CONDEMNATION PROCEEDINGS.**

8           **(D) THE** compensation to be paid the board of review. ~~;(5) the~~

9           **(E) THE** cost of construction of bridges and culverts. ~~;(6)~~  
 10 the

11           **(F) THE** contracts for the construction of the drain, or other  
 12 work to be done on **THE DRAIN.** ~~said drain;~~ ~~(7) the~~

13           **(G) THE** estimated cost of an appeal in case the apportionment  
 14 made by the commissioner **IS NOT SUSTAINED.** ~~shall not be sustained;~~  
 15 ~~(8) the~~

16           **(H) THE** estimated cost of inspection. ~~;(9) the~~

17           **(I) THE** cost of publishing all notices required. ~~;(10) all~~  
 18 ~~fees of the probate judge;~~ ~~(11) attorney~~

19           **(J) CIRCUIT COURT** fees.

20           **(K) FEES** for legal services in connection with the drain. ~~;~~  
 21 ~~and (12) interest~~

22           **(l) INTEREST** on bonds for the first year, if bonds are to be  
 23 issued. ~~and he~~

24           **(2) THE DRAIN COMMISSIONER** shall add ~~the whole into a gross~~  
 25 ~~sum and add thereto~~ **TO THE AMOUNT COMPUTED UNDER SUBSECTION (1)** not  
 26 less than 10% nor more than 15%, at the discretion of the drain  
 27 commissioner, of ~~said gross sum~~ **THAT AMOUNT** to cover contingent

1 expenses. ~~and the~~ **THE** entire sum so ascertained shall be deemed  
2 ~~to be the~~ **IS CONSIDERED THE** cost of construction of such ~~THE~~ drain.

3 Sec. 381. ~~Whenever the commissioner of any county shall~~  
4 ~~receive~~ **IF A DRAIN COMMISSIONER RECEIVES** a petition asking for the  
5 laying out, construction, cleaning out, deepening, or widening of  
6 ~~any drain, or a petition asking~~ **A DRAIN OR FOR** proceedings by  
7 virtue of which ~~any~~ **AN** assessment upon lands for benefits received  
8 would result, ~~wherein such commissioner shall be interested by~~  
9 ~~reason of himself, wife or child, owning~~ **AND THE COMMISSIONER IS**  
10 **INTERESTED BECAUSE THE COMMISSIONER, THE COMMISSIONER'S SPOUSE, OR**  
11 **THE COMMISSIONER'S CHILD OWNS** lands that would be liable to an  
12 assessment for benefits ~~upon~~ **FOR** the work or proceeding ~~proposed to~~  
13 ~~be done or had, and in cases where such~~ **OR THE** commissioner may be  
14 **IS** otherwise disqualified to act in the making of apportionment of  
15 benefits, ~~such~~ **THE** commissioner shall file a copy of such ~~THE~~  
16 petition with the judge of probate of the county, **CIRCUIT COURT,**  
17 together with a statement signed by him, **THE COMMISSIONER,** showing  
18 that he **OR SHE** is disqualified to act in making such ~~MAKE THE~~  
19 apportionment of benefits.

20 Sec. 382. ~~Upon~~ **WITHIN 15 DAYS AFTER** receiving such ~~A~~ petition  
21 and certificate aforesaid, ~~the judge of probate~~ **STATEMENT UNDER**  
22 **SECTION 381, THE CIRCUIT COURT** shall, ~~within not less than 15~~  
23 ~~days,~~ appoint a disinterested commissioner of an adjoining or  
24 nearby county to make the apportionment of benefits on said ~~THE~~  
25 drain. ~~It shall be the duty of said disinterested commissioner, so~~  
26 ~~appointed, to make and complete within a period of~~ **WITHIN** 30 days  
27 **AFTER HIS OR HER APPOINTMENT,** or within such reasonable time

1 thereafter as may be necessary, **THE APPOINTED COMMISSIONER SHALL**  
 2 **MAKE** an apportionment of the benefits of ~~said-**THE**~~ drain and file  
 3 the ~~same-**APPORTIONMENT**~~ with the ~~said-disqualified commissioner.~~ ~~7~~  
 4 and ~~said-**THE**~~ apportionment shall be adopted for ~~said-**THE**~~ drain,  
 5 subject to the ~~same-~~rights of appeal as provided in this act. ~~Said~~  
 6 **THE** disqualified commissioner shall furnish the commissioner so  
 7 appointed with a copy of his **OR HER** final order of determination on  
 8 ~~said-**THE**~~ drain.

9       Sec. 424. ~~(1) Whenever a~~ **IF AN EXISTING** disposal plant,  
 10 filtration plant, or other mechanical device to purify the flow of  
 11 ~~such-**A**~~ drain or sewer ~~has been heretofore constructed, but is~~  
 12 inoperative or improperly operated and, in the opinion of the ~~state~~  
 13 ~~commissioner of~~ **DIRECTOR OF THE DEPARTMENT OF** health **AND HUMAN**  
 14 **SERVICES**, the public health is **CONSEQUENTLY** endangered, ~~by reason~~  
 15 ~~thereof, said state commissioner of~~ **THE DIRECTOR OF THE DEPARTMENT**  
 16 **OF** health **AND HUMAN SERVICES** may file with the ~~judge of probate~~  
 17 **CIRCUIT COURT** of the county in which ~~said-**THE**~~ facilities are  
 18 located ~~7~~ a petition ~~reciting~~ **SETTING FORTH** his **OR HER** findings and  
 19 recommendations as to how the ~~menace-~~**ENDANGERMENT** to health may be  
 20 corrected or the nuisance may best be abated and how the improperly  
 21 operated or inoperative disposal plant, filtration plant, or other  
 22 mechanical device to purify the flow of a drain or sewer should be  
 23 **REPAIRED, MAINTAINED, AND** operated. ~~Upon satisfying himself as to~~  
 24 ~~the reasonableness of said recommendations, it shall be the duty of~~  
 25 ~~the judge of probate of said county to~~ **IF THE CIRCUIT COURT FINDS**  
 26 **THAT THE RECOMMENDATIONS ARE REASONABLE, THE CIRCUIT COURT SHALL**  
 27 direct the drain commissioner of ~~said-**THE**~~ county to prepare a plan

1 for and estimate the annual cost of executing the recommendations  
 2 of the ~~state commissioner of~~ **DIRECTOR OF THE DEPARTMENT OF** health  
 3 **AND HUMAN SERVICES**, and/or of rehabilitation, ordinary maintenance  
 4 and operation of said improperly operated or inoperative  
 5 facilities, to prepare a map showing the extent of the area  
 6 contributing to said ~~THE~~ condition, and to ~~make a determination of~~  
 7 **DETERMINE** the annual expense thereof apportioned according to  
 8 benefits to the state highways, cities, villages, and townships  
 9 benefited. ~~by the same.~~ Upon receipt of the map, tentative  
 10 assessment district, and other information from the county drain  
 11 commissioner, the ~~judge of probate~~ **CIRCUIT COURT** shall give notice  
 12 of said ~~THE~~ facts and of the date of receiving appeals. **NOTICE**  
 13 **SHALL BE GIVEN** by publication in at least ~~2 insertions in some~~  
 14 **TWICE IN A** newspaper published and of general circulation in the  
 15 county, if there ~~be~~ **IS** one, the first publication to be at least 10  
 16 days before the date set for receiving appeals. ~~and said notice~~  
 17 **NOTICE** shall also be posted at least 10 days before the date for  
 18 receiving appeals in 5 or more conspicuous places in each city,  
 19 village, and township ~~where any part of the district may be~~ **IS**  
 20 located and within the limits of ~~such~~ **THE** district.

21 (2) The ~~state highway commissioner~~ **DIRECTOR OF THE STATE**  
 22 **TRANSPORTATION DEPARTMENT** or any city, township, or village, which  
 23 ~~may feel~~ aggrieved by the apportionment of benefits ~~so~~ made by the  
 24 drain commissioner may ~~make an application to said probate court~~  
 25 ~~for review of the apportionment by a board of review~~ **APPEAL THE**  
 26 **APPORTIONMENT** by filing with said ~~probate~~ **THE CIRCUIT** court a  
 27 notice of appeal. ~~Only 1 board of review shall be appointed by said~~



1 court. Upon receipt of any such notices of appeal, as hereinbefore  
 2 provided, the probate court shall forthwith **A NOTICE OF APPEAL, THE**  
 3 **CIRCUIT COURT SHALL IMMEDIATELY** notify the drain commissioner, in  
 4 writing, of such ~~THE~~ appeal and thereupon **SHALL** make an order  
 5 appointing 3 disinterested freeholders of ~~such~~ **THE** county, **WHO ARE**  
 6 not residents of said ~~THE~~ district, to constitute such ~~AS A~~ board  
 7 of review **FOR ALL THE APPEALS**. The court shall thereupon, ~~THEN,~~  
 8 with the concurrence of the drain commissioner, immediately ~~fix~~  
 9 **ESTABLISH** the time and place ~~when and where said~~ **FOR A MEETING OF**  
 10 **THE** board of review shall meet to review said apportionments, which  
 11 said time ~~THE~~ **APPORTIONMENT. THE MEETING** shall be **HELD** not less  
 12 than 10 ~~nor~~ **OR** more than 15 days ~~from~~ **AFTER** the date of filing such  
 13 **THE** appeal.

14 (3) The drain commissioner shall thereupon give notice to the  
 15 persons ~~so~~ appointed **UNDER SUBSECTION (2) NOTICE** of their  
 16 appointment and of the time and place of **THE** meeting, and shall  
 17 give notice of ~~such~~ **THE** meeting by posting notices in at least 5  
 18 public places in each city, village, and township forming a part of  
 19 the drainage district, and shall serve a ~~like~~ **SIMILAR** notice upon  
 20 the **DIRECTOR OF THE** state highway commissioner ~~TRANSPORTATION~~  
 21 **DEPARTMENT** and each of said ~~THOSE~~ cities, villages, and townships.  
 22 Such ~~THE~~ service shall be made not less than 5 days before **THE**  
 23 hearing. Return shall be made by the person serving said ~~THE~~ notice  
 24 and shall be filed in the office of the judge of probate. At such  
 25 hearing the board of review shall have the right and it shall be  
 26 their duty to review all apportionments made by the drain  
 27 commissioner. **CIRCUIT COURT**. Persons appointed ~~on~~ said ~~TO~~ **THE** board

1 of review shall be sworn by the drain commissioner to faithfully  
2 discharge their duties as members of ~~said~~**THE** board.

3 **(4)** The board of review shall proceed at the time and place  
4 specified in the notice to hear the proofs and allegations of all  
5 parties in respect to the ~~matter of appeal~~ ~~. A~~**AND TO** review ~~of~~  
6 ~~apportionments shall be made by the board of review and if,~~**THE**  
7 **ENTIRE APPORTIONMENT. IF** in their ~~THE BOARD OF REVIEW'S~~ judgment,  
8 there ~~shall be~~**IS** manifest error or inequality in ~~such~~  
9 ~~apportionments, they~~**THE APPORTIONMENT, THE BOARD** shall order and  
10 make ~~such changes therein as they shall deem~~**IN THE APPORTIONMENT**  
11 **THAT IT CONSIDERS** just and equitable. ~~Determination~~**THE**  
12 **DETERMINATION** of the drain commissioner, if not appealed from, or  
13 of ~~said~~**THE** board, in case of an appeal, ~~shall be~~**IS** final and  
14 there ~~shall be~~**IS** no right of appeal from ~~such~~**THE** determination,  
15 except by writ of certiorari to the proper court. The determination  
16 shall be ~~reduced to~~**IN** writing, and signed by the drain  
17 commissioner, or in case of appeal, **BY** a majority of the board  
18 making the same, ~~DETERMINATION,~~ and shall be delivered to the judge  
19 ~~of probate~~**CIRCUIT COURT** together with all other papers relating  
20 thereto. ~~Upon the apportionments becoming final, as hereinbefore~~  
21 ~~set forth, the judge of probate~~**TO THE APPORTIONMENT. WHEN THE**  
22 **APPORTIONMENT BECOMES FINAL, THE CIRCUIT COURT** shall deliver ~~said~~  
23 **THE** approved roll of ~~apportionments~~**THE APPORTIONMENT** of benefits  
24 and expense to the drain commissioner. ~~, who~~**THE DRAIN COMMISSIONER**  
25 shall assess the amounts ~~therein~~ set forth **IN THE ROLL** to the  
26 respective cities, villages, and townships involved. ~~, and said~~**THE**  
27 cities, villages, and townships shall thereafter ~~make payment~~

1 ~~thereof as collected~~ **PAY THE AMOUNTS** in quarterly installments to  
2 the county treasurer to be deposited in a separate fund for the  
3 rehabilitation, ordinary maintenance, and operation of ~~said~~ **THE**  
4 facilities. ~~, which said~~ **THE** fund shall be paid out only on the  
5 order of the drain commissioner of the county in which ~~said~~ **THE**  
6 facilities are located.

7         (5) ~~Payment~~ **COSTS** for services and providing for substitute  
8 membership necessary on the board of review shall be ~~in accordance~~  
9 ~~with~~ **PAID AS PROVIDED IN** sections 158 and 159. ~~of this act.~~ Such  
10 necessary **NECESSARY** costs of the proceeding shall be determined by  
11 the ~~judge of probate,~~ ~~said cost to be~~ **CIRCUIT COURT**, paid from the  
12 revolving fund of the county, and ~~same to be~~ returned to the county  
13 out of the first assessment against ~~said~~ **THE** district. Immediately  
14 upon receipt of sufficient funds, ~~so to do,~~ the drain commissioner  
15 of the county shall proceed with the rehabilitation, ordinary  
16 maintenance, and operation of ~~said~~ **THE** facilities ~~, and shall~~  
17 ~~continue the same~~ as long as funds are available. The costs and  
18 charges hereinbefore set forth **PROVIDED FOR IN THIS SECTION** shall  
19 be an annual charge and shall be assessed against the state  
20 highways and the ~~several~~ cities, villages, and townships by ~~said~~  
21 **THE** drain commissioner each year as long as ~~said~~ **THE** facility  
22 continues to be operated. ~~, unless in the opinion of the drain~~  
23 ~~commissioner, the state highway commissioner or of any of said~~  
24 ~~cities, villages or townships, said apportionment should be~~  
25 ~~changed, in which event either said drain commissioner,~~ **HOWEVER,**  
26 the **DIRECTOR OF THE** state highway commissioner, **TRANSPORTATION**  
27 **DEPARTMENT** or any of ~~said~~ **THE** cities, villages, or townships may

1 petition the ~~judge of probate~~ **CIRCUIT COURT** of the county in which  
 2 ~~said~~ **THE** proceedings were had for the appointment of a board of  
 3 review to reapportion ~~said~~ **THE** expense. ~~, and on filing said~~  
 4 ~~petition said judge of probate shall proceed to~~ **THE CIRCUIT COURT**  
 5 **SHALL** appoint a board of review on notice and in the manner  
 6 ~~hereinbefore set forth, which said~~ **PROVIDED FOR IN THIS SECTION.**  
 7 **THE** board of review shall review ~~such~~ **THE** assessments and make a  
 8 new apportionment. ~~∴ Provided, however, That no~~ **HOWEVER, A**  
 9 reapportionment shall **NOT** be made ~~oftener~~ **MORE OFTEN** than once in  
 10 each calendar year.

11 (6) The ~~several~~ cities, villages, and townships against ~~whom~~  
 12 **WHICH** an assessment is made, as ~~hereinbefore~~ provided **FOR IN THIS**  
 13 **SECTION**, shall collect ~~for such expense so assessed to them under~~  
 14 ~~this act~~ **THE AMOUNT ASSESSED** by charges for the use of ~~said~~ **THE**  
 15 facilities, to be added to and collected with the water rates of  
 16 ~~said~~ **THE** cities, villages, and townships, in the same manner as  
 17 other water rates of ~~said~~ **THE** cities, villages, and townships are  
 18 collected, or in such other manner as the ~~several~~ governing bodies  
 19 of ~~said~~ **THE** respective cities, villages, and townships may  
 20 determine.

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