

# HOUSE BILL No. 4669

April 19, 1989, Introduced by Reps. Palamara, Porreca and Runco and referred to the Committee on Towns and Counties.

A bill to amend sections 464, 466, and 478 of Act No. 40 of the Public Acts of 1956, entitled as amended "The drain code of 1956," being sections 280.464, 280.466, and 280.478 of the Michigan Compiled Laws.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 464, 466, and 478 of Act No. 40 of the  
2 Public Acts of 1956, being sections 280.464, 280.466, and 280.478  
3 of the Michigan Compiled Laws, are amended to read as follows:

4 Sec. 464. (1) ~~There~~ A DRAINAGE BOARD is created for each  
5 project petitioned for under the provisions of this chapter.

6 (2) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTIONS (3) AND (4),  
7 a drainage board ~~to~~ SHALL consist of the drain commissioner of  
8 the county, the ~~chairman~~ CHAIRPERSON of the county board of  
9 ~~supervisors~~ COMMISSIONERS OR HIS OR HER DESIGNEE and the

1 ~~chairman~~ CHAIRPERSON of the board of county auditors. If there  
2 is no board of county auditors in ~~any such~~ THE county, then the  
3 ~~chairman~~ CHAIRPERSON of the finance committee of the board of  
4 ~~supervisors~~ COMMISSIONERS shall act as a member of the drainage  
5 board, and if there is neither a board of county auditors nor A  
6 finance committee, then the ~~chairman~~ CHAIRPERSON of the board  
7 of ~~supervisors~~ COMMISSIONERS shall select from time to time 1  
8 member of the board of ~~supervisors~~ COMMISSIONERS to act as a  
9 member of the drainage board.

10 (3) FOR A PROJECT UNDER SECTION 462 IN A COUNTY OF NOT LESS  
11 THAN 1,500,000 POPULATION, IF, AFTER ISSUANCE OF A FINAL ORDER OF  
12 DETERMINATION PURSUANT TO SECTION 467, THE PROVISIONS OF THIS  
13 SUBSECTION ARE APPROVED IN RESOLUTIONS ADOPTED BY THE GOVERNING  
14 BODIES OF A MAJORITY OF THE PUBLIC CORPORATIONS COMPOSING THE  
15 DRAINAGE DISTRICT, THEN THE DRAINAGE BOARD IS RECONSTITUTED TO  
16 CONSIST OF THE CHAIRPERSON OF THE COUNTY BOARD OF COMMISSIONERS  
17 OR HIS OR HER DESIGNEE AND 1 PERSON APPOINTED BY THE CHIEF EXECU-  
18 TIVE OFFICER OF EACH PUBLIC CORPORATION COMPOSING THE DRAINAGE  
19 DISTRICT.

20 (4) FOR A PROJECT UNDER SECTION 482 IN A COUNTY OF NOT LESS  
21 THAN 1,500,000 POPULATION, IF, AFTER RECEIPT OF A PETITION BY THE  
22 COUNTY DRAIN COMMISSIONER, THE PROVISIONS OF THIS SUBSECTION ARE  
23 APPROVED IN RESOLUTIONS ADOPTED BY THE GOVERNING BODIES OF A  
24 MAJORITY OF THE PUBLIC CORPORATIONS COMPOSING THE DRAINAGE DIS-  
25 TRICTS OF THE DRAINS INCLUDED IN THE PROJECT, THEN THE DRAINAGE  
26 BOARD FOR THAT PROJECT SHALL CONSIST OF THE CHAIRPERSON OF THE  
27 COUNTY BOARD OF COMMISSIONERS OR HIS OR HER DESIGNEE AND 1 PERSON

1 APPOINTED BY THE CHIEF EXECUTIVE OFFICER OF EACH OF THE PUBLIC  
2 CORPORATIONS COMPOSING THE DRAINAGE DISTRICTS OF THE DRAINS  
3 INCLUDED IN THE PROJECT.

4 (5) If a ~~supervisor~~ MEMBER OF THE COUNTY BOARD OF COMMIS-  
5 SIONERS OR A DESIGNEE OF THE CHAIRPERSON OF THE COUNTY BOARD OF  
6 COMMISSIONERS IS A member of the drainage board, as provided in  
7 this section or section 487, AND is interested in a project peti-  
8 tioned for under the provisions of this chapter, by reason of  
9 ~~his~~ holding an elected or appointed office in a public corpora-  
10 tion to be assessed for the cost of the project, he OR SHE is  
11 disqualified to act as a member of the drainage board with  
12 respect to the project. In ~~such~~ THIS case, the ~~vice chairman~~  
13 ~~or chairman~~ VICE-CHAIRPERSON OR CHAIRPERSON pro tempore of the  
14 COUNTY board of ~~supervisors~~ COMMISSIONERS or of the finance  
15 committee of the board of ~~supervisors~~ COMMISSIONERS, if not  
16 also disqualified, shall act as ~~such~~ A member. If the  
17 ~~vice chairman or chairman~~ VICE-CHAIRPERSON OR CHAIRPERSON pro  
18 tempore is disqualified, the drain commissioner of the county  
19 shall designate a member of the board of ~~supervisors~~  
20 COMMISSIONERS who is not so disqualified to act as a member of  
21 the drainage board for the project.

22 (6) The ~~chairman~~ CHAIRPERSON of the COUNTY board of  
23 ~~supervisors~~ COMMISSIONERS OR HIS OR DESIGNEE, and any OTHER  
24 member of ~~a~~ THE board of ~~supervisors~~ COMMISSIONERS serving on  
25 the drainage board shall receive ~~such~~ compensation, mileage,  
26 and expenses as ~~shall be~~ provided by the drainage board, except  
27 that ~~such~~ compensation shall not exceed \$25.00 per diem

1 exclusive of mileage and expenses for attendance at drainage  
2 board meetings.

3 (7) The county drain commissioner shall be ~~chairman~~  
4 CHAIRPERSON of ~~the~~ A drainage board CONSTITUTED UNDER SUBSEC-  
5 TION (2). ~~He~~ THE CHAIRPERSON OF THE COUNTY BOARD OF COMMIS-  
6 SIONERS OR HIS OR HER DESIGNEE SHALL BE CHAIRPERSON OF A DRAINAGE  
7 BOARD CONSTITUTED UNDER SUBSECTION (3) OR (4). THE CHAIRPERSON  
8 shall keep minutes of the proceedings of the drainage board and  
9 KEEP all records and files of the board ~~shall be kept~~ in his OR  
10 HER office. ~~In counties~~ IF A DRAINAGE BOARD IS CONSTITUTED  
11 UNDER SUBSECTION (2) IN A COUNTY of less than 500,000 population,  
12 the COUNTY DRAIN commissioner, AS CHAIRPERSON OF THE DRAINAGE  
13 BOARD, shall be paid the same compensation as other members of  
14 the drainage board.

15 Sec. 466. (1) ~~Upon receipt of a petition as hereinbefore~~  
16 ~~provided~~ FOR A PROJECT UNDER SECTION 482 IN A COUNTY OF LESS  
17 THAN 1,500,000 POPULATION OR FOR A PROJECT UNDER SECTION 462,  
18 UPON RECEIPT OF A PETITION FILED UNDER SECTION 463, the county  
19 drain commissioner shall call the first meeting of the drainage  
20 board. ~~In the event there be~~

21 (2) WITHIN 10 DAYS AFTER RECEIPT OF A PETITION FOR A PROJECT  
22 UNDER SECTION 482 IN A COUNTY OF NOT LESS THAN 1,500,000 POPULA-  
23 TION, THE COUNTY DRAIN COMMISSIONER SHALL MAIL NOTICE OF THE  
24 RECEIPT OF THE PETITION TO THE GOVERNING BODIES OF THE PUBLIC  
25 CORPORATIONS COMPOSING THE DRAINAGE DISTRICT OF EACH DRAIN  
26 INCLUDED IN THE PROJECT. THE NOTICE SHALL INCLUDE THE DATE OF  
27 RECEIPT OF THE PETITION BY THE COUNTY DRAIN COMMISSIONER, THE

1 NAMES OF THE PUBLIC CORPORATIONS COMPOSING THE DRAINAGE DISTRICT  
2 OF EACH DRAIN TO BE INCLUDED IN THE PROJECT, AND A STATEMENT THAT  
3 NOTICE IS GIVEN PURSUANT TO THIS SECTION. NOTICE UNDER SECTION  
4 463(3) NEED NOT BE GIVEN TO A PUBLIC CORPORATION GIVEN NOTICE  
5 UNDER THIS SECTION. THE COUNTY DRAIN COMMISSIONER SHALL CALL THE  
6 FIRST MEETING OF THE DRAINAGE BOARD. HOWEVER, IF THE PROVISIONS  
7 OF SECTION 464(4) ARE APPROVED PURSUANT TO THAT SECTION BEFORE  
8 THE COUNTY DRAIN COMMISSIONER CALLS THE FIRST MEETING OF THE  
9 DRAINAGE BOARD, THE CHAIRPERSON OF THE COUNTY BOARD OF COMMIS-  
10 SIONERS OR HIS OR HER DESIGNEE SHALL CALL THE FIRST MEETING OF  
11 THE DRAINAGE BOARD.

12 (3) IF THERE IS no board of county auditors or finance com-  
13 mittee in the county, then notice to the ~~chairman~~ CHAIRPERSON  
14 of the board of ~~supervisors of such county shall be deemed to~~  
15 ~~be~~ COMMISSIONERS OF THE COUNTY CONSTITUTES notice to the member  
16 of the board of ~~supervisors~~ COMMISSIONERS to be selected by him  
17 OR HER UNDER SECTION 464(2).

18 Sec. 478. (1) The drainage board for each project shall  
19 continue in existence with such changes in personnel as ~~shall~~  
20 result from changes in the officers constituting the board mem-  
21 bership OR FROM ADOPTION OF SECTION 464(3) BY THE GOVERNING  
22 BODIES OF A MAJORITY OF THE PUBLIC CORPORATIONS CONSTITUTING THE  
23 DRAINAGE DISTRICT. It ~~shall be~~ IS responsible for the opera-  
24 tion and maintenance of the drain. ~~Any necessary~~ NECESSARY  
25 expenses incurred in administration, ~~and in the~~ operation, and  
26 maintenance of the drain and not covered by contract shall be  
27 paid by the ~~several~~ public corporations assessed for the cost

1 of the drain. The assessments shall be in the same proportion as  
2 the cost of the drain was assessed unless the drainage board  
3 establishes a different proportion for the assessments after  
4 notice and hearing as provided in section 469.

5 (2) The drainage board ~~, by resolution duly adopted by it,~~  
6 ~~may~~ SHALL relinquish jurisdiction and control over all or ~~any~~  
7 part of a drain or drain project ~~at any time when there is no~~  
8 ~~outstanding indebtedness or contract liability of its drainage~~  
9 ~~district,~~ to the county, township, city, or village in which all  
10 or the part of the drain or drain project is wholly located, ~~if~~  
11 AND THE COUNTY, TOWNSHIP, CITY, OR VILLAGE SHALL ASSUME JURISDIC-  
12 TION AND CONTROL, 30 DAYS AFTER ALL OF THE FOLLOWING REQUIREMENTS  
13 ARE MET:

14 (A) THE county, township, city, or village requests or con-  
15 sents to the relinquishment of jurisdiction and control by reso-  
16 lution ~~duly~~ adopted by its governing body.

17 (B) IF THE DRAINAGE DISTRICT HAS OUTSTANDING INDEBTEDNESS OR  
18 CONTRACT LIABILITY, THE COUNTY, TOWNSHIP, CITY, OR VILLAGE AGREES  
19 TO ASSUME THE INDEBTEDNESS OR LIABILITY AND PLEDGES ITS FULL  
20 FAITH AND CREDIT IN THE PAYMENT OF THE INDEBTEDNESS OR FULFILL-  
21 MENT OF THE LIABILITY BY RESOLUTION OF ITS GOVERNING BODY.

22 Indebtedness or contract liability of ~~any~~ A drainage district  
23 ~~which~~ THAT will be paid in full at the time of consummation of  
24 relinquishment of jurisdiction and control shall not be ~~deemed~~  
25 CONSIDERED to be outstanding.

26 (C) If relinquishment of jurisdiction and control is to a  
27 county, the resolution of the governing body of the county ~~shall~~

1 ~~specify~~ SPECIFIES the county agency, such as board of public  
2 works, drain commissioner, board of county road commissioners, or  
3 parks and recreation commission, ~~which~~ THAT shall ~~be thereaf-~~  
4 ~~ter responsible for~~ exercise ~~of such~~ jurisdiction and  
5 control. ~~Any moneys~~

6 (3) MONEY in the drain fund of any drain, over all or any  
7 part of which jurisdiction and control is relinquished, shall be  
8 used to pay any indebtedness or contract liability of its drain-  
9 age district, and the balance shall be ~~turned over~~ TRANSFERRED  
10 to the county, township, city, or village to be used solely with  
11 respect to the drain ~~, all or part thereof,~~ OF THE DRAIN over  
12 which jurisdiction and control is assumed. If the relinquishment  
13 of jurisdiction and control and the ~~turnover~~ TRANSFER of THE  
14 drain fund relates to a part of a drain or drain project, ~~such~~  
15 THE relinquishment and ~~turnover shall~~ TRANSFER DOES not become  
16 effective until consented to by resolution of the governing body  
17 of each public corporation ~~which~~ THAT has paid a part of the  
18 cost of the drain or drain project, and for this purpose the  
19 board of county road commissioners and the state ~~highway~~  
20 TRANSPORTATION commission shall be ~~deemed~~ CONSIDERED to be the  
21 governing body for the county and the state.