

HOUSE BILL No. 4738

April 23, 1991, Introduced by Rep. Hickner and referred to the Committee on Agriculture, Forestry and Minerals.

A bill to amend sections 152 and 154 of Act No. 40 of the Public Acts of 1956, entitled as amended

"The drain code of 1956,"

being sections 280.152 and 280.154 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 152 and 154 of Act No. 40 of the Public
2 Acts of 1956, being sections 280.152 and 280.154 of the Michigan
3 Compiled Laws, are amended to read as follows:

4 Sec. 152. ~~All apportionments~~ EACH APPORTIONMENT of bene-
5 fits under ~~the provisions of~~ this act shall be upon the princi-
6 ple of benefits derived. ~~All descriptions~~ A DESCRIPTION of
7 land under ~~the provisions of~~ this act shall be made by giving
8 the legal subdivision, ~~thereof,~~ whenever practicable, and when
9 the tract of land ~~which~~ THAT is to be benefited or affected by

1 ~~such~~ A drain is less than ~~such~~ THE legal subdivision, ~~it~~
2 THE TRACT may be described by designation of the lot or other
3 boundaries, or in some way by which it may be known. IF THE
4 DRAIN COMMISSIONER RETAINS IN HIS OR HER OFFICE A DETAILED
5 DESCRIPTION, MAP, OR OTHER SPECIFICATION THAT DESIGNATES A TRACT
6 TO BE BENEFITED OR AFFECTED BY THE DRAIN, THE COMMISSIONER,
7 INSTEAD OF PROVIDING A SPECIFIC DESCRIPTION OF THE TRACT, MAY
8 DESIGNATE THE TRACT BY USE OF THE TRACT'S TAX ROLL IDENTIFICATION
9 NUMBER.

10 Sec. 154. (1) The commissioner shall give notice for the
11 receiving of bids for the construction of the drain and for the
12 holding of a public meeting. At the meeting, a review shall be
13 made of the apportionment of benefits. The notice shall specify
14 the time, DATE, and place of receiving bids, and the time, DATE,
15 and place of the meeting for review of apportionment. The meet-
16 ing shall be not less than 5 ~~nor~~ OR more than 30 days after the
17 date set for receiving bids. The notice shall be given by publi-
18 cation of at least 2 insertions in a newspaper published and of
19 general circulation in the county. The first publication shall
20 be at least 10 days before the date set for receiving bids. The
21 drain commissioner shall send notice by first class mail of the
22 time, date, and place of the meeting, at least 10 days before the
23 date of the meeting, to each person whose name appears upon the
24 last city or township tax assessment roll as owning land within
25 the special assessment district, at the address shown on the
26 roll. If an address does not appear on the roll, then notice
27 need not be mailed to the person. The drain commissioner shall

1 make an affidavit of the mailing and shall recite in the
 2 affidavit that the persons to whom the notice was mailed ~~—~~ con-
 3 stitute all of the persons whose names and addresses appear upon
 4 the tax rolls as owning land within the ~~particular~~ special
 5 assessment district. The affidavit ~~shall be~~ IS conclusive
 6 proof that notice was mailed to each person to whom notice is
 7 required to be mailed. If notice ~~has been~~ IS sent by first
 8 class mail as provided in this section, the failure to receive
 9 notice by mail ~~shall~~ DOES not constitute a jurisdictional
 10 defect invalidating a drain proceeding or tax. If the board of
 11 determination determines that the drain is necessary for the pro-
 12 tection of the public health and that the whole cost of the
 13 drain, except that part which may be apportioned for benefits to
 14 highways, shall be apportioned to municipalities, then mailing of
 15 individual notices to persons owning land within the special
 16 assessment district as provided in this section ~~shall~~ IS not
 17 ~~be~~ required.

18 (2) THE NOTICE SHALL STATE THAT IF AN OWNER OF LAND IN THE
 19 SPECIAL ASSESSMENT DISTRICT OR A CITY, TOWNSHIP, VILLAGE, OR
 20 COUNTY HAVING CONTROL OF A HIGHWAY TO BE IMPROVED BY THE DRAIN IS
 21 AGGRIEVED BY THE APPORTIONMENT OF BENEFITS MADE BY THE COMMIS-
 22 SIONER, THEN, WITHIN 10 DAYS AFTER THE DATE OF REVIEW OF THE
 23 APPORTIONMENT, THAT PERSON MAY APPEAL THE APPORTIONMENT BY APPLY-
 24 ING TO THE PROBATE COURT OF THE PROPER COUNTY FOR THE APPOINTMENT
 25 OF A BOARD OF REVIEW AND FILING A BOND.

26 (3) ~~2~~ The notice shall also contain the ~~names of the~~
 27 ~~counties, cities, townships, or villages~~ NAME OF EACH COUNTY,

1 CITY, TOWNSHIP, AND VILLAGE to be assessed at large, and shall be
2 personally served on the county clerk and 1 or more members of
3 the road commission of a county, ~~or road district,~~ the supervi-
4 sor of a township, the mayor of a city, and the president of a
5 village to be assessed at large. The notice shall contain a
6 description of the land constituting the special assessment dis-
7 trict for the drain. The description may be stated by designat-
8 ing the boundaries of the special assessment district by streets,
9 highways, parcels, or tracts of land or by describing the tracts
10 or parcels of land constituting the district. A tract or parcel
11 need not be subdivided beyond the point ~~where~~ AT WHICH the
12 whole of the tract or parcel is within the drainage district. ~~or~~
13 ~~to~~ THE NOTICE SHALL describe the drain. ~~further than~~ THE DRAIN
14 MAY BE DESCRIBED by reference to ~~it by~~ its name or number. The
15 notice shall also state the number and length of sections, the
16 average depth and width of each section, and in case of closed
17 drains, the amount and specifications of ~~all~~ THE tile or pipe
18 required. The notice shall contain the location, number, type,
19 and size of ~~all culverts and bridges~~ EACH CULVERT AND BRIDGE
20 and the conditions upon which the contract will be awarded. The
21 notice need not contain minutes of survey or table of cuttings,
22 which shall be kept on file in the office of the drain
23 commissioner.

24 (4) ~~(3)~~ Bids shall be received and computation of the
25 total cost of the drain shall be made before the time set for
26 review of the apportionment, and the computation shall be open to
27 inspection. If the computation is not completed before the day

1 of review, the review may be adjourned from time to time, not
 2 more than 20 days in all, for the completion of the computation,
 3 or a new hearing may be called with similar notice, by publica-
 4 tion and service at least 10 days before the hearing. If the
 5 contracts on which the computation was based are not executed and
 6 new contracts ~~shall be~~ ARE let at a higher price, a corrected
 7 computation shall be made and a new review held with a similar
 8 notice. At the time and place fixed in the notice, or at another
 9 time and place to which the county drain commissioner may adjourn
 10 the hearing, the apportionment of benefits and the lands com-
 11 prised within the special assessment district shall be subject to
 12 review for at least 1 day. The review shall be held open from 9
 13 a.m. until 5 p.m. On the review, the county clerk or the county
 14 road commission may appear on behalf of the county, ~~or a road~~
 15 ~~district, the supervisor or commissioner of highways of a~~
 16 ~~township~~ may appear on behalf of a township, ~~—~~ the mayor OF A
 17 CITY or an officer of the city designated by the mayor may appear
 18 for a city, ~~—~~ AND the president may appear on behalf of a
 19 village. At the review, the county drain commissioner shall hear
 20 the proofs and allegations and shall carefully reconsider and
 21 review the description of land comprised within the special
 22 assessment district ~~—~~ AND the several descriptions and appor-
 23 tionment of benefits ~~—~~ and SHALL define and equalize the land
 24 ~~as is~~ IN A just and equitable MANNER.

25 (5) ~~(4) When~~ IF an apportionment of benefits is made
 26 against a state trunk line highway, unless the ~~state highway~~
 27 director OF THE STATE TRANSPORTATION DEPARTMENT consents in

1 writing to the apportionment, the drain commissioner, at least 20
2 days before the review on the trunk line, shall notify by regis-
3 tered mail the ~~state highway~~ director OF THE STATE TRANSPORTA-
4 TION DEPARTMENT of the percentage apportioned against the highway
5 and the date, time, and place fixed for a review of apportionment
6 of benefits. If the ~~state highway~~ director OF THE STATE TRANS-
7 PORTATION DEPARTMENT desires to have the apportionment of bene-
8 fits reviewed by the director of the department of agriculture,
9 the ~~state highway~~ director OF THE STATE TRANSPORTATION
10 DEPARTMENT, within 10 days from the receipt of the notice, shall
11 file with the drain commissioner an objection to the
12 apportionment. The drain commissioner shall notify the director
13 of the department of agriculture of the date, time, and place
14 fixed for the review of apportionments, and at the meeting the
15 director of the department of agriculture, or a deputy of the
16 director, shall review the apportionment made against the state
17 trunk line highway, SHALL listen to the proofs and allegations of
18 the parties, and may view the highway benefited. The action and
19 decision on the apportionment reduced to writing ~~shall be~~ IS
20 final.

21 Section 2. This amendatory act shall not take effect unless
22 Senate Bill No. _____ or House Bill No. 4739 (request
23 no. 02343'91) of the 86th Legislature is enacted into law.