

Act No. 552
Public Acts of 1996
Approved by the Governor
January 15, 1997
Filed with the Secretary of State
January 15, 1997

**STATE OF MICHIGAN
88TH LEGISLATURE
REGULAR SESSION OF 1996**

Introduced by Senators DeBeaussaert, Carl, Dunaskiss, Shugars, Bennett, Gougeon and North

ENROLLED SENATE BILL No. 893

AN ACT to amend section 423 of Act No. 40 of the Public Acts of 1956, entitled as amended "An act to codify the laws relating to the laying out of drainage districts, the consolidation of drainage districts, the construction and maintenance of drains, sewers, pumping equipment, bridges, culverts, fords, and the structures and mechanical devices to properly purify the flow of drains; to provide for flood control projects; to provide for water management, water management districts, and subdistricts, and for flood control and drainage projects within drainage districts; to provide for the assessment and collection of taxes; to provide for the investment of funds; to provide for the deposit of funds for future maintenance of drains; to authorize public corporations to impose taxes for the payment of assessments in anticipation of which bonds are issued; to provide for the issuance of bonds by drainage districts and for the pledge of the full faith and credit of counties for payment of the bonds; to authorize counties to impose taxes when necessary to pay principal and interest on bonds for which full faith and credit is pledged; to validate certain acts and bonds; and to prescribe penalties," as amended by Act No. 60 of the Public Acts of 1996, being section 280.423 of the Michigan Compiled Laws.

The People of the State of Michigan enact:

Section 1. Section 423 of Act No. 40 of the Public Acts of 1956, as amended by Act No. 60 of the Public Acts of 1996, being section 280.423 of the Michigan Compiled Laws, is amended to read as follows:

Sec. 423. (1) A person shall not continue to discharge or permit to be discharged into any county drain or intercounty drain of the state any sewage or waste matter capable of producing in the drain detrimental deposits, objectionable odor nuisance, injury to drainage conduits or structures, or capable of producing such pollution of the waters of the state receiving the flow from the drains as to injure livestock, destroy fish life, or be injurious to public health. This section does not prohibit the conveyance of sewage or other waste through drains or sewers that will not produce these injuries and that comply with section 3112 of part 31 (water resources protection) of the natural resources and environmental protection act, Act No. 451 of the Public Acts of 1994, being section 324.3112 of the Michigan Compiled Laws.

(2) Disposal plants, filtration beds, and other mechanical devices to properly purify the flow of any drain may be constructed as a part of any established drain, and the cost of construction shall be paid for in the same manner as provided for in this act for other drainage costs. Plants, beds, or devices may be described in the petition for the location, establishment and construction of drains or in the petition for the cleaning, widening, deepening, straightening, or extending of drains, or in the application for the laying out of a drainage district. Petitions for the construction of plants, beds, and devices for use on any established drain may be filed by the same persons and shall be received and all proceedings on the petitions in the same manner as other petitions for any drainage construction under this act.

(3) If the department of environmental quality determines that sewage or wastes carried by any county or intercounty drain constitutes unlawful discharge as prescribed by section 3109 or 3112 of part 31 of Act No. 451 of the Public

Acts of 1994, being sections 324.3109 and 324.3112 of the Michigan Compiled Laws, that 1 or more users of the drain are responsible for the discharge of sewage or other wastes into the drain, and that the cleaning out of the drain or the construction of disposal plants, filtration beds, or other mechanical devices to purify the flow of the drain is necessary, the department of environmental quality may issue to the drain commissioner an order of determination identifying such users and pollutants, under section 3112 of Act No. 451 of the Public Acts of 1994, being section 324.3112 of the Michigan Compiled Laws. The order of determination constitutes a petition calling for the construction of disposal facilities or other appropriate measures by which the unlawful discharge may be abated or purified. The order of determination serving as a petition is in lieu of the determination of necessity by a drainage board pursuant to chapter 20 or 21 or section 122 or 192 or a determination of necessity by a board of determination pursuant to section 72 or 191, whichever is applicable. A copy of the findings of the department shall be attached to the order of determination which shall require no other signature than that of the director of the department of environmental quality. Upon receipt of the order of determination, the drain commissioner or the drainage board shall proceed as provided in this act to locate, establish, and construct a drain. If the responsible users of the drain are determined to be public corporations in the drainage district, the drain commissioner or the drainage board shall proceed as provided in chapters 20 and 21, as may be appropriate, using the order of determination as the final order of determination of the drainage board. If the responsible users are determined to be private persons, the drain commissioner shall proceed as provided in chapters 8 and 9, using the order of determination as the first order of determination.

(4) Plans and specifications for the construction as part of a drain of any disposal plant, filtration bed, or other mechanical device to properly purify the flow of the drain shall be prepared by the drain commissioner or the drainage board. Contracts for construction shall be let in the manner provided in this act. To meet the cost of any preliminary engineering studies for the construction of abatement or purification facilities, the drain commissioner or the drainage board shall apportion the cost among the several parcels of land, highways, and municipalities benefited thereby in the same manner as provided in chapter 7 or against the public corporations affected by the order of determination in the same manner as provided in chapters 20 and 21. The costs and charges for maintenance shall be apportioned and assessed each year. If the apportionment is the same as the last recorded apportionment, a day of review or a hearing on apportionments is not necessary, but if the apportionment is changed, notice of a day of review or a hearing on apportionments shall be given to each person whose percentage is raised.

(5) Land may be acquired as a site for the construction of such plants, beds, and devices, and releases of land may be obtained in the same manner as provided in this act for other lands acquired for right of way.

(6) A person shall not connect sewage or other waste to a county or intercounty drain except with the written approval of the appropriate commissioner or the drainage board indorsed upon a written application for such service and the payment of a service fee of not to exceed \$50.00 for each connection to a covered drain. The application shall include information showing that all other local, state, and federal approvals related to the sewage or waste have been obtained.

(7) The fee provided for in subsection (6) shall be set and collected by the drain commissioner, as approved by the county board of commissioners or the drainage board, and deposited with the county treasurer, to be credited to the drain fund set up for the maintenance or construction of the drain. The commissioner or the drainage board shall keep a record of applications made and the action on the applications. The commissioner or the drainage board may reject applications for or require such modification in requested applications for sewer connections to county drains as necessary to attain the objectives set forth in this section.

(8) Subject to the review and approval of the department of environmental quality, the drain commissioner or drainage board may study the requirements of persons for flood control or drainage projects including sewage disposal systems, storm sewers, sanitary sewers, combined sanitary and storm sewers, sewage treatment plants, and all other plants, works, instrumentalities, and properties useful in connection with the collection, treatment, and disposal of sewage and industrial wastes or agricultural wastes or run-off, to abate pollution or decrease the danger of flooding. The objective of such studies shall be that sewers, drains, and sewage disposal facilities are made available to persons situated within the territorial limits of any drainage district or proposed drainage district as necessary for the protection of public health and the promotion of the general welfare.

(9) The drainage board or drain commissioner may cooperate, negotiate, and enter into contracts with other governmental units and agencies or with any public or private corporation including the United States of America, and to take such steps and perform such acts and execute such documents as may be necessary to take advantage of any act of the congress of the United States which may make available funds for any of the purposes described in this section.

(10) Failure to comply with any of the provisions of this section subjects the offender to the penalties described in section 602. However, for each offense, a person who violates subsection (6) is guilty of a misdemeanor punishable by a fine of not more than \$25,000.00 or imprisonment for not more than 90 days, or both. In addition, the person may be required to pay the costs of prosecution and the costs of any emergency abatement measures taken to protect public health or the environment. Payment of a fine or costs under this subsection does not relieve a person of liability for damage to natural resources or for response activity costs under the natural resources and environmental protection act, Act No. 451 of the Public Acts of 1994, being sections 324.101 to 324.90106 of the Michigan Compiled Laws.

(11) As used in this section, "person" means an individual, partnership, public or private corporation, association, governmental entity, or other legal entity.

This act did not receive immediate effect and will take effect 90 days after final adjournment of the Legislature.

Secretary of the Senate.

Clerk of the House of Representatives.

Approved -----

Governor.