



# HOUSE BILL No. 5311

October 25, 1995, Introduced by Rep. Byl and referred to the Committee on Conservation, Environment and Great Lakes.

A bill to amend section 423 of Act No. 40 of the Public Acts of 1956, entitled as amended

"The drain code of 1956,"

being section 280.423 of the Michigan Compiled Laws.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 423 of Act No. 40 of the Public Acts of  
2 1956, being section 280.423 of the Michigan Compiled Laws, is  
3 amended to read as follows:

4 Sec. 423. (1) A municipality, industry, public or private  
5 corporation, individual, partnership, association, or any other  
6 entity shall not continue to discharge or permit to be discharged  
7 into any county drain or intercounty drain of the state any  
8 sewage or waste matter capable of producing in the drains  
9 detrimental deposits, objectional odor nuisance, injury to  
10 drainage conduits or structures, or such pollution of the waters

1 of the state receiving the flow from the drains as to injure  
2 livestock, destroy fish life, or be injurious to public health.  
3 ~~Nothing herein contained~~ THIS SECTION shall NOT be construed to  
4 prevent the conveyance of sewage or other waste through drains or  
5 sewers that will not cause the above named injuries. Disposal  
6 plants, filtration beds, and other mechanical devices as will  
7 properly purify the flow of any drain may be constructed and  
8 become a part of any established drain, the cost of construction  
9 thereof to be paid for in the same manner as other drainage costs  
10 as ~~in this act~~ provided IN THIS ACT. Plants, beds, or devices  
11 may be described in the petition for the location, establishment  
12 and construction of drains or in the petition for the cleaning,  
13 widening, deepening, straightening, or extending of drains, or in  
14 the application for the laying out of a drainage district.  
15 Petitions for the construction of plants, beds, and devices for  
16 use on any established drain may be filed by the same persons and  
17 shall be received and all proceedings ~~had thereon~~ ON THE  
18 PETITIONS in the same manner as other petitions for any drainage  
19 construction under this act. If the ~~water resources commission~~  
20 DEPARTMENT OF ENVIRONMENTAL QUALITY determines that sewage or  
21 wastes carried by any existing county or intercounty drain con-  
22 stitutes unlawful discharge as prescribed by section ~~6 of Act~~  
23 ~~No. 245 of the Public Acts of 1929, as amended, being section~~  
24 ~~323.6 of the Compiled Laws of 1948~~ 3109 OF PART 31 (WATER  
25 RESOURCES PROTECTION) OF THE NATURAL RESOURCES AND ENVIRONMENTAL  
26 PROTECTION ACT, ACT NO. 451 OF THE PUBLIC ACTS OF 1994, BEING  
27 SECTION 324.3109 OF THE MICHIGAN COMPILED LAWS, that 1 or more

1 users of the drain are responsible for the discharge of sewage or  
2 other wastes into the drain and ~~such~~ THE users of the drain and  
3 the sources of pollution are identified in the order of the  
4 ~~water resources commission~~ DEPARTMENT OF ENVIRONMENTAL QUALITY  
5 and that the cleaning out of ~~such~~ THE drain or the construction  
6 of disposal plants, filtration beds, or other mechanical devices  
7 to purify the flow of ~~such~~ THE drain is necessary, ~~it~~ THE  
8 DEPARTMENT OF ENVIRONMENTAL QUALITY may issue an order of deter-  
9 mination to the drain commissioner, as prescribed by section ~~7~~  
10 ~~of Act No. 245 of the Public Acts of 1929, as amended, being sec-~~  
11 ~~tion 323.7 of the Compiled Laws of 1948~~ 3112 OF PART 31 OF ACT  
12 NO. 451 OF THE PUBLIC ACTS OF 1994, BEING SECTION 324.3112 OF THE  
13 MICHIGAN COMPILED LAWS, to that effect. The order of determina-  
14 tion constitutes a petition calling for the construction of dis-  
15 posal facilities or other appropriate measures by which the  
16 unlawful discharge may be abated or purified. The order of  
17 determination serving as a petition shall waive the determination  
18 of necessity by a drainage board pursuant to chapters 20 and 21  
19 or a board of determination pursuant to section 72 or 102, which-  
20 ever is applicable. A copy of the findings of the ~~water~~  
21 ~~resources commission~~ DEPARTMENT OF ENVIRONMENTAL QUALITY shall  
22 be attached to the order of determination which shall require no  
23 other signature than that of the ~~water resources commission~~  
24 ~~under their name of office~~ DIRECTOR OF THE DEPARTMENT OF ENVI-  
25 RONMENTAL QUALITY. Upon receipt of the order of determination,  
26 the drain commissioner or the drainage board shall proceed as  
27 provided in this act to locate, establish and construct a drain.

1 If the responsible users of the drain are determined to be public  
2 corporations in the drainage district, the drain commissioner or  
3 the drainage board shall proceed as provided in chapters 20 and  
4 21, as may be appropriate, using the order of determination as  
5 the final order of determination of the drainage board. If the  
6 responsible users are determined to be private persons, the drain  
7 commissioner shall proceed as provided in chapters 8 and 9, using  
8 the order of determination as his OR HER first order of  
9 determination. Plans and specifications for the construction as  
10 part of a drain of any disposal plant, filtration bed, or other  
11 mechanical device to properly purify the flow of ~~such~~ THE drain  
12 shall be prepared by the drain commissioner or the drainage  
13 board, subject to the approval of the ~~state~~ director of THE  
14 DEPARTMENT OF public health. Contracts for ~~such~~ construction  
15 shall be let in the manner provided in this act. To meet the  
16 cost of any preliminary engineering studies for the construction  
17 of abatement or purification facilities, the drain commissioner  
18 or the drainage board shall apportion the ~~per cent~~ PERCENT of  
19 such cost among the several parcels of land, highways, and munic-  
20 ipalities benefited thereby in the same manner as provided in  
21 chapter 7 or against the public corporations affected by the  
22 order of determination in the same manner as provided in chapters  
23 20 and 21. The costs and charges for maintenance shall be appor-  
24 tioned and assessed each year. If the apportionment is the same  
25 as the last recorded apportionment, a day of review or a hearing  
26 on apportionments is not necessary, but if the apportionment is  
27 changed, notice of a day of review or a hearing on apportionments

1 shall be given to each person or public corporation whose  
2 percentage is raised. Land may be acquired as a site for the  
3 construction of such plants, beds, and devices, and releases  
4 thereof may be obtained in the same manner as other lands for  
5 right of way as ~~in this act~~ provided IN THIS ACT. ~~It shall~~  
6 ~~be unlawful to~~ A PERSON SHALL NOT connect sewage or other waste  
7 to county or intercounty drains except with the written approval  
8 of the appropriate commissioner or the drainage board indorsed  
9 upon a written application for such service and the payment of a  
10 service fee of not to exceed \$50.00 for each connection to a cov-  
11 ered drain. This fee shall be set and collected by the drain  
12 commissioner, as approved by the COUNTY board of ~~supervisors~~  
13 COMMISSIONERS or the drainage board and deposited with the county  
14 treasurer, to be credited to the drain fund set up for the main-  
15 tenance or construction of ~~such~~ THE drain. The commissioner or  
16 the drainage board shall keep a record of applications made and  
17 the action thereon. The commissioner or the drainage board may  
18 reject applications for or require such necessary modification in  
19 requested applications for sewer connections to county drains as  
20 to attain the objectives set forth in this section.

21 ~~Surveys, studies, and investigations, federal funds.~~

22 (2) The drain commissioner or drainage board may make and  
23 cause to be made, surveys, studies, and investigations for the  
24 purpose of investigating subject to the review and approval of  
25 the ~~water resources commission~~ DEPARTMENT OF ENVIRONMENTAL  
26 QUALITY, the requirements of municipalities, industrial and  
27 commercial establishments, individual and collective groups or

1 occupants of lands or drainage districts for any flood control or  
 2 drainage projects including sewage disposal systems, storm  
 3 sewers, sanitary sewers, combined sanitary and storm sewers,  
 4 sewage treatment plants, and all other plants, works,  
 5 instrumentalities, and properties useful in connection with the  
 6 collection, treatment, and disposal of sewage and industrial  
 7 wastes or agricultural wastes or run-off to abate pollution or  
 8 decrease the danger of flooding of the waters of the affected  
 9 public corporations and to the end that sewers, drains, and  
 10 sewage disposal facilities shall be made available to the  
 11 ~~aforesaid~~ ENTITIES DESCRIBED IN THIS SUBSECTION, which are sit-  
 12 uated within the territorial limits of any drainage district or  
 13 proposed drainage district and which may need or require the con-  
 14 struction of facilities or drainage improvements in the protec-  
 15 tion of public health and the promotion of the general welfare.  
 16 The drainage board or drain commissioner may cooperate,  
 17 negotiate, and enter into contracts with other governmental units  
 18 and agencies or with any public or private corporation including  
 19 the United States of America, and to take such steps and perform  
 20 such acts and execute such documents as may be necessary to take  
 21 advantage of any act ~~heretofore or hereafter enacted by~~ OF the  
 22 congress of the United States which may make available funds for  
 23 any of the purposes ~~above mentioned~~ DESCRIBED IN THIS SECTION.

24 ~~Penalty.~~

25 (3) Failure to comply with ~~any of the provisions of~~ this  
 26 section shall subject the offender to the penalties described in  
 27 section 602.