

HOUSE BILL No. 4174

January 30, 1997, Introduced by Reps. Green, Horton, Baade and Nye and referred to the Committee on Agriculture.

A bill to amend 1956 PA 40, entitled
"The drain code of 1956,"
by amending sections 1, 2, 3, 6, 8, 10, 11, 21, 22, 23, 24, 25,
26, 27, 28, 29, 30, 31, 32, 33, 51, 52, 53, 54, 71, 72, 72a, 73,
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601, and 602 (MCL 280.1, 280.2, 280.3, 280.6, 280.8, 280.10,

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280.11, 280.21, 280.22, 280.23, 280.24, 280.25, 280.26, 280.27, 280.28, 280.29, 280.30, 280.31, 280.32, 280.33, 280.51, 280.52, 280.53, 280.54, 280.71, 280.72, 280.72a, 280.73, 280.74, 280.75, 280.76, 280.77, 280.101, 280.102, 280.103, 280.104, 280.105, 280.106, 280.121, 280.122, 280.122a, 280.123, 280.124, 280.125, 280.126, 280.127, 280.128, 280.131, 280.132, 280.133, 280.134, 280.135, 280.151, 280.152, 280.153, 280.154, 280.155, 280.156, 280.157, 280.158, 280.161, 280.191, 280.192, 280.193, 280.194, 280.195, 280.196, 280.197, 280.198, 280.199, 280.200, 280.221, 280.222, 280.223, 280.241, 280.242, 280.244, 280.245, 280.247, 280.248, 280.261, 280.262, 280.265, 280.266, 280.269, 280.270, 280.273, 280.275, 280.276, 280.277, 280.278, 280.279, 280.280, 280.282, 280.283, 280.301, 280.302, 280.304, 280.306, 280.307, 280.321, 280.322, 280.323, 280.324, 280.327, 280.328, 280.342, 280.343, 280.351, 280.352, 280.354, 280.355, 280.381, 280.382, 280.384, 280.391, 280.392, 280.395, 280.421, 280.422, 280.423, 280.425, 280.429, 280.430, 280.431, 280.433, 280.441, 280.441a, 280.442, 280.446, 280.463, 280.464, 280.465, 280.466, 280.467, 280.468, 280.469, 280.470, 280.472, 280.473, 280.474, 280.478, 280.482, 280.491, 280.513, 280.515, 280.517, 280.518, 280.520, 280.521, 280.522, 280.525, 280.526, 280.530, 280.534, 280.540, 280.541, 280.548, 280.601, and 280.602), sections 21 and 464 as amended by 1989 PA 134, section 33 as amended by 1982 PA 356, section 72 as amended by 1987 PA 60, sections 196 and 283 as amended by 1989 PA 149, section 223 as amended by 1989 PA 61, section 280 as amended by 1983 PA 176, section 282 as amended by 1984 PA 80, section 423 as amended by 1996 PA 552, and section

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433 as amended by 1982 PA 449, and by adding sections 34, 275a, 277a, 329, 524a, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 603, 604, 605, 606, 607, 608, 615, and 616; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as ~~—~~ the
2 "drain code". ~~of 1956".~~

3 Sec. 2. ~~Drains including branches may be located, estab-~~
4 ~~lished, constructed and maintained, and existing drains, creeks,~~
5 ~~rivers and watercourses and their branches, or tributaries~~
6 ~~whether located, established and constructed by a county drain~~
7 ~~commissioner or drainage board or by a city, village or township,~~
8 ~~may be cleaned out, straightened, widened, deepened, extended,~~
9 ~~consolidated, relocated, tiled, connected and relocated along a~~
10 ~~highway, or there may be provided for the same structures or~~
11 ~~mechanical devices that will properly purify or improve the flow~~
12 ~~of the drain or pumping equipment necessary to assist or relieve~~
13 ~~the flow of the drain, or 1 or more branches may be added there-~~
14 ~~to, by petition under the provisions of this act, whenever the~~
15 ~~same shall be conducive to the public health, convenience and~~
16 ~~welfare.~~ AS USED IN THIS ACT:

17 (A) "AGENCIES" INCLUDES THOSE OFFICERS, BOARDS, COMMISSIONS,
18 AND OTHER BODIES CREATED BY PUBLIC CORPORATIONS OR BY THE FEDERAL
19 GOVERNMENT, WHICH ARE AUTHORIZED TO ACT IN THEIR OWN NAMES.

20 (B) "COUNTY DRAIN" MEANS A DRAIN CARRYING DRAINAGE WATER OR
21 SEWAGE OR BOTH ORIGINATING IN 1 COUNTY, AND INCLUDES DRAINS
22 LOCATED, ESTABLISHED, AND CONSTRUCTED BY A COUNTY DRAIN

1 COMMISSIONER OR DRAINAGE BOARD OR BY A CITY, VILLAGE, OR
2 TOWNSHIP. THE FINDING OF THE DRAINAGE BOARD THAT ALL DRAIN WATER
3 AND SEWAGE ORIGINATE IN 1 COUNTY SHALL BE FINAL. IN MAKING SUCH
4 DETERMINATION, THE DRAINAGE BOARD MAY DISREGARD ANY DRAINAGE FROM
5 ANOTHER COUNTY THAT IT CONSIDERS TO BE INCONSEQUENTIAL.

6 (C) "COUNTY DRAIN COMMISSIONER", "DRAIN COMMISSIONER", OR,
7 UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE, "COMMISSIONER"
8 MEANS 1 OF THE FOLLOWING:

9 (i) THE ELECTED COUNTY DRAIN COMMISSIONER OR THE PERSON OR
10 PERSONS DESIGNATED TO PERFORM THE DUTIES OF THE ELECTED COUNTY
11 DRAIN COMMISSIONER AS PROVIDED BY THIS ACT.

12 (ii) A PUBLIC WORKS COMMISSIONER DESCRIBED IN SECTION 21.

13 (iii) THE OFFICIAL OR BODY LAWFULLY DESIGNATED BY CHARTER TO
14 EXERCISE THE POWERS AND PERFORM THE DUTIES OF A COUNTY DRAIN COM-
15 MISSIONER IN A COUNTY ORGANIZED UNDER 1966 PA 293, MCL 45.501 TO
16 45.521.

17 (D) "DIRECTOR OF AGRICULTURE" MEANS THE DIRECTOR OF THE
18 DEPARTMENT OF AGRICULTURE.

19 (E) "DRAIN" INCLUDES THE MAIN STREAM OR TRUNK AND ALL TRIBU-
20 TARIES OR BRANCHES OF A CREEK OR RIVER, A WATERCOURSE OR DITCH,
21 EITHER OPEN OR CLOSED, A COVERED DRAIN, A SANITARY OR A COMBINED
22 SANITARY AND STORM SEWER OR STORM SEWER OR CONDUIT, A STRUCTURE
23 OR MECHANICAL DEVICE TO PURIFY THE FLOW OF A DRAIN, PUMPING
24 EQUIPMENT NECESSARY TO ASSIST OR RELIEVE THE FLOW OF A DRAIN, AND
25 ANY LEVEE, DIKE, OR BARRIER FOR DRAINAGE OR TO PURIFY THE FLOW OF
26 A DRAIN. "DRAIN" DOES NOT INCLUDE ANY DAM AND CONNECTED FLOWAGE

1 RIGHTS USED FOR THE GENERATION OF POWER BY A PUBLIC UTILITY
2 SUBJECT TO REGULATION BY THE PUBLIC SERVICE COMMISSION.

3 (F) "DRAINAGE DISTRICT" MEANS AN AREA THAT WOULD BE DRAINED
4 BY A PROPOSED DRAIN. A DRAINAGE DISTRICT IS A BODY CORPORATE
5 WITH POWER TO CONTRACT, TO SUE AND TO BE SUED, AND TO HOLD,
6 MANAGE, AND DISPOSE OF REAL AND PERSONAL PROPERTY, IN ADDITION TO
7 ANY OTHER POWERS CONFERRED UPON IT BY LAW.

8 (G) "ENGINEER" MEANS A PROFESSIONAL ENGINEER LICENSED UNDER
9 ARTICLE 20 OF THE OCCUPATIONAL CODE, 1980 PA 299, MCL 339.2001 TO
10 339.2014.

11 (H) "IMPROVEMENT" MEANS CLEANING OUT, RELOCATING, WIDENING,
12 DEEPENING, STRAIGHTENING, TILING, OR EXTENDING A DRAIN; RELOCAT-
13 ING A DRAIN ALONG A HIGHWAY; PROVIDING STRUCTURES OR MECHANICAL
14 DEVICES THAT WILL PROPERLY PURIFY OR IMPROVE THE FLOW OF THE
15 DRAIN OR PUMPING EQUIPMENT NECESSARY TO ASSIST OR RELIEVE THE
16 FLOW OF THE DRAIN; SUPPLEMENTING A DRAIN BY THE CONSTRUCTION OF 1
17 OR MORE RELIEF DRAINS WHICH MAY CONSIST OF NEW DRAINS OR EXTEN-
18 SIONS, ENLARGEMENTS, OR CONNECTIONS TO EXISTING DRAINS; OR ADDING
19 A BRANCH TO A DRAIN.

20 (I) "INTERCOUNTY DRAIN" MEANS ANY DRAIN CARRYING DRAINAGE
21 WATER OR SEWAGE ORIGINATING IN MORE THAN 1 COUNTY, AND INCLUDES
22 DRAINS LOCATED, ESTABLISHED, AND CONSTRUCTED BY A COUNTY DRAIN
23 COMMISSIONER OR DRAINAGE BOARD OR BY A CITY, VILLAGE, OR
24 TOWNSHIP.

25 (J) "LANDOWNER" MEANS A PERSON HOLDING THE MOST RECENT FEE
26 TITLE OR A LAND CONTRACT VENDEE'S INTEREST IN LAND AS SHOWN BY
27 THE RECORDS OF THE COUNTY REGISTER OF DEEDS OR HOLDING A LAND

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1 CONTRACT VENDEE'S INTEREST AS SHOWN BY THE RECORDS OF THE COUNTY
2 REGISTER OF DEEDS OR THE TAX ASSESSMENT ROLL OF THE COUNTY OR
3 CITY. A HUSBAND AND WIFE WITH AN UNDIVIDED INTEREST IN LAND
4 SHALL BE CONSIDERED 2 LANDOWNERS.

5 (K) "MAINTENANCE" MEANS ANY OF THE FOLLOWING:

6 (i) MAINTAINING A DRAIN IN WORKING ORDER TO CONTINUE A
7 NORMAL FLOW OF WATER, INCLUDING BUT NOT LIMITED TO THE SERVICING
8 OR REPAIR OF AND UTILITY SERVICE FOR NECESSARY PUMPING STATIONS,
9 SEWAGE TREATMENT FACILITIES, OR RETENTION BASINS; KEEPING THE
10 DRAIN FREE FROM RUBBISH, DEBRIS, SILTATION, OR OBSTRUCTIONS;
11 REPAIRING A PORTION OR ALL OF A TILE OR DRAIN TO CONTINUE THE
12 NORMAL FLOW OF WATER; RESTORATION OF PREVIOUSLY ESTABLISHED
13 DEPTHS, BOTTOM WIDTHS, AND GRADE BASED ON RECORDS MAINTAINED AT
14 THE OFFICE OF THE DRAIN COMMISSIONER; AND ASSOCIATED ACTIVITIES.

15 (ii) ACTIVITY UNDER 1966 PA 347, MCL 252.131 TO 252.135.

16 (l) "MUNICIPALITY" MEANS A COUNTY, CITY, VILLAGE, TOWNSHIP,
17 SCHOOL DISTRICT, OR AN AUTHORITY CREATED BY ANY OF THESE.

18 (M) "PERSON" MEANS AN INDIVIDUAL, PARTNERSHIP, CORPORATION,
19 ASSOCIATION, GOVERNMENTAL ENTITY, OR OTHER LEGAL ENTITY.

20 (N) "PROJECT" MEANS WORK UNDERTAKEN UNDER A PETITION OR
21 UNDERTAKEN AS MAINTENANCE ON A DRAIN.

22 (O) "PUBLIC CORPORATION" INCLUDES THIS STATE, A COUNTY, A
23 CITY, A VILLAGE, A TOWNSHIP, A METROPOLITAN DISTRICT, OR AN
24 AUTHORITY CREATED BY OR PURSUANT TO STATE LAW.

25 (P) "SURVEYOR" MEANS A PROFESSIONAL SURVEYOR LICENSED UNDER
26 ARTICLE 20 OF THE OCCUPATIONAL CODE, 1980 PA 299, MCL 339.2001 TO
27 339.2014.

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1 Sec. 3. (1) ~~The word "drain", whenever used in this act,~~
2 ~~shall include the main stream or trunk and all tributaries or~~
3 ~~branches of any creek or river, any watercourse or ditch, either~~
4 ~~open or closed, any covered drain, any sanitary or any combined~~
5 ~~sanitary and storm sewer or storm sewer or conduit composed of~~
6 ~~tile, brick, concrete, or other material, any structures or~~
7 ~~mechanical devices, that will properly purify the flow of such~~
8 ~~drains, any pumping equipment necessary to assist or relieve the~~
9 ~~flow of such drains and any levee, dike, barrier, or a combina-~~
10 ~~tion of any or all of same constructed, or proposed to be con-~~
11 ~~structed, for the purpose of drainage or for the purification of~~
12 ~~the flow of such drains, but shall not include any dam and flow-~~
13 ~~age rights used in connection therewith which is used for the~~
14 ~~generation of power by a public utility subject to regulation by~~
15 ~~the public service commission.~~ A DRAIN MAY BE LOCATED, ESTAB-
16 LISHED, CONSTRUCTED, MAINTAINED, AND IMPROVED CONSISTENT WITH THE
17 PROVISIONS OF THIS ACT. IF IT IS CONDUCIVE TO THE PUBLIC HEALTH,
18 CONVENIENCE, OR WELFARE, A DRAIN LOCATED, ESTABLISHED, OR CON-
19 STRUCTED BY A COUNTY DRAIN COMMISSIONER OR DRAINAGE BOARD OR BY A
20 CITY, VILLAGE, OR TOWNSHIP MAY BE MAINTAINED AND IMPROVED OR
21 RELOCATED ALONG A HIGHWAY OR DRAIN STRUCTURES OR MECHANICAL
22 DEVICES TO PURIFY OR IMPROVE THE FLOW OF THE DRAIN OR PUMPING
23 EQUIPMENT TO ASSIST OR RELIEVE THE FLOW OF A DRAIN MAY BE PRO-
24 VIDED AND 1 OR MORE BRANCHES MAY BE ADDED TO THE DRAIN UNDER THIS
25 ACT. A DRAIN MAY BE LAID OR EXTENDED INTO OR ALONG OR FROM ANY
26 LAKE OR OTHER BODY OF WATER SURROUNDED WHOLLY OR IN PART BY A
27 SWAMP, MARSH, OR OTHER LOW LANDS FOR THE GENERAL PURPOSES OF

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1 DRAINAGE CONTEMPLATED BY THIS ACT, BUT NOT SO AS TO IMPAIR THE
2 NAVIGATION OF ANY RIVER.

3 (2) IN EXERCISING POWERS AND PERFORMING DUTIES UNDER THIS
4 ACT, DRAIN COMMISSIONERS AND DRAINAGE BOARDS SHALL STRIVE TO PRE-
5 SERVE AND PROTECT THE NATURAL RESOURCES OF THIS STATE AND SHALL
6 ENDEAVOR TO ELIMINATE, REDUCE, OR MITIGATE ADVERSE IMPACTS TO
7 THOSE RESOURCES.

8 Sec. 6. All ~~established~~ drains regularly located and
9 established ~~in pursuance of~~ UNDER law ~~existing~~ IN EFFECT at
10 the time of location and establishment and visibly in existence,
11 ~~which were established as drains, and~~ OR all drains visibly in
12 existence in written drain easements, ~~or~~ rights of way, ORDERS,
13 OR OTHER RECORDS on file in the office of the commissioner,
14 ~~shall be deemed~~ ARE public drains AND SHALL BE PRESUMED TO HAVE
15 BEEN located AND ESTABLISHED UNDER LAW. THE EASEMENTS AND THE
16 DRAINS SHALL BE PRESUMED TO HAVE BEEN LOCATED in public easements
17 or rights of way which are valid and binding against any ~~owners~~
18 ~~of any~~ PERSONS MAKING A CLAIM ON THE BASIS OF OWNERSHIP OF A
19 property interest who became ~~or hereafter become such~~ owners
20 after the location and establishment of the drain or the exis-
21 tence of the drain became visible or the written drain easement,
22 ~~or~~ right of way, OR ORDER was executed. ~~, and the~~ THE commis-
23 sioner or drainage board may use, enter upon, and preserve ~~such~~
24 THE easement or right of way for maintenance AND IMPROVEMENT of
25 the ~~visible~~ drain and any other lawful activity with respect to
26 the ~~same~~ DRAIN not requiring a larger or different easement or
27 right of way and may exercise any rights granted in the written

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1 easement, ~~or~~ right of way, OR ORDER on file in the office of
2 the DRAIN commissioner. SUCH EASEMENTS OR RIGHTS OF WAY SHALL BE
3 CONSIDERED TO INCLUDE SUFFICIENT GROUND ON EACH SIDE OF THE
4 CENTER LINE OF THE DRAIN FOR THE DEPOSIT OF EXCAVATIONS FROM THE
5 DRAIN, IN ADDITION TO ANY LAND THAT MAY BE SPECIFIED IN THE
6 WRITING. Easements or rights of way ~~,~~ or portions of easements
7 or rights of way ~~,~~ no longer necessary for drainage purposes
8 may be conveyed or released to the fee owners by the commissioner
9 or drainage board on behalf of the drainage district. ~~The drain~~
10 ~~commissioner or drainage board shall give at least 30 days'~~
11 ~~notice of the intention to release the excess easements by pub-~~
12 ~~lishing a notice in a newspaper of general circulation in the~~
13 ~~county or a newspaper of general circulation where the drainage~~
14 ~~district boundaries are located. This notice shall give a gen-~~
15 ~~eral description of the excess easements to be released and the~~
16 ~~date any taxpayers may appear to protest said release. After~~
17 ~~said date if no protests are received, the drain commissioner or~~
18 ~~drainage board may release said excess easements or portions~~
19 ~~thereof not necessary for drainage purposes.~~

20 Sec. 8. (1) The business ~~which~~ PERFORMED BY AND ANY HEAR-
21 ING HELD BY a board or ~~commission~~ COMMITTEE created pursuant to
22 this act ~~,~~ or a body of special commissioners appointed pursuant
23 to this act, may perform shall be conducted at a public meeting
24 of the board ~~,~~ commission, or body of special commissioners OR
25 COMMITTEE held in compliance with ~~Act No. 267 of the Public Acts~~
26 ~~of 1976, being sections 15.261 to 15.275 of the Michigan Compiled~~
27 ~~Laws~~ THE OPEN MEETINGS ACT, 1976 PA 267, MCL 15.261 TO 15.275.

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1 Public notice of the time, date, and place of the meeting shall
2 be given in the manner required by ~~Act No. 267 of the Public~~
3 ~~Acts of 1976~~ THE OPEN MEETINGS ACT, 1976 PA 267, MCL 15.261 TO
4 15.275.

5 (2) EXCEPT AS OTHERWISE PROVIDED IN THIS ACT, NOTICE OF
6 PUBLIC HEARINGS FOR THE BOARD OF DETERMINATION, DAY OF REVIEW,
7 BOARD OF REVIEW AND HEARINGS OF PRACTICABILITY AND NECESSITY OF
8 THE DRAINAGE BOARD SHALL BE SENT BY FIRST-CLASS MAIL TO ALL LAND-
9 OWNERS SUBJECT TO AN ASSESSMENT IN THE DRAINAGE DISTRICT AT THE
10 ADDRESS IN THE LAST CITY, VILLAGE, OR TOWNSHIP TAX ASSESSMENT
11 ROLL, EXCEPT IN PROCEEDINGS UNDER CHAPTERS 20 AND 21. NOTICES
12 SHALL ALSO BE PRESENTED TO OR SENT BY FIRST-CLASS MAIL TO THE
13 CLERKS OF EACH MUNICIPALITY INCLUDING CITIES, VILLAGES, TOWN-
14 SHIPS, AND THE COUNTY, THE DIRECTOR OF THE STATE TRANSPORTATION
15 DEPARTMENT, AND THE BOARD OF COUNTY ROAD COMMISSIONERS. IF AN
16 ADDRESS DOES NOT APPEAR UPON THE LAST TAX ASSESSMENT ROLL, A
17 NOTICE NEED NOT BE MAILED. THE NOTICE SHALL BE MAILED NOT LESS
18 THAN 10 CALENDAR DAYS BEFORE THE PROCEEDING AND THE NOTICE SHALL
19 BE POSTED IN THE OFFICE OF THE DRAIN COMMISSIONER.

20 (3) AN AFFIDAVIT OF MAILING IS CONCLUSIVE PROOF THAT NOTICE
21 OF A PUBLIC HEARING DESCRIBED IN SUBSECTION (2) WAS MAILED
22 ACCORDING TO THIS ACT. FAILURE TO RECEIVE A NOTICE BY MAIL IS
23 NOT A JURISDICTIONAL DEFECT INVALIDATING A DRAIN PROCEEDING OR
24 TAX IF NOTICE HAS BEEN SENT AS PROVIDED IN THIS ACT. NOTICE OF A
25 PUBLIC HEARING DESCRIBED IN SUBSECTION (2) SHALL BE PUBLISHED AT
26 LEAST ONCE, NOT LESS THAN 10 CALENDAR DAYS BEFORE THE PROCEEDING,
27 IN A NEWSPAPER OF GENERAL CIRCULATION IN THE DRAINAGE DISTRICT.

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1 THE NOTICE SHALL COMPLY WITH THE OPEN MEETINGS ACT, 1976 PA 267,
2 MCL 15.261 TO 15.275, SETTING FORTH THE TIME, DATE, PLACE, AND
3 PURPOSE OF THE MEETING. IF THE HEARING IS FOR THE BOARD OF
4 DETERMINATION, DAY OF REVIEW, OR BOARD OF REVIEW, THE NOTICE
5 SHALL INCLUDE THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE
6 DRAIN COMMISSIONER IN THE COUNTY WHERE THE PROCEEDING WILL TAKE
7 PLACE. IF THE HEARING IS A HEARING OF PRACTICABILITY AND NECES-
8 SITY OF THE DRAINAGE BOARD, THE NOTICE SHALL INCLUDE THE NAME,
9 ADDRESS, AND TELEPHONE NUMBER OF EACH OF THE MEMBERS OF THE
10 DRAINAGE BOARD. THE NOTICE SHOULD EXPLAIN THE CONSEQUENCE OF ANY
11 OF THE DECISIONS MADE AT THE HEARING AND SHOULD SPECIFY ANY
12 APPEAL PERIOD FOR THE ACTION TAKEN. ALL OTHER NOTICES SHALL
13 COMPLY WITH THE OPEN MEETINGS ACT, 1976 PA 267, MCL 15.261 TO
14 15.275.

15 (4) ~~-(2)-~~ A writing prepared, owned, used, in the possession
16 of, or retained by a board, COMMITTEE, commission, or advisory
17 committee created pursuant to this act, or a commissioner
18 appointed pursuant to this act, in the performance of an official
19 function shall be made available to the public in compliance with
20 ~~Act No. 442 of the Public Acts of 1976, being sections 15.231 to~~
21 ~~15.246 of the Michigan Compiled Laws~~ THE FREEDOM OF INFORMATION
22 ACT, 1976 PA 442, MCL 15.231 TO 15.246.

23 Sec. 10. ~~Drains may be laid or extended into or along or~~
24 ~~from any lake or other body of water surrounded wholly or in part~~
25 ~~by a swamp, marsh or other low lands for the general purpose of~~
26 ~~drainage contemplated by this act, but not so as to impair the~~
27 ~~navigation of any navigable river.~~

1 ~~Any meeting called pursuant to the provisions of this act,~~
2 ~~unless otherwise provided, may be adjourned from time to time by~~
3 ~~public announcement thereof and no advertisement of the time of~~
4 ~~said adjournment shall be required.~~

5 ~~The commissioner shall have jurisdiction over all estab-~~
6 ~~lished county drains within his county, heretofore established~~
7 ~~and now in the process of being established except that in the~~
8 ~~case of a drain located or to be located entirely within a single~~
9 ~~city or village, such jurisdiction shall be consented to by reso-~~
10 ~~lution of the governing body of such city or village.~~

11 ~~If any~~ A drainage project lies entirely within the limits
12 of a municipality ~~less~~ OTHER than a county, ~~such municipality,~~
13 ~~by its~~ THE governing body ~~, shall have the power to~~ OF THE
14 MUNICIPALITY MAY pledge the full faith and credit of the munici-
15 pality for the payment of bonds or drain orders issued in connec-
16 tion with ~~such~~ THE project. ~~, and if~~ IF a deficiency exists
17 in the drain fund or sinking fund for ~~said~~ THE drain 1 year
18 after the last installment of the deficiency assessment provided
19 for in section 280 ~~of this act, shall have become~~ BECOMES
20 delinquent, ~~such~~ THE municipality shall ~~forthwith~~ IMMEDIATELY
21 advance to the county drain fund the amount of ~~such~~ THE
22 deficiency. ~~and thereafter~~ AFTER THE MUNICIPALITY MAKES THE
23 ADVANCE, all receipts of ~~such~~ THE drain fund from the sale of
24 delinquent tax lands, which had been assessed for ~~said~~ THE
25 drain, shall be paid to the municipality within 90 days after
26 receipt by the county treasurer.

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1 Sec. 11. (1) Any easement, right of way, or release of
2 damages HEREAFTER obtained AFTER THE EFFECTIVE DATE OF THE
3 AMENDATORY ACT THAT ADDED SECTION 329 in connection with any pro-
4 posed drain or drains shall, following the expiration of 30 days
5 after the day of review, be recorded in the office of the regis-
6 ter of deeds. ~~: Provided, That in any~~ HOWEVER, IN A drain pro-
7 ceeding in which an injunction or a writ of ~~certiorari~~
8 SUPERINTENDING CONTROL has been issued but not determined within
9 30 days after the day of review, the recording shall be within 30
10 days after a determination sustaining the drain.

11 (2) All easements, rights of way, or releases of damages
12 ~~hereafter~~ obtained AT ANY TIME in connection with ~~any~~ AN
13 existing drain shall be recorded in the office of the register of
14 deeds when said drain is ~~being cleaned, relocated, deepened,~~
15 ~~widened, straightened, extended, tiled~~ MAINTAINED, IMPROVED, or
16 consolidated pursuant to law. WHEN A DRAIN IS CONSOLIDATED PUR-
17 SUANT TO LAW, ANY AND ALL EASEMENTS GRANTED TO THE SEPARATE
18 DRAINAGE DISTRICTS SHALL BE CONSIDERED TO BE ASSIGNED TO THE CON-
19 SOLIDATED DRAINAGE DISTRICT WITH FULL FORCE AND EFFECT OF LAW AS
20 ORIGINALLY GRANTED.

21 (3) The recording required by this section shall be made by
22 the drain commissioner or the drainage board, as ~~the case may~~
23 ~~be, and~~ APPROPRIATE. HOWEVER, THE RECORDING MAY BE MADE AT ANY
24 TIME BY THE DRAIN COMMISSIONER OR DRAINAGE BOARD AND IN EITHER
25 INSTANCE the cost of such recording SHALL BE paid by the drainage
26 district.

1 Sec. 21. (1) At the general election to be held in November
2 ~~, 1976~~ 2000, and each fourth year after November ~~, 1976~~ 2000,
3 a county drain commissioner shall be elected in each county
4 having a drain commissioner by the qualified electors of the
5 county. The term of office of ~~the~~ A commissioner shall begin
6 on the January 1 following the drain commissioner's election and
7 continue for a period of 4 years and until his or her successor
8 is elected and qualified, whichever occurs earlier.

9 (2) As determined by the county board of commissioners, the
10 county drain commissioner shall be covered by a blanket bond or,
11 before entering upon the duties of office, shall execute and file
12 with the county clerk a bond to the people of the state in the
13 penal sum of \$5,000.00, issued by a surety company licensed to do
14 business in this state, conditioned upon the faithful discharge
15 of the duties of the office. The county board of commissioners
16 may fix the individual bond to be required of the commissioner at
17 a different amount if, in its judgment, that is desirable.

18 ~~(3) The county board of commissioners of a county having a~~
19 ~~population of less than 12,000, by resolution of a 2/3 vote of~~
20 ~~the members elect, may abolish the office of county drain commis-~~
21 ~~sioner and transfer the powers and duties of the office to the~~
22 ~~board of county road commissioners.~~

23 (3) ~~(4)~~ If a county establishes a department of public
24 works pursuant to ~~Act No. 185 of the Public Acts of 1957, as~~
25 ~~amended, being sections 123.731 to 123.786 of the Michigan~~
26 ~~Compiled Laws~~ 1957 PA 185, MCL 123.731 TO 123.786, or a public
27 improvement agency with the drain commissioner designated as the

1 county agent pursuant to the county public improvement act of
2 1939, ~~Act No. 342 of the Public Acts of 1939, as amended, being~~
3 ~~sections 46.171 to 46.188 of the Michigan Compiled Laws~~ 1939 PA
4 342, MCL 46.171 TO 46.188, the county board of commissioners, by
5 resolution of a 2/3 vote of the members elected and serving, may
6 combine the powers, duties, and functions set forth in ~~Act~~
7 ~~No. 185 of the Public Acts of 1957, as amended, Act No. 342 of~~
8 ~~the Public Acts of 1939, as amended~~ 1957 PA 185, MCL 123.731 TO
9 123.786, THE COUNTY PUBLIC IMPROVEMENT ACT OF 1939, 1939 PA 342,
10 MCL 46.171 TO 46.188, and this act into 1 county department
11 headed by a public works commissioner. The public works commis-
12 sioner shall be elected in the same manner and for the same term
13 as a drain commissioner. ~~and shall carry out the powers and~~
14 ~~duties of a drain commissioner.~~

15 (4) ~~(5)~~ A resolution provided for in subsection ~~(4)~~ (3)
16 may not be adopted unless the county board of commissioners has
17 first held at least 1 generally publicized public hearing on the
18 resolution.

19 (5) ~~(6)~~ Not less than 3 years after a county establishes
20 the office of public works commissioner pursuant to subsections
21 ~~(4)~~ (3) and ~~(5)~~ (4), or a public improvement agency, the
22 county board of commissioners, by resolution approved by a 2/3
23 vote of the members elected and serving, may abolish the office
24 of public works commissioner not less than 6 months before the
25 next primary election for that office. The office of public
26 works commissioner shall be abolished in the county effective 180
27 days after a resolution is adopted pursuant to this subsection.

1 The office shall then be referred to as the drain commissioner
2 and the person in office at the time a resolution of abolishment
3 is passed shall fulfill the remainder of the term of office until
4 the next general election.

5 (6) ~~(7)~~ A county that is organized under ~~Act No. 293 of~~
6 ~~the Public Acts of 1966, being sections 45.501 to 45.521 of the~~
7 ~~Michigan Compiled Laws~~ 1966 PA 293, MCL 45.501 TO 45.521, whose
8 charter prescribes an elected county executive, and which county
9 has a population of more than 2,000,000 at the time the charter
10 is adopted, shall be governed by section 21a in place of this
11 section.

12 Sec. 22. All commissioners holding such office when this
13 act takes effect shall continue to be such commissioners until
14 their respective successors are elected and qualified in accord-
15 ance with the provisions of the foregoing section. ~~The majority~~
16 ~~of~~ SUBJECT TO SECTIONS 21 AND 21A, the COUNTY board of ~~county~~
17 commissioners ~~may~~ SHALL establish or reestablish the office of
18 ~~county~~ drain commissioner in counties not having a county drain
19 commissioner ~~by resolution of a majority of members elect~~ ON
20 THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED SECTION 329.

21 Sec. 23. (1) The commissioner shall have jurisdiction over
22 all COUNTY drains within ~~his~~ THE county, including those
23 ~~heretofore established and now~~ in THE process of ~~construction~~
24 BEING ESTABLISHED OR CONSTRUCTED. Drains extending into more
25 than 1 county, or affecting lands in more than 1 county, shall be
26 established and constructed in accordance with the provisions of
27 this act regulating the establishment and construction of drains

1 traversing more than 1 county or affecting lands in more than 1
2 county. ~~Nothing in this act shall be construed as depriving a~~
3 THE drain commissioner OF A COUNTY IS NOT DEPRIVED of jurisdic-
4 tion ~~or as making any drain~~ OVER A DRAIN AND THE DRAIN DOES NOT
5 BECOME an intercounty drain, merely because ~~a~~ THE drain extends
6 into another county for the purpose of securing a proper outlet
7 and not for the purpose of draining any lands in the other
8 county, ~~:- Provided, such~~ IF THE extension is approved by the
9 drain commissioners and the COUNTY board of ~~supervisors~~
10 COMMISSIONERS of each affected county. The portion of ~~any such~~
11 THE drain extending into another county shall not be considered
12 in determining the number of signers required ~~to~~ FOR a petition
13 to locate, establish, and construct.

14 (2) THE DRAIN COMMISSIONER OR DRAINAGE BOARD MAY REVIEW AND
15 APPROVE ALL ACTIVITIES INCLUDING CONSTRUCTION AND LAND USE
16 CHANGES WHICH WILL OR COULD LIKELY AFFECT THE OPERATION OF AN
17 ESTABLISHED COUNTY OR INTERCOUNTY DRAIN OR AFFECT THE WATER QUAL-
18 ITY OR QUANTITY OF THE DRAINS WITHIN THE COUNTY SUBJECT TO RULES
19 PUBLISHED BY THE DRAIN COMMISSIONER OR DRAINAGE BOARD AND
20 APPROVED BY THE COUNTY BOARD OF COMMISSIONERS OF THE COUNTY OR
21 COUNTIES INVOLVED. THE DRAIN COMMISSIONER OR DRAINAGE BOARD AS A
22 PART OF THE PUBLISHED RULES MAY ESTABLISH A SCHEDULE OF FEES
23 ATTENDANT TO THE REVIEW, INSPECTION, OR ANALYSIS OF ALL ACTIVITY
24 OUTLINED HEREIN, TOGETHER WITH RULES AS IT RELATES TO THE DIS-
25 CHARGE INTO AN ESTABLISHED DRAIN, CONNECTION TO OR CROSSING OF AN
26 ESTABLISHED DRAIN, OR USE OF THE DRAIN RIGHT-OF-WAY.

1 Sec. 24. A commissioner may appoint a deputy or deputies —
2 ~~if the county board of commissioners approves,~~ and may revoke
3 the appointment at pleasure. The appointment shall be made in
4 writing and filed with the clerk of the county. If the commis-
5 sioner is unable to execute the duties of office, the deputy or
6 deputies shall execute or assist in the execution of the duties
7 of the county drain commissioner. ~~assigned by the county drain~~
8 ~~commissioner.~~ As determined by the county board of commission-
9 ers, the deputy or deputies, either shall be covered by a blanket
10 bond or shall file WITH THE DRAIN COMMISSIONER a bond ~~with and~~
11 to be approved by the DRAIN commissioner in a sum not to exceed
12 \$5,000.00, conditioned upon the faithful discharge of the
13 deputy's or deputies' duties. If the commissioner dies during
14 his or her term, the deputy commissioner shall have all of the
15 powers and be charged with all of the duties of a commissioner
16 until a commissioner is appointed or elected.

17 Sec. 25. (1) The commissioner and ~~his bondsmen shall be~~
18 THE SURETIES ON THE INDIVIDUAL OR BLANKET BONDS COVERING THE COM-
19 MISSIONER AND DEPUTY ARE liable for all the acts and defaults of
20 ~~the~~ A deputy ~~or deputies when~~ appointed as ~~herein~~ provided
21 IN SECTION 24. After entry of the order designating drainage
22 districts as provided in section 54 and section 105, ~~of this~~
23 ~~act,~~ the drainage district as designated ~~shall be responsible~~
24 ~~for and~~ IS liable for all acts and defaults of ~~such~~ THE com-
25 missioner ~~and his~~ OR A deputy, ~~or deputies,~~ except for acts
26 of malfeasance or misfeasance.

1 (2) The COUNTY board of ~~supervisors~~ COMMISSIONERS may
2 adopt resolutions providing that public liability or other
3 insurance may be purchased at the expense of the county to cover
4 such potential liabilities of the ~~various~~ drainage districts
5 under the supervision of the county drain commissioner.

6 Sec. 26. Each deputy commissioner shall receive ~~such~~ THE
7 salary or compensation ~~as the~~ DETERMINED BY THE COUNTY board of
8 ~~supervisors shall allow~~ COMMISSIONERS and all traveling
9 expenses actually and necessarily spent ~~by him~~ in the discharge
10 of his OR HER duties as prescribed in this act. ~~; he shall make~~
11 ~~a report to the commissioner of all work performed by him on or~~
12 ~~before the first Saturday of each month and an annual report on~~
13 ~~or before the second Wednesday in September of each year.~~

14 Sec. 27. ~~County clerks, or the board of auditors in coun-~~
15 ~~ties having such boards, shall be authorized, and it shall be~~
16 ~~their duty to procure, at the expense of their respective coun-~~
17 ~~ties, the necessary books, blanks and stationery for the use of~~
18 ~~said commissioners; and each commissioner shall furnish upon~~
19 ~~request blank applications or petitions to any person who may~~
20 ~~desire to file the same under this act. The~~ AT THE EXPENSE OF
21 THE COUNTY, THE office of the DRAIN commissioner shall be fur-
22 nished ~~at the expense of the county by the board of supervisors,~~
23 ~~or by the board of auditors in counties having such boards, and~~
24 ~~shall be maintained at the county seat, in which said office said~~
25 ~~commissioner shall be and remain at least 1 day per week such day~~
26 ~~to be painted on the door of the commissioner's office and~~
27 ~~printed or stamped on his stationery~~ WITH THE NECESSARY BOOKS,

1 BLANKS, DOCUMENTS, STATIONERY, OFFICE SUPPLIES, AND WORD
2 PROCESSING, MAPPING AND ASSESSING EQUIPMENT TO FULFILL THE DUTIES
3 OF THIS ACT OR OTHER ACTS, ORDINANCES, OR RESOLUTIONS SPECIFYING
4 DUTIES TO BE PERFORMED BY THE DRAIN COMMISSIONER. THE DRAIN
5 COMMISSIONER'S OFFICE SHALL FURNISH TO ANY PERSON, WHO MAY SO
6 DESIRE, DOCUMENTS AS MAY BE REQUIRED TO IMPLEMENT THE PROCEDURES
7 OF THIS ACT, AND THE DRAIN COMMISSIONER MAY ASSIST IN THE PREPA-
8 RATION OF SUCH DOCUMENTS AS MAY BE REQUIRED TO IMPLEMENT THE PRO-
9 CEDURES OF THIS ACT. THE OFFICE OF THE COMMISSIONER SHALL BE
10 FURNISHED AT THE EXPENSE OF THE COUNTY BOARD OF COMMISSIONERS AND
11 SHALL BE MAINTAINED AT THE COUNTY SEAT.

12 Sec. 28. (1) ~~Each~~ SUBJECT TO SUBSECTION (2), A DRAIN com-
13 missioner shall receive an annual salary ~~to be paid at other~~
14 ~~county officers are paid, the~~ AND FRINGE BENEFITS AS DETERMINED
15 BY THE COUNTY BOARD OF COMMISSIONERS. THE amount of the salary
16 ~~to~~ AND FRINGE BENEFITS SHALL be fixed by the county board of
17 commissioners before November 1 of each year AND SHALL BE PAID in
18 the same manner as the salaries AND FRINGE BENEFITS of other
19 county officers are fixed AND PAID. The salary AND FRINGE
20 BENEFITS may be increased but shall not be decreased during ~~his~~
21 ~~or her~~ THE term of office ~~, and in addition, each commissioner~~
22 ~~shall be allowed~~ OR SUCCESSIVE TERMS. THE COUNTY SHALL PAY A
23 DRAIN COMMISSIONER FOR his or her actual necessary expenses,
24 including traveling expenses incurred in the discharge of the
25 duties of the office. ~~, including all actual and necessary~~
26 ~~expense for clerk hire and recording by the county board of~~
27 ~~commissioners or board of county auditors to be paid by the~~

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1 ~~county.~~ The expense account shall be an itemized account. ~~and~~
 2 ~~verified by oath taken before a proper officer.~~ The amounts paid
 3 to the commissioner for salary and expenses shall be in full for
 4 all services rendered by the commissioner and all expenses
 5 incurred in the performance of the duties of the office.

6 (2) ~~Notwithstanding subsection (1), for~~ IF a county
 7 ~~which~~ has a county officers compensation commission, the com-
 8 pensation for ~~each~~ THE county drain commissioner shall be
 9 determined by that commission UNDER 1978 PA 485, MCL 45.471 TO
 10 45.477. ~~A change in compensation for a county drain commis-~~
 11 ~~sioner of a county which has a county officers compensation com-~~
 12 ~~mission shall commence at the beginning of the first odd numbered~~
 13 ~~year after the determination is made by the county officers com-~~
 14 ~~pensation commission and is not rejected.~~

15 Sec. 29. The county shall furnish the commissioner with all
 16 ~~necessary~~ OF THE FOLLOWING:

17 (A) NECESSARY books and papers for use in the survey. ~~, and~~
 18 ~~such office equipment as shall be necessary in making~~

19 (B) OFFICE EQUIPMENT NECESSARY TO MAKE profiles, blueprints,
 20 and specifications in any drainage district. ~~The surveyor or~~
 21 ~~engineer shall file with the commissioner all~~

22 (C) ADEQUATE SPACE AND FACILITIES TO FILE, PRESERVE, AND
 23 RETAIN field notes, blueprints, profiles, estimates, and all
 24 other papers ~~in his possession~~ relating to ~~said drain~~ THE
 25 DRAINS. The COUNTY board of ~~supervisors of any county~~
 26 COMMISSIONERS may employ an engineer who shall perform under this

1 act the services required to be performed by an engineer or
2 surveyor AS MAY BE DIRECTED BY THE DRAIN COMMISSIONER.

3 Sec. 30. ~~It shall be the duty of each commissioner to make~~
4 ~~and keep~~ A DRAIN COMMISSIONER SHALL MAINTAIN a full financial
5 statement of each drainage district. The commissioner shall also
6 make and keep in ~~his~~ THE COMMISSIONER'S office ~~in a book to be~~
7 ~~provided for that purpose~~ a complete record of each drainage
8 district. ~~, which~~ THE record shall include a copy of the appli-
9 cation for laying out and designating ~~such~~ THE district, of the
10 petition for the drain, of the minutes of the survey, of the
11 releases of the right of way where the same have been released,
12 of the orders of determination of the necessity for and of the
13 establishment of the drain, and of the apportionment and assess-
14 ment of benefits therefor ~~. Where special commissioners have~~
15 ~~been called, it shall also contain a copy of the application to~~
16 ~~the probate court, of the return of the special commissioners~~
17 and of all other papers in ~~his~~ THE office necessary to show a
18 complete history of each drainage district, all of which said
19 original papers shall then be enrolled and filed in the office of
20 the county drain commissioner. ~~No drain tax shall be spread~~
21 ~~until all the records required have been deposited and filed in~~
22 ~~the office of the county drain commissioner.~~

23 Sec. 31. (1) ~~Each~~ IF REQUESTED BY THE COUNTY BOARD OF
24 COMMISSIONERS, A DRAIN commissioner shall make a report to the
25 county board of commissioners at its annual meeting in October of
26 the drainage districts laid out ~~, AND~~ the drains constructed,
27 finished, or begun under his or her supervision during the year

1 ending October 1, and ~~the commissioner~~ shall ~~also~~ submit to
2 the board a full financial statement of each drainage district.
3 THE REPORTS ARE INTENDED TO BE ADVISORY AND NOT A PREREQUISITE TO
4 THE SPREAD OF ANY ASSESSMENTS UNDER THIS ACT. THE FAILURE TO
5 SUBMIT A REPORT SHALL NOT CONSTITUTE A DEFECT IN VALIDATING ANY
6 DRAIN PROCEEDING OR TAX OR BOTH. If authorized by resolution of
7 the county board of commissioners, the report shall be made
8 before April 2 of each year and shall cover the preceding calen-
9 dar year. The commissioner shall also make reports and furnish
10 information as required by the director of the department of
11 agriculture.

12 (2) The reports required by subsection (1) shall include an
13 itemized statement of the orders issued on account of each drain-
14 age district and a debit and credit balance of the district
15 fund. The commissioner ~~shall be~~ IS liable on the blanket bond
16 or his or her individual bond for gross neglect of duty or a mis-
17 application of money coming under his or her control as
18 commissioner.

19 Sec. 32. The COUNTY board of ~~supervisors~~ COMMISSIONERS of
20 each county having a drain commissioner may adopt a resolution
21 authorizing the county to enter into an agreement with the secre-
22 tary of ~~health, education and welfare pursuant to the provisions~~
23 ~~of Act No. 205 of the Public Acts of 1951, as amended, being sec-~~
24 ~~tions 38.851 to 38.870 of the Compiled Laws of 1948,~~ THE DEPART-
25 MENT OF HEALTH AND HUMAN SERVICES UNDER 1951 PA 205, MCL 38.851
26 TO 38.871, to allow the drain commissioner and all the employees
27 of the drain commissioner's office to obtain the benefits

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1 provided by the ~~federal~~ social security act, CHAPTER 531,
2 49 STAT. 620. The funds necessary for this coverage shall be
3 appropriated from the county general fund. ~~or from the revolving~~
4 ~~drain fund.~~

5 Sec. 33. (1) The salary of the commissioner, deputy commis-
6 sioners, and clerks and employees of the drain commissioner's
7 office shall, except as otherwise provided in this act, be paid
8 from the general fund of the county in the same manner and at the
9 same time as other county employees are paid.

10 (2) The drain commissioner may, with the approval of the
11 county board of commissioners, hire drain maintenance employees.
12 ~~Such drain~~ DRAIN maintenance employees ~~shall be considered~~
13 ARE county employees and shall be compensated from the general
14 fund of a county in the same manner and at the same time as other
15 county employees. SUCH DRAIN MAINTENANCE EMPLOYEES SHALL BE IN
16 ADDITION TO AND NOT TO BE SUBSTITUTED FOR DRAIN MAINTENANCE
17 EMPLOYEES PAID FOR BY THE GENERAL FUND AT THE TIME OF THE EFFEC-
18 TIVE DATE OF THE AMENDATORY ACT THAT ADDED SECTION 329.

19 (3) The general fund of a county shall be reimbursed by the
20 drain districts in which work is performed by drain maintenance
21 employees hired by the commissioner pursuant to subsection (2)
22 for compensation, including the cost of fringe benefits, paid to
23 the drain maintenance employees by the county from its general
24 fund. The county board of commissioners may waive the reimburse-
25 ment for emergency work ~~not exceeding \$800.00~~ performed on any
26 1 drain during the course of 1 year.

1 SEC. 34. (1) A PERSON SHALL NOT DISCHARGE INTO, MAKE A
2 CONNECTION TO, OR CONSTRUCT A CROSSING OF ANY ESTABLISHED COUNTY
3 OR INTERCOUNTY DRAINS WITHOUT THE REVIEW AND APPROVAL OF THE
4 DRAIN COMMISSIONER OR DRAINAGE BOARD. THE DRAIN COMMISSIONER OR
5 DRAINAGE BOARD MAY ADOPT AND PUBLISH RULES WITH REGARDS TO DIS-
6 CHARGES AND CONNECTIONS TO COUNTY OR INTERCOUNTY DRAINS OR CROSS-
7 INGS OF COUNTY OR INTERCOUNTY DRAINS. THE RULES MAY INCLUDE A
8 SCHEDULE OF FEES TO BE CHARGED FOR THE REVIEW AND INSPECTION OF
9 ANY DISCHARGES, CONNECTIONS, OR CROSSINGS AND PENALTIES FOR
10 NONCOMPLIANCE. THE RULES AND SCHEDULE OF FEES SHALL NOT TAKE
11 EFFECT UNLESS APPROVED BY THE COUNTY BOARD OF COMMISSIONERS OF
12 THE COUNTY OR COUNTIES AFFECTED. THE FEES SHALL BE DEPOSITED IN
13 A REVOLVING FUND AND USED FOR REVIEWS AND INSPECTIONS AS SPECI-
14 FIED IN THE RULE. IF THE REVOLVING FUND IS NOT SUFFICIENT TO
15 COVER EXPENSES FOR THE REVIEWS AND INSPECTIONS, THE EXPENSES
16 SHALL BE PAID FROM THE COUNTY GENERAL FUND.

17 (2) THE DRAIN COMMISSIONER MAY ESTABLISH RULES AND SCHEDULE
18 OF FEES FOR OTHER REVIEWS AND INSPECTIONS REQUIRED OF THE DRAIN
19 COMMISSIONER'S OFFICE BY THE COUNTY BOARD OF COMMISSIONERS BY
20 OTHER STATUTE, INCLUDING BUT NOT LIMITED TO THE LAND DIVISION
21 ACT, 1967 PA 288, MCL 560.101 TO 560.293, THE MOBILE HOME COMMIS-
22 SION ACT, 1987 PA 96, MCL 125.2301 TO 125.2349, AND THE CONDOMIN-
23 IUM ACT, 1978 PA 59, MCL 559.101 TO 559.275. THE FEES SHALL BE
24 DEPOSITED IN A REVOLVING FUND UNDER SUBSECTION (1).

25 Sec. 51. ~~Before a commissioner takes any action on any~~
26 ~~application~~ A COMMISSIONER SHALL NOT ACT ON A PETITION to
27 locate, establish, and construct ~~any~~ A drain, ~~there shall~~

1 ~~first be filed with him~~ UNLESS an application to lay out and
2 designate a drainage district ~~with reference to a proposed drain~~
3 ~~therein; such application shall~~ AND tentatively ~~describe~~
4 DESCRIBING the location and route of ~~such~~ THE proposed drain IS
5 FILED WITH THE COMMISSIONER. The application shall be signed by
6 ~~not less than 10 freeholders of the township or townships in~~
7 ~~which such proposed drain or the proposed lands to be drained~~
8 ~~thereby may be situated: Provided, That 5 or more of said sign-~~
9 ~~ers shall be the owners of land liable to an assessment for the~~
10 ~~construction of such proposed drain: Provided further, If it~~
11 ~~shall appear to the drain commissioner on filing an application~~
12 ~~to lay out and designate a drainage district that said district~~
13 ~~might not include 20 freeholders whose lands would be liable for~~
14 ~~such assessment, in such case such application shall be received~~
15 ~~if any one of the signers is a freeholder liable to an assessment~~
16 ~~for the construction of such proposed drain. 5 LANDOWNERS IN THE~~
17 DRAINAGE DISTRICT WHOSE LANDS WOULD BE LIABLE TO ASSESSMENT FOR
18 BENEFITS OR AT LEAST 50% OF THE LANDOWNERS IF THERE ARE LESS THAN
19 5 LANDOWNERS WHOSE LANDS WOULD BE LIABLE FOR ASSESSMENT OR MAY BE
20 SIGNED BY LANDOWNERS REPRESENTING 25% OF THE LAND AREA LIABLE FOR
21 ASSESSMENT. The eligibility of the signers to such application
22 shall be determined by the drain commissioner according to their
23 interest of record in the office of the register of deeds, in the
24 probate court, or in the circuit court of the county in which
25 such lands are situated at the time such application is filed.
26 ~~The board of supervisors, by resolution, may instruct the drain~~
27 ~~commissioner to refuse any application to lay out a drainage~~

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1 ~~district unless a cash deposit, sufficient to cover the~~
2 ~~preliminary costs, accompanies the application.~~ THE DRAIN COM-
3 MISSIONER MAY REQUIRE A CASH DEPOSIT, SUFFICIENT TO COVER THE
4 PRELIMINARY COSTS TO ESTABLISH THE DISTRICT, TO ACCOMPANY THE
5 APPLICATION AND MAY REFUSE TO ACCEPT SUCH APPLICATION WITHOUT A
6 CASH DEPOSIT. If the drain is completed, the cost advanced shall
7 be returned to the depositor or ~~his~~ A personal representative
8 out of the first tax collections on the drain. If uncompleted,
9 any excess above costs shall be so returned. ~~In lieu~~ INSTEAD
10 of an application signed by ~~freeholders~~ LANDOWNERS as afore-
11 said, ~~such~~ an application may be signed solely by ~~the board of~~
12 ~~health of the county~~ A MUNICIPALITY IF AUTHORIZED BY ITS GOVERN-
13 ING BODY, if the proposed drain is necessary for the public
14 health of ~~any part of the county, or may be signed solely by any~~
15 ~~city, village or township when duly authorized by its governing~~
16 ~~body, if the proposed drain is necessary for the public health of~~
17 ~~such~~ THE municipality and if ~~such~~ THE municipality will be
18 liable for an assessment at large against it for a percentage of
19 the cost of the proposed drain. The entry of an order designat-
20 ing a drainage district ~~, as hereinafter provided,~~ UNDER
21 SECTION 54 shall be considered a determination of the sufficiency
22 of such application.

23 Sec. 52. ~~Upon filing of such~~ IF AN application for a new
24 drainage district IS FILED, the commissioner shall immediately
25 cause a survey to be made by a ~~competent~~ surveyor or engineer
26 to determine the area ~~which~~ THAT would be drained by the
27 proposed drain. ~~, and~~ THE COMMISSIONER SHALL ALSO CAUSE the

1 route and type of construction of the drain or drains most
2 serviceable for that purpose TO BE DETERMINED BY AN ENGINEER.
3 ~~He shall not be~~ THE ENGINEER IS NOT limited in such determina-
4 tion to the route described in the application. ~~In any county~~
5 ~~having a board of county auditors, no survey shall be ordered~~
6 ~~without the approval of such board but if~~ IF the application
7 shows, or it is determined thereafter, that any such proposed
8 drainage district will affect lands in more than 1 county, the
9 commissioner shall proceed under ~~the portions of~~ chapter 5. ~~of~~
10 ~~this act relating to intercounty drains, and in such case the~~
11 ~~approval of the board of county auditors shall not be required.~~
12 If upon the survey, or if before the survey is made, the commis-
13 sioner determines that the proposed drain is impractical, ~~he~~
14 THE COMMISSIONER shall NOT take ~~no~~ further action ~~thereon~~ ON
15 THE DRAIN but shall, in writing, notify the persons who
16 ~~delivered~~ FILED the application ~~to him, of that fact, and his~~
17 ~~reasons for making his determination~~ OF THE COMMISSIONER'S
18 DETERMINATION AND THE REASONS THEREFORE. If upon the survey AND
19 DETERMINATION OF THE ROUTE AND TYPE OF CONSTRUCTION the commis-
20 sioner determines the proposed drain to be practical, ~~he~~ THE
21 COMMISSIONER shall lay out a drainage district, prepare and file
22 in the office of the drain commissioner a description of the
23 drainage district, which may be described by its boundaries ~~of~~
24 ~~highways and streets and~~ OR BY A DESCRIPTION OF ALL OF THE
25 tracts and parcels of land including ~~therein~~ all highways and
26 streets, townships, cities, and villages, or by a description of
27 all tracts or parcels of land ~~, highways, townships, cities and~~

1 ~~villages~~ IDENTIFIED BY LEGAL DESCRIPTION OR TAX CODE PARCEL
2 NUMBER which would be benefited by the construction of the pro-
3 posed drain, and which would be liable to an assessment therefor,
4 should the drain be constructed as hereinafter provided. The
5 commissioner shall obtain from the county treasurer a statement
6 showing as near as may be the amount of taxes and special assess-
7 ments levied against the lands in the proposed drainage district
8 on the tax rolls for the 3 years next preceding, and the amount
9 of such taxes and assessments remaining unpaid, and if it appears
10 from the statement that 33 1/3% or more of the lands in the pro-
11 posed drainage district have been returned as tax delinquent and
12 still remain delinquent, ~~no~~ THE COMMISSIONER SHALL NOT TAKE
13 further action ~~shall be taken~~ ON THE DRAIN.

14 Sec. 53. (1) The ~~surveyor or~~ engineer ~~authorized to make~~
15 ~~the survey~~ shall ascertain the size and depth of the drains.
16 ~~and he shall preserve all minutes with reference thereto. He~~
17 THE ENGINEER shall prepare preliminary plans, drawings, and pro-
18 files ~~thereof~~ OF THE DRAIN, together with a ~~computation of the~~
19 ~~yards of earth to be excavated, the amount of tile or pipe to be~~
20 ~~used and the necessary bridges and culverts or fords~~ DESCRIPTION
21 OF THE NATURE AND TYPE OF CONSTRUCTION INCLUDING THE NECESSARY
22 CROSSINGS, STRUCTURES, AND FACILITIES to be built in constructing
23 ~~such~~ THE proposed drain ~~,~~ and ~~his~~ AN estimate ~~of~~ the cost
24 of ~~such~~ construction. ~~,~~ and where practicable shall recommend
25 the leveling of the spoil banks. He shall thereupon lay out a
26 drainage district, which district may be described by its
27 boundaries of streets or highways or tracts or parcels of land,

1 ~~or by a description of all tracts or all parcels of land,~~
2 ~~including therein all highways, townships, counties, cities and~~
3 ~~villages which would be benefited by the construction of the pro-~~
4 ~~posed drain, all of which he shall deliver to the commissioner.~~
5 The ~~surveyor or~~ engineer ~~shall not be~~ IS NOT limited to the
6 route described in the application but may recommend a route and
7 type of construction for the DRAIN OR drains ~~he considers~~
8 CONSIDERED most serviceable for draining the area involved. THE
9 ENGINEER OR SURVEYOR SHALL LAY OUT A PROPOSED DRAINAGE DISTRICT,
10 WHICH DISTRICT MAY BE DESCRIBED BY ITS BOUNDARIES OR BY A
11 DESCRIPTION OF TRACTS OR PARCELS OF LAND AS SPECIFIED IN SECTION
12 52, ALL OF WHICH SHALL BE THEN DELIVERED TO THE COMMISSIONER.

13 (2) THE ENGINEER OR OTHER QUALIFIED PROFESSIONAL, AT THE
14 DIRECTION OF THE COMMISSIONER, MAY ALSO EVALUATE THE EFFECTS OF
15 THE PROPOSED PROJECT ON NATURAL RESOURCES AND RECOMMEND APPROPRI-
16 ATE PRACTICAL MEASURES TO MINIMIZE ADVERSE EFFECTS.

17 Sec. 54. (1) The commissioner shall prepare and file in
18 ~~his~~ OR HER office ~~his~~ THE order designating a drainage
19 district. ~~and give it~~ THE ORDER SHALL GIVE THE DRAINAGE
20 DISTRICT a name or number and describe ~~therein~~ the boundaries
21 of the district by streets or highways or parcels of land for
22 each of the several tracts or parcels of land included therein
23 and the counties, townships, cities, villages, and state trunk
24 line highways which would be benefited by the construction of the
25 drains and would be liable to assessment therefor. ~~, also a~~
26 ~~description of the drains as determined by him, showing~~ THE
27 COMMISSIONER SHALL ALSO PREPARE AND FILE IN HIS OR HER OFFICE the

1 beginning, route, terminus, type of the proposed construction,
2 and the estimated cost of such proposed construction. The com-
3 missioner shall give notice of filing the order designating a
4 drainage district by publishing a notice in a newspaper of gen-
5 eral circulation in the county, or a newspaper of general circu-
6 lation in the area where the drainage district boundaries are
7 located ~~, which~~ THE notice shall give a general description of
8 the route of the proposed drain or drains and of the drainage
9 district as shown by the order.

10 (2) ~~At any time after the order designating a drainage dis-~~
11 ~~trict and giving it a name or number has been filed in the office~~
12 ~~of the drain commissioner, the order may be amended as to~~ THE
13 DRAIN COMMISSIONER MAY AMEND THE ORDER BY CHANGING the name or
14 number of the drain ~~at any time by presenting to the drain com-~~
15 ~~missioner of the county~~ OR THE BOUNDARIES OF THE DISTRICT IF
16 THERE IS FILED WITH THE DRAIN COMMISSIONER A CERTIFICATION FROM
17 AN ENGINEER OR SURVEYOR OR a petition signed by ~~no~~ NOT less
18 than 5 ~~land owners~~ LANDOWNERS whose land is traversed by the
19 drain, ~~which petition shall state~~ STATING the then present name
20 or number of the drain and the change or changes to be made in
21 the name or number OF THE DRAIN OR THE BOUNDARIES OF THE
22 DISTRICT. ~~Upon receipt of such petition, and if~~ IF in the
23 drain commissioner's opinion it is to the best interest of all
24 concerned that the name or number OF THE DRAIN OR THE LANDS be
25 changed, he OR SHE shall make ~~his~~ AN order amending the name,
26 ~~or~~ number, OR DISTRICT BOUNDARIES, and thereafter the drainage
27 district shall be known by ~~such~~ THE name or number AND THE

1 BOUNDARY SHALL BE AS SET FORTH IN THE AMENDED ORDER. ~~The drain~~
2 ~~commissioner shall forthwith post such signs upon the drain as he~~
3 ~~may deem advisable for public notice of the new name or number.~~

4 Sec. 71. (1) After a drainage district ~~has been~~ IS estab-
5 lished and the order ~~therefor~~ DESIGNATING THE DISTRICT IS filed
6 with the county drain commissioner, a petition to locate,
7 establish, ~~and~~ OR construct a drain may be filed with the com-
8 missioner ~~having jurisdiction of the lands designated in such~~
9 ~~order as constituting the drainage district.~~ ~~Such~~ OF THE COUNTY
10 WHERE THE DISTRICT IS LOCATED. THE petition shall ask for the
11 location, establishment, and construction of the drain or drains,
12 or any part thereof, as described in ~~said~~ THE order.

13 (2) The petition shall be signed by ~~a number of~~
14 ~~freeholders~~ 5 LANDOWNERS in ~~said~~ THE drainage district whose
15 lands would be liable to ~~an~~ assessment for benefits ~~, equal to~~
16 ~~1/2 the number of freeholders whose lands would be traversed by~~
17 ~~the drain or drains applied for or abut on any highway or street~~
18 ~~along the side of which such drain extends, between the point~~
19 ~~where such drain enters such highway and the point where it~~
20 ~~leaves such highway and which lands are within the drainage~~
21 ~~district~~ OR AT LEAST 50% OF THE LANDOWNERS IF THERE ARE LESS
22 THAN 5 LANDOWNERS WHOSE LANDS WOULD BE LIABLE FOR ASSESSMENT OR
23 MAY BE SIGNED BY LANDOWNERS REPRESENTING 25% OF THE LAND AREA
24 LIABLE TO ASSESSMENT. ~~Such~~ THE petition shall be accompanied
25 by a description OR TAX PARCEL CODE of the land in ~~said~~ THE
26 district owned by each signer and by a certificate of the county
27 treasurer as to payment of taxes and special assessments against

1 ~~such~~ THE lands. Such certificate shall be in substantially the
2 following form:

3 I hereby certify that there are no taxes or special assess-
4 ments unpaid against any of the lands described in the annexed
5 list according to the records of the county treasurer's office
6 for the past 3 years, except as follows:

7

8	Description	Year	Tax or assessment	Amount
9

10 (3) The name of any signer as to whose land ~~such~~ THE cer-
11 tificate shows taxes or assessments unpaid for 3 years shall not
12 be counted. The eligibility of the PETITION signers ~~to such~~
13 ~~petition~~ shall be determined by the commissioner according to
14 their interest of record in the office of the register of deeds,
15 ~~in~~ the probate court, or the circuit court of the county in
16 which ~~such~~ THE lands are situated ~~at the time such~~ WHEN THE
17 petition is filed. ~~In determining the number of owners whose~~
18 ~~lands are traversed by such drain, or abut thereon as hereinbe-~~
19 ~~fore prescribed, the drain commissioner shall investigate the~~
20 ~~records of the register of deeds, of the probate court and of the~~
21 ~~circuit court of the county, and shall make diligent inquiry in~~
22 ~~the community, including inquiry of anyone in possession of all~~
23 ~~of such lands so traversed or so abutting as to the ownership~~
24 ~~thereof. In lieu of a petition signed by freeholders as afore-~~
25 ~~said, the petition may be signed solely by a city, village or~~
26 ~~township when duly authorized by its governing body, or by any~~
27 ~~combination of such municipalities, if such petitioning~~

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1 ~~municipality or municipalities~~ IF AUTHORIZED BY THEIR RESPECTIVE
2 GOVERNING BODIES, THE PETITION MAY INSTEAD BE SIGNED BY 1 OR MORE
3 MUNICIPALITIES THAT will be liable to assessments at large for
4 ~~at least a percentage of the total amount to be assessed for~~
5 ALL OR PART OF the cost of the proposed drain. ~~In the event of~~
6 ~~such a municipally signed petition, then the foregoing provisions~~
7 ~~of this section, other than the first 2 sentences thereof, shall~~
8 ~~not be applicable.~~

9 Sec. 72. (1) As soon as practicable after the filing of a
10 petition, the commissioner authorized to act on the petition, if
11 not disqualified under section 381 to make the apportionment of
12 benefits, may appoint a board of determination composed of 3 dis-
13 interested property owners. If the commissioner is disqualified
14 or chooses not to appoint the board of determination, the commis-
15 sioner shall immediately file a copy of the petition with the
16 chairperson of the county board of commissioners, together with a
17 statement signed by the commissioner, showing that he or she is
18 disqualified or chooses not to act in appointing a board of
19 determination. Upon receiving a copy of the petition and certifi-
20 cate, the chairperson of the county board of commissioners, if
21 not privately interested, as soon as practicable, shall appoint a
22 board of determination composed of 3 disinterested property
23 owners and shall immediately notify the drain commissioner of the
24 names and addresses of those appointed. If the chairperson of
25 the COUNTY board of commissioners has a private interest in the
26 proceedings, the ~~drain~~ FINANCE committee of the county board of
27 commissioners shall appoint the board of determination. Members

1 of boards of determination shall be residents of the county but
2 not of a township, city, or village affected by the drain, and
3 ~~may~~ SHALL not be members of the county board of commissioners
4 of the county.

5 (2) A meeting of the board of determination shall be called
6 within the drainage district at a convenient place to be desig-
7 nated by the drain commissioner. The board of determination
8 meeting also may be held at a public building within the city,
9 village, or township in which the drain is located. If 1 of
10 those appointed to the board of determination fails or refuses to
11 serve OR IS DISQUALIFIED, the drain commissioner, THE COUNTY
12 BOARD OF COMMISSIONERS, OR THE FINANCE COMMITTEE OF THE COUNTY
13 BOARD OF COMMISSIONERS, WHICHEVER APPOINTED HIM OR HER, shall
14 appoint a successor.

15 (3) The per diem compensation, mileage, and expenses of a
16 member of the board of determination shall be PAID IN the same
17 AMOUNT AND MANNER as FOR A MEMBER OF the county board of commis-
18 sioners of the county. In ~~counties where~~ A COUNTY IN WHICH
19 MEMBERS OF THE COUNTY BOARD OF commissioners are not paid on a
20 per diem basis, the compensation, mileage, and expenses shall be
21 fixed by the drain commissioner. ~~The members of the board of~~
22 ~~determination shall not receive more than 1 per diem for a day no~~
23 ~~matter how many separate matters are considered on that day.~~

24 (4) Upon request, the county drain commissioner shall inform
25 in writing the requesting state legislator who represents that
26 portion of the area in which the proposed drain improvement is to

1 be constructed of the names and addresses of the persons
2 appointed to a board of determination.

3 ~~-(2) The drain commissioner shall give public notice of the~~
4 ~~time, date, and place of the meeting of the board of determina-~~
5 ~~tion in the manner required by the open meetings act, Act No. 267~~
6 ~~of the Public Acts of 1976, as amended, being sections 15.261 to~~
7 ~~15.275 of the Michigan Compiled Laws, and by publication in a~~
8 ~~newspaper of general circulation in the county at least 10 days~~
9 ~~before the meeting. Notice also shall be served on the county~~
10 ~~clerk and on the clerk of each township, city, and village in the~~
11 ~~district, personally or by registered mail, at least 10 days~~
12 ~~before the meeting. The drain commissioner also shall send~~
13 ~~notice, by first class mail, of the time, date, and place of the~~
14 ~~meeting, to each person whose name appears on the last city, vil-~~
15 ~~lage, or township tax assessment roll as owning land within the~~
16 ~~special assessment district, at the address shown on the roll.~~

17 (5) NOTICE OF THE MEETING OF THE BOARD OF DETERMINATION
18 SHALL BE GIVEN IN THE MANNER PROVIDED IN SECTION 8. NOTICE SHALL
19 BE SENT TO EACH PERSON OR ENTITY AS NAMED ON THE LAST CITY, VIL-
20 LAGE, OR TOWNSHIP TAX ASSESSMENT ROLL AT THE ADDRESS SHOWN ON THE
21 ROLL. If an address does not appear on the roll, a notice need
22 not be mailed. ~~to the person.~~ The drain commissioner OR THE
23 COMMISSIONER'S DESIGNEE shall make an affidavit of the mailing
24 and shall recite in the affidavit that the persons to whom the
25 notice was mailed constitute all of the persons whose names and
26 addresses appear upon the tax rolls as owning land within the
27 particular special assessment district. The affidavit shall be

1 conclusive proof that notice was mailed to each person to whom
2 notice is required to be mailed pursuant to this section. The
3 failure to receive a notice by mail ~~shall~~ DOES not constitute a
4 jurisdictional defect invalidating a drain proceeding or tax ~~,~~
5 ~~or both,~~ if notice has been sent by ~~first class~~ FIRST-CLASS
6 mail as provided in this section. Expenses of notification shall
7 be paid by the drainage district. ~~when created.~~

8 (6) ~~(3)~~ At the time and place fixed in the notice, the
9 board of determination shall meet, elect a chairperson and secre-
10 tary, and proceed to determine the necessity of the proposed
11 drain and whether the drain is conducive to public health, conve-
12 nience, or welfare. ~~The board of determination, if it considers~~
13 ~~it necessary, shall require the county drain commissioner to~~ THE
14 DRAIN COMMISSIONER OR THE DEPUTY DRAIN COMMISSIONER SHALL ATTEND
15 THE MEETING OF THE BOARD OF DETERMINATION. IF CONSIDERED NECES-
16 SARY, THE DRAIN COMMISSIONER SHALL obtain from the county trea-
17 surer a statement showing the amount of taxes and special assess-
18 ments levied against the land in the proposed drainage district
19 on the tax rolls for the immediately preceding 3 years and the
20 amount of the taxes and assessments remaining unpaid. If it
21 appears from the statement that 25% or more of the taxes are
22 unpaid on the lands, further action shall not be taken. AT THE
23 MEETING, THE BOARD OF DETERMINATION SHALL RECEIVE TESTIMONY AND
24 EVIDENCE TO DETERMINE WHETHER OR NOT THE DRAIN IS NECESSARY AND
25 CONDUCTIVE TO THE PUBLIC HEALTH, CONVENIENCE, OR WELFARE. IF THE
26 BOARD OF DETERMINATION DETERMINES THAT ADDITIONAL INFORMATION IS
27 NEEDED BEFORE THE DETERMINATION OF NECESSITY CAN BE MADE, THE

1 BOARD OF DETERMINATION MAY RECESS THE MEETING TO ALLOW FOR
2 ADDITIONAL INFORMATION TO BE GATHERED. THE COSTS INCURRED FOR
3 THE GATHERING OF THE ADDITIONAL INFORMATION AND ANY SUBSEQUENT
4 NOTICE SHALL BE ASSESSED TO THE DRAINAGE DISTRICT. FOLLOWING THE
5 COMPILATION OF THE REQUESTED INFORMATION, THE BOARD OF DETERMINA-
6 TION SHALL RECONVENE AFTER PROVIDING NOTICE AS REQUIRED BY SUB-
7 SECTION (5).

8 (7) After hearing the evidence offered, the board of deter-
9 mination shall make its determination on the necessity of the
10 drain and whether the drain is conducive to public health, conve-
11 nience, or welfare. THE DETERMINATION OF THE BOARD OF DETERMINA-
12 TION IS SOLELY FOR THE NECESSITY OF THE DRAIN. THE SCOPE OF THE
13 WORK TO BE UNDERTAKEN IS WITHIN THE SOLE AUTHORITY OF THE DRAIN
14 COMMISSIONER. If the board of determination finds, by a majority
15 vote of the members, that the drain is not necessary and condu-
16 cive to public health, convenience, or welfare, the board of
17 determination shall file with the commissioner an order dismiss-
18 ing the petition, PROCEDURES ARE TERMINATED, and a further peti-
19 tion for the drain shall not be entertained within 1 year after
20 the determination. COSTS INCURRED SHALL BE ASSESSED TO THE DIS-
21 TRICT AS IF IT HAD BEEN ESTABLISHED OR CONSTRUCTED. IF THE BOARD
22 OF DETERMINATION FINDS THAT THE PROPOSED DRAIN OR PROJECT IS NOT
23 NECESSARY, COSTS INCURRED FOR THE BOARD OF DETERMINATION, SURVEY-
24 ORS, ENGINEERS, AND ATTORNEYS EMPLOYED AND THE COSTS OF NOTICE
25 AND PUBLICATION SHALL BE PAID FROM THE GENERAL FUND OF THE
26 COUNTY. If the board of determination, by a majority vote, finds
27 the drain ~~proposed to be~~ OR PROJECT IS necessary and conducive

1 to the public health, convenience, or welfare, the board of
2 determination shall make an order to that effect and file the
3 order with the commissioner.

4 (8) If the board of determination finds ~~that~~ THE DRAIN
5 NECESSARY, IT SHALL ALSO DETERMINE IF ALL OR a portion of the
6 COSTS OF construction of the proposed drain OR PROJECT is neces-
7 sary for the protection of the public health in 1 or more cities,
8 villages, and townships. ~~, the~~ THE order shall set forth the
9 determination giving the names of the municipalities receiving
10 benefit for PUBLIC health. If the board of determination deter-
11 mines that the whole cost, except that to be levied against state
12 or county highways for highway benefits, is necessary for the
13 public health, the cost shall be levied against the ~~townships,~~
14 ~~villages, and cities~~ MUNICIPALITIES at large, and it ~~shall not~~
15 ~~be~~ IS NOT necessary, in a subsequent order or notice to describe
16 or refer to land included in or comprising the drainage
17 district. Upon filing of the order of determination by the board
18 of determination, the drain commissioner, within 10 days of
19 filing, shall notify each municipality that it is liable to pay a
20 percent of the cost of construction of the drain by reason of
21 benefits at large for public health. The governing body of the
22 ~~township, city, or village~~ MUNICIPALITY, within 20 days after
23 receipt of the notification by ~~registered~~ FIRST-CLASS mail from
24 the drain commissioner, may appeal the order of the board of
25 determination AS TO THE FINDING THAT ALL OR A PORTION OF THE
26 COSTS IS NECESSARY FOR PUBLIC HEALTH to the probate court having
27 jurisdiction in the county in which the ~~township, city, or~~

1 ~~village~~ MUNICIPALITY is located. Upon receipt of the order of
2 the board of determination, and if an appeal has not been taken
3 by a municipality to the probate court, the commissioner, after
4 20 days, shall make ~~his or her~~ THE first order of determination
5 in writing, giving the name or number of the drainage district.
6 The commissioner shall establish the commencement, route, termi-
7 nus, and type of construction of the drain. ~~, a copy of which~~
8 ~~order he or she shall file, within~~ WITHIN 15 days, THE DRAIN
9 COMMISSIONER SHALL FILE A COPY OF THE ORDER in his or her
10 office. If an appeal is taken to the probate court by a munici-
11 pality, the commissioner shall file ~~his or her~~ THE first order
12 of determination after the appeal procedures are terminated.

13 (9) IF THE BOARD OF DETERMINATION FINDS THAT THE DRAIN IS
14 NECESSARY AND CONDUCIVE TO PUBLIC HEALTH, CONVENIENCE, AND WEL-
15 FARE, THE DRAIN COMMISSIONER MAY, AT THE TIME OF THE MEETING OF
16 THE BOARD OF DETERMINATION, OR SUBSEQUENTLY UPON DUE NOTICE, CON-
17 VENE A MEETING TO PROVIDE INFORMATION OR ELICIT TESTIMONY AND
18 EVIDENCE WITH REGARDS TO THE ROUTE AND TYPE OF CONSTRUCTION AND
19 ESTIMATE OF COST OF THE DRAIN TO ASSIST THE DRAIN COMMISSIONER IN
20 DETERMINING THE SCOPE OF THE DRAIN PROJECT TO BE UNDERTAKEN BY
21 THE COMMISSIONER OR DRAINAGE BOARD. THE MEETING IS FOR INFORMA-
22 TIONAL PURPOSES ONLY.

23 Sec. 72a. ~~Whenever~~ AFTER the board of determination finds
24 by majority vote of the ~~whole number of~~ members APPOINTED that
25 the drain is or is not necessary, ~~any~~ A person OR MUNICIPALITY
26 feeling aggrieved by the determination may institute an action in
27 the circuit court for the county in which the ~~real property~~

1 DRAINAGE DISTRICT is located for a REVIEW OF THE determination.
2 ~~of necessity.~~ The action shall be filed by the person OR
3 MUNICIPALITY aggrieved within 10 days after the determination of
4 necessity or no necessity. ~~by the board of determination.~~ THE
5 PURPOSE OF THE CIRCUIT COURT REVIEW IS TO DETERMINE WHETHER THE
6 DECISION OF THE BOARD OF DETERMINATION WAS AUTHORIZED BY LAW AND
7 SUPPORTED BY SUBSTANTIAL, MATERIAL, AND COMPETENT EVIDENCE ON THE
8 WHOLE RECORD. THE REVIEW SHALL BE MADE ON THE RECORD PRESENTED
9 TO THE BOARD OF DETERMINATION AND NO ADDITIONAL TESTIMONY OR EVI-
10 DENCE SHALL BE OFFERED EXCEPT FOR PURPOSES OF CLAIM OF FRAUD OR
11 ERROR OF LAW.

12 Sec. 73. (1) The commissioner shall secure ~~from a profes-~~
13 ~~sional engineer, plans, specifications and an estimate of cost of~~
14 ~~the proposed drain and descriptions of the lands or rights of way~~
15 ~~needed for the proposed drain~~ THE SERVICE OF AN ENGINEER. THE
16 ENGINEER SHALL BE SELECTED BASED ON HIS OR HER QUALIFICATIONS.
17 THE ENGINEER SHALL PREPARE PLANS, SPECIFICATIONS, AND AN ESTIMATE
18 OF COSTS OF THE PROPOSED DRAIN. THE COMMISSIONER SHALL SECURE
19 FROM AN ENGINEER OR SURVEYOR A DESCRIPTION OF THE LANDS OR RIGHTS
20 OF WAY NEEDED FOR THE PROPOSED DRAIN. In approving the route of
21 the drain as furnished by the ~~engineers~~ ENGINEER, the commis-
22 sioner ~~shall not be~~ IS NOT limited to that described in the
23 petition or in the first order of determination, if the new route
24 is more efficient and serviceable. ~~The commissioner shall~~
25 ~~endeavor to secure from the owners of each parcel or tract of~~
26 ~~land to be traversed or damaged by the proposed drain or drains~~

~~1 an easement or release of right of way and all damages on account
2 thereof.~~

3 (2) FOR ALL DRAINS LOCATED, ESTABLISHED, AND CONSTRUCTED
4 UNDER THIS CHAPTER, AFTER THE EFFECTIVE DATE OF THE AMENDATORY
5 ACT THAT ADDED THIS SUBSECTION, THE DRAIN COMMISSIONER SHALL
6 OBTAIN ANY PERMITS REQUIRED UNDER THE NATURAL RESOURCES AND ENVI-
7 RONMENTAL PROTECTION ACT, 1994 PA 451, MCL 324.101 TO 324.90106,
8 AND SHALL EVALUATE NATURAL RESOURCE IMPACTS OF THE PROPOSED DRAIN
9 AND IDENTIFY MEASURES TO MINIMIZE ADVERSE IMPACTS, PRIOR TO THE
10 CONSTRUCTION OF THE PROJECT. ALL COSTS ASSOCIATED WITH EVALUAT-
11 ING NATURAL RESOURCE IMPACTS AND IMPLEMENTING THE MEASURES TO
12 MINIMIZE THOSE IMPACTS SHALL BE THE RESPONSIBILITY OF THE DRAIN-
13 AGE DISTRICT. MEASURES THAT ARE INTENDED TO IMPROVE OR ENHANCE
14 NATURAL RESOURCES VALUES MAY BE INCLUDED AS PART OF THE DRAINAGE
15 PROJECT. THE DETERMINATION TO INCLUDE SUCH MEASURES IS WITHIN
16 THE DISCRETION OF THE DRAIN COMMISSIONER. THE FUNDING FOR THE
17 COSTS OF SUCH MEASURES MAY INCLUDE GIFTS, DONATIONS, GRANTS, AND
18 CONTRACTS PURSUANT TO SECTION 431, SPECIAL ASSESSMENTS OR ANY
19 COMBINATION THEREOF AS CONSIDERED APPROPRIATE BY THE DRAIN
20 COMMISSIONER.

21 (3) IF, AFTER THE RECIPIENT OF THE PLANS, SPECIFICATION,
22 ESTIMATE OF COST, AND DESCRIPTIONS OF THE LANDS OR RIGHTS OF WAY
23 NEEDED FOR THE PROPOSED DRAIN, THE COMMISSIONER DETERMINES THAT
24 THE PROJECT IS NOT PRACTICAL, THE COMMISSIONER SHALL NOTIFY THE
25 LANDOWNERS AND MUNICIPALITIES IN THE DISTRICT BY FIRST-CLASS MAIL
26 OF THE INTENT TO ABANDON THE PETITION. THE NOTICE SHALL SPECIFY
27 THE REASONS FOR THE PROPOSED ABANDONMENT. THE NOTICE SHALL ALSO

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1 SPECIFY A TIME, DATE, AND PLACE FOR A PUBLIC HEARING TO HEAR
2 OBJECTIONS TO THE ABANDONMENT OF THE PETITION. AT THE PUBLIC
3 HEARING, THE COMMISSIONER SHALL ELICIT TESTIMONY AND EVIDENCE
4 WITH REGARDS TO THE PROPOSED ABANDONMENT. FOLLOWING THE RECEIPT
5 OF TESTIMONY, THE DRAIN COMMISSIONER SHALL DETERMINE WHETHER OR
6 NOT THE PETITION SHOULD BE ABANDONED. IF THE ABANDONMENT IS
7 DETERMINED TO BE PRACTICAL, THE COMMISSIONER SHALL ENTER AN ORDER
8 OF ABANDONMENT AND APPORTION ALL COSTS INCURRED TO THE DISTRICT
9 AS IF THE PROJECT HAD BEEN BUILT AND THE COSTS WILL BE SUBSE-
10 QUENTLY ASSESSED AND PAID AS PROVIDED IN CHAPTER 7. A DETERMINA-
11 TION TO ABANDON DOES NOT LIMIT THE RIGHT TO FILE ANOTHER
12 PETITION.

13 Sec. 74. THE COMMISSIONER SHALL ATTEMPT TO SECURE FROM THE
14 OWNERS OF EACH PARCEL OR TRACT OF LAND TO BE TRAVERSED BY THE
15 PROPOSED DRAIN OR DRAINS AN EASEMENT OR RELEASE OF RIGHT OF WAY
16 OR SIMILAR INTEREST TO ACCOMPLISH THE PROJECT AS OUTLINED IN THE
17 PLANS AND ALL DAMAGES ON ACCOUNT THEREOF. ~~Commissioners~~ A
18 COMMISSIONER may take acknowledgments of releases of right of way
19 and administer oaths in ~~all proceedings in any way~~ ANY
20 PROCEEDING pertaining to ~~drains under this act.~~ A simple form
21 of A DRAIN. A release of right of way ~~and damages that shall~~
22 ~~set forth by reference to the survey of the drain, or by other~~
23 ~~convenient description, the particular~~ SHALL DESCRIBE THE land
24 to be conveyed and SHALL BE signed and acknowledged by the person
25 having the right to convey. ~~, shall be deemed a sufficient con-~~
26 ~~veyance under the provisions of~~ SUCH A CONVEYANCE IS SUFFICIENT
27 UNDER this act. All releases for rights of way shall be ~~deemed~~

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1 CONSIDERED to include sufficient ground on each side of the
 2 center line of ~~such~~ THE drain for the deposit of the excava-
 3 tions therefrom. ~~It shall not be~~ IF THE LANDOWNER IS A MARRIED
 4 MAN OR WOMAN, IT IS NOT necessary for the HUSBAND OR wife to sign
 5 the release of right of way unless HE OR she has an interest in
 6 the land other than ~~her~~ AN inchoate right of dower. ~~Whenever~~
 7 IF a portion of a drain ~~shall be~~ IS located within ~~any~~ A
 8 street, highway, or public place, then a resolution adopted by a
 9 majority vote of the governing body having jurisdiction over
 10 ~~such~~ THE street, highway, or public place granting leave to
 11 construct ~~such~~ THE drain therein, designating the place to be
 12 traversed by ~~said~~ THE drain, ~~shall be~~ IS a sufficient release
 13 of the right of way, ~~and shall be deemed a sufficient~~
 14 conveyance under this act. ~~, and said~~ THE governing body may
 15 permit the construction of an open drain if ~~such~~ THE consent
 16 ~~be~~ IS set forth in ~~such~~ THE resolution.

17 Sec. 75. ~~If all persons whose lands would be traversed or~~
 18 ~~damaged by the proposed drain or drains shall not have executed a~~
 19 ~~release of the right of way, and all damages on account thereof,~~
 20 ~~within 60 days after the entry of the first order of determina=~~
 21 ~~tion, the commissioner shall, as soon as practicable, make appli=~~
 22 ~~cation to the probate court of the county in which such lands are~~
 23 ~~situated, for the appointment of 3 special commissioners, who~~
 24 ~~shall be disinterested resident freeholders of the county, but~~
 25 ~~not of the township or townships affected by such drain, to~~
 26 ~~determine the necessity for the taking of private property for~~
 27 ~~the use and benefit of the public, and the just compensation to~~

1 ~~be made therefor. Such application shall be in writing, and~~
2 ~~shall set forth:~~

3 ~~First, The fact that a petition for a drain was made and~~
4 ~~when, filing with said court a certified copy of such petition,~~
5 ~~also giving the route, survey and specifications of said drain as~~
6 ~~set forth in the first order of determination;~~

7 ~~Second, That an order determining the necessity for such~~
8 ~~drain was made by the commissioner or drainage board, giving the~~
9 ~~time when such order was made, in accordance with such route,~~
10 ~~survey and specification, as above set forth;~~

11 ~~Third, (1) The several descriptions or tracts of land with~~
12 ~~the names of the owner or owners of every such tract who have~~
13 ~~refused or neglected to execute a release of right of way and~~
14 ~~damages in any way arising or incident to the opening or main-~~
15 ~~taining the said proposed drain (2) the several descriptions or~~
16 ~~tracts of land owned by any minor, incompetent person, unknown~~
17 ~~persons or nonresidents of the township or townships, the execu-~~
18 ~~tion of a release of right of way and damages for which have been~~
19 ~~neglected or refused; (3) it shall not be necessary to set forth~~
20 ~~in said application to the probate court the names of the several~~
21 ~~owners nor the description of the several tracts or parcels of~~
22 ~~land liable to an assessment for benefits, in case the drain~~
23 ~~applied for should be located and established, except those who~~
24 ~~have not released the right of way and through whose lands the~~
25 ~~drain passes; nor shall the same be included in the citation~~
26 ~~issued from the probate court. TO OBTAIN AN EASEMENT, RELEASE,~~
27 ~~OR RIGHT OF WAY OR THE REQUIRED INTEREST IN THE PROPERTY, THE~~

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1 DRAIN COMMISSIONER IS GRANTED THE POWER OF EMINENT DOMAIN AND MAY
2 COMMENCE CONDEMNATION PROCEEDINGS UNDER THE UNIFORM CONDEMNATION
3 AND PROCEDURES ACT, 1980 PA 87, MCL 213.51 TO 213.77.

4 Sec. 76. ~~The court to whom such application is made shall
5 make an examination at the time of such application of all the
6 proceedings of the commissioner so far as had, and if such pro-
7 ceedings be found to be in accordance with the statute, such
8 court shall at once appoint a time and place of hearing upon the
9 application, which time shall be fixed not less than 15 nor more
10 than 40 days thereafter, and the court shall issue a citation to
11 all persons whose lands are traversed by such drain, who have not
12 released the right of way, and all damages on account thereof, to
13 appear at the time and place designated in said citation, and be
14 heard with respect to such application, if they so desire, and
15 show cause, if any there be, why said application should not be
16 granted, and any error or errors that may have been made in any
17 of the proceedings thus far had shall be raised and taken advan-
18 tage of at such time and before such court, and if not so raised
19 and taken advantage of at such time and before such court shall
20 be deemed to have been waived by all persons cited to appear
21 under this notice. If any person on whom such service is to be
22 made is a minor, under the age of 14 years, or an incompetent
23 person, and resides in this state, such service shall be made as
24 herein provided on his guardian, or if none, then on the person
25 who may for such purpose be appointed special guardian and also
26 on the person who has the care of, or with whom such minor or
27 incompetent person resides. In case any person whose lands are~~

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~~1 traversed by said drain is a minor or an incompetent person and~~
~~2 has no guardian, the said court or the judge of said court shall~~
~~3 appoint a special guardian, to appear for and attend to the~~
~~4 interests of such minor or incompetent person, and all notices to~~
~~5 be served in the progress of the proceedings shall be served on~~
~~6 such special guardian.~~ THE OWNER OF ANY LAND OVER, THROUGH, OR
7 ACROSS WHICH A DISTRICT HAS ACQUIRED A RIGHT OF WAY FOR THE CON-
8 STRUCTION AND MAINTENANCE OF AN OPEN OR COVERED DRAIN BY GRANT,
9 DEDICATION, CONDEMNATION, OR OTHERWISE SHALL NOT USE THE LAND
10 OCCUPIED BY THE RIGHT OF WAY IN ANY MANNER INCONSISTENT WITH THE
11 EASEMENT OF THE DISTRICT. A USE OF THE RIGHT OF WAY THAT WILL
12 INTERFERE WITH THE OPERATION OF THE DRAIN OR WILL INCREASE THE
13 COST TO THE DISTRICT OF PERFORMING ANY OF ITS WORK THEREON IS
14 INCONSISTENT WITH THE DISTRICT'S EASEMENT. A LANDOWNER WHO VIO-
15 LATES THIS SUBSECTION IS SUBJECT TO SECTION 421.

16 Sec. 77. ~~The citation shall recite so much of the premises~~
~~17 as will show jurisdiction, giving a description of the land~~
~~18 traversed by such drain, and in the case of resident owners who~~
~~19 reside upon the premises traversed by said drain shall be~~
~~20 addressed to such owners by name; in the case of nonresident~~
~~21 owner or owners not residing upon the land traversed, it shall be~~
~~22 addressed to the nonresident owner or owners, but it shall not be~~
~~23 necessary to name such owner or owners. It shall describe the~~
~~24 drain by its commencement, terminus and general course, and shall~~
~~25 set forth that land owned by the persons to whom it is addressed~~
~~26 will be crossed by such drain and may be subject to assessment~~
~~27 for its construction, and that a description and survey of such~~

1 ~~drain is on file with the court issuing such citation and~~
2 ~~describe the land to be taken.~~ A CERTIFICATE, REPORT, OR DETER-
3 MINATION AUTHORIZED OR REQUIRED BY THIS CHAPTER, OR THE RECORD
4 THEREOF, OR A CERTIFIED COPY OF ANY SUCH CERTIFICATE, REPORT, OR
5 DETERMINATION OR RECORD, IS PRIMA FACIE EVIDENCE OF THE FACTS
6 RECITED THEREIN, OF THE TITLE TO THE PROPERTY DESCRIBED OR
7 REFERRED TO, AND OF THE RIGHT OF THE DRAINAGE BOARD OR COMMIS-
8 SIONER TO TAKE THE PROPERTY FOR DRAIN PURPOSES.

9 Sec. 101. ~~Before any action is taken on any~~ A COMMIS-
10 SIONER SHALL NOT ACT ON A petition to locate, establish, ~~and~~ OR
11 construct ~~any~~ A drain ~~, which proposed drain~~ THAT will
12 traverse lands in more than 1 county, or affect more than 1
13 county, ~~there shall first be filed with the commissioner having~~
14 ~~jurisdiction of any such lands~~ UNLESS an application to lay out
15 and designate a drainage district ~~with reference to a proposed~~
16 ~~drain therein; such application shall~~ AND tentatively ~~describe~~
17 DESCRIBING the location and route of ~~such~~ THE proposed drain IS
18 FILED WITH A COMMISSIONER IN 1 OF THE COUNTIES. The application
19 shall be signed by ~~a number of freeholders in said drainage dis-~~
20 ~~trict whose lands would be liable to an assessment for benefits,~~
21 ~~equal to 50% of any of the freeholders whose lands would be~~
22 ~~traversed by the drain or drains applied for or abut on any high-~~
23 ~~way or street along the side of which such drain extends, between~~
24 ~~a point where such drain enters such highway and the point where~~
25 ~~it leaves such highway and which lands are within the drainage~~
26 ~~district~~ 5 LANDOWNERS IN THE INTERCOUNTY DRAINAGE DISTRICT WHOSE
27 LANDS WOULD BE LIABLE TO ASSESSMENT FOR BENEFITS OR AT LEAST 50%

1 OF THE LANDOWNERS IF THERE ARE LESS THAN 5 LANDOWNERS WHOSE LANDS
2 WOULD BE LIABLE FOR ASSESSMENT OR MAY BE SIGNED BY LANDOWNERS
3 REPRESENTING 25% OF THE LAND AREA LIABLE TO ASSESSMENT. The eli-
4 gibility of the signers to ~~such~~ THE application shall be deter-
5 mined by THE DRAIN COMMISSIONER ACCORDING TO their interest of
6 record in the office of the register of deeds, in the probate
7 court, or in the circuit court of the county in which ~~such~~ THE
8 lands are situated ~~at the time such petition~~ WHEN THE
9 APPLICATION is filed. THE DRAIN COMMISSIONER MAY REQUIRE A CASH
10 DEPOSIT, SUFFICIENT TO COVER THE PRELIMINARY COSTS TO ESTABLISH
11 THE DISTRICT, TO ACCOMPANY THE APPLICATION AND MAY REFUSE TO
12 ACCEPT THE APPLICATION WITHOUT A CASH DEPOSIT. IF THE DRAIN IS
13 COMPLETED, THE COST ADVANCED SHALL BE RETURNED TO THE DEPOSITOR
14 OR HIS OR HER PERSONAL REPRESENTATIVE OUT OF THE FIRST TAX COL-
15 LECTIONS ON THE DRAIN. IF THE DRAIN IS NOT COMPLETED, ANY EXCESS
16 ABOVE COSTS SHALL BE SO RETURNED. INSTEAD OF BEING SIGNED BY
17 LANDOWNERS, AN APPLICATION MAY BE SIGNED SOLELY BY A MUNICIPALITY
18 IF AUTHORIZED BY ITS GOVERNING BODY, IF THE PROPOSED DRAIN IS
19 NECESSARY FOR THE PUBLIC HEALTH OF SUCH MUNICIPALITY, AND IF THE
20 MUNICIPALITY WILL BE LIABLE FOR AN ASSESSMENT AT LARGE AGAINST IT
21 FOR A PERCENTAGE OF THE COST OF THE PROPOSED DRAIN. THE ENTRY OF
22 AN ORDER DESIGNATING A DRAINAGE DISTRICT UNDER SECTION 105 SHALL
23 BE CONSIDERED A DETERMINATION OF THE SUFFICIENCY OF THE
24 APPLICATION.

25 Sec. 102. ~~Upon filing of such application~~ NOT MORE THAN
26 20 DAYS AFTER AN APPLICATION IS FILED, the commissioner shall
27 ~~within 20 days~~ send a copy of ~~such~~ THE application by

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1 ~~registered~~ FIRST-CLASS mail to the ~~state~~ director of THE
2 DEPARTMENT OF agriculture and ~~also~~ to the drain commissioner of
3 each county in which lie lands liable for assessment for benefits
4 for the construction of such proposed drain. The drain commis-
5 sioners of such counties and the director of THE DEPARTMENT OF
6 agriculture or any ~~deputy~~ PERSON designated by ~~him~~ THE
7 DIRECTOR shall ~~be and~~ constitute the drainage board. The
8 ~~state~~ director of THE DEPARTMENT OF agriculture shall call a
9 meeting of ~~such~~ THE drainage board ~~, which meeting shall~~ TO
10 be held not less than 15 and not more than 60 days ~~from~~ AFTER
11 the receipt of such notice. ~~Such~~ THE meeting shall be held ~~in~~
12 ~~the immediate locality of the proposed drainage district~~ AT A
13 PUBLIC BUILDING WITHIN THE CITY, VILLAGE, OR TOWNSHIP IN WHICH
14 THE PROPOSED DISTRICT IS LOCATED. ~~Notices of such~~ NOTICE OF
15 THE meeting shall be ~~posted in 5 public places~~ SERVED ON THE
16 COUNTY CLERK OF EACH COUNTY AND THE CLERK OF EACH MUNICIPALITY
17 within the proposed drainage district ~~within each county, and~~
18 ~~served on the county clerk of each county and the supervisor of~~
19 ~~each township within the proposed drainage district~~ personally
20 or by ~~registered~~ FIRST-CLASS mail at least 10 days before such
21 ~~public~~ meeting. A notice of ~~such~~ THE meeting shall be pub-
22 lished ~~in each county affected once a week for 2 consecutive~~
23 ~~weeks~~ 1 TIME before ~~such~~ THE meeting in a newspaper OR
24 NEWSPAPERS of general circulation in ~~such county, if there is~~
25 ~~one, the first publication to be~~ THE PROPOSED DISTRICT, at least
26 10 days before the meeting.

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1 Sec. 103. Upon convening said meeting, the ~~state~~ director
2 of THE DEPARTMENT OF agriculture or any deputy selected by ~~him~~
3 THE DIRECTOR shall act as ~~chairman~~ CHAIRPERSON. The ~~said~~
4 drainage board shall consider ~~such~~ THE application, and deter-
5 mine the sufficiency of the signatures thereto, and shall ~~go~~
6 ~~over~~ REVIEW the route of said proposed drain and take testimony
7 to determine its practicability. All persons owning lands liable
8 to assessment for benefits or whose lands shall be crossed by
9 ~~said~~ THE drain or any municipality affected may appear for or
10 against said drain proceedings. If at ~~said~~ THE meeting or at
11 any subsequent time before the entry of the order designating a
12 drainage district, ~~they shall determine~~ THE DRAINAGE BOARD
13 DETERMINES that the drainage of the proposed drain area is not
14 practical, ~~no further~~ THE DRAINAGE BOARD SHALL IN WRITING
15 NOTIFY THE PERSONS WHO DELIVERED THE APPLICATION OF THE FACT AND
16 THE REASON FOR MAKING THIS DETERMINATION. FURTHER action shall
17 NOT be taken ~~thereon within~~ ON THE DRAIN FOR 1 year. If ~~said~~
18 THE proposed drain is determined to be practical, then the drain-
19 age board shall cause a survey thereof to be made by a competent
20 surveyor or engineer to ascertain the area ~~which~~ THAT would be
21 drained by the proposed drain, and the route and type of con-
22 struction of drain or drains most serviceable for that purpose.

23 Sec. 104. (1) The ~~surveyor or~~ engineer ~~authorized to~~
24 ~~make the survey~~ shall ascertain the size and depth of the drains
25 ~~,~~ and shall preserve all minutes with reference thereto. ~~He~~
26 THE ENGINEER shall prepare PRELIMINARY plans, drawings, and
27 profiles thereof, together with a ~~computation of the yards of~~

1 ~~earth to be excavated, and where practicable the leveling of the~~
2 ~~spoil banks or the amount of tile or pipe to be used and the nec-~~
3 ~~essary bridges and culverts or fords~~ DESCRIPTION OF THE NATURE
4 AND TYPE OF CONSTRUCTION, INCLUDING THE NECESSARY CROSSINGS,
5 STRUCTURES, AND FACILITIES to be built in constructing the pro-
6 posed ~~drains~~ DRAIN, and ~~his~~ AN estimate ~~of~~ the cost of
7 ~~such~~ construction. ~~He~~ THE ENGINEER IS NOT LIMITED TO THE
8 ROUTE DESCRIBED IN THE APPLICATION BUT MAY RECOMMEND A ROUTE AND
9 TYPE OF CONSTRUCTION FOR THE DRAIN OR DRAINS CONSIDERED MOST
10 SERVICEABLE FOR DRAINING THE AREA INVOLVED. THE ENGINEER OR
11 SURVEYOR shall ~~thereupon~~ lay out a proposed drainage district,
12 which district may be described by its boundaries ~~of streets and~~
13 ~~highways~~ or BY A DESCRIPTION OF tracts or parcels of land ~~or by~~
14 ~~a description of all tracts or parcels of land, including therein~~
15 ~~all highways, townships, counties, cities and villages which~~
16 ~~would be benefited by the construction of the proposed drain, all~~
17 ~~of which he shall deliver to the drainage board. The surveyor or~~
18 ~~engineer shall not be limited to the route described in the~~
19 ~~application, but may recommend a route and type of construction~~
20 ~~for the drains he considers most serviceable for draining the~~
21 ~~area involved.~~ IDENTIFIED BY LEGAL DESCRIPTION OR TAX CODE
22 PARCEL NUMBER WHICH WILL BE BENEFITED BY THE CONSTRUCTION OF THE
23 PROPOSED DRAIN, AND WHICH WILL BE LIABLE TO AN ASSESSMENT THERE-
24 FOR, IF THE DRAIN IS CONSTRUCTED. THE COMMISSIONERS SHALL OBTAIN
25 FROM THE COUNTY TREASURERS A STATEMENT SHOWING AS NEAR AS MAY BE
26 THE AMOUNT OF TAXES AND SPECIAL ASSESSMENTS LEVIED AGAINST THE
27 LANDS IN THE PROPOSED DRAINAGE DISTRICT ON THE TAX ROLLS FOR THE

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1 3 YEARS NEXT PRECEDING, AND THE AMOUNT OF TAXES AND ASSESSMENTS
2 REMAINING UNPAID, AND IF IT APPEARS FROM THE STATEMENT THAT
3 33-1/3% OR MORE OF THE LANDS IN THE PROPOSED DRAINAGE DISTRICT
4 HAVE BEEN RETURNED AS TAX DELINQUENT AND STILL REMAIN DELINQUENT,
5 THE DRAINAGE BOARD SHALL NOT TAKE FURTHER ACTION.

6 (2) THE ENGINEER OR OTHER QUALIFIED PROFESSIONAL, AT THE
7 DIRECTION OF THE DRAINAGE BOARD, MAY ALSO EVALUATE THE EFFECTS OF
8 THE PROPOSED PROJECT ON NATURAL RESOURCES AND RECOMMEND APPROPRI-
9 ATE PRACTICAL MEASURES TO MINIMIZE ADVERSE EFFECTS.

10 Sec. 105. (1) The ~~chairman~~ CHAIRPERSON of the drainage
11 board shall thereupon prepare an order designating a drainage
12 district. ~~, giving it~~ THE ORDER SHALL DO ALL OF THE FOLLOWING:

13 (A) GIVE THE DRAINAGE DISTRICT a name or number. ~~and~~
14 ~~describe therein~~

15 (B) DESCRIBE the drainage district by its boundaries of
16 streets and highways or tracts or parcels of land or by a
17 description OR THE TAX PARCEL NUMBERS of all tracts or parcels of
18 land. ~~included therein and~~

19 (C) DESIGNATE the counties, townships, cities, villages, and
20 state trunk line highways ~~including therein~~ AND all highways
21 ~~,~~ UNDER THE JURISDICTION AND CONTROL OF THE townships, coun-
22 ties, cities, and villages ~~, which~~ THAT would be benefited by
23 the construction of ~~such~~ THE drain and would be liable to an
24 assessment therefor. ~~also a description of~~

25 (D) SPECIFY THE PERCENTAGES OF THE COST OF LAYING OUT THE
26 DISTRICT AND COST OF CONSTRUCTION THAT EACH COUNTY WILL BEAR.

1 (E) DESCRIBE the drain according to the plans and
2 specifications ~~prepared by the surveyor or~~ OF THE engineer and
3 determined by the drainage board, showing the beginning, route,
4 terminus, type of construction, and the estimated cost of the
5 construction.

6 (2) ~~Notice of filing of the order shall be given by the~~
7 ~~state~~ THE director of THE DEPARTMENT OF agriculture ~~by publish-~~
8 ~~ing a notice~~ SHALL PUBLISH A NOTICE OF THE ORDER in a newspaper
9 OF GENERAL CIRCULATION in ~~each county affected, once in each~~
10 ~~week for 2 successive weeks, which~~ THE DISTRICT. THE notice
11 shall give a general description of the route of the PROPOSED
12 drain OR DRAINS and of the drainage district as shown by the
13 order. ~~A~~ NOT MORE THAN 10 DAYS AFTER THE ORDER IS PREPARED,
14 THE DIRECTOR OF THE DEPARTMENT OF AGRICULTURE SHALL FILE A copy
15 of the order ~~shall within 10 days be filed by the state director~~
16 ~~of agriculture~~ in the office of the county drain commissioner of
17 each county in which lie lands included in the district.

18 (3) IF THE COMMISSIONERS OF THE COUNTIES AFFECTED CANNOT
19 AGREE AS TO THE APPORTIONMENT OF COSTS FOR LAYING OUT A DRAINAGE
20 DISTRICT, THE DIRECTOR OF THE DEPARTMENT OF AGRICULTURE OR ANY
21 DEPUTY APPOINTED SHALL APPORTION THE COSTS AND THE COUNTIES
22 AFFECTED SHALL PAY THE COSTS AS PROVIDED IN SECTION 302.

23 (4) ~~At any time after~~ AFTER the order designating an
24 intercounty drainage district, ~~giving it a name or number, has~~
25 ~~been~~ IS filed in the offices of the county drain commissioners
26 of the counties within the district, the order may be amended as
27 to the name or number of the drain OR FOR THE ADDITION OR

1 DELETION OF LANDS IN THE DISTRICT by a written request of a drain
2 commissioner of 1 of the counties traversed by the drain ~~—~~
3 ~~which~~ THE request shall state ~~the then present name or number~~
4 ~~of the drain and~~ the change to be made in the name or number OF
5 THE DRAIN OR THE ADDITION OR DELETION OF LANDS. Upon filing of
6 the request, the drain commissioner shall mail a copy of the
7 request ~~—~~ to the ~~state~~ director of THE DEPARTMENT OF agricul-
8 ture and also to the drain commissioner of each county in which
9 lie lands liable for assessments for the drain. The ~~state~~
10 director of THE DEPARTMENT OF agriculture shall call a meeting of
11 the drainage board and if, in the opinion of the drainage board,
12 it is found advisable to change the name or number of the drain
13 OR THE LANDS, ~~they~~ THE DRAINAGE BOARD shall file an order des-
14 ignating such change. ~~The drainage board shall also designate~~
15 ~~the number of signs to be posted upon the drain as they may deem~~
16 ~~advisable for public notice of the new name or number.~~ LANDS MAY
17 ALSO BE ADDED TO OR DELETED FROM THE DISTRICT UPON CERTIFICATION
18 BY AN ENGINEER OR SURVEYOR. THE ORDER AMENDING THE DISTRICT BY
19 ADDING OR DELETING LANDS SHALL DESCRIBE THE AMENDED DISTRICT.
20 Copies of the order changing the name or number of the drain OR
21 ADDING OR DELETING LANDS shall be filed with the drain commis-
22 sioner and the county treasurer of each county liable for
23 assessments. ~~of such drain~~ THEREAFTER, THE DISTRICT SHALL BE
24 KNOWN BY SUCH NAME OR NUMBER AND THE BOUNDARY SHALL BE AS SET
25 FORTH IN THE AMENDED ORDER. ~~If the commissioners of the coun-~~
26 ~~ties affected cannot agree as to the apportionment of costs for~~
27 ~~laying out a drainage district, the director of agriculture or~~

1 ~~any deputy appointed by him shall apportion the costs and the~~
2 ~~counties affected shall pay the same as provided in section 302~~
3 ~~of this act.~~

4 Sec. 106. (1) If the drain commissioner of a county
5 involved considers the apportionment between the counties to be
6 unfair, the commissioner ~~shall have the right to~~ MAY have the
7 apportionment reviewed by ~~an arbitration~~ A board OF REVIEW to
8 be composed of drain commissioners from unaffected counties in
9 this state. Within 20 days after the order of apportionment pro-
10 vided in section 105, the commissioner shall file with the
11 department of agriculture a claim for review by arbitration in
12 which the commissioner shall state briefly in what respect he or
13 she considers the apportionment unfair and request, over the
14 commissioner's official signature, a review by arbitration. The
15 commissioner shall nominate a disinterested drain commissioner as
16 his or her choice for the ~~arbitration~~ board OF REVIEW. ~~Upon~~
17 NOT MORE THAN 10 DAYS AFTER receipt of the claim for review by
18 arbitration, the director of the department of agriculture or the
19 director's deputy shall forward to each county drain commissioner
20 involved, except the claimant, ~~within 10 days,~~ a copy of the
21 claim for review by arbitration. ~~The commissioners~~ EACH COM-
22 MISSIONER SHALL SELECT A DISINTERESTED DRAIN COMMISSIONER AND,
23 within 10 days, shall notify the department of agriculture of
24 ~~their~~ HIS OR HER selection to the ~~arbitration~~ board OF
25 REVIEW. The director of the department of agriculture, at the
26 earliest date ~~,~~ consistent with ~~Act No. 267 of the Public Acts~~
27 ~~of 1976~~ THE OPEN MEETINGS ACT, 1976 PA 267, MCL 15.261 TO

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1 15.275, but not later than 30 days after the notice, shall notify
2 the chosen drain commissioners of a date and time they shall meet
3 in the ~~commissioner's~~ DIRECTOR'S office in Lansing. At the
4 meeting, they shall select 1 or 2 more unaffected drain commis-
5 sioners in the state to complete the board of review. Only 1
6 shall be selected if the board members selected by the drain com-
7 missioners affected constitute an even number and 2 shall be
8 selected if the board members selected by the drain commissioners
9 affected constitute an odd number.

10 (2) Upon selection of the final members of the board of
11 review, those members present shall set a date, time, and place
12 in an affected county for a first full meeting of the board of
13 review. Notice of the meeting shall ~~be posted in 5 public~~
14 ~~places in each county affected and~~ be served personally or by
15 ~~registered~~ FIRST-CLASS mail at least 10 days before the meeting
16 on the county clerk of ~~the~~ EACH AFFECTED county and the
17 ~~supervisor~~ CLERK of ~~a~~ EACH township in ~~each county traversed~~
18 ~~by the drain.~~ A EACH AFFECTED COUNTY. THE BOARD OF REVIEW
19 SHALL PUBLISH A notice of the meeting ~~shall be published~~ once a
20 week for 2 consecutive weeks before the meeting in a newspaper
21 published and of general circulation in the counties affected.
22 The first publication ~~is to~~ SHALL be at least 10 days before
23 the meeting. The director of the department of agriculture shall
24 notify the 1 or 2 drain commissioners selected of their appoint-
25 ment and of the date, time, and place of the next meeting of the
26 full board. The board of arbitration shall convene at the time,
27 date, and place specified, elect a chairperson and secretary, and

1 review the fairness of the apportionment between the counties.
2 The board may adjourn until ~~their~~ THE review is completed. The
3 findings shall be made and signed by all the members attesting
4 the determination of the majority of the board, and the determi-
5 nation by the majority of the board ~~shall be~~ IS final and con-
6 clusive as to the fairness of the apportionment. COMMISSIONERS
7 SO APPOINTED SHALL BE COMPENSATED IN THE SAME AMOUNT AND MANNER
8 AS MEMBERS OF THE COUNTY BOARD OF COMMISSIONERS IN THEIR RESPEC-
9 TIVE COUNTIES. OTHER COSTS OF THE BOARD OF REVIEW SHALL BE BORNE
10 BY THE DISTRICT.

11 Sec. 121. (1) After an intercounty drainage district ~~has~~
12 ~~been~~ IS established and the order ~~therefor~~ DESIGNATING THE
13 DISTRICT IS filed, ~~as hereinbefore provided,~~ a petition to
14 locate, establish, ~~and~~ OR construct a drain may be filed with
15 any commissioner having jurisdiction of any of the lands desig-
16 nated in ~~such~~ THE order as constituting the drainage district.
17 ~~Such~~ THE petition shall ask for the location, establishment,
18 ~~and~~ OR construction of the drain or drains, or any part there-
19 of, as described in ~~said~~ THE order.

20 (2) The petition shall be signed by ~~a number of freeholders~~
21 ~~in said drainage district, whose lands would be liable to an~~
22 ~~assessment for benefits, equal to 1/2 of the number of freehold-~~
23 ~~ers whose lands would be traversed by the drain or drains applied~~
24 ~~for, or abut on the part of any highway or street along the side~~
25 ~~of which such drain extends, between the point where such drain~~
26 ~~enters such highway and the point where it leaves such highway~~
27 ~~and which lands are within the drainage district. Such~~ 5

1 LANDOWNERS IN THE DRAINAGE DISTRICT WHOSE LANDS WOULD BE LIABLE
 2 TO ASSESSMENT FOR BENEFITS OR AT LEAST 50% OF THE LANDOWNERS IF
 3 THERE ARE LESS THAN 5 LANDOWNERS WHOSE LANDS WOULD BE LIABLE FOR
 4 ASSESSMENT OR MAY BE SIGNED BY LANDOWNERS REPRESENTING 25% OF THE
 5 LAND AREA LIABLE TO ASSESSMENT. THE petition shall be accom-
 6 panied by a description OR TAX PARCEL CODE of the land in ~~said~~
 7 THE district owned by each signer and by a certificate of the
 8 county treasurer as to payment of taxes and special assessments
 9 against ~~such~~ THE lands. ~~such~~ THE certificate shall be in
 10 substantially the following form:

11 I hereby certify that there are no taxes or special assess-
 12 ments unpaid against any of the lands described in the annexed
 13 list according to the records of the county treasurer's office
 14 for the past 3 years, except as follows:

15

16	Description	Year	Tax or assessment	Amount
----	-------------	------	-------------------	--------

17

18 (3) The name of any signer as to whose land ~~such~~ THE cer-
 19 tificate shows taxes or special assessments unpaid for 3 years
 20 shall not be counted. The eligibility of the PETITION signers
 21 ~~to such petition~~ shall be determined by their interest of
 22 record in the office of the register of deeds, in the probate
 23 court, or IN the circuit court of the counties in which such
 24 lands are situated ~~at the time such~~ WHEN THE petition is
 25 filed. ~~In determining the number of owners whose lands are~~
 26 ~~traversed by such drain, or abut thereon as hereinbefore~~

1 ~~prescribed, the drain commissioner shall investigate the records~~
2 ~~of the register of deeds, of the probate court and of the circuit~~
3 ~~court of the county, and shall make diligent inquiry in the com-~~
4 ~~munity, including inquiry of anyone in possession of all of such~~
5 ~~lands so traversed or so abutting, as to the ownership thereof.~~
6 ~~In lieu of a petition signed by freeholders, the petition may be~~
7 ~~signed solely by a city, village or township in each county~~
8 ~~involved, when duly authorized by its governing body, or by any~~
9 ~~combination of such municipalities, if each petitioning~~
10 ~~municipality~~ IF AUTHORIZED BY THEIR RESPECTIVE GOVERNING BODIES,
11 THE PETITION MAY INSTEAD BE SIGNED BY 1 OR MORE MUNICIPALITIES
12 THAT will be liable to assessment at large for ~~public health for~~
13 ~~any~~ ALL OR part of the cost of the proposed drain. ~~In the~~
14 ~~event of a municipally signed petition, then the foregoing provi-~~
15 ~~sions of this section, other than the first 2 sentences and these~~
16 ~~last 2 sentences thereof, shall not be applicable.~~

17 Sec. 122. (1) ~~Upon filing of a petition to locate, estab-~~
18 ~~lish, and construct an intercounty drain the commissioner receiv-~~
19 ~~ing the petition, within 20 days, shall notify by registered mail~~
20 ~~the drain commissioners interested and the director of the~~
21 ~~department of agriculture, who shall call a meeting within the~~
22 ~~time set forth in section 102.~~ The commissioners and the direc-
23 tor of the department of agriculture, or the director's deputy,
24 who constitute the drainage board shall jointly take all steps
25 and perform all acts and sign all papers as commissioners are
26 required to do singly in the case of ~~other~~ COUNTY drains,
27 except as otherwise provided in this act. At a meeting of the

1 board, the director of the department of agriculture, or the
2 director's deputy, shall not vote, except that the director or
3 the director's deputy may cast the deciding vote in case of a
4 tie. ~~Notice shall be given of the time and place of the meeting~~
5 ~~by publication in a newspaper of general circulation in the~~
6 ~~county at least 10 days before the meeting. Notices shall also~~
7 ~~be served personally or by registered mail at least 10 days~~
8 ~~before the meeting on the county clerk and on the clerk of each~~
9 ~~township, city, and village in the district. The drain commis-~~
10 ~~sioner also shall send notice by first class mail of the time,~~
11 ~~date, and place of the meeting, not less than 10 days before the~~
12 ~~date of the meeting, to each person whose name appears upon the~~
13 ~~last city or township tax assessment roll as owning land liable~~
14 ~~to assessment for benefits, at the address shown on the roll. If~~
15 ~~an address does not appear on the roll, a notice need not be~~
16 ~~mailed to the person. The drain commissioner shall make an affi-~~
17 ~~davit of the mailing and shall recite in the affidavit that the~~
18 ~~persons to whom the notice was mailed constitute all of the per-~~
19 ~~sons whose names and addresses appear upon the tax rolls as~~
20 ~~owning land liable to assessment for benefits. The affidavit~~
21 ~~shall be conclusive proof that notice was mailed to each person~~
22 ~~to whom notice is required to be mailed by this section. The~~
23 ~~failure to receive a notice by mail shall not constitute a juris-~~
24 ~~dictional defect invalidating a drain proceeding or tax, or both,~~
25 ~~if notice has been sent by first class mail as provided in this~~
26 ~~section.~~

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1 (2) UPON FILING OF A PETITION TO LOCATE, ESTABLISH, AND
2 CONSTRUCT AN INTERCOUNTY DRAIN, THE COMMISSIONER RECEIVING THE
3 PETITION, WITHIN 20 DAYS, SHALL NOTIFY BY FIRST-CLASS MAIL THE
4 DRAIN COMMISSIONERS INTERESTED AND THE DIRECTOR OF THE DEPARTMENT
5 OF AGRICULTURE, WHO SHALL CALL A MEETING IN THE MANNER PROVIDED
6 IN SECTIONS 102 AND 103. All expense of notification shall be
7 paid by the drainage district. ~~when created. The board shall~~
8 ~~consider the petition and evidence offered, and if it is deter-~~
9 ~~mined that the drain is necessary for the good of the public~~
10 ~~health, convenience, or welfare, it shall proceed to determine~~
11 ~~the percentage~~

12 (3) IF THE DRAINAGE BOARD CONSIDERS THE DRAIN TO BE PRACTI-
13 CAL, AFTER RECEIPT OF THE REPORT OF THE ENGINEER, THE DRAINAGE
14 BOARD SHALL CONVENE TO CONSIDER THE PETITION AND EVIDENCE OFFERED
15 AND DETERMINE IF THE DRAIN IS NECESSARY AND CONDUCIVE TO THE
16 PUBLIC HEALTH, CONVENIENCE, OR WELFARE. ALL EXPENSE OF NOTIFICA-
17 TION SHALL BE PAID BY THE DISTRICT. NOTICE SHALL BE GIVEN PURSU-
18 ANT TO SECTION 8. THE DRAINAGE BOARD SHALL BE THE BOARD OF
19 DETERMINATION AND SHALL DETERMINE THE QUESTION OF NECESSITY FOR
20 DRAINS LOCATED, ESTABLISHED, AND CONSTRUCTED UNDER THIS CHAPTER.
21 THE DETERMINATION OF THE DRAINAGE BOARD IS SOLELY FOR THE NECES-
22 SITY OF THE DRAIN. THE SCOPE OF THE PROJECT IS WITHIN THE SOLE
23 AUTHORITY OF THE DRAINAGE BOARD AS DECIDED IN SEPARATE
24 PROCEEDINGS.

25 (4) IF THE DRAINAGE BOARD DETERMINES THAT THE DRAIN IS NEC-
26 ESSARY, THE DRAINAGE BOARD SHALL REVIEW THE PERCENTAGES of the
27 whole cost of construction which each county shall bear, AS SET

1 FORTH IN THE ORDER DESIGNATING THE DRAINAGE DISTRICT, and
2 determine the number of installments in which the drain taxes
3 shall be collected. If commissioners cannot agree on the
4 PREVIOUSLY ESTABLISHED apportionment between counties or the
5 number of installments, the chairperson shall determine the
6 apportionment or the number of installments. An order ~~shall be~~
7 ~~prepared, signed by the chairperson,~~ to be known as the first
8 order of determination ~~, showing~~ SHALL BE PREPARED AND SIGNED
9 BY THE CHAIRPERSON. THE ORDER SHALL SHOW the determination of
10 necessity, THE determination of percentages, and THE determina-
11 tion of number of installments. ~~, and a~~ A copy of the order
12 shall be filed in the office of the county drain commissioner of
13 each county into which the drainage district extends. ~~The~~
14 ~~drainage board shall be the board of determination and shall~~
15 ~~determine the question of necessity for drains located, estab-~~
16 ~~lished, and constructed under this chapter.~~ If the drainage
17 board cannot agree unanimously on the apportionment between coun-
18 ties, the matter shall be submitted to the board of ~~arbitration~~
19 REVIEW in the manner prescribed in section 106, and that board's
20 decision shall be final.

21 Sec. 122a. ~~Whenever~~ AFTER the ~~drain~~ DRAINAGE board
22 finds by majority vote of the ~~whole number of~~ members APPOINTED
23 that the drain is or is not necessary, a person OR MUNICIPALITY
24 feeling aggrieved by the determination may institute an action in
25 ~~the~~ circuit court for the county in which the ~~real property~~
26 DRAINAGE DISTRICT is located for a REVIEW OF THE determination.
27 ~~of necessity.~~ The action shall be filed by the person OR

1 MUNICIPALITY aggrieved within 10 days after the determination of
2 necessity or no necessity. ~~by the drain board.~~ THE PURPOSE OF
3 THE CIRCUIT COURT REVIEW IS TO DETERMINE WHETHER THE DECISION OF
4 THE DRAINAGE BOARD SERVING AS THE BOARD OF DETERMINATION WAS SUP-
5 PORTED BY SUBSTANTIAL, MATERIAL, OR COMPETENT EVIDENCE ON THE
6 WHOLE RECORD. THE REVIEW SHALL BE MADE ON THE RECORD PRESENTED
7 TO THE DRAINAGE BOARD AND NO ADDITIONAL TESTIMONY OR EVIDENCE
8 SHALL BE OFFERED EXCEPT FOR PURPOSES OF CLAIM OF FRAUD OR ERROR
9 OF LAW.

10 Sec. 123. (1) ~~After securing releases of right of way as~~
11 ~~herein provided, the commissioner of each county affected shall~~
12 ~~apportion the benefits for the construction of such drain to each~~
13 ~~tract or parcel of land to any county, township, city or village~~
14 ~~and to any state trunk line highway within said drainage dis-~~
15 ~~trict, in the manner provided in chapter 7, being sections 151 to~~
16 ~~161, inclusive, of this act. Such per cent so apportioned when~~
17 ~~finally approved shall be assessed against such townships,~~
18 ~~cities, highways and lands according to such apportionment of~~
19 ~~benefits, as herein provided. The apportionment of benefits so~~
20 ~~made shall be subject to review and correction and may be~~
21 ~~appealed from as provided in said chapter 7.~~ FOR ALL DRAINS
22 LOCATED, ESTABLISHED, AND CONSTRUCTED UNDER THIS CHAPTER, AFTER
23 THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SEN-
24 TENCE, THE DRAINAGE BOARD SHALL OBTAIN ANY PERMITS REQUIRED UNDER
25 THE NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT, 1994 PA
26 451, MCL 324.101 TO 324.90106, AND SHALL EVALUATE NATURAL
27 RESOURCE IMPACTS OF THE PROPOSED DRAIN AND IDENTIFY MEASURES TO

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1 MINIMIZE ADVERSE IMPACTS, BEFORE THE CONSTRUCTION OF THE
2 PROJECT. ALL COSTS ASSOCIATED WITH EVALUATING NATURAL RESOURCE
3 IMPACTS AND IMPLEMENTING THE MEASURES TO MINIMIZE THOSE IMPACTS
4 SHALL BE THE RESPONSIBILITY OF THE DRAINAGE DISTRICT. MEASURES
5 THAT ARE INTENDED TO IMPROVE OR ENHANCE NATURAL RESOURCE VALUES
6 MAY BE INCLUDED AS PART OF THE DRAINAGE PROJECT. THE DETERMINA-
7 TION TO INCLUDE SUCH MEASURES IS WITHIN THE DISCRETION OF THE
8 DRAINAGE BOARD. THE FUNDING FOR THE COST OF SUCH MEASURES MAY
9 INCLUDE GIFTS, DONATIONS, GRANTS, AND CONTRACTS PURSUANT TO SEC-
10 TION 431, SPECIAL ASSESSMENTS, OR ANY COMBINATION THEREOF AS CON-
11 SIDERED APPROPRIATE BY THE DRAINAGE BOARD.

12 (2) IF AFTER RECEIPT OF THE PLANS, SPECIFICATION, ESTIMATE
13 OF COST AND DESCRIPTIONS OF THE LANDS OR RIGHTS OF WAY NEEDED FOR
14 THE PROPOSED DRAIN, THE DRAINAGE BOARD DETERMINES THAT THE
15 PROJECT IS NOT PRACTICAL, THE DRAINAGE BOARD SHALL NOTIFY THE
16 LANDOWNERS AND MUNICIPALITIES IN THE DISTRICT BY FIRST-CLASS MAIL
17 OF THE INTENT TO ABANDON THE PETITION. THE NOTICE SHALL SPECIFY
18 THE REASONS FOR THE PROPOSED ABANDONMENT. THE NOTICE SHALL ALSO
19 SPECIFY A TIME, DATE, AND PLACE FOR A PUBLIC HEARING TO HEAR
20 OBJECTIONS TO THE ABANDONMENT OF THE PETITION. AT THE PUBLIC
21 HEARING, THE DRAINAGE BOARD SHALL ELICIT TESTIMONY AND EVIDENCE
22 WITH REGARDS TO THE PROPOSED ABANDONMENT. FOLLOWING THE RECEIPT
23 OF TESTIMONY, THE DRAINAGE BOARD SHALL DETERMINE WHETHER OR NOT
24 THE PETITION SHOULD BE ABANDONED. IF THE ABANDONMENT IS DETER-
25 MINED TO BE PRACTICAL, THE DRAINAGE BOARD SHALL ENTER AN ORDER OF
26 ABANDONMENT AND APPORTION ALL COSTS INCURRED TO THE DISTRICT AS

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1 IF THE PROJECT HAD BEEN BUILT AND THE COSTS WILL BE SUBSEQUENTLY
2 ASSESSED AND PAID AS PROVIDED IN CHAPTER 7.

3 Sec. 124. ~~After such apportionment shall have been made by~~
4 ~~each of the commissioners, the chairman of the drainage board~~
5 ~~shall prepare and have printed notice of a meeting to be held at~~
6 ~~some convenient place, not less than 20 days from the date of~~
7 ~~such notice, for the purpose of receiving bids for the construc-~~
8 ~~tion of such drain, and also for the holding of a public meeting~~
9 ~~not less than 5 nor more than 30 days after the date set for~~
10 ~~receiving bids, at which a review will be held of the apportion-~~
11 ~~ment of benefits made as aforesaid.~~ THE DRAINAGE BOARD SHALL
12 ATTEMPT TO SECURE FROM THE OWNERS OF EACH PARCEL OR TRACT OF LAND
13 TO BE TRAVERSED BY THE PROPOSED DRAIN OR DRAINS AN EASEMENT OR
14 RELEASE OF RIGHT OF WAY OR SIMILAR INTEREST TO ACCOMPLISH THE
15 PROJECT AS OUTLINED IN THE PLANS AND ALL DAMAGES ON ACCOUNT
16 THEREOF. THE DRAINAGE BOARD MAY TAKE ACKNOWLEDGMENTS OF RELEASES
17 OF RIGHT OF WAY AND ADMINISTER OATHS IN ANY PROCEEDINGS PERTAIN-
18 ING TO A DRAIN. A RELEASE OF RIGHT OF WAY SHALL DESCRIBE THE
19 LAND TO BE CONVEYED AND SHALL BE SIGNED AND ACKNOWLEDGED BY THE
20 PERSON HAVING THE RIGHT TO CONVEY. SUCH A CONVEYANCE IS SUFFI-
21 CIENT UNDER THIS ACT. ALL RELEASES FOR RIGHTS OF WAY SHALL BE
22 CONSIDERED TO INCLUDE SUFFICIENT GROUND ON EACH SIDE OF THE
23 CENTER LINE OF THE DRAIN FOR THE DEPOSIT OF THE EXCAVATIONS
24 THEREFROM. IF THE LANDOWNER IS A MARRIED MAN OR WOMAN, IT IS NOT
25 NECESSARY FOR THE HUSBAND OR WIFE TO SIGN THE RELEASE OF RIGHT OF
26 WAY UNLESS HE OR SHE HAS AN INTEREST IN THE LAND OTHER THAN AN
27 INCHOATE RIGHT OF DOWER. IF A PORTION OF A DRAIN IS LOCATED

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1 WITHIN A STREET, HIGHWAY, OR PUBLIC PLACE, THEN A RESOLUTION
2 ADOPTED BY A MAJORITY VOTE OF THE GOVERNING BODY HAVING JURISDIC-
3 TION OVER THE STREET, HIGHWAY, OR PUBLIC PLACE GRANTING LEAVE TO
4 CONSTRUCT THE DRAIN THEREIN, DESIGNATING THE PLACE TO BE
5 TRAVERSED BY THE DRAIN, IS A SUFFICIENT RELEASE OF THE RIGHT OF
6 WAY, UNDER THIS ACT. THE GOVERNING BODY MAY PERMIT THE CONSTRUC-
7 TION OF AN OPEN DRAIN IF THE CONSENT IS SET FORTH IN THE
8 RESOLUTION.

9 Sec. 125. ~~At such meeting the respective commissioners~~
10 ~~shall hear the proofs and allegations offered and shall recon-~~
11 ~~sider and review the descriptions of land in that county forming~~
12 ~~a part of the drainage district, the apportionment of benefits,~~
13 ~~and define and equalize the same as may seem just and equitable.~~
14 ~~The persons entitled to appear and offer proof may appeal from~~
15 ~~such review and the manner of taking such appeal shall be as pre-~~
16 ~~scribed in chapter 7 of this act, being sections 151 to 161,~~
17 ~~inclusive.~~

18 ~~Bids shall be received and computation of the total cost of~~
19 ~~the drain shall be made, as hereinafter provided, before the time~~
20 ~~set for review of the apportionment, and such computation shall~~
21 ~~be open to inspection at the time of review. If such computation~~
22 ~~shall not be completed before the day of review, such review may~~
23 ~~be adjourned from time to time, not more than 20 days in all for~~
24 ~~the completion of such computation, or a new hearing may be~~
25 ~~called with like notice by publication, posting and service at~~
26 ~~least 10 days before such hearing. If for any reason the~~
27 ~~contracts on which such computation was based shall not be~~

~~1 executed and new contracts shall be let at a higher price, a
2 corrected computation shall be made and a new review held with
3 like notice. TO OBTAIN AN EASEMENT, RELEASE OF RIGHT OF WAY, OR
4 THE REQUIRED INTEREST IN THE PROPERTY, THE DRAIN COMMISSIONER IS
5 GRANTED THE POWER OF EMINENT DOMAIN AND MAY COMMENCE CONDEMNATION
6 PROCEEDINGS UNDER THE UNIFORM CONDEMNATION AND PROCEDURES ACT,
7 1980 PA 87, MCL 213.51 TO 213.77.~~

~~8 Sec. 126. At the time and place fixed in said notice, or
9 at an adjourned date, the drainage board shall receive bids and
10 let contracts for the construction of the drain in the manner
11 prescribed in chapter 9, being sections 221 to 223. If no con-
12 tract shall be let within 5 years after the date of filing the
13 petition to locate, establish and construct the drain, the drain-
14 age board may determine that the petition shall be deemed aban-
15 doned and no further action shall be taken to construct the
16 drain. Provided, That time during which any litigation shall be
17 pending to contest the validity of such proceedings shall not be
18 counted as a part of such 5-year period. If the drainage board
19 determines the petition shall be abandoned, it shall issue its
20 order to that effect; provided, that such determination of aban-
21 donment shall not be issued within the 5 year period. Notice of
22 the order shall be given by publishing a notice in a newspaper of
23 general circulation in each county affected. The provisions of
24 this section shall apply to all petitions which are in full force
25 and effect on the date of January 1, 1973, or thereafter. AFTER
26 SECURING RELEASES OF RIGHT OF WAY AS HEREIN PROVIDED, THE
27 COMMISSIONER OF EACH COUNTY AFFECTED SHALL APPORTION THE BENEFITS~~

1 FOR THE CONSTRUCTION OF SUCH DRAIN TO EACH TRACT OR PARCEL OF
2 LAND TO ANY COUNTY, TOWNSHIP, CITY, OR VILLAGE AND TO ANY STATE
3 TRUNK LINE HIGHWAY WITHIN SAID DRAINAGE DISTRICT, IN THE MANNER
4 PROVIDED IN CHAPTER 7, BEING SECTIONS 151 TO 161, INCLUSIVE, OF
5 THIS ACT. SUCH PERCENT SO APPORTIONED WHEN FINALLY APPROVED
6 SHALL BE ASSESSED AGAINST SUCH TOWNSHIPS, CITIES, HIGHWAYS, AND
7 LANDS ACCORDING TO SUCH APPORTIONMENT OF BENEFITS, AS HEREIN
8 PROVIDED. THE APPORTIONMENT OF BENEFITS SO MADE SHALL BE SUBJECT
9 TO REVIEW AND CORRECTION AND MAY BE APPEALED FROM AS PROVIDED IN
10 SAID CHAPTER 7.

11 Sec. 127. (1) ~~Within 60 days next succeeding the entry of~~
12 ~~the first order of determination the said commissioners shall~~
13 ~~within their respective counties endeavor to secure from the~~
14 ~~owner of each parcel or tract of land which would be traversed or~~
15 ~~damaged by said proposed drain a release of the right of way and~~
16 ~~all damages on account thereof.~~ AT THE MEETING, THE RESPECTIVE
17 COMMISSIONERS SHALL HEAR THE PROOFS AND ALLEGATIONS OFFERED AND
18 SHALL RECONSIDER AND REVIEW THE DESCRIPTIONS OF LAND IN THAT
19 COUNTY FORMING A PART OF THE DRAINAGE DISTRICT AND THE APPORTION-
20 MENT OF BENEFITS AND SHALL DEFINE AND EQUALIZE THE APPORTIONMENT
21 AS MAY SEEM JUST AND EQUITABLE. THE PERSONS ENTITLED TO APPEAR
22 AND OFFER PROOF MAY APPEAL FROM THE REVIEW IN THE SAME MANNER AS
23 PROVIDED IN CHAPTER 7.

24 (2) BIDS SHALL BE RECEIVED AND COMPUTATION OF THE TOTAL COST
25 OF THE DRAIN SHALL BE MADE, BEFORE THE TIME SET FOR REVIEW OF THE
26 APPORTIONMENT, AND SUCH COMPUTATION SHALL BE OPEN TO INSPECTION
27 AT THE TIME OF REVIEW. IF THE COMPUTATION IS NOT COMPLETED

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1 BEFORE THE DAY OF REVIEW, THE REVIEW MAY BE ADJOURNED FROM TIME
2 TO TIME, NOT MORE THAN 20 DAYS IN ALL FOR THE COMPLETION OF THE
3 COMPUTATION, OR A NEW HEARING MAY BE CALLED WITH LIKE NOTICE BY
4 PUBLICATION, POSTING, AND SERVICE AT LEAST 10 DAYS BEFORE THE
5 HEARING. IF FOR ANY REASON THE CONTRACTS ON WHICH THE COMPUTA-
6 TION WAS BASED ARE NOT EXECUTED AND NEW CONTRACTS ARE LET AT A
7 HIGHER PRICE, A CORRECTED COMPUTATION SHALL BE MADE AND A NEW
8 REVIEW HELD WITH LIKE NOTICE.

9 Sec. 128. ~~In case all the persons whose lands are to be~~
10 ~~traversed or damaged by such drain or drains, as proposed in this~~
11 ~~chapter, shall not within 60 days after the issue of the first~~
12 ~~order of determination have voluntarily released the right of way~~
13 ~~therefor, and all damages on account thereof, the drainage board~~
14 ~~shall apply to the judge of probate of the county in which such~~
15 ~~lands are situated for the appointment of 3 special~~
16 ~~commissioners. When such application shall be made and when all~~
17 ~~papers shall have been found to be in conformity with the provi-~~
18 ~~sions of this act, the court to whom such application has been~~
19 ~~made shall, within 60 days from the filing of said application,~~
20 ~~appoint such special commissioners and shall deliver to each~~
21 ~~drain commissioner a certified copy of the order of the appoint-~~
22 ~~ment of such special commissioners. Such special commissioners~~
23 ~~shall be resident freeholders of the county and not residents of~~
24 ~~the township or townships to be affected by the proposed drain in~~
25 ~~which they are appointed. All proceedings had in the appointment~~
26 ~~of special commissioners, the issuance of service of citations,~~
27 ~~hearings by the probate court and by the special commissioners~~

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1 ~~and the return of special commissioners under the provisions of~~
2 ~~this chapter shall be similar to those provided in chapter 4,~~
3 ~~being sections 71 to 84.~~ AT THE TIME AND PLACE FIXED IN THE
4 NOTICE, OR AT AN ADJOURNED DATE, THE DRAINAGE BOARD SHALL RECEIVE
5 BIDS AND LET CONTRACTS FOR THE CONSTRUCTION OF THE DRAIN IN THE
6 MANNER PRESCRIBED IN CHAPTER 9.

7 Sec. 131. A full record of ~~such~~ THE drain shall be made
8 and entered by the several commissioners in the drain ~~record~~
9 ~~books~~ RECORDS of their respective counties, and a ~~certified~~
10 copy of all the papers relative to the construction of ~~such~~ THE
11 drain shall be delivered to the other commissioners by the com-
12 missioner having the original application or petition, which
13 ~~certified~~ copies shall be filed in the office of the county
14 drain commissioner of ~~their~~ THE respective counties as original
15 papers are required to be filed and with the same force and
16 effect.

17 Sec. 132. ~~In cases where it is determined that the assess-~~
18 ~~ments shall be collected in more than 2 installments, the~~ THE
19 drainage board, acting on behalf of the drainage district, may
20 borrow money and may issue bonds OR NOTES therefor as provided
21 ~~in the case of~~ FOR drains lying wholly within 1 county. ~~Such~~
22 THE bonds OR NOTES shall be signed by the members of the drainage
23 board and shall be countersigned by the clerks of the counties
24 affected. Bonds OR NOTES issued under this chapter ~~shall be~~
25 ARE payable at the office of the county treasurer ~~of the county~~
26 ~~to which the larger per cent of the cost of construction is~~
27 ~~apportioned and such~~ SELECTED BY THE DRAINAGE BOARD TO SERVE AS

1 THE TREASURER OF THE DRAINAGE DISTRICT. THE bonds OR NOTES shall
2 be deposited and safely kept by ~~such~~ THE treasurer until sold
3 and delivered. All installments, with interest thereon, of the
4 special assessments shall be transmitted as collected by the
5 treasurer or treasurers of the other county or counties concerned
6 to the treasurer of ~~such county~~ THE DRAINAGE DISTRICT, who
7 shall issue ~~his~~ A receipt therefor and shall place the ~~moneys~~
8 MONEY in the fund of the drain to be disbursed solely for the
9 retirement of the bonds OR NOTES at maturity and the payment of
10 interest thereon.

11 Sec. 133. ~~Whenever any~~ IF A proposed drain lies wholly or
12 partly in an adjoining state, or the lands to be drained thereby
13 lie partly in an adjoining state, application to lay out a drain-
14 age district and a petition for the construction of ~~such~~ THE
15 drain AS SPECIFIED IN THIS ACT may be made to any commissioner
16 representing any county in this state in which any portion of
17 ~~such~~ THE proposed drain or lands to be affected thereby lie,
18 and the same proceedings shall be had ~~touching~~ REGARDING the
19 portion of ~~such~~ THE drain or the lands to be drained or
20 affected thereby ~~,~~ lying within this state as are provided in
21 this ~~chapter in the case of~~ ACT FOR drains and lands lying
22 wholly within this state. ~~:- Provided, That~~ HOWEVER, before any
23 expense ~~shall be~~ IS incurred in relation to ~~any such~~ THE pro-
24 posed drain, a voluntary release of the right of way to construct
25 ~~such~~ THE DRAIN OR portion of ~~such drain as may lie~~ THE DRAIN
26 THAT LIES without this state and an agreement to keep ~~the same~~
27 IT or permit ~~the same~~ IT to be kept, clear from obstruction

1 shall first be obtained from the parties owning lands outside of
 2 this state through which ~~such~~ THE drain or portion thereof is
 3 to pass, and such release and agreement shall be filed with the
 4 said drain commissioner and shall form a part of the record of
 5 his OR HER proceedings in the premises.

6 Sec. 134. ~~Any~~ AN action involving AN intercounty ~~drains,~~
 7 ~~except such actions as~~ DRAIN may be brought ~~directly in the~~
 8 ~~supreme court, may be brought~~ in the circuit court of ~~any~~ A
 9 county in which ~~any~~ A part of the intercounty ~~drain is~~
 10 located: ~~Provided, That on request by any party to said action~~
 11 ~~made prior to the time said action is instituted, or within 30~~
 12 ~~days after receipt of process, the presiding circuit judge of~~
 13 ~~Michigan shall appoint a circuit judge of any judicial circuit~~
 14 ~~not wholly or partially located within any county in which any~~
 15 ~~part of the intercounty drain is located to hear said action~~
 16 DRAINAGE DISTRICT IS ESTABLISHED, SUBJECT TO THE COURT RULES.

17 Sec. 135. (1) If ~~at any time~~ after an intercounty drain-
 18 age district ~~has been~~ IS established and a drain ~~has been~~ IS
 19 located, established, and constructed therein, it appears that it
 20 is necessary to extend the drain or drainage district into a
 21 county ~~which~~ THAT was not a part of the original intercounty
 22 drainage district, the lands in the county may be added to the
 23 district by presenting to the drain commissioner of ~~one~~ 1 of
 24 the counties traversed or affected by the drain, a petition
 25 signed by ~~50% of the land owners whose land is traversed by the~~
 26 ~~drain or proposed extended drain, which~~ 5 LANDOWNERS WHOSE LANDS
 27 IF ADDED WOULD BE LIABLE FOR ASSESSMENT. THE petition shall

1 state the name or number of the drain ~~—~~ and the lands ~~which it~~
2 ~~is desired to have added to the drainage district~~ TO BE ADDED.
3 Upon receipt of the petition, the drain commissioner shall mail a
4 copy of the petition to the ~~state~~ director of THE DEPARTMENT OF
5 agriculture and ~~also~~ to the drain commissioner of each county
6 in which lie lands liable for assessments for the proposed
7 extended drain or proposed extended drainage district. The
8 ~~state~~ director of THE DEPARTMENT OF agriculture shall call a
9 meeting of the drainage board including the commissioner of any
10 county in which lie lands that have been added to the drainage
11 district. Notices ~~of such meeting and all other proceedings~~
12 ~~shall be in accordance with the provisions of section 197 of this~~
13 ~~act, as amended~~ SHALL BE AS SET FORTH IN SECTION 8.

14 (2) At the meeting all persons owning lands liable to
15 assessment for benefits, or any district or municipality affect-
16 ed, may appear for or against the addition of ~~such~~ THE lands.
17 The board shall consider the petition and any evidence offered,
18 and if ~~it is determined~~ THE BOARD DETERMINES that the extension
19 of the drain or drainage district is necessary for the good of
20 the public health, convenience, or welfare, ~~it~~ THE BOARD shall
21 ~~then~~ proceed to determine the just percentage of the whole cost
22 of construction ~~which~~ THAT each county shall bear ~~—~~ and ~~also~~
23 ~~determine~~ the number of installments in which the drain taxes
24 shall be collected. ~~In case~~ IF the commissioners cannot agree
25 on the apportionment between counties or the number of install-
26 ments, the ~~chairman~~ CHAIRPERSON shall determine ~~the same~~
27 THESE.

1 (3) If, in the opinion of the expanded drainage board, it is
 2 found necessary to add the lands to the drainage district, they
 3 shall also enter an order adding the lands. ~~Copies~~ THE DRAIN-
 4 AGE BOARD SHALL FILE COPIES of the order adding the lands to the
 5 drainage district ~~shall be filed~~ with the drain commissioner of
 6 each county liable for assessments of the extended drain or
 7 extended drainage district. Copies of the order adding the lands
 8 to the drainage district shall also be served upon all persons
 9 whose lands have been added to ~~said~~ THE drainage district
 10 ~~according to~~ IN THE SAME MANNER AS PROVIDED IN section 154. ~~of~~
 11 ~~this act, as amended.~~ After the order is filed, the expanded
 12 drainage board ~~shall constitute~~ CONSTITUTES the drainage board
 13 for the expanded drainage district and ~~shall have~~ HAS all the
 14 powers ~~which are given to~~ OF drainage boards ~~by~~ UNDER this
 15 act. ~~, as amended.~~

16 (4) THE PROCEEDINGS UNDER THIS SECTION TO ALLOW THE ADDITION
 17 OF LANDS TO AN INTERCOUNTY DRAINAGE DISTRICT ARE AN ALTERNATIVE
 18 TO THOSE UNDER SECTION 105 OR 197 OR CHAPTER 19.

19 Sec. 151. ~~Upon the release of the right of way and dam-~~
 20 ~~ages, or upon the determination and return of the special~~
 21 ~~commissioners~~ AFTER THE DRAIN COMMISSIONER OR DRAINAGE BOARD
 22 ACQUIRES RIGHTS OF WAY OR EASEMENTS, the commissioner OR DRAINAGE
 23 BOARD shall make ~~his~~ THE final order of determination estab-
 24 lishing the drain. ~~, which~~ THE drain ~~shall~~ MAY be divided
 25 ~~into convenient sections for the letting of contracts:~~
 26 ~~Provided, That the commissioner may let the drain in sections or~~
 27 ~~as a whole.~~ ~~Said~~ FOR THE PURPOSE OF LETTING CONTRACTS. THE

1 order of determination shall be filed with the county drain
2 commissioner ~~within~~ NOT MORE THAN 5 days after ~~such~~ THE order
3 is made. ~~He shall, before~~ BEFORE the day of ~~letting and~~
4 review OF APPORTIONMENTS, THE DRAIN COMMISSIONER OR DRAINAGE
5 BOARD SHALL fix the number of installments for the collection of
6 drainage ~~taxes~~ ASSESSMENTS and apportion the ~~per cent~~ PERCENT
7 of the cost of construction of ~~such drain which any township,~~
8 ~~city or village traversed or benefited thereby shall be~~ THE
9 DRAIN THAT ANY MUNICIPALITY IS liable to pay by reason of the
10 benefit to the public health, convenience, or welfare, or as the
11 means of improving any highway under the control of ~~such town-~~
12 ~~ship, city or village~~ THE MUNICIPALITY. ~~He~~ THE COMMISSIONER
13 shall apportion the ~~per cent~~ PERCENT of the cost of construc-
14 tion of ~~such drain which any highway then under the control of~~
15 ~~the county or district road commissioners, shall be~~ THE DRAIN
16 THAT ANY COUNTY IS liable to pay by reason of benefits
17 ~~therefor,~~ TO A COUNTY ROAD and as the means of improving ~~such~~
18 ~~highway~~ THE COUNTY ROAD. ~~He~~ THE DRAIN COMMISSIONER shall also
19 apportion the ~~per cent~~ PERCENT of the cost of construction of
20 ~~such drain which any state trunk line highway, under the control~~
21 ~~of the state highway commissioner, shall be~~ THE DRAIN THAT THIS
22 STATE IS liable to pay by reason of benefits ~~therefor~~ TO A
23 STATE TRUNK LINE HIGHWAY and as the means of improving ~~said~~ THE
24 highway. ~~He~~ THE DRAIN COMMISSIONER shall also apportion the
25 ~~per cent~~ PERCENT of benefits to accrue to any piece or parcel
26 of land INCLUDING LANDS OWNED BY ANY MUNICIPALITY OR THIS STATE
27 by reason of the construction, MAINTENANCE, OR IMPROVEMENT of

1 ~~such~~ THE drain over and above the ~~per cent~~ PERCENT
2 apportioned to any ~~township, city or village at large~~
3 MUNICIPALITY or to any highway as above provided. ~~Such per~~
4 ~~cent~~ THE PERCENT so apportioned when finally approved shall be
5 assessed ~~against such townships, cities and villages and against~~
6 ~~the county at large by reason of the improvement of the highways~~
7 ~~within the drainage district, and against the state by reason of~~
8 ~~the improvement of the state trunk line highways within such~~
9 ~~drainage district, and against all parcels of land therein~~
10 according to ~~such~~ THE apportionment of benefits. ~~as herein~~
11 ~~provided.~~ The apportionment of benefits ~~so made shall be~~ IS
12 subject to review and correction and may be appealed from as
13 PROVIDED in this act. ~~provided.~~ The board of ~~supervisors~~
14 COMMISSIONERS at its October meeting each year shall make provi-
15 sion by proper assessment of the amounts apportioned against any
16 highway under the control of the county ~~and district highway~~
17 ROAD commissioners.

18 Sec. 152. ~~All apportionments~~ EACH APPORTIONMENT of bene-
19 fits under ~~the provisions of~~ this act shall be upon the princi-
20 ple of benefits derived. ~~All descriptions~~ A DESCRIPTION of
21 land under ~~the provisions of~~ this act shall be made by giving
22 the legal subdivision thereof, whenever practicable, and when the
23 tract of land which is to be benefited or affected by ~~such~~ A
24 drain is less than ~~such~~ A legal subdivision, it may be
25 described by designation of the lot or A PART OF A LOT OR other
26 boundaries, or in some way. ~~by which it may be known.~~ IF THE
27 DRAIN COMMISSIONER RETAINS IN HIS OR HER OFFICE A DETAILED

1 DESCRIPTION, MAP, OR OTHER SPECIFICATION THAT DESIGNATES A PARCEL
2 OR PORTION OF A PARCEL TO BE BENEFITED BY THE DRAIN, THE COMMIS-
3 SIONER, INSTEAD OF PROVIDING A SPECIFIC DESCRIPTION OF THE
4 PARCEL, MAY DESIGNATE THE PARCEL BY USE OF THE PARCEL'S TAX
5 PARCEL IDENTIFICATION NUMBER.

6 Sec. 153. ~~Such~~ THE order of determination shall contain a
7 description of the district to be assessed for benefits in the
8 construction of ~~said~~ THE drain, either by boundaries or by
9 description OR TAX PARCEL IDENTIFICATION NUMBER of the several
10 tracts or parcels of land to be assessed. ~~, which said~~ THE
11 tracts or parcels and the county, townships, cities, villages,
12 and highways therein shall constitute the special assessment
13 district. ~~, and which district shall in said order be~~
14 ~~designated~~ THE ORDER OF DETERMINATION SHALL DESIGNATE THE
15 DISTRICT by name or number.

16 Sec. 154. (1) The commissioner shall give notice OF A TIME
17 AND PLACE FOR THE MEETING FOR THE REVIEW OF APPORTIONMENTS. THE
18 NOTICE SHALL BE CONSISTENT WITH THE PROVISIONS OF SECTION 8. THE
19 MEETING SHALL BE HELD NOT LESS THAN 5 OR MORE THAN 30 DAYS AFTER
20 THE DATE SET for ~~the~~ receiving of bids for ~~the~~ construction
21 of the drain. ~~and for the holding of a public meeting. At the~~
22 ~~meeting a review shall be made of the apportionment of benefits.~~
23 ~~The notice shall specify the time and place of receiving bids,~~
24 ~~and the time and place of the meeting for review of~~
25 ~~apportionment. The meeting shall be not less than 5 nor more~~
26 ~~than 30 days after the date set for receiving bids. The notice~~
27 ~~shall be given by publication of at least 2 insertions in a~~

1 ~~newspaper published and of general circulation in the county.~~
2 ~~The first publication shall be at least 10 days before the date~~
3 ~~set for receiving bids.~~ The drain commissioner shall send notice
4 by first-class mail ~~of the time, date, and place of the meeting,~~
5 ~~at least 10 days before the date of the meeting,~~ to each person
6 whose name appears upon the last city or township tax assessment
7 roll as owning land within the ~~special assessment~~ DRAINAGE dis-
8 trict, at the address shown on the roll. If an address does not
9 appear on the roll, then notice need not be mailed to the
10 person. The drain commissioner shall make an affidavit of the
11 mailing and shall recite in the affidavit that the persons to
12 whom the notice was mailed ~~—~~ constitute all of the persons
13 whose names and addresses appear upon the tax rolls as owning
14 land within the particular special assessment district. The
15 affidavit ~~shall be~~ IS conclusive proof that notice was mailed
16 to each person to whom notice is required to be mailed. If
17 notice has been sent by first-class mail as provided in this sec-
18 tion, the failure to receive notice by mail shall not constitute
19 a jurisdictional defect invalidating a drain proceeding or tax.
20 If the board of determination determines that the drain is neces-
21 sary for the protection of the public health and that the whole
22 cost of the drain, except that part which may be apportioned for
23 benefits to highways, shall be apportioned to municipalities,
24 then mailing of individual notices to persons owning land within
25 the special assessment district as provided in this section
26 ~~shall not be~~ IS NOT required.

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

23 (2) ~~(3) Bids shall be received and computation of the total~~
24 ~~cost of the drain shall be made before the time set for~~ BEFORE
25 THE review of the apportionment, ~~and~~ the DRAIN COMMISSIONER
26 SHALL RECEIVE BIDS AND COMPUTE THE TOTAL COST OF THE DRAIN. THE
27 computation shall be open to inspection. If the computation is

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

25 (3) ~~(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 THE DIREC-
3 TOR OF THE STATE TRANSPORTATION DEPARTMENT by ~~registered~~
4 CERTIFIED mail ~~the state highway director~~ of the percentage
5 apportioned against the highway and the date, time, and place
6 fixed for a review of apportionment of benefits. If the ~~state~~
7 ~~highway director~~ DIRECTOR OF THE STATE TRANSPORTATION DEPARTMENT
8 desires to have the apportionment of benefits reviewed by the
9 director of the department of agriculture, the ~~state highway~~
10 director ~~, within~~ OF THE STATE TRANSPORTATION DEPARTMENT, THEN,
11 NOT MORE THAN 10 days ~~from~~ AFTER the receipt of the notice, THE
12 DIRECTOR OF THE STATE TRANSPORTATION DEPARTMENT shall file with
13 the drain commissioner an objection to the apportionment. The
14 drain commissioner shall notify the director of the department of
15 agriculture of the date, time, and place fixed for the review of
16 apportionments. ~~, and at~~ AT the meeting, the director of the
17 department of agriculture, or a deputy of the director, shall
18 review the apportionment made against the state trunk line high-
19 way, listen to the proofs and allegations of the parties, and may
20 view the highway benefited. The action and decision on the
21 apportionment SHALL BE reduced to writing ~~shall be~~ IS final.

22 (4) WHEN THE DIRECTOR OF THE STATE TRANSPORTATION DEPARTMENT
23 CONSENTS IN WRITING TO THE APPORTIONMENT, THE DIRECTOR SHALL
24 SPECIFY WHETHER THE DEPARTMENT WILL PAY THE ASSESSMENT IN FULL OR
25 IN INSTALLMENTS. IF THE APPORTIONMENT IS REVIEWED UNDER SUBSEC-
26 TION (3), THE DIRECTOR OF THE STATE TRANSPORTATION DEPARTMENT
27 SHALL SPECIFY, NOT MORE THAN 20 DAYS AFTER THE DETERMINATION MADE

1 BY THE DIRECTOR OF THE DEPARTMENT OF AGRICULTURE, WHETHER THE
2 STATE TRANSPORTATION DEPARTMENT WILL PAY THE ASSESSMENT IN FULL
3 OR IN INSTALLMENTS. IF THE DIRECTOR OF THE STATE TRANSPORTATION
4 DEPARTMENT DOES NOT SPECIFY BEFORE THE ADVERTISEMENT OF THE SALE
5 OF BONDS OR NOTES WHETHER THE DEPARTMENT WILL PAY THE ASSESSMENT
6 IN FULL OR IN INSTALLMENTS, THE DEPARTMENT IS LIABLE FOR THE
7 INTEREST CHARGES INCURRED AS A RESULT OF THE SALE OF BONDS OR
8 NOTES.

9 Sec. 155. The owner of any land in the drainage district or
10 any ~~city, township, village, district or county having control~~
11 ~~of any highway which may feel~~ MUNICIPALITY THAT IS aggrieved by
12 the apportionment of benefits ~~so~~ made by the commissioner,
13 ~~may, within~~ NOT MORE THAN 10 days after the day of review of
14 ~~such apportionments~~ THE APPORTIONMENT, appeal ~~therefrom and~~
15 ~~for such purpose make an application to the probate court of the~~
16 ~~proper county for the appointment of a board of review,~~ MAY
17 APPEAL THE APPORTIONMENT by filing with ~~said~~ THE probate court
18 a notice of appeal REQUESTING THE APPOINTMENT OF A BOARD OF
19 REVIEW and ~~at the same time filing with said court~~ a bond. THE
20 BOND SHALL BE in such sum as the judge of probate IN CONSULTATION
21 WITH THE DRAIN COMMISSIONER may require, with 1 or more sureties
22 to be approved by the judge of probate, conditioned upon the pay-
23 ment of all costs ~~in case~~ INCLUDING ENGINEERING, ATTORNEY, AND
24 WITNESS FEES IF the apportionment made by the commissioner ~~shall~~
25 ~~be~~ IS sustained. ~~Such~~ THE appeal may be taken by the
26 CHAIRPERSON OF THE county ~~or district road~~ BOARD OF
27 commissioners in behalf of the county, THE CHAIRPERSON OF THE

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1 COUNTY BOARD OF ROAD COMMISSIONERS IN BEHALF OF THE ROAD
2 COMMISSION, the mayor of any city in behalf of the city, ~~by~~ the
3 supervisor in behalf of ~~any~~ A township, or ~~by~~ the president
4 of ~~any~~ A village in behalf of the village when authorized by
5 the COUNTY BOARD OF COMMISSIONERS, THE BOARD OF COUNTY ROAD COM-
6 MISSIONERS, THE village or city council, OR THE township board,
7 ~~or road commission,~~ respectively. Only 1 board shall be
8 appointed by ~~such~~ THE probate court.

9 Sec. 156. (1) The probate court upon receipt of ~~any such~~
10 ~~application as hereinbefore provided for shall forthwith~~ A
11 NOTICE OF APPEAL UNDER SECTION 155 SHALL IMMEDIATELY notify the
12 commissioner in writing of ~~such~~ THE appeal, and shall
13 ~~thereupon~~ THEN make an order appointing 3 disinterested and
14 competent ~~freeholders~~ LANDOWNERS of ~~such~~ THE county, not res-
15 idents of the township or townships affected by said drain, as
16 members of a board of review. ~~The persons so appointed shall~~
17 ~~constitute the board of review.~~ The IMMEDIATELY AFTER MAKING
18 THE APPOINTMENTS, THE court shall, ~~thereupon,~~ with the concur-
19 rence of the commissioner, ~~immediately~~ fix the time and place
20 ~~when and where said~~ FOR A MEETING OF THE board of review ~~shall~~
21 ~~meet~~ to review ~~said~~ THE apportionments. ~~, which time shall~~
22 ~~not be~~ THE MEETING SHALL BE HELD NOT less than 10 ~~nor~~ OR more
23 than 15 days ~~from~~ AFTER the date of filing ~~such~~ THE NOTICE OF
24 appeal. The ~~commissioner~~ PROBATE COURT shall ~~thereupon give~~
25 ~~notice to~~ THEN NOTIFY the persons so appointed of their appoint-
26 ment and of the time and place of meeting. ~~, and shall give~~
27 ~~notice of such meeting by posting notices in at least 5 public~~

1 ~~places in each township forming a part of the drainage district,~~
2 ~~and shall serve a like notice upon the appellant if he be a resi-~~
3 ~~dent of any township affected. Such notice shall be made not~~
4 ~~less than 5 days before the day of hearing and shall be made by~~
5 ~~personal service. Proof~~ CONSISTENT WITH SECTION 5, THE COURT
6 SHALL ALSO NOTIFY EACH LANDOWNER AND MUNICIPALITY LIABLE FOR AN
7 ASSESSMENT. PROOF of service of ~~notice of appeal~~ THE NOTICES
8 UNDER THIS SUBSECTION shall be made by the person serving ~~said~~
9 ~~notice~~ THE NOTICES and be filed in the office of the judge of
10 probate. ~~At such hearing the board of review shall have the~~
11 ~~right, and it shall be their duty, to review all apportionments~~
12 ~~for benefits made by the commissioner on such drain. The persons~~
13 ~~so appointed~~

14 (2) AT THE HEARING, THE BOARD OF REVIEW shall be sworn by
15 the commissioner to faithfully discharge the duties of ~~such~~ THE
16 board of review.

17 (3) MEMBERS OF THE BOARD OF REVIEW SHALL BE COMPENSATED IN
18 THE SAME MANNER AND AMOUNT AS A BOARD OF DETERMINATION.

19 Sec. 157. (1) The board of review shall ~~proceed~~ at the
20 time, date, and place specified in the notice ~~to~~ hear the
21 proofs and allegations of the parties in respect to an appeal,
22 ~~shall~~ proceed to view the lands benefited by the drain OR
23 PROJECT, and ~~shall~~ review ALL OF the apportionments made by the
24 commissioner on the drain OR PROJECT. If in ~~their~~ THE judgment
25 OF THE BOARD OF REVIEW there is a manifest error or inequality in
26 the apportionments, ~~they~~ THE BOARD OF REVIEW shall order and
27 make the changes in the apportionment as ~~they~~ THE BOARD OF

1 REVIEW may consider just and equitable. If the board of review
2 upon personal examination finds that a land liable to be assessed
3 for the construction of the drain OR PROJECT is not included in
4 the drainage district made by the commissioner, ~~they~~ THE BOARD
5 OF REVIEW shall add the land to the drainage district of the
6 drain and shall adjourn the review to another time or place, ~~as~~
7 ~~they consider proper,~~ but not in all more than 20 days from and
8 after the time of MEETING OF THE BOARD OF review first
9 advertised. The notice of the adjournment shall contain a
10 description of lands added to the drainage district. The notice
11 shall be given at least 10 days before the adjourned day of
12 review. ~~Should~~ IF the owners of land liable to an assessment
13 ~~be~~ ARE nonresidents of the county, personal notice shall be
14 served on the owners, ~~or a notice shall be published in a weekly~~
15 ~~newspaper published in the county, of at least 2 insertions~~ BY
16 FIRST-CLASS MAIL, giving the description of the land added to the
17 assessment district and giving the time, date, and place where
18 the board shall meet. ~~The action and decision of the board~~
19 ~~shall be final.~~

20 (2) The ~~action and~~ decision OF THE BOARD OF REVIEW shall
21 be reduced to writing and signed by ~~a majority of~~ the board
22 ~~making~~ MEMBERS AGREEING WITH the decision, and shall be deliv-
23 ered to the commissioner WITHIN 10 DAYS OF THE CLOSE OF THE
24 MEETING together with other papers relating to the decision.

25 (3) IF THE BOARD OF REVIEW MAKES CHANGES IN THE APPORTION-
26 MENT, THE CHANGES SHALL BE MADE BY THE COMMISSIONER WITHOUT
27 NECESSITY FOR A NEW DAY OF REVIEW OR NOTICE TO THE DISTRICT OF

1 THE CHANGES MADE BY THE BOARD OF REVIEW AND PERSONS AGGRIEVED BY
2 THE CHANGES MADE BY THE BOARD OF REVIEW ARE NOT ENTITLED TO ADDI-
3 TIONAL JUDICIAL REVIEW.

4 (4) THE DECISION OF THE BOARD OF REVIEW IS FINAL AND NOT
5 SUBJECT TO JUDICIAL REVIEW.

6 Sec. 158. (1) ~~In case~~ IF the apportionment of the commis-
7 sioner ~~shall be~~ IS sustained by ~~such~~ THE board of review, the
8 appellant shall pay the whole costs and expenses of ~~such~~ THE
9 appeal. ~~Such~~ IF THERE ARE MULTIPLE APPELLANTS, ANY APPELLANT
10 WHOSE APPORTIONMENT IS SUSTAINED SHALL PAY A PRO RATA SHARE OF
11 THE COSTS AND EXPENSES OF THE APPEAL. THE costs and expenses
12 shall be ascertained and determined by the judge of probate. ~~—~~
13 ~~and if not paid the appellant shall be liable on his bond for the~~
14 ~~full amount of such costs in an action at law, to be brought by~~
15 ~~the commissioner on the bond before any court having competent~~
16 ~~jurisdiction.~~

17 (2) IF THE BOND OF AN APPELLANT IS MET SUFFICIENT TO COVER
18 THE COSTS AND EXPENSES FOR WHICH THE APPELLANT IS LIABLE, THE
19 DRAIN COMMISSIONER MAY CERTIFY THE RATE OR CHARGE TO THE PROPER
20 TAX COLLECTING OFFICER TO BE ENTERED IN A SEPARATE COLUMN ON THE
21 NEXT TAX ROLL AGAINST REAL PROPERTY OWNED BY THE APPELLANT FOR
22 INITIAL COLLECTION IN THE SAME MANNER AS AD VALOREM PROPERTY
23 TAXES UNDER THE GENERAL PROPERTY TAX ACT, 1893 PA 206, MCL 211.1
24 TO 211.157. AMOUNTS ENTERED ON THE TAX ROLL ARE A LIEN AGAINST
25 THAT REAL PROPERTY. IF A RATE OR CHARGE ENTERED ON THE TAX ROLL
26 IS NOT PAID BEFORE FEBRUARY 15, THE RATE OR CHARGE SHALL BE
27 RETURNED AS DELINQUENT TO THE COUNTY TREASURER AND COLLECTED IN

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1 THE SAME MANNER AS PROVIDED FOR DELINQUENT TAXES UNDER THE
2 GENERAL PROPERTY TAX ACT, 1893 PA 206, MCL 211.1 TO 211.157.
3 HOWEVER, PROPERTY IS NOT SUBJECT TO SALE UNDER SECTION 60 OF THE
4 GENERAL PROPERTY TAX ACT, 1893 PA 206, MCL 211.60, FOR NONPAYMENT
5 OF THE RATE OR CHARGE UNLESS THE PROPERTY IS ALSO SUBJECT TO SALE
6 FOR DELINQUENT PROPERTY TAXES.

7 (3) SUBSECTION (2) DOES NOT LIMIT THE AUTHORITY OF THE DRAIN
8 COMMISSIONER TO COLLECT A RATE OR CHARGE BY ANY OTHER MEANS
9 AUTHORIZED BY LAW FOR THE COLLECTION OF A DEBT.

10 Sec. 161. The proceedings ~~in establishing any drain and~~
11 ~~levying taxes therefor shall be~~ TO ESTABLISH A DRAIN AND LEVY
12 ASSESSMENTS ARE subject to review on ~~certiorari as herein~~
13 ~~provided~~ SUPERINTENDING CONTROL. A COMPLAINT SEEKING A writ of
14 ~~certiorari~~ SUPERINTENDING CONTROL for any error IN PROCEEDINGS
15 occurring before or in the final order of determination shall be
16 ~~issued within~~ FILED NOT MORE THAN 10 days after a copy of
17 ~~such~~ THE final order is filed in the office of the drain com-
18 missioner as required by section 151, ~~of this act,~~ and for any
19 error IN PROCEEDINGS occurring after ~~such~~ THE final order of
20 determination, ~~within~~ NOT MORE THAN 10 days after the day of
21 review, or if an appeal has been taken, ~~within~~ NOT MORE THAN 10
22 days after the filing of the report of the board of review.
23 ~~Notice of such certiorari shall be~~ THE COURT SHALL NOT HEAR THE
24 ACTION UNLESS A COPY OF THE COMPLAINT FOR SUPERINTENDING CONTROL
25 WAS served upon the commissioner ~~within~~ NOT MORE THAN 10 days
26 after the day ~~of issue in the same manner as notice is required~~
27 ~~to be given of certiorari for reviewing judgments rendered by~~

1 ~~justices of the peace and the writ shall be issued and served,~~
2 ~~and bond given and approved and the subject matter brought to~~
3 ~~issue in the same time and manner, as near as may be, as in such~~
4 ~~cases provided, except that such certiorari may be heard by the~~
5 ~~court during term, or at chambers, upon~~ THE COMPLAINT WAS FILED
6 AND 5 days' notice OF THE HEARING IS given to the opposite party.
7 ~~;~~ and the circuit court of the county THE COURT shall hear and
8 determine the ~~same~~ ACTION without unnecessary delay, and if any
9 material defect ~~be~~ IS found in the proceedings for establishing
10 the drain ~~,~~ such AND LEVYING ASSESSMENTS, SHALL SET ASIDE THE
11 proceedings. ~~shall be set aside.~~ If issues of fact are raised
12 by the ~~petition for such writ and the return thereto, such~~
13 COMPLAINT OR ANSWER, THE issues shall, on application of either
14 party, be framed and testimony thereon taken under the direction
15 of the court. If the proceedings ~~be~~ FOR ESTABLISHING THE DRAIN
16 AND LEVYING ASSESSMENTS ARE sustained, the party ~~bringing the~~
17 ~~certiorari shall be~~ SEEKING SUPERINTENDING CONTROL IS liable for
18 the costs ~~thereof, and if they be~~ OF THE SUPERINTENDING CONTROL
19 PROCEEDINGS. IF THE PROCEEDINGS FOR ESTABLISHING THE DRAIN AND
20 LEVYING ASSESSMENTS ARE not sustained, the parties making appli-
21 cation for the drain ~~shall be~~ ARE liable for the costs OF THE
22 SUPERINTENDING CONTROL PROCEEDINGS. If ~~no certiorari be~~
23 ~~brought~~ A COMPLAINT FOR SUPERINTENDING CONTROL IS NOT FILED
24 within the time ~~herein~~ prescribed, the drain shall be ~~deemed~~
25 CONSIDERED to have been legally established, and the ~~taxes~~
26 ~~therefor~~ DRAIN ASSESSMENTS legally levied, and the legality of
27 ~~said~~ THE drain and the ~~taxes therefor~~ ASSESSMENTS shall not

1 thereafter be questioned in ~~any suit at law or equity:~~
 2 ~~Provided, No court shall allow any certiorari questioning the~~
 3 ~~legality of any drain by any person unless notice has been given~~
 4 ~~to the commissioner in accordance with the provisions of this~~
 5 ~~chapter: Provided further, That when such proceedings are~~
 6 brought— COURT. IF A COMPLAINT FOR SUPERINTENDING CONTROL IS
 7 FILED, the commissioner shall postpone the letting of contracts
 8 and all other proceedings until after the determination of the
 9 court. ~~And if any error be found in the proceedings—~~ IF THE
 10 COURT FINDS AN ERROR IN THE PROCEEDINGS TO ESTABLISH THE DRAIN
 11 AND LEVY ASSESSMENTS, the court shall direct the commissioner to
 12 correct ~~such~~ THE error ~~or errors~~ and then proceed ~~the same~~
 13 as though no error had been made.

14 Sec. 191. (1) ~~When~~ IF a drain or portion ~~thereof, which~~
 15 OF A DRAIN traverses lands wholly in 1 county —, and HAS lands
 16 only in 1 county ~~which is~~ THAT ARE subject to assessment,
 17 ~~needs cleaning out, relocating, widening, deepening, straighten-~~
 18 ~~ing, tiling, extending, or relocating along a highway, or~~
 19 ~~requires structures or mechanical devices that will properly~~
 20 ~~purify or improve the flow of the drain or pumping equipment nec-~~
 21 ~~essary to assist or relieve the flow of the drain, or needs sup-~~
 22 ~~plementing by the construction of 1 or more relief drains which~~
 23 ~~may consist of new drains or extensions, enlargements, or connec-~~
 24 ~~tions to existing drains, or needs 1 or more branches added~~
 25 ~~thereto, any 5 or at least 50% of the freeholders if there are~~
 26 ~~less than 5 freeholders whose lands shall be liable to an~~
 27 ~~assessment for benefits of such work, may make petition in~~

~~1 writing to the commissioner setting forth the necessity of the
2 proposed work and the commissioner shall proceed in the same
3 manner provided for the location, establishment, and construction
4 of a drain. If the project includes a tiled relief drain, or the
5 tiling of an existing open drain or any portion thereof, with a
6 conduit a part of which has an inside diameter in excess of 36
7 inches or the retiling of an existing drain with a conduit, a
8 part of which has an inside diameter in excess of 36 inches, then
9 the petition shall comply with section 71. The preceding sen-
10 tence shall not be applicable to the construction of bridges,
11 culverts, and passageways. The word tiling as used in this and
12 other sections of this act, means the laying of a conduit com-
13 posed of tile, brick, concrete, or other material. When it is
14 necessary for the public health of 1 or more cities, villages,
15 and townships, the petition may be signed solely by a city, vil-
16 lage, or township when authorized by its governing body or by a
17 combination of the municipalities, if the municipality or munici-
18 palities are liable to assessments at large for a percentage of
19 the total amount assessed for the cost of the proposed work. 1
20 OR MORE OF THE FOLLOWING MAY BE DONE, BY PETITION FILED PURSUANT
21 TO THIS SECTION:~~

~~22 (A) THE DRAIN OR PORTION OF THE DRAIN MAY BE MAINTAINED,
23 IMPROVED, OR RELOCATED ALONG A HIGHWAY.~~

~~24 (B) STRUCTURES OR MECHANICAL DEVICES THAT WILL PROPERLY
25 PURIFY OR IMPROVE OR REGULATE THE FLOW OF THE DRAIN OR PUMPING
26 EQUIPMENT NECESSARY TO ASSIST OR RELIEVE THE FLOW OF THE DRAIN
27 MAY BE CONSTRUCTED OR INSTALLED.~~

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1 (C) ONE OR MORE RELIEF DRAINS, CONSISTING OF NEW DRAINS OR
2 EXISTING DRAINS MAY BE CONSTRUCTED.

3 (D) ONE OR MORE BRANCHES MAY BE ADDED TO THE DRAIN OR POR-
4 TION OF THE DRAIN.

5 (E) MEASURES INTENDED TO ENHANCE OR IMPROVE NATURAL
6 RESOURCES VALUES OF THE DRAIN AND PROVIDE BENEFIT IN ADDITION TO
7 THE DESIGNED FUNCTION, LONGEVITY, OR HYDRAULIC CAPACITY OF THE
8 DRAIN MAY BE UNDERTAKEN.

9 (F) A DRAINAGE DISTRICT MAY BE CONSOLIDATED WITH ANY ADJA-
10 CENT ESTABLISHED DRAINAGE DISTRICT OR HAVE LANDS ADDED OR
11 DELETED. THE CONSOLIDATION, ADDITION, OR DELETION SHALL OTHER-
12 WISE COMPLY WITH CHAPTER 19 RELATIVE TO DISPOSITION OF FUNDS AND
13 PAYMENT OF OUTSTANDING DEBT. THE LANDOWNERS OF ANY LANDS BEING
14 PETITIONED FOR CONSOLIDATION, ADDITION, OR DELETION AND THE
15 MUNICIPALITIES IN WHICH THOSE LANDS ARE LOCATED SHALL BE GIVEN
16 NOTICE OF THE PROPOSED CONSOLIDATION, ADDITION, OR DELETION.

17 (2) THE PETITION TO MAINTAIN OR IMPROVE OR TO CONSOLIDATE,
18 ADD, OR DELETE SHALL BE SIGNED BY 5 LANDOWNERS IN THE DRAINAGE
19 DISTRICT WHOSE LANDS WOULD BE LIABLE TO ASSESSMENT FOR BENEFITS
20 OR AT LEAST 50% OF THE LANDOWNERS IF THERE ARE LESS THAN 5 LAND-
21 OWNERS WHOSE LANDS WOULD BE LIABLE FOR ASSESSMENT OR SHALL BE
22 SIGNED BY LANDOWNERS REPRESENTING 25% OF THE LAND AREA LIABLE FOR
23 ASSESSMENT. THE ELIGIBILITY OF THE SIGNERS TO THE APPLICATION
24 SHALL BE DETERMINED BY THE DRAIN COMMISSIONER ACCORDING TO THEIR
25 INTEREST OF RECORD IN THE OFFICE OF THE REGISTER OF DEEDS, IN THE
26 PROBATE COURT OR IN THE CIRCUIT COURT OF THE COUNTY IN WHICH SUCH
27 LANDS ARE SITUATED AT THE TIME SUCH APPLICATION IS FILED. THE

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1 DRAIN COMMISSIONER MAY REQUIRE A CASH DEPOSIT, SUFFICIENT TO
2 COVER THE PRELIMINARY COSTS TO ESTABLISH THE DISTRICT, TO ACCOM-
3 PANY THE APPLICATION AND MAY REFUSE TO ACCEPT THE APPLICATION
4 WITHOUT A CASH DEPOSIT. IF THE DRAIN IS COMPLETED, THE COST
5 ADVANCED SHALL BE RETURNED TO THE DEPOSITOR OR A PERSONAL REPRESENTATIVE
6 OUT OF THE FIRST TAX COLLECTIONS ON THE DRAIN. IF THE
7 DRAIN IS NOT COMPLETED, ANY EXCESS ABOVE COSTS SHALL BE SO
8 RETURNED. INSTEAD OF BEING SIGNED BY LANDOWNERS, AN APPLICATION
9 MAY BE SIGNED SOLELY BY A MUNICIPALITY IF AUTHORIZED BY ITS GOV-
10 ERNING BODY, IF THE PROPOSED DRAIN IS NECESSARY FOR THE PUBLIC
11 HEALTH OF THE MUNICIPALITY, AND IF THE MUNICIPALITY WILL BE
12 LIABLE FOR AN ASSESSMENT AT LARGE AGAINST IT FOR A PERCENTAGE OF
13 THE COST OF THE PROPOSED DRAIN. THE ENTRY OF AN ORDER DESIGNAT-
14 ING A DRAINAGE DISTRICT, AS HEREINAFTER PROVIDED, SHALL BE CON-
15 SIDERED A DETERMINATION OF THE SUFFICIENCY OF SUCH APPLICATION.

16 (3) After the board of determination determines the neces-
17 sity for the work, ~~as provided in section 72,~~ the commissioner
18 shall, as soon as practicable after the final order of determina-
19 tion prescribed in section 151 ~~has been~~ IS filed, ~~by him,~~
20 proceed as provided in sections 151 to 161. If the apportionment
21 is the same as the last recorded apportionments, no day of review
22 is necessary, but in other cases the commissioner shall proceed
23 as provided in sections 151 to 161, including the notice of and
24 the holding of a day of review.

25 Sec. 192. (1) ~~Whenever~~ IF a drain or portion ~~thereof,~~
26 ~~which~~ OF A DRAIN traverses lands in more than 1 county ~~,~~ and
27 HAS lands in more than 1 county ~~shall be~~ THAT ARE subject to

1 assessments, ~~needs cleaning out, relocating, widening,~~
2 ~~deepening, straightening, tiling, extending or relocating along a~~
3 ~~highway, or requires structures or mechanical devices that will~~
4 ~~properly purify or improve the flow of the drain or pumping~~
5 ~~equipment necessary to assist or relieve the flow of the drain,~~
6 ~~or needs supplementing by the construction of 1 or more relief~~
7 ~~drains which may consist of new drains or extensions, enlarge-~~
8 ~~ments or connections to existing drains, or needs 1 or more~~
9 ~~branches added thereto, freeholders within the drainage district~~
10 ~~equal to 50% of the number of freeholders whose lands are~~
11 ~~traversed by said drain or drains in said petition or abut on any~~
12 ~~highway or street along either side of which such drain extends,~~
13 ~~between the point where said drain enters such highway and the~~
14 ~~point where it leaves such highway or street and which lands are~~
15 ~~within the drainage district, may make a petition in writing to~~
16 ~~the commissioner of any county having lands in such district set-~~
17 ~~ting forth the necessity of such proposed work. Whenever it is~~
18 ~~necessary for the public health of 1 or more cities, villages or~~
19 ~~townships, the petition may be signed solely by a city, village~~
20 ~~or township when duly authorized by its governing body or by any~~
21 ~~combination of such municipalities if the municipality or municipi-~~
22 ~~palities will be liable to assessments at large for a percentage~~
23 ~~of the total amount to be assessed for the cost of the proposed~~
24 ~~work. The percentage of cost apportioned to the municipality or~~
25 ~~municipalities shall be based upon the benefits to accrue to such~~
26 ~~municipality or municipalities and also the extent to which they~~
27 ~~contribute to the conditions which makes the drain necessary.~~

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~~1 Upon receipt of such petition, the commissioner shall notify the
2 state director of agriculture and the commissioners of each
3 county embracing any lands in the drainage district, and the
4 director of agriculture shall call a meeting within the time and
5 in the manner prescribed in section 122. The persons so named
6 shall constitute a drainage board and if such work is then deter-
7 mined to be practicable, they may thereupon appoint a competent
8 surveyor or engineer to make a survey of said drain, and lay out
9 a drainage district according to section 104. After the surveyor
10 or engineer has filed all data with the drainage board, the
11 director of agriculture shall call a meeting as provided in sec-
12 tion 122, and thereafter take all steps and perform all acts
13 which are required to be done by said board upon a petition for
14 the location, establishment and construction of drains as pro-
15 vided in sections 121 to 135. Such board and the commissioners
16 shall exercise such power and be subject to such limitations as
17 are provided in sections 121 to 135. 1 OR MORE OF THE FOLLOWING
18 MAY BE DONE, BY PETITION FILED PURSUANT TO THIS SECTION:~~

19 (A) THE DRAIN OR PORTION OF THE DRAIN MAY BE MAINTAINED,
20 IMPROVED, OR RELOCATED ALONG A HIGHWAY.

21 (B) STRUCTURES OR MECHANICAL DEVICES THAT WILL PROPERLY
22 PURIFY OR IMPROVE OR REGULATE THE FLOW OF THE DRAIN OR PUMPING
23 EQUIPMENT NECESSARY TO ASSIST OR RELIEVE THE FLOW OF THE DRAIN
24 MAY BE CONSTRUCTED OR INSTALLED.

25 (C) ONE OR MORE RELIEF DRAINS, CONSISTING OF NEW DRAINS OR
26 EXISTING DRAINS MAY BE CONSTRUCTED.

1 (D) ONE OR MORE BRANCHES MAY BE ADDED TO THE DRAIN OR
2 PORTION OF THE DRAIN.

3 (E) MEASURES INTENDED TO ENHANCE OR IMPROVE NATURAL
4 RESOURCES VALUES OF THE DRAIN AND PROVIDE BENEFIT IN ADDITION TO
5 THE DESIGNED FUNCTION, LONGEVITY, OR HYDRAULIC CAPACITY OF THE
6 DRAIN MAY BE UNDERTAKEN.

7 (F) A DRAINAGE DISTRICT MAY BE CONSOLIDATED WITH ANY ADJA-
8 CENT ESTABLISHED DRAINAGE DISTRICT OR HAVE LANDS ADDED OR
9 DELETED. THE CONSOLIDATION, ADDITION, OR DELETION SHALL OTHER-
10 WISE COMPLY WITH CHAPTER 19 RELATIVE TO DISPOSITION OF FUNDS AND
11 PAYMENT OF OUTSTANDING DEBT. THE LANDOWNERS OF ANY LANDS BEING
12 PETITIONED FOR CONSOLIDATION, ADDITION, OR DELETION AND THE
13 MUNICIPALITIES IN WHICH THOSE LANDS ARE LOCATED SHALL BE GIVEN
14 NOTICE OF THE PROPOSED CONSOLIDATION, ADDITION, OR DELETION.

15 (2) THE PETITION TO MAINTAIN OR IMPROVE OR TO CONSOLIDATE,
16 ADD, OR DELETE SHALL BE SIGNED BY 5 LANDOWNERS IN THE DRAINAGE
17 DISTRICT WHOSE LANDS WOULD BE LIABLE TO ASSESSMENT FOR BENEFITS
18 OR AT LEAST 50% OF THE LANDOWNERS IF THERE ARE LESS THAN 5 LAND-
19 OWNERS WHOSE LANDS WOULD BE LIABLE FOR ASSESSMENT OR SHALL BE
20 SIGNED BY LANDOWNERS REPRESENTING 25% OF THE LAND AREA LIABLE FOR
21 ASSESSMENT. THE ELIGIBILITY OF THE SIGNERS TO THE APPLICATION
22 SHALL BE DETERMINED BY THE DRAIN COMMISSIONER ACCORDING TO THEIR
23 INTEREST OF RECORD IN THE OFFICE OF THE REGISTER OF DEEDS, IN THE
24 PROBATE COURT OR IN THE CIRCUIT COURT OF THE COUNTY IN WHICH SUCH
25 LANDS ARE SITUATED AT THE TIME SUCH APPLICATION IS FILED. THE
26 DRAIN COMMISSIONER MAY REQUIRE A CASH DEPOSIT, SUFFICIENT TO
27 COVER THE PRELIMINARY COSTS TO ESTABLISH THE DISTRICT, TO

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1 ACCOMPANY THE APPLICATION AND MAY REFUSE TO ACCEPT THE
2 APPLICATION WITHOUT A CASH DEPOSIT. IF THE DRAIN IS COMPLETED,
3 THE COST ADVANCED SHALL BE RETURNED TO THE DEPOSITOR OR A PER-
4 SONAL REPRESENTATIVE OUT OF THE FIRST TAX COLLECTIONS ON THE
5 DRAIN. IF THE DRAIN IS NOT COMPLETED, ANY EXCESS ABOVE COSTS
6 SHALL BE SO RETURNED. INSTEAD OF BEING SIGNED BY LANDOWNERS, AN
7 APPLICATION MAY BE SIGNED SOLELY BY A MUNICIPALITY IF AUTHORIZED
8 BY ITS GOVERNING BODY, IF THE PROPOSED DRAIN IS NECESSARY FOR THE
9 PUBLIC HEALTH OF THE MUNICIPALITY, AND IF THE MUNICIPALITY WILL
10 BE LIABLE FOR AN ASSESSMENT AT LARGE AGAINST IT FOR A PERCENTAGE
11 OF THE COST OF THE PROPOSED DRAIN. THE ENTRY OF AN ORDER DESIG-
12 NATING A DRAINAGE DISTRICT, AS HEREINAFTER PROVIDED, SHALL BE
13 CONSIDERED A DETERMINATION OF THE SUFFICIENCY OF SUCH
14 APPLICATION.

15 (3) AFTER THE DRAINAGE BOARD DETERMINES THE NECESSITY FOR
16 THE WORK, THE COMMISSIONER SHALL, AS SOON AS PRACTICABLE AFTER
17 THE FINAL ORDER OF DETERMINATION PRESCRIBED IN SECTION 151 IS
18 FILED, PROCEED AS PROVIDED IN SECTIONS 151 TO 161. IF THE APPOR-
19 TIONMENT IS THE SAME AS THE LAST RECORDED APPORTIONMENTS, NO DAY
20 OF REVIEW IS NECESSARY, BUT IN OTHER CASES THE COMMISSIONER SHALL
21 PROCEED AS PROVIDED IN SECTIONS 151 TO 161, INCLUDING THE NOTICE
22 OF AND THE HOLDING OF A DAY OF REVIEW.

23 Sec. 193. (1) ~~All apportionments hereunder shall be made~~
24 ~~according to the benefits received and shall be subject to appeal~~
25 ~~the same as in the first instance. In case the apportionment~~
26 ~~shall be the same as the last recorded apportionment, no day of~~
27 ~~review shall be necessary. In case the apportionment shall be~~

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~~1 changed, or in case an apportionment is made in a consolidated~~
~~2 district which apportions benefits between lands which have not~~
~~3 been previously assessed by the consolidated district, the proce-~~
~~4 dure shall be in all respects in accordance with the provisions~~
~~5 of chapter 7 of this act, including the notice of and the holding~~
~~6 of a day of review.~~ AS SOON AS PRACTICABLE AFTER THE FILING OF A
7 PETITION, THE COMMISSIONER AUTHORIZED TO ACT ON THE PETITION, IF
8 NOT DISQUALIFIED UNDER SECTION 381 TO MAKE THE APPORTIONMENT OF
9 BENEFITS, MAY APPOINT A BOARD OF DETERMINATION COMPOSED OF 3 DIS-
10 INTERESTED PROPERTY OWNERS. IF THE COMMISSIONER IS DISQUALIFIED
11 OR CHOOSES NOT TO APPOINT THE BOARD OF DETERMINATION, THE COMMIS-
12 SIONER SHALL IMMEDIATELY FILE A COPY OF THE PETITION WITH THE
13 CHAIRPERSON OF THE COUNTY BOARD OF COMMISSIONERS, TOGETHER WITH A
14 STATEMENT SIGNED BY THE COMMISSIONER, SHOWING THAT HE OR SHE IS
15 DISQUALIFIED OR CHOOSES NOT TO ACT IN APPOINTING A BOARD OF
16 DETERMINATION. UPON RECEIVING A COPY OF THE PETITION AND CERTIF-
17 ICATE, THE CHAIRPERSON OF THE COUNTY BOARD OF COMMISSIONERS, IF
18 NOT PRIVATELY INTERESTED, AS SOON AS PRACTICABLE, SHALL APPOINT A
19 BOARD OF DETERMINATION COMPOSED OF 3 DISINTERESTED PROPERTY
20 OWNERS AND SHALL IMMEDIATELY NOTIFY THE DRAIN COMMISSIONER OF THE
21 NAMES AND ADDRESSES OF THOSE APPOINTED. IF THE CHAIRPERSON OF
22 THE COUNTY BOARD OF COMMISSIONERS HAS A PRIVATE INTEREST IN THE
23 PROCEEDINGS, THE FINANCE COMMITTEE OF THE COUNTY BOARD OF COMMIS-
24 SIONERS SHALL APPOINT THE BOARD OF DETERMINATION. MEMBERS OF
25 BOARDS OF DETERMINATION SHALL BE RESIDENTS OF THE COUNTY BUT NOT
26 OF A TOWNSHIP, CITY, OR VILLAGE AFFECTED BY THE DRAIN, AND SHALL

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1 NOT BE MEMBERS OF THE COUNTY BOARD OF COMMISSIONERS OF THE
2 COUNTY.

3 (2) A MEETING OF THE BOARD OF DETERMINATION SHALL BE CALLED
4 WITHIN THE DRAINAGE DISTRICT AT A CONVENIENT PLACE TO BE DESIG-
5 NATED BY THE DRAIN COMMISSIONER. THE BOARD OF DETERMINATION
6 MEETING ALSO MAY BE HELD AT A PUBLIC BUILDING WITHIN THE CITY,
7 VILLAGE, OR TOWNSHIP IN WHICH THE DRAIN IS LOCATED. IF 1 OF
8 THOSE APPOINTED TO THE BOARD OF DETERMINATION FAILS OR REFUSES TO
9 SERVE OR IS DISQUALIFIED, THE DRAIN COMMISSIONER, THE COUNTY
10 BOARD OF COMMISSIONERS, OR THE FINANCE COMMITTEE OF THE COUNTY
11 BOARD OF COMMISSIONERS, WHICHEVER APPOINTED HIM OR HER, SHALL
12 APPOINT A SUCCESSOR.

13 (3) THE PER DIEM COMPENSATION, MILEAGE, AND EXPENSES OF A
14 MEMBER OF THE BOARD OF DETERMINATION SHALL BE PAID IN THE SAME
15 AMOUNT AND MANNER AS FOR A MEMBER OF THE COUNTY BOARD OF
16 COMMISSIONERS. IN A COUNTY IN WHICH MEMBERS OF THE COUNTY BOARD
17 OF COMMISSIONERS ARE NOT PAID ON A PER DIEM BASIS, THE COMPENSA-
18 TION, MILEAGE, AND EXPENSES SHALL BE FIXED BY THE DRAIN
19 COMMISSIONER.

20 (4) UPON REQUEST, THE COUNTY DRAIN COMMISSIONER SHALL INFORM
21 IN WRITING THE REQUESTING STATE LEGISLATOR WHO REPRESENTS THAT
22 PORTION OF THE AREA IN WHICH THE PROPOSED DRAIN IMPROVEMENT IS TO
23 BE CONSTRUCTED OF THE NAMES AND ADDRESSES OF THE PERSONS
24 APPOINTED TO A BOARD OF DETERMINATION.

25 (5) NOTICE OF THE MEETING OF THE BOARD OF DETERMINATION
26 SHALL BE GIVEN IN THE MANNER PROVIDED IN SECTION 8. NOTICE SHALL
27 BE SENT TO EACH PERSON OR ENTITY AS NAMED ON THE LAST CITY,

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1 VILLAGE, OR TOWNSHIP TAX ASSESSMENT ROLL AT THE ADDRESS SHOWN ON
2 THE ROLL. IF AN ADDRESS DOES NOT APPEAR ON THE ROLL, A NOTICE
3 NEED NOT BE MAILED. THE DRAIN COMMISSIONER OR THE COMMISSIONER'S
4 DESIGNEE SHALL MAKE AN AFFIDAVIT OF THE MAILING AND SHALL RECITE
5 IN THE AFFIDAVIT THAT THE PERSONS TO WHOM THE NOTICE WAS MAILED
6 CONSTITUTE ALL OF THE PERSONS WHOSE NAMES AND ADDRESSES APPEAR
7 UPON THE TAX ROLLS AS OWNING LAND WITHIN THE PARTICULAR SPECIAL
8 ASSESSMENT DISTRICT. THE AFFIDAVIT SHALL BE CONCLUSIVE PROOF
9 THAT NOTICE WAS MAILED TO EACH PERSON TO WHOM NOTICE IS REQUIRED
10 TO BE MAILED PURSUANT TO THIS SECTION. THE FAILURE TO RECEIVE A
11 NOTICE BY MAIL DOES NOT CONSTITUTE A JURISDICTIONAL DEFECT INVAL-
12 IDATING A DRAIN PROCEEDING OR TAX IF NOTICE HAS BEEN SENT BY
13 FIRST-CLASS MAIL AS PROVIDED IN THIS SECTION. EXPENSES OF NOTI-
14 FICATION SHALL BE PAID BY THE DRAINAGE DISTRICT.

15 (6) AT THE TIME AND PLACE FIXED IN THE NOTICE, THE BOARD OF
16 DETERMINATION SHALL MEET, ELECT A CHAIRPERSON AND SECRETARY, AND
17 PROCEED TO DETERMINE THE NECESSITY OF THE PROPOSED PROJECT AND
18 WHETHER THE PROJECT IS CONDUCIVE TO PUBLIC HEALTH, CONVENIENCE,
19 OR WELFARE. THE DRAIN COMMISSIONER OR THE DEPUTY DRAIN COMMIS-
20 SIONER SHALL ATTEND THE MEETING OF THE BOARD OF DETERMINATION.
21 IF CONSIDERED NECESSARY, THE DRAIN COMMISSIONER SHALL OBTAIN FROM
22 THE COUNTY TREASURER A STATEMENT SHOWING THE AMOUNT OF TAXES AND
23 SPECIAL ASSESSMENTS LEVIED AGAINST THE LAND IN THE PROPOSED
24 DRAINAGE DISTRICT ON THE TAX ROLLS FOR THE IMMEDIATELY PRECEDING
25 3 YEARS AND THE AMOUNT OF THE TAXES AND ASSESSMENTS REMAINING
26 UNPAID. IF IT APPEARS FROM THE STATEMENT THAT 25% OR MORE OF THE
27 TAXES ARE UNPAID ON THE LANDS, FURTHER ACTION SHALL NOT BE

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1 TAKEN. AT THE MEETING, THE BOARD OF DETERMINATION SHALL RECEIVE
2 TESTIMONY AND EVIDENCE TO DETERMINE WHETHER OR NOT THE PROPOSED
3 PROJECT IS NECESSARY AND CONDUCTIVE TO THE PUBLIC HEALTH, CONVE-
4 NIENCE, OR WELFARE. IF THE BOARD OF DETERMINATION DETERMINES
5 THAT ADDITIONAL INFORMATION IS NEEDED BEFORE THE DETERMINATION OF
6 NECESSITY CAN BE MADE, THE BOARD OF DETERMINATION MAY RECESS THE
7 MEETING TO ALLOW FOR ADDITIONAL INFORMATION TO BE GATHERED. THE
8 COSTS INCURRED FOR THE GATHERING OF THE ADDITIONAL INFORMATION
9 AND ANY SUBSEQUENT NOTICE SHALL BE ASSESSED TO THE DRAINAGE
10 DISTRICT. FOLLOWING THE COMPILATION OF THE REQUESTED INFORMA-
11 TION, THE BOARD OF DETERMINATION SHALL RECONVENE AFTER PROVIDING
12 NOTICE AS REQUIRED BY SUBSECTION (5). AFTER HEARING THE EVIDENCE
13 OFFERED, THE BOARD OF DETERMINATION SHALL MAKE ITS DETERMINATION
14 ON THE NECESSITY OF THE PROPOSED PROJECT AND WHETHER THE PROJECT
15 IS NECESSARY AND CONDUCTIVE TO PUBLIC HEALTH, CONVENIENCE, OR
16 WELFARE. THE DETERMINATION OF THE BOARD OF DETERMINATION IS
17 SOLELY FOR THE NECESSITY OF THE PROJECT. THE SCOPE OF THE WORK
18 TO BE UNDERTAKEN IS WITHIN THE SOLE AUTHORITY OF THE DRAIN
19 COMMISSIONER. IF THE BOARD OF DETERMINATION FINDS, BY A MAJORITY
20 VOTE OF THE MEMBERS, THAT THE PROPOSED PROJECT IS NOT NECESSARY
21 AND CONDUCTIVE TO PUBLIC HEALTH, CONVENIENCE, OR WELFARE, THE
22 BOARD OF DETERMINATION SHALL FILE WITH THE COMMISSIONER AN ORDER
23 DISMISSING THE PETITION, PROCEDURES ARE TERMINATED, AND A FURTHER
24 PETITION FOR THE DRAIN SHALL NOT BE ENTERTAINED WITHIN 1 YEAR
25 AFTER DETERMINATION. COSTS INCURRED SHALL BE ASSESSED TO THE
26 DISTRICT AS IF IT HAD BEEN ESTABLISHED OR CONSTRUCTED. IF THE
27 BOARD OF DETERMINATION FINDS THAT THE PROPOSED DRAIN OR PROJECT

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1 IS NOT NECESSARY, COSTS INCURRED FOR THE BOARD OF DETERMINATION,
2 SURVEYORS, ENGINEERS, AND ATTORNEYS EMPLOYED, AND THE COSTS OF
3 NOTICE AND PUBLICATION SHALL BE PAID FROM THE GENERAL FUND OF THE
4 COUNTY. IF THE BOARD OF DETERMINATION, BY A MAJORITY VOTE, FINDS
5 THE PROPOSED PROJECT IS NECESSARY AND CONDUCTIVE TO THE PUBLIC
6 HEALTH, CONVENIENCE, OR WELFARE, THE BOARD OF DETERMINATION SHALL
7 MAKE AN ORDER TO THAT EFFECT AND FILE THE ORDER WITH THE
8 COMMISSIONER.

9 (7) IF THE BOARD OF DETERMINATION FINDS THE PROPOSED PROJECT
10 NECESSARY, IT SHALL ALSO DETERMINE IF ALL OR A PORTION OF THE
11 COST OF CONSTRUCTION OF THE PROPOSED PROJECT IS NECESSARY FOR THE
12 PROTECTION OF THE PUBLIC HEALTH IN 1 OR MORE CITIES, VILLAGES,
13 AND TOWNSHIPS, THE ORDER SHALL SET FORTH THE DETERMINATION GIVING
14 THE NAMES OF THE MUNICIPALITIES RECEIVING BENEFIT FOR PUBLIC
15 HEALTH. IF THE BOARD OF DETERMINATION DETERMINES THAT THE WHOLE
16 COST, EXCEPT THAT TO BE LEVIED AGAINST STATE OR COUNTY HIGHWAYS
17 FOR HIGHWAY BENEFITS, IS NECESSARY FOR THE PUBLIC HEALTH, THE
18 COST SHALL BE LEVIED AGAINST THE MUNICIPALITIES AT LARGE, AND IT
19 IS NOT NECESSARY, IN A SUBSEQUENT ORDER OR NOTICE TO DESCRIBE OR
20 REFER TO LAND INCLUDED IN OR COMPRISING THE DRAINAGE DISTRICT.
21 UPON FILING OF THE ORDER OF DETERMINATION BY THE BOARD OF DETER-
22 MINATION, THE DRAIN COMMISSIONER, WITHIN 10 DAYS OF FILING, SHALL
23 NOTIFY EACH MUNICIPALITY THAT IT IS LIABLE TO PAY A PERCENT OF
24 THE COST OF CONSTRUCTION OF THE DRAIN BY REASON OF BENEFITS AT
25 LARGE FOR PUBLIC HEALTH. THE GOVERNING BODY OF THE MUNICIPALITY,
26 WITHIN 20 DAYS AFTER RECEIPT OF THE NOTIFICATION BY FIRST-CLASS
27 MAIL FROM THE DRAIN COMMISSIONER, MAY APPEAL THE ORDER OF THE

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1 BOARD OF DETERMINATION AS TO THE FINDING THAT ALL OR A PORTION OF
2 THE COSTS ARE NECESSARY FOR PUBLIC HEALTH TO THE PROBATE COURT
3 HAVING JURISDICTION IN THE COUNTY IN WHICH THE MUNICIPALITY IS
4 LOCATED. UPON RECEIPT OF THE ORDER OF THE BOARD OF DETERMINA-
5 TION, AND IF AN APPEAL HAS NOT BEEN TAKEN BY A MUNICIPALITY TO
6 THE PROBATE COURT, THE COMMISSIONER, AFTER 20 DAYS, SHALL MAKE
7 THE FIRST ORDER OF DETERMINATION IN WRITING, GIVING THE NAME OR
8 NUMBER OF THE DRAINAGE DISTRICT. THE COMMISSIONER SHALL ESTAB-
9 LISH THE COMMENCEMENT, ROUTE, TERMINUS, AND TYPE OF CONSTRUCTION
10 OF THE DRAIN. WITHIN 15 DAYS, THE DRAIN COMMISSIONER SHALL FILE
11 A COPY OF THE NOTICE IN HIS OR HER OFFICE. IF AN APPEAL IS TAKEN
12 TO THE PROBATE COURT BY A MUNICIPALITY, THE COMMISSIONER SHALL
13 FILE THE FIRST ORDER OF DETERMINATION AFTER THE APPEAL PROCEDURES
14 ARE TERMINATED.

15 (8) IF THE BOARD OF DETERMINATION DETERMINES THAT THE PRO-
16 POSED PROJECT IS NECESSARY AND CONDUCIVE TO THE PUBLIC HEALTH,
17 CONVENIENCE, OR WELFARE, THE DRAIN COMMISSIONER MAY, AT THE TIME
18 OF THE MEETING OF THE BOARD OF DETERMINATION, OR SUBSEQUENTLY
19 UPON DUE NOTICE, CONVENE A MEETING TO PROVIDE INFORMATION OR
20 ELICIT TESTIMONY AND EVIDENCE WITH REGARD TO THE ROUTE AND TYPE
21 OF CONSTRUCTION AND ESTIMATE OF COST OF THE DRAIN TO ASSIST THE
22 DRAIN COMMISSIONER IN DETERMINING THE SCOPE OF THE DRAIN PROJECT
23 TO BE UNDERTAKEN BY THE COMMISSIONER OR DRAINAGE BOARD. THE
24 MEETING IS FOR INFORMATIONAL PURPOSES ONLY.

25 Sec. 194. ~~In any petition filed under this chapter it~~
26 ~~shall not be necessary for the petitioners to describe said drain~~
27 ~~other than by its name or to describe its commencement, general~~

~~1 route and terminus. For any work necessary to be done in
2 cleaning out, widening, deepening, straightening, consolidating,
3 extending, relocating, tiling or relocating along a highway, or
4 for providing structures or mechanical devices that will properly
5 purify or improve the flow of the drain or pumping equipment nec-
6 essary to assist or relieve the flow of the drain or needs sup-
7 plementing by the construction of 1 or more relief drains which
8 may consist of new drains or extensions, enlargements or connec-
9 tions to existing drains, or needs 1 or more branches added
10 thereto, and for any and all such proceedings, only 1 petition
11 and proceeding shall be necessary. AFTER THE BOARD OF DETERMINA-
12 TION FINDS BY MAJORITY VOTE OF THE MEMBERS APPOINTED THAT THE
13 PROPOSED PROJECT IS OR IS NOT NECESSARY, A PERSON OR MUNICIPALITY
14 FEELING AGGRIEVED BY THE DETERMINATION MAY INSTITUTE AN ACTION IN
15 CIRCUIT COURT FOR THE COUNTY IN WHICH THE DRAINAGE DISTRICT IS
16 LOCATED FOR A REVIEW OF THE DETERMINATION. THE ACTION SHALL BE
17 FILED BY THE PERSON OR MUNICIPALITY AGGRIEVED WITHIN 10 DAYS
18 AFTER THE DETERMINATION OF NECESSITY OR NO NECESSITY. THE PUR-
19 POSE OF THE CIRCUIT COURT REVIEW IS TO DETERMINE WHETHER THE
20 DECISION OF THE BOARD OF DETERMINATION WAS AUTHORIZED BY LAW AND
21 SUPPORTED BY SUBSTANTIAL, MATERIAL, OR COMPETENT EVIDENCE OF THE
22 WHOLE RECORD. THE REVIEW SHALL BE MADE ON THE RECORD PRESENTED
23 TO THE BOARD OF DETERMINATION AND NO ADDITIONAL TESTIMONY OR EVI-
24 DENCE SHALL BE OFFERED EXCEPT FOR PURPOSES OF CLAIM OF FRAUD OR
25 ERROR OF LAW.~~

26 Sec. 195. ~~In case it shall be necessary to secure further
27 right of way and allow damages therefor, for any work~~

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1 ~~contemplated by this chapter, the commissioner shall take all the~~
2 ~~necessary steps to obtain such right of way as are prescribed by~~
3 ~~chapter 4, being sections 71 to 84, inclusive, of this act. THE~~
4 COMMISSIONER SHALL SECURE THE SERVICE OF AN ENGINEER. THE ENGI-
5 NEER SHALL BE SELECTED BASED ON HIS OR HER QUALIFICATIONS. THE
6 ENGINEER SHALL PREPARE PLANS, SPECIFICATIONS, AND AN ESTIMATE OF
7 COST OF THE PROPOSED DRAIN. THE COMMISSIONER SHALL SECURE FROM
8 AN ENGINEER OR SURVEYOR DESCRIPTION OF THE LANDS OR RIGHTS OF WAY
9 NEEDED FOR THE PROPOSED DRAIN. IN APPROVING THE ROUTE OF THE
10 DRAIN AS FURNISHED BY THE ENGINEER, THE COMMISSIONER IS NOT
11 LIMITED TO THAT DESCRIBED IN THE PETITION OR IN THE FIRST ORDER
12 OF DETERMINATION, IF THE NEW ROUTE IS MORE EFFICIENT AND
13 SERVICEABLE.

14 Sec. 196. ~~(1) An annual inspection may be made of all~~
15 ~~drains laid out and constructed under this act. Inspection shall~~
16 ~~also be made upon the request of the governing body of a public~~
17 ~~corporation, as defined in section 461, served in whole or in~~
18 ~~part by the drain to be inspected. For county drains, the~~
19 ~~inspection shall be made by the drain commissioner, or a compe-~~
20 ~~tent person appointed by the drain commissioner. For intercounty~~
21 ~~drains, the inspection shall be caused to be made by the drainage~~
22 ~~board.~~

23 ~~(2) Surplus construction funds remaining after completion of~~
24 ~~construction of a drain, or funds remaining after completion of~~
25 ~~work performed under a petition for maintenance or improvements~~
26 ~~under this chapter, shall be deposited in the drain fund of a~~

1 ~~drainage district and shall be expended for inspection, repair,~~
2 ~~and maintenance of the drain.~~

3 ~~(3) If at any time the drain fund of a drainage district~~
4 ~~contains less than \$2,500.00 per mile of drain or fraction of a~~
5 ~~mile, the drain commissioner or drainage board may assess the~~
6 ~~drainage district for an amount not to exceed \$1,250.00 a mile or~~
7 ~~fraction of a mile in any 1 year. The amount collected under an~~
8 ~~assessment shall be deposited in the drain fund of a drainage~~
9 ~~district for necessary inspection, repair, and maintenance of the~~
10 ~~drain.~~

11 ~~(4) If an inspection discloses the necessity of expending~~
12 ~~money for the maintenance and repair of a drain in order to keep~~
13 ~~it in working order, the drain commissioner for a county drain,~~
14 ~~or the drainage board for an intercounty drain, may without peti-~~
15 ~~tion expend an amount not to exceed in any 1 year \$2,500.00 per~~
16 ~~mile or fraction of a mile for maintenance and repair of a~~
17 ~~drain.~~

18 ~~(5) If the drain commissioner or the drainage board finds it~~
19 ~~necessary to expend funds in excess of \$2,500.00 per mile or~~
20 ~~fraction of a mile in any 1 year for the maintenance and repair~~
21 ~~of a drain, the additional amounts shall not be expended until~~
22 ~~approved by resolution of the governing body of each township,~~
23 ~~city, and village affected by more than 20% of the cost.~~

24 ~~(6) If the drain fund of a drainage district does not con-~~
25 ~~tain sufficient funds to pay for inspection, repair, and mainte-~~
26 ~~nance authorized by this section, the drain commissioner or the~~
27 ~~drainage board shall reassess the drainage district for the~~

~~1 inspection, repair, and maintenance according to benefits
2 received. A reassessment shall be made and spread upon the city
3 or township tax assessment roll within 2 years after the comple-
4 tion of the inspection, repair, and maintenance. If the total
5 expenditure is more than \$2,500.00 per mile or fraction of a
6 mile, all real property owners subject to an assessment within
7 the drainage district shall be notified of the assessment by pub-
8 lication in a newspaper of general circulation within the drain-
9 age district and by first class mail to the name and address that
10 appears on the last city or township assessment roll. An affida-
11 vit of mailing shall be made by the drain commissioner that shall
12 be conclusive proof that the notices required by this subsection
13 were mailed. The failure to receive the notices by mail shall
14 not constitute a jurisdictional defect invalidating a drain tax
15 if notice by publication was given as required by this
16 subsection.~~

~~17 (7) An assessment for the actual cost of inspection, repair,
18 and maintenance performed on a drain, or an assessment to be
19 deposited in the drain fund of a drainage district, shall be made
20 according to benefits received. The expenditure limit of
21 \$2,500.00 per mile of drain or fraction of a mile shall be used
22 to calculate the maximum amount that the drain commissioner or
23 drainage board may assess in any 1 year without a petition or a
24 request from a public corporation. The property in a drainage
25 district that benefits from the inspection, repair, or mainte-
26 nance of the drain is subject to assessment for that inspection,
27 repair, or maintenance. Determination of the maximum assessment~~

~~1 amount allowed without petition or request, or of the property
2 that is subject to assessment, shall be based on the number of
3 miles of drain and areas of the drainage district receiving bene-
4 fits and not on the actual number of miles or actual location of
5 the inspection, repair, or maintenance.~~

~~6 (8) If an emergency condition exists that endangers the
7 public health, crops, or property within a drainage district, the
8 drain commissioner or the drainage board may expend funds for
9 maintenance and repair to alleviate the emergency condition.~~

~~10 (9) Nothing in this section prohibits the drain commissioner
11 or the drainage board from spending funds in excess of \$2,500.00
12 per mile or fraction of a mile in any 1 year for inspection,
13 maintenance, and repair of a drain when requested by a public
14 corporation, if the public corporation pays the entire cost of
15 the inspection, maintenance, and repair.~~

~~16 (10) In computing the amounts that may be expended in
17 accordance with this section, the cost of work to be performed by
18 a federal agency or public corporation that is not chargeable to
19 the county or intercounty drainage district shall not be includ-
20 ed, nor shall it be necessary for the drain commissioner or the
21 drainage board to advertise for bids for that portion of the work
22 to be done by the federal agency or public corporation.~~

~~23 (11) For purposes of this section, the costs of maintenance
24 or repair shall include the costs of maintaining the drain in
25 working order to continue a normal flow of water, including the
26 servicing or repair of necessary pumping equipment and utility
27 charges for pumping equipment; the cost of keeping the drain free~~

1 ~~from rubbish, debris, siltation, or obstructions; the cost of~~
2 ~~repairing a portion or all of a tile or drain to continue the~~
3 ~~normal flow of water; and other costs associated with the costs~~
4 ~~enumerated in this subsection.~~

5 ~~(12) If the cost of maintenance and repair of a drain~~
6 ~~includes utility charges or costs to service pumping stations,~~
7 ~~sewage treatment facilities, or retention basins, the limitation~~
8 ~~for maintenance and repair shall not apply except that the drain~~
9 ~~commissioner or drainage board may levy sufficient special~~
10 ~~assessments to pay the charges or costs but not more than the~~
11 ~~amount sufficient to pay those charges or costs.~~

12 ~~(13) The salaries, expenses, and fringe benefits of cleri-~~
13 ~~cal, administrative, and engineering employees of the drain com-~~
14 ~~missioner or drainage board working incidental to the operation,~~
15 ~~repair, or maintenance of a drain shall be chargeable to and paid~~
16 ~~as budgeted from the county general fund and not chargeable to or~~
17 ~~by the drain fund of a drainage district.~~

18 ~~(14) A violation of this section is a misdemeanor punishable~~
19 ~~by imprisonment for not more than 1 year, or by a fine of not~~
20 ~~more than \$1,000.00, or both. ALL APPORTIONMENTS UNDER THIS~~
21 ~~CHAPTER SHALL BE MADE ACCORDING TO THE BENEFITS RECEIVED AND~~
22 ~~SHALL BE SUBJECT TO APPEAL IN THE SAME MANNER AS IN THE FIRST~~
23 ~~INSTANCE. IF THE APPORTIONMENT IS THE SAME AS THE LAST RECORDED~~
24 ~~APPORTIONMENT, NO DAY OF REVIEW IS NECESSARY. IF THE APPORTION-~~
25 ~~MENT IS CHANGED, OR IF AN APPORTIONMENT IS MADE IN A CONSOLIDATED~~
26 ~~DISTRICT WHICH APPORTIONS BENEFITS BETWEEN LANDS WERE NOT~~
27 ~~PREVIOUSLY ASSESSED BY THE CONSOLIDATED DISTRICT, THE PROCEDURE~~

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1 SHALL BE AS PROVIDED UNDER CHAPTER 7, INCLUDING THE NOTICE OF AND
2 THE HOLDING OF A DAY OF REVIEW.

3 Sec. 197. ~~(1) On receipt of a petition filed under this~~
4 ~~chapter, the commissioner or the drainage board may require a~~
5 ~~competent surveyor or engineer to make a survey of the drain or~~
6 ~~of the district, or a portion of the drain or district, or if~~
7 ~~necessary, lay out a new district including the land benefited,~~
8 ~~or make profiles, plans, or estimates of the work and file all~~
9 ~~data concerning the profiles, plans, or estimates with the com-~~
10 ~~missioner or the chairperson of the drainage board. If it~~
11 ~~appears that land has been added to the drainage district, the~~
12 ~~drain commissioner for a county drain, or the chairperson of the~~
13 ~~drainage board for an intercounty drain, shall notify the board~~
14 ~~of determination who allowed the petition that the land should be~~
15 ~~added to the district. The drain commissioner or chairperson of~~
16 ~~the drainage board shall call a meeting of the board of~~
17 ~~determination. If a member of the board of determination is dis-~~
18 ~~qualified or unable to act, then the member's place shall be~~
19 ~~filled by appointment as in the first instance. The notice shall~~
20 ~~specify the time, date, and place within the drainage district at~~
21 ~~which the board of determination shall reconvene. The drain com-~~
22 ~~missioner or chairperson of the drainage board also shall cause~~
23 ~~the notice to be published once in a newspaper of general circu-~~
24 ~~lation in the county or a newspaper of general circulation in the~~
25 ~~area where the drain improvement is contemplated at least 10 days~~
26 ~~before the meeting. Notice of the time and place of the meeting,~~
27 ~~by first class mail, shall be sent at least 10 days before the~~

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~~1 date of the meeting, to each person whose name appears upon the
2 last city or township tax assessment roll as owning land within
3 the enlarged drainage district, at the address shown on the
4 roll. If an address does not appear on the roll, then notice
5 need not be mailed to the person. The drain commissioner shall
6 make an affidavit of the mailing and shall recite in the affida-
7 vit that the persons to whom the notice was mailed constitute all
8 of the persons whose names and addresses appear upon the tax
9 rolls as owning land within the enlarged drainage district. The
10 affidavit shall be conclusive proof that notice was mailed to
11 each person to whom notice is required to be mailed by this
12 section. The failure to receive a notice by mail shall not con-
13 stitute a jurisdictional defect invalidating a drain proceeding
14 or tax, if notice was sent by first-class mail as provided in
15 this section. All expense of notification shall be paid by the
16 drainage district.~~

~~17 -(2) At the time, date, and place designated by the drain
18 commissioner or the chairperson of the drainage board the board
19 of determination shall reconvene. Upon reconvening, if the board
20 of determination by a majority vote of members finds the proposed
21 addition of the land to the drainage district necessary and con-
22 ducive to the public health, convenience, or welfare, they shall
23 make an order to that effect and file the order with the drain
24 commissioner or drainage board. The drain commissioner or drain-
25 age board shall take the steps and perform the acts which are
26 required for the locating, establishing, and constructing of
27 drains as designated in chapter 4 or chapter 6. IN A PETITION~~

1 FILED UNDER THIS CHAPTER IT IS NOT NECESSARY FOR THE PETITIONERS
2 TO DESCRIBE THE DRAIN OTHER THAN BY ITS NAME OR BY ITS COMMENCE-
3 MENT, GENERAL ROUTE, AND TERMINUS. ONLY 1 PETITION AND PROCEED-
4 ING SHALL BE NECESSARY FOR ANY OF THE MEASURES DESCRIBED IN
5 SECTION 191(1)(A) TO (E).

6 Sec. 198. ~~The assessment, collection and return of drain~~
7 ~~taxes for any work done under this chapter shall be made in the~~
8 ~~same manner and under the same provisions as in this act provided~~
9 ~~for drain taxes assessed, collected, returned and enforced in the~~
10 ~~first instance: Provided, That in all proceedings involving sub-~~
11 ~~sequent assessments, the drain commissioner shall furnish to the~~
12 ~~supervisor of each township containing parcels of land subject to~~
13 ~~such assessment the names of the owners of record of such parcels~~
14 ~~as of the date of the assessment.~~ IF IT IS NECESSARY TO SECURE
15 FURTHER RIGHT OF WAY AND ALLOW DAMAGES THEREFOR FOR WORK UNDER
16 THIS CHAPTER, THE COMMISSIONER OR DRAINAGE BOARD SHALL TAKE THE
17 NECESSARY STEPS TO OBTAIN THE RIGHT OF WAY AS PROVIDED BY
18 SECTIONS 74 AND 75.

19 Sec. 199. (1) ~~In case the necessity for cleaning out any~~
20 ~~drain arises from the act or neglect of any land owner, said act~~
21 ~~or neglect shall be taken into consideration by the commissioner~~
22 ~~in making the apportionment. In case the cost of cleaning out~~
23 ~~shall be lessened by the tiling of the source of the drain under~~
24 ~~section 425 of this act, the commissioner may take that into con-~~
25 ~~sideration in making the apportionment of benefits against the~~
26 ~~land so tiled, but in no case shall said benefits be considered~~
27 ~~to be less than 50% of the benefits to such land if it were not~~

1 ~~1 tiled. Should there be a surplus in any drain fund, the~~
2 ~~2 commissioner or drainage board, as the case may be, may, in their~~
3 ~~3 discretion, without application or notice, pay out of such funds~~
4 ~~4 a reasonable compensation for cleaning out any obstruction that~~
5 ~~5 may accumulate in the particular drain for which the fund was~~
6 ~~6 raised.~~ AN ANNUAL INSPECTION MAY BE MADE OF ALL DRAINS LAID OUT
7 AND CONSTRUCTED UNDER THIS ACT. INSPECTION SHALL ALSO BE MADE
8 UPON THE REQUEST OF THE GOVERNING BODY OF A PUBLIC CORPORATION,
9 AS DEFINED IN SECTION 461, SERVED IN WHOLE OR IN PART BY THE
10 DRAIN TO BE INSPECTED. AN INSPECTION AND WRITTEN REPORT SHALL BE
11 MADE ON ALL DRAINS NEWLY ESTABLISHED AND CONSTRUCTED, IMPROVED,
12 OR RESTORED TO THE LAST ESTABLISHED DEPTH BOTTOM WIDTH AND GRADE
13 AT LEAST EVERY THREE YEARS FROM THE DATE OF THE COMPLETION OF THE
14 CONSTRUCTION COMMENCING ON THE EFFECTIVE DATE OF THE AMENDATORY
15 ACT THAT ADDED THIS SENTENCE. IF IT IS DETERMINED FOLLOWING THE
16 COMPLETION OF THE INSPECTION THAT MAINTENANCE IS NECESSARY ON THE
17 DRAIN, MAINTENANCE WORK SHALL BE PERFORMED IN A TIMELY MANNER BY
18 THE COMMISSIONER OR DRAINAGE BOARD. FOR COUNTY DRAINS, THE
19 INSPECTION SHALL BE MADE BY THE DRAIN COMMISSIONER, OR A COMPE-
20 TENT PERSON APPOINTED BY THE DRAIN COMMISSIONER. FOR INTERCOUNTY
21 DRAINS, THE INSPECTION SHALL BE CAUSED TO BE MADE BY THE DRAINAGE
22 BOARD. THE FAILURE TO INSPECT AS REQUIRED BY THIS SECTION DOES
23 NOT CREATE A DEFECT INVALIDATING THE DRAIN OR AN ASSESSMENT.

24 (2) SURPLUS CONSTRUCTION FUNDS REMAINING AFTER COMPLETION OF
25 CONSTRUCTION OF A DRAIN, OR FUNDS REMAINING AFTER COMPLETION OF
26 WORK PERFORMED UNDER A PETITION FOR MAINTENANCE OR IMPROVEMENT
27 UNDER THIS CHAPTER, SHALL BE DEPOSITED IN THE DRAIN FUND OF A

1 DRAINAGE DISTRICT AND EXPENDED FOR INSPECTION, REPAIR, AND
2 MAINTENANCE OF THE DRAIN.

3 (3) IF AT ANY TIME THE DRAIN FUND OF A DRAINAGE DISTRICT
4 CONTAINS LESS THAN \$5,000.00 PER MILE OR FRACTION OF A MILE OF A
5 DRAIN, THE DRAIN COMMISSIONER OR DRAINAGE BOARD MAY ASSESS THE
6 DRAINAGE DISTRICT FOR AN AMOUNT NOT TO EXCEED \$2,500.00 A MILE OR
7 FRACTION OF A MILE IN ANY 1 YEAR. THE AMOUNT COLLECTED UNDER AN
8 ASSESSMENT SHALL BE DEPOSITED IN THE DRAIN FUND OF A DRAINAGE
9 DISTRICT FOR NECESSARY INSPECTION, REPAIR, AND MAINTENANCE OF THE
10 DRAIN.

11 (4) IF AN INSPECTION DISCLOSES THE NECESSITY OF EXPENDING
12 MONEY FOR THE MAINTENANCE AND REPAIR OF A DRAIN IN ORDER TO KEEP
13 IT IN WORKING ORDER, THE DRAIN COMMISSIONER FOR A COUNTY DRAIN,
14 OR THE DRAINAGE BOARD FOR AN INTERCOUNTY DRAIN, MAY WITHOUT PETI-
15 TION EXPEND AN AMOUNT NOT TO EXCEED IN ANY 1 YEAR \$5,000.00 PER
16 MILE OR FRACTION OF A MILE FOR MAINTENANCE OR REPAIR OF A DRAIN.
17 THE DETERMINATION OF THE MAXIMUM EXPENDITURE ALLOWED WITHOUT
18 PETITION OR RESOLUTION SHALL BE BASED ON THE TOTAL NUMBER OF
19 MILES OF THE DRAIN AND NOT ON THE ACTUAL NUMBER OF MILES OR LOCA-
20 TION OF THE MAINTENANCE OR REPAIR.

21 (5) IF THE DRAIN COMMISSIONER OR THE DRAINAGE BOARD FINDS IT
22 NECESSARY TO EXPEND FUNDS IN EXCESS OF \$5,000.00 PER MILE OR PER
23 FRACTION OF A MILE, IN ANY 1 YEAR FOR THE MAINTENANCE OR REPAIR
24 OF A DRAIN, THE ADDITIONAL AMOUNTS SHALL NOT BE EXPENDED UNTIL
25 APPROVED BY THE GOVERNING BODY OF A MUNICIPALITY AFFECTED BY MORE
26 THAN 20% OF THE COST.

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1 (6) IN DETERMINING WHETHER OR NOT A MUNICIPALITY IS AFFECTED
2 BY MORE THAN 20% OF THE COST THE DRAIN COMMISSIONER OR DRAINAGE
3 BOARD SHALL CONSIDER THE TOTAL OF THE AT LARGE PERCENTAGES OF THE
4 APPORTIONMENT TOGETHER WITH THE TOTAL PERCENTAGE OF LAND
5 APPORTIONED. IF THE DRAIN FUND OF A DRAINAGE DISTRICT DOES NOT
6 CONTAIN SUFFICIENT FUNDS TO PAY FOR INSPECTION, REPAIR, AND MAIN-
7 TENANCE AUTHORIZED BY THIS SECTION, THE DRAIN COMMISSIONER OR THE
8 DRAINAGE BOARD SHALL REASSESS THE DRAINAGE DISTRICT FOR THE
9 INSPECTION, REPAIR, AND MAINTENANCE ACCORDING TO BENEFITS
10 RECEIVED. THE REASSESSMENT SHALL BE MADE AND SPREAD UPON THE
11 CITY, VILLAGE, OR TOWNSHIP TAX ROLL OR TAX ASSESSMENT ROLL WITHIN
12 THREE YEARS AFTER THE COMPLETION OF THE INSPECTION, REPAIR, AND
13 MAINTENANCE. IF THE TOTAL EXPENDITURE IS MORE THAN \$5,000.00 PER
14 MILE OR FRACTION OF A MILE, ALL LANDOWNERS AND MUNICIPALITIES
15 SUBJECT TO AN ASSESSMENT WITHIN THE DRAINAGE DISTRICT SHALL BE
16 NOTIFIED OF THE NATURE AND TYPE OF THE MAINTENANCE AND REPAIR TO
17 BE CONDUCTED BEFORE THE COMMENCEMENT OF THE WORK AND OF THE
18 ASSESSMENT. THE NOTICE SHALL BE SENT BY FIRST-CLASS MAIL TO THE
19 NAME AND ADDRESS THAT APPEARS ON THE LAST CITY, VILLAGE, OR TOWN-
20 SHIP ASSESSMENT ROLL.

21 (7) IF THE DRAIN FUND OF A DRAINAGE DISTRICT DOES NOT CON-
22 TAIN SUFFICIENT FUNDS, OR THE DISTRICT IS OBLIGATED TO REPAY OUT-
23 STANDING INDEBTEDNESS TO PAY FOR INSPECTION, REPAIR, AND MAINTENANCE,
24 THE DRAIN COMMISSIONER OR DRAINAGE BOARD SHALL ASSESS THE
25 DRAINAGE DISTRICT ACCORDING TO BENEFITS RECEIVED. A REASSESSMENT
26 SHALL BE MADE AND SPREAD UPON THE CITY OR TOWNSHIP TAX ASSESSMENT
27 ROLLS WITHIN 2 YEARS AFTER THE COMPLETION OF THE INSPECTION,

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1 REPAIR, AND MAINTENANCE. IF THE TOTAL ESTIMATED EXPENDITURE WILL
2 EXCEED \$5,000.00 PER MILE OR A FRACTION OF A MILE, ALL REAL PROP-
3 ERTY OWNERS AND MUNICIPALITIES WITHIN THE DISTRICT OR ABUTTING
4 THE DRAIN SHALL RECEIVE NOTICE FOR THE NATURE AND TYPE OF MAINTEN-
5 NANCE TO BE CONDUCTED BEFORE THE COMMENCEMENT OF WORK BY
6 FIRST-CLASS MAIL AND BY PUBLICATION IN A NEWSPAPER OF GENERAL
7 CIRCULATION. AN AFFIDAVIT OF MAILING SHALL BE MADE BY THE DRAIN
8 COMMISSIONER OR DRAINAGE BOARD. THE AFFIDAVIT IS CONCLUSIVE
9 PROOF THAT THE NOTICES REQUIRED BY THIS SUBSECTION WERE MAILED.
10 THE FAILURE TO RECEIVE NOTICES BY MAIL SHALL NOT CONSTITUTE A
11 JURISDICTIONAL DEFECT INVALIDATING A TAX IF NOTICE BY PUBLICATION
12 WAS GIVEN AS REQUIRED BY THIS SUBSECTION.

13 (8) AN ASSESSMENT FOR THE ACTUAL COST OF INSPECTION, REPAIR,
14 AND MAINTENANCE PERFORMED ON A DRAIN, OR AN ASSESSMENT TO BE
15 DEPOSITED IN THE DRAIN FUND OF A DRAINAGE DISTRICT, SHALL BE MADE
16 ACCORDING TO BENEFITS RECEIVED.

17 (9) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ACT, IF AN
18 EMERGENCY CONDITION EXISTS WITHIN THE DRAINAGE DISTRICT THAT
19 ENDANGERS THE PUBLIC HEALTH, SAFETY, OR WELFARE, CROPS, OR PROP-
20 ERTY, THE DRAIN COMMISSIONER OR THE DRAINAGE BOARD MAY EXPEND
21 FUNDS FOR MAINTENANCE AND REPAIR TO ALLEVIATE THE EMERGENCY
22 CONDITION. BEFORE THE COSTS INCURRED FOR ELIMINATING AN EMER-
23 GENCY CONDITION ARE ASSESSED, THE DRAIN COMMISSIONER OR DRAINAGE
24 BOARD SHALL FILE A WRITTEN STATEMENT DESCRIBING THE REASONS THAT
25 AN EMERGENCY CONDITION EXISTS.

26 (10) IN COMPUTING AMOUNTS UNDER THIS SECTION, THE COST OF
27 WORK TO BE PERFORMED BY A FEDERAL AGENCY OR PUBLIC CORPORATION

1 THAT IS NOT CHARGEABLE TO THE COUNTY OR INTERCOUNTY DRAINAGE
2 DISTRICT SHALL NOT BE INCLUDED, NOR SHALL IT BE NECESSARY FOR THE
3 DRAIN COMMISSIONER OR THE DRAINAGE BOARD TO ADVERTISE FOR BIDS
4 FOR THAT PORTION OF THE WORK TO BE DONE BY THE FEDERAL AGENCY OR
5 PUBLIC CORPORATION. INSPECTION, ENGINEERING, LEGAL, OR CONSUL-
6 TANT FEES SHALL NOT BE INCLUDED IN AMOUNTS COMPUTED UNDER THIS
7 SECTION.

8 (11) FOR PURPOSES OF THIS SECTION, THE COSTS OF MAINTENANCE
9 OR REPAIR INCLUDE THE COSTS OF MAINTAINING THE DRAIN IN WORKING
10 ORDER TO CONTINUE A NORMAL FLOW OF WATER, INCLUDING COSTS
11 INCURRED BY THE DRAIN COMMISSIONER OR DRAINAGE BOARD FOR INSPEC-
12 TION OR PROFESSIONAL CONSULTATION FEES AND CONTRACTUAL SERVICES,
13 THE SERVICING OR REPAIR OF NECESSARY PUMPING EQUIPMENT, THE PHYS-
14 ICAL REMOVAL OF BLOCKAGES TO FLOW, THE COSTS TO KEEP THE DRAIN
15 FREE FROM RUBBISH, DEBRIS, SILTATION, OR OBSTRUCTIONS; EROSION
16 REPAIR AND CONTROL; SEDIMENTATION CONTROL; REPLACEMENT, MAINTENANCE
17 OF DETERIORATED STRUCTURES THAT HAVE DIMINISHED THE CAPAC-
18 ITY OF A DRAIN OR THAT ARE UNSTABLE, UNSAFE, OR HAVE THE POTEN-
19 TIAL TO BE UNSTABLE OR UNSAFE; THE COST OF REPAIRING OR PLACING A
20 PORTION OR ALL OF A TILE OR DRAIN TO CONTINUE THE NORMAL FLOW OF
21 WATER; COSTS OF THE REMOVAL AND DISPOSAL OF CONTAMINATED MATERI-
22 AL; CONTRACTUAL EXPENSES RELATED TO THE LEVYING AND COLLECTION OF
23 SPECIAL ASSESSMENTS FOR THE WORK PERFORMED; AND ALL OTHER COSTS
24 ASSOCIATED WITH THE COSTS SPECIFIED IN THIS SUBSECTION.

25 (12) THE DRAIN COMMISSIONER OR DRAINAGE BOARD MAY ENTER INTO
26 A WRITTEN AGREEMENT WITH A LANDOWNER TO ENTER UPON PROPERTY FOR
27 PURPOSES OF REMOVING AN OBSTRUCTION IN A WATERCOURSE THAT IS NOT

1 AN ESTABLISHED COUNTY OR INTERCOUNTY DRAIN, IF IT APPEARS THAT
2 THE WATERCOURSE IS AN OUTLET OF A COUNTY OR INTERCOUNTY DRAIN AND
3 THAT THE COSTS ATTENDANT TO THE ACCESS OF PROPERTY AND REMOVAL OF
4 THE OBSTRUCTION WILL BE ASSESSED AGAINST THE DRAINAGE DISTRICT.

5 (13) IF THE COST OF MAINTENANCE AND REPAIR OF A DRAIN
6 INCLUDES UTILITY CHARGES OR COSTS TO SERVICE PUMPING STATIONS,
7 SEWAGE TREATMENT FACILITIES, OR RETENTION BASINS, THE LIMITATION
8 ON THE AMOUNT OF EXPENDITURES IN SUBSECTIONS (3) TO (7) DO NOT
9 APPLY EXCEPT THAT THE DRAIN COMMISSIONER OR DRAINAGE BOARD MAY
10 LEVY SUFFICIENT SPECIAL ASSESSMENTS TO PAY THE CHARGES OR COSTS
11 BUT NOT MORE THAN THE AMOUNT SUFFICIENT TO PAY THOSE CHARGES OR
12 COSTS.

13 (14) THIS SECTION DOES NOT PROHIBIT THE DRAIN COMMISSIONER
14 OR THE DRAINAGE BOARD FROM SPENDING FUNDS IN EXCESS OF \$5,000.00
15 PER MILE OR FRACTION OF A MILE IN ANY 1 YEAR FOR INSPECTION,
16 MAINTENANCE, OR REPAIR OF A DRAIN IF THE INSPECTION, MAINTENANCE,
17 OR REPAIR IS REQUESTED AND THE ENTIRE COST IS PAID FOR BY A
18 PUBLIC CORPORATION, PRIVATE CORPORATION, OR OTHER PERSON.

19 (15) THE SALARIES, EXPENSES, AND FRINGE BENEFITS OF CLERI-
20 CAL, ADMINISTRATIVE, AND ENGINEERING EMPLOYEES OF THE DRAIN COM-
21 MISSIONER OR DRAINAGE BOARD WORKING INCIDENTAL TO THE OPERATION,
22 REPAIR, OR MAINTENANCE OF A DRAIN SHALL BE CHARGEABLE TO AND PAID
23 AS BUDGETED FROM THE COUNTY GENERAL FUND AND NOT CHARGEABLE TO OR
24 BY THE DRAIN FUND OF A DRAINAGE DISTRICT.

25 Sec. 200. (1) ~~In lieu of assessing the cost of the mainte-~~
26 ~~nance and repair of any drain to parcels of land in the drainage~~
27 ~~district within any city, village, township, charter township or~~

~~1 county, the commissioner or drainage board may contract relative
2 to such cost with any city, village, township, charter township
3 or county in which the drain, or any part thereof, is located, or
4 whose residents use the drain for drainage or for the transporta-
5 tion of sewage. In the contract any city, village, township,
6 charter township or county may agree (1) to pay annually to the
7 commissioner or the drainage board certain sums for the cost of
8 maintenance and repair of any drain and for the creation of a
9 reserve fund therefor, or (2) to provide such sums periodically
10 as needed, or (3) to reimburse the commissioner or drainage board
11 for all sums expended for maintenance and repair, or (4) for any
12 combination of the foregoing. The contract shall be approved and
13 its execution authorized by a resolution adopted by the legisla-
14 tive body of the city, village, township, charter township or
15 county and shall be executed by the commissioner or drainage
16 board on behalf of the drainage district. The city, village,
17 township, charter township or county may fulfill its obligation
18 to pay in accordance with the terms of the contract out of its
19 general funds, service charges to its residents, or any other
20 legally available funds. The contract shall specify the manner
21 in which the obligation to pay shall be fulfilled. ON RECEIPT OF
22 A PETITION FILED UNDER THIS CHAPTER, THE COMMISSIONER OR THE
23 DRAINAGE BOARD MAY REQUIRE A COMPETENT SURVEYOR OR ENGINEER TO
24 MAKE A SURVEY OF THE DRAIN OR OF THE DISTRICT, OR A PORTION OF
25 THE DRAIN OR DISTRICT; IF NECESSARY, LAY OUT A NEW DISTRICT
26 INCLUDING THE LAND BENEFITED; OR MAKE PROFILES, PLANS, OR
27 ESTIMATES OF THE WORK AND FILE ALL DATA CONCERNING THE PROFILES,~~

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1 PLANS, OR ESTIMATES WITH THE COMMISSIONER OR THE CHAIRPERSON OF
2 THE DRAINAGE BOARD.

3 (2) IF A NEW DISTRICT IS LAID OUT AND INCLUDES ADDED LANDS,
4 INCLUDING LANDS IN A COUNTY WHICH WAS NOT A PART OF AN ORIGINAL
5 INTERCOUNTY DRAINAGE DISTRICT, THE DRAIN COMMISSIONER FOR A
6 COUNTY DRAIN, OR THE CHAIRPERSON OF THE DRAINAGE BOARD, SHALL
7 NOTIFY THE BOARD OF DETERMINATION OR DRAINAGE BOARD THAT ALLOWED
8 THE PETITION, THAT THE LAND SHOULD BE ADDED TO THE DISTRICT. THE
9 DRAIN COMMISSIONER OR CHAIRPERSON OF THE DRAINAGE BOARD SHALL
10 CALL A MEETING OF THE BOARD OF DETERMINATION. IF A MEMBER OF THE
11 BOARD OF DETERMINATION IS DISQUALIFIED OR UNABLE TO ACT, THEN THE
12 MEMBER'S PLACE SHALL BE FILLED BY APPOINTMENT AS IN THE FIRST
13 INSTANCE. THE NOTICE SHALL COMPLY WITH SECTION 8, AND BE FOR-
14 WARDED TO THE LANDOWNERS AND MUNICIPALITIES IN THE DISTRICT AS IF
15 LANDS WERE ADDED. ALL EXPENSE OF NOTIFICATION SHALL BE PAID BY
16 THE DRAINAGE DISTRICT.

17 (3) AT THE TIME, DATE, AND PLACE DESIGNATED BY THE DRAIN
18 COMMISSIONER OR THE CHAIRPERSON OF THE DRAINAGE BOARD, THE BOARD
19 OF DETERMINATION SHALL RECONVENE. UPON RECONVENING, IF THE BOARD
20 OF DETERMINATION BY A MAJORITY VOTE OF MEMBERS FINDS THE PROPOSED
21 ADDITION OF THE LAND TO THE DRAINAGE DISTRICT NECESSARY OR CONDU-
22 CIVE TO THE PUBLIC HEALTH, CONVENIENCE, OR WELFARE, THE BOARD OF
23 DETERMINATION SHALL MAKE AN ORDER TO THAT EFFECT AND FILE THE
24 ORDER WITH THE DRAIN COMMISSIONER OR DRAINAGE BOARD.

25 Sec. 221. (1) ~~At the time and place fixed in the notice~~
26 ~~therefor, the commissioner shall receive bids for the~~
27 ~~construction of the drain.~~ THE COMMISSIONER OR DRAINAGE BOARD

1 SHALL GIVE NOTICE FOR THE RECEIVING OF BIDS FOR THE CONSTRUCTION,
2 MAINTENANCE, OR IMPROVEMENT OF THE DRAIN. THE NOTICE SHALL SPEC-
3 IFY THE TIME AND PLACE OF RECEIVING BIDS. THE NOTICE SHALL ALSO
4 PROVIDE A BRIEF DESCRIPTION OF THE PROJECT INCLUDING ITS GENERAL
5 LOCATION, TYPE OF CONSTRUCTION, AND ESTIMATE OF THE AMOUNT AND
6 TYPE OF TILE OR PIPE REQUIRED WHEN THE DRAIN. THE NOTICE SHALL
7 ALSO SPECIFY WHETHER A CONTRACTOR MUST MEET CERTAIN PREQUALIFICA-
8 TIONS IN ORDER TO SUBMIT A BID FOR THE CONSTRUCTION OF THE DRAIN
9 AND WHERE THE PREQUALIFICATIONS CAN BE REVIEWED BY A PROSPECTIVE
10 CONTRACTOR. The commissioner OR THE DRAINAGE BOARD may in any
11 case, and shall for all drains having an estimated cost exceeding
12 ~~-\$5,000.00-~~ \$10,000.00, advertise for sealed proposals, to be
13 opened on the day of letting. IF A LANDOWNER OR DEVELOPER IS
14 PAYING THE ENTIRE COST OF THE CONSTRUCTION, MAINTENANCE, OR
15 IMPROVEMENT, THE COMMISSIONER OR THE DRAINAGE BOARD IS NOT
16 REQUIRED TO ADVERTISE FOR SEALED PROPOSALS, IF THE CONTRACTOR
17 CHOSEN BY THE LANDOWNER OR DEVELOPER IS ACCEPTABLE TO THE COMMIS-
18 SIONER OR DRAINAGE BOARD. A CONTRACTOR SO ACCEPTED SHALL ENTER
19 INTO A CONTRACT WITH THE COMMISSIONER OR DRAINAGE BOARD, AND THE
20 CONTRACT SHALL BE ADMINISTERED BY THE COMMISSIONER OR DRAINAGE
21 BOARD. All sealed proposals received by the commissioner OR
22 DRAINAGE BOARD shall be publicly opened by ~~him~~ THE COMMISSIONER
23 OR THE DRAINAGE BOARD in the meeting and may be there examined by
24 any person interested. As soon as practical after the opening of
25 bids for the construction of any drain, the commissioner shall
26 determine the lowest responsible bidder and award contracts, or
27 ~~he may~~ reject all proposals and readvertise as in the first

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1 instance. ~~, and in cases where the commissioner determined that~~
2 ~~the taxes assessed for benefits shall be collected in more than 1~~
3 ~~installment, he shall, subject to the provisions set forth in~~
4 ~~section 275 of this act, determine the amount, form, maturity and~~
5 ~~rate of interest of bonds to be issued. In counties having a~~
6 ~~board of county auditors no drain bonds shall be sold and no~~
7 ~~drain contracts let without the written consent and approval of~~
8 ~~the board of county auditors, but the approval of said board~~
9 ~~shall not be required in proceedings relative to intercounty~~
10 ~~drains.~~

11 (2) THE DRAIN COMMISSIONER OR DRAINAGE BOARD, IN CONSULTA-
12 TION WITH AN ENGINEER, SHALL ESTABLISH PREQUALIFICATIONS FOR A
13 PROSPECTIVE CONTRACTOR TO SUBMIT A BID FOR THE CONSTRUCTION OF
14 THE DRAIN, CONSISTENT WITH 1933 PA 170, MCL 123.501 TO 123.508.
15 PREQUALIFICATIONS MAY INCLUDE, BUT NEED NOT BE LIMITED TO, EXPER-
16 TISE, FINANCIAL SOLVENCY, EXPERIENCE, OR EQUIPMENT.
17 PREQUALIFICATION SHALL BE DETERMINED BEFORE ADVERTISEMENT FOR
18 BIDS. THE NOTICE SHALL INDICATE THAT PREQUALIFICATIONS ARE
19 APPLICABLE AND WHERE THE PREQUALIFICATIONS CAN BE REVIEWED BY THE
20 PROSPECTIVE CONTRACTOR.

21 (3) THIS ACT DOES NOT PROHIBIT THE DRAIN COMMISSIONER OR
22 DRAINAGE BOARD FROM CONTRACTING WITH AN ENGINEER OR CONTRACTOR TO
23 PERFORM BOTH THE DESIGN AND CONSTRUCTION OF A DRAIN PROJECT IF
24 SUCH CONTRACTING IS IN THE BEST INTEREST OF THE DRAINAGE
25 DISTRICT.

26 (4) If ~~no~~ A contract ~~shall be~~ IS NOT let within ~~5~~ 2
27 years after the date of filing the petition to locate, establish,

1 ~~and~~ construct, ~~or~~ deepen, widen, straighten, tile, extend or
2 ~~clean out~~ MAINTAIN, OR IMPROVE a drain, the drain commissioner
3 may determine that the petition shall be ~~deemed~~ CONSIDERED
4 abandoned and ~~no~~ ISSUE AN ORDER TO THAT EFFECT. NO further
5 action shall be taken to construct the drain. Time during which
6 any litigation shall be pending to contest the validity of such
7 proceedings shall not be counted as a part of such ~~5-year~~
8 2-YEAR period. ~~If the drain commissioner determines the peti-~~
9 ~~tion shall be abandoned, he shall issue his order to that effect;~~
10 ~~provided, that such determination of abandonment shall not be~~
11 ~~issued within the 5-year period.~~ Notice of the order shall be
12 given by publishing a notice in a newspaper of general circula-
13 tion in the county. ~~The provisions of this~~ THIS section ~~shall~~
14 ~~apply~~ APPLIES to all petitions which are in full force and
15 effect on ~~the date of~~ January 1, ~~1973~~ 1997, or thereafter.

16 (5) The board of county road commissioners, ~~when~~ IF autho-
17 rized by ~~a committee of supervisors appointed by~~ the COUNTY
18 board of ~~supervisors~~ COMMISSIONERS, ~~is hereby authorized to~~
19 MAY bid for the construction, cleaning, deepening, and widening
20 of drains within the county, and, if ~~such~~ THE bid is accepted,
21 shall ~~be authorized to~~ perform the work called for ~~therein~~ IN
22 THE BID, and MAY receive payment ~~therefor~~ FOR THE WORK. A bid
23 tendered by ~~such~~ THE board of county road commissioners shall
24 not be accepted unless such bid shall be at least 15% lower than
25 any other bid tendered. The ~~moneys~~ MONEY received by the
26 county road commission shall be credited to the county road fund,

1 and expenditures incurred by the county road commission ~~shall~~
2 ~~be~~ IN PERFORMING THE WORK ARE proper disbursements therefrom.

3 Sec. 222. ~~The commissioner shall first let the section at~~
4 ~~the outlet of the drain and shall let each remaining section in~~
5 ~~its order up stream: Provided, That the~~ THE commissioner OR
6 DRAINAGE BOARD may let the drain in sections or as a whole,
7 whichever appears to ~~him~~ BE the most practical. ~~;~~ ~~Provided~~
8 ~~further, That the~~ THE commissioner OR DRAINAGE BOARD shall
9 reserve the right to reject any and all bids or proposals FOR A
10 SECTION OF THE DRAIN and proceed to let ~~said~~ THE drain in its
11 entirety. ~~, and~~ THE COMMISSIONER OR DRAINAGE BOARD may adjourn
12 ~~such~~ THE letting in ~~the~~ whole or in part ~~, from time to~~
13 ~~time, to such other time or place to be by him at the time of~~
14 ~~such adjournment publicly announced as shall to him seem proper,~~
15 ~~but not in all more than 40 90 days from and after the time of~~
16 ~~letting as first advertised.~~ TO ANOTHER PLACE OR TIME NOT MORE
17 THAN 90 DAYS AFTER THE DAY OF LETTING BIDS AS FIRST ADVERTISED.
18 THE COMMISSIONER OR DRAINAGE BOARD SHALL GIVE SUCH PUBLIC NOTICE
19 OF THE ADJOURNMENT AS SEEMS PROPER.

20 Sec. 223. (1) A deposit in the form of a CASHIER'S CHECK,
21 certified check, ~~or its equivalent~~ CASH, BANK MONEY ORDER, OR
22 BID BOND FROM A SURETY AUTHORIZED TO DO BUSINESS IN THIS STATE in
23 the amount that the commissioner OR DRAINAGE BOARD considers rea-
24 sonable may be required with each bid, whether on opening bidding
25 or sealed proposals, as evidence of good faith and to reimburse
26 the district ~~in the event of failure on the part of~~ IF the
27 successful bidder FAILS to execute the necessary contracts or to

1 furnish the required security or indemnity insurance. A BID BOND
2 OF THE SUCCESSFUL BIDDER, OTHER THAN A BID BOND FROM A SURETY,
3 SHALL BE DEPOSITED WITH THE TREASURER OF THE DRAINAGE DISTRICT.
4 IF THE BID BONDS ARE HELD MORE THAN 60 DAYS, INTEREST WILL BE
5 PAID THEREON FROM THE DATE OF DEPOSIT. If the successful bidder
6 does not execute the proper contracts or furnish the security or
7 indemnity insurance required of him or her ~~within~~ NOT MORE THAN
8 10 days after the acceptance of his or her bid, then the commis-
9 sioner OR DRAINAGE BOARD may retain the deposit as stipulated
10 damages for the nonexecution of the contract and proceed to
11 advertise for and let the job anew. If the successful bidder
12 furnishes the security or indemnity insurance required and exe-
13 cutes the required contracts, then the deposit shall be returned
14 to him or her. All money forfeited to the commissioner OR DRAIN-
15 AGE BOARD under this subsection shall be deposited with the
16 county treasurer to the credit of the drainage district fund.

17 (2) The successful bidder shall, ~~within the time stated in~~
18 ~~subsection (1)~~ NOT MORE THAN 10 DAYS AFTER THE ACCEPTANCE OF HIS
19 OR HER BID, file with the commissioner security considered neces-
20 sary by the commissioner guaranteeing that the contract will be
21 completed in accordance with the terms specified in the
22 contract. The security shall be in a sum fixed by the commis-
23 sioner, but shall not be less than the contract price. At the
24 option of the commissioner, the security shall consist of 1 or
25 more of the following:

26 (a) Cash.

- 1 (b) Certified check.
- 2 (c) Performance bond executed by a surety company authorized
3 to do business in this state.
- 4 (d) Escrow agreement acceptable to the commissioner.
- 5 (e) Irrevocable letter of credit issued by a state or feder-
6 ally regulated financial institution.
- 7 (f) Personal surety acceptable to the commissioner.
- 8 (3) If a personal surety is used as security, the commis-
9 sioner shall require all of the following: ~~conditions and~~
10 ~~limitations:~~
- 11 (a) That the personal surety be a contractor with the
12 experience and ability to perform and complete, in a timely
13 manner, the contract ~~in the event of a default by~~ IF the suc-
14 cessful bidder DEFAULTS.
- 15 (b) That the personal surety not act as the personal surety
16 for more than 1 other principal during the term of the contract
17 upon which he or she is giving security.
- 18 (c) That no more than 2 personal sureties be utilized as
19 security on any 1 contract.
- 20 (d) That, the personal surety provide financial information
21 requested by the commissioner and that, after a review of this
22 information, the commissioner be satisfied with the surety's
23 ability to perform the contract upon which he or she is giving
24 security.
- 25 (e) That the personal surety provide to the commissioner a
26 list of contracts upon which the surety is required to perform,
27 naming the parties to each contract, the amount of each contract,

1 the work to be performed under each contract and the time during
2 which each contract is to be performed, and that the personal
3 surety revise this listing during the term of the contract upon
4 which he or she is giving security, adding or deleting informa-
5 tion as contracts are entered or completed.

6 (f) That the personal surety agree that ~~in the event~~ IF
7 the successful bidder defaults on the contract, the personal
8 surety shall ~~enter onto the project and~~ complete the project
9 pursuant to the terms of the contract within the time limitations
10 specified by the commissioner or pay to the drainage district the
11 amount of money specified by the commissioner as necessary to pay
12 another contractor to complete the contract.

13 (4) If a contract is not completed in accordance with its
14 written terms, the security provided to the commissioner shall be
15 used to complete the contract.

16 (5) In addition to the security required in subsection (2),
17 the commissioner OR DRAINAGE BOARD shall require the successful
18 bidder to furnish ~~a bond or~~ indemnity insurance AND MOTOR VEHI-
19 CLE INSURANCE in the sum required by the commissioner OR DRAINAGE
20 BOARD. This ~~bond or indemnity~~ insurance shall run to the
21 people ~~of the state of Michigan~~ THIS STATE and shall be main-
22 tained in full force and effect until the contract is terminated
23 to indemnify the commissioner AND DRAINAGE BOARD, the drainage
24 district, and the county or other municipality against loss or
25 damage resulting from injury to a worker on the drain, or the
26 negligence or carelessness of the contractor in the construction
27 of the drain. Indemnity insurance that terminates by expiration

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1 or cancellation shall be replaced ~~prior to~~ BEFORE termination
2 in the sum then required by the commissioner OR DRAINAGE BOARD.
3 THE COMMISSIONER OR DRAINAGE BOARD SHALL ALSO REQUIRE THE SUC-
4 CESSFUL BIDDER TO FURNISH WORKER'S COMPENSATION INSURANCE.

5 (6) The provisions of this section apply to contracts in
6 excess of \$100,000.00. For all contracts equal to or less than
7 \$100,000.00, the commissioner OR DRAINAGE BOARD may require
8 security that ~~he or she~~ THE COMMISSIONER OR DRAINAGE BOARD con-
9 siders adequate and necessary, consistent with the provisions of
10 this section.

11 (7) The commissioner, at his or her option, may require the
12 provision of additional kinds of security.

13 Sec. 241. ~~No~~ A warrant, ~~or~~ drain order, VOUCHER, OR
14 OTHER ORDER for ~~the~~ payment of any part of ~~such~~ A drain con-
15 tract shall NOT be drawn until the work has been inspected and
16 approved as herein provided. The commissioner ~~may~~ OR DRAINAGE
17 BOARD SHALL inspect and approve any tile or open drain, or he OR
18 SHE may designate any competent surveyor or engineer to make
19 ~~such~~ THE inspection. ~~, but where the~~ HOWEVER, IF THE COST OF
20 construction exceeds ~~\$3,000.00~~ \$10,000.00, the commissioner OR
21 DRAINAGE BOARD shall designate a competent surveyor or engineer
22 to make the inspection. ~~Any~~ THE person making ~~such~~ THE
23 inspection shall see that the specifications in the contract are
24 fully complied with, and if the work is not in accordance with
25 the contract, the commissioner OR DRAINAGE BOARD shall immedi-
26 ately notify the contractor. ~~thereof.~~ If the work ~~so inspected~~
27 ~~shall conform~~ CONFORMS to the contract, the person making the

1 inspection shall certify in writing to that fact and an order of
2 approval shall ~~thereupon~~ be entered by the commissioner OR
3 DRAINAGE BOARD in his OR HER drain record, and notice of the
4 approval be given TO the contractor. ~~The commissioner may issue~~
5 ~~warrants or orders on the fund of any drain not exceeding 90% of~~
6 ~~the amount earned on any contract after the certificate of~~
7 ~~inspection and the order of approval is entered as herein~~
8 ~~provided. The payment of the final 10% or any portion thereof on~~
9 ~~any contract may be made after the certificate of inspection is~~
10 ~~made attesting to the completion and is filed in the office of~~
11 ~~the commissioner.~~ PROGRESS PAYMENTS SHALL BE MADE CONSISTENT
12 WITH 1980 PA 524, MCL 125.1561 TO 125.1566.

13 Sec. 242. The commissioner ~~shall have power to~~ OR DRAIN-
14 AGE BOARD MAY grant a reasonable extension of time for the com-
15 pletion of ~~any~~ A contract. ~~When any~~ IF A contract ~~shall not~~
16 ~~be~~ IS NOT finished within the time specified, or to which it may
17 be extended, the commissioner OR DRAINAGE BOARD shall declare
18 ~~such~~ THE contract forfeited and shall, within a reasonable time
19 thereafter, relet the unfinished portion ~~thereof~~ to the lowest
20 responsible bidder, by public letting, after not less than 5
21 days' notice ~~thereof, by posting only,~~ IN THE SAME MANNER as
22 provided for the letting in the first instance, or by private
23 letting when such can be done ~~, at a price per rod for the~~
24 ~~uncompleted portion thereof not exceeding the price per rod at~~
25 ~~which the job was first let;~~ and ~~he~~ THE DRAIN COMMISSIONER OR
26 DRAINAGE BOARD shall make contract and take security in each case
27 as herein provided. The cost of completing such part over and

1 above the contract price, if any, and the expense of notice and
 2 reletting shall be collected by the commissioner ~~of~~ OR DRAINAGE
 3 BOARD FROM the parties first contracting or ~~of~~ their bondsman.
 4 ~~, which moneys, when so~~ THE MONEY collected ~~,~~ shall be depos-
 5 ited with the county treasurer, and placed to the credit of such
 6 drain.

7 Sec. 244. (1) ~~All orders~~ ORDERS OR VOUCHERS for the pay-
 8 ment for services rendered and work performed shall be drawn by
 9 the commissioner OR DRAINAGE BOARD upon the drain fund of each
 10 particular drain. ~~In case of~~ IF taxes assessed for benefits
 11 received ~~which~~ are to be paid in 7 annual installments or less,
 12 all orders for the payment for lands for right of way shall be
 13 paid out of the first year's taxes, and the balance of ~~such~~ THE
 14 first year's taxes, if any, shall be applied pro rata among the
 15 ~~several~~ contractors in the payment of the contracts for the
 16 construction of such drain. For the balance due upon such
 17 contracts, the commissioner OR DRAINAGE BOARD shall draw orders
 18 payable out of each succeeding year's assessment pro rata among
 19 the several contractors. ~~∴ Provided, That no~~ HOWEVER, THE com-
 20 missioner OR DRAINAGE BOARD shall NOT draw orders payable in any
 21 ~~one~~ 1 year for a larger amount than ~~said~~ THE year's assess-
 22 ment, except in cases where bonds are issued and sold as provided
 23 by law. ~~All drain~~

24 (2) DRAIN orders shall be drawn payable not sooner than the
 25 fifteenth day of April nor later than the first day of August of
 26 the year in which the drain taxes ~~for the payment thereof~~ are
 27 required to be paid. If the drain fund is insufficient for

1 ~~such~~ THIS purpose because of delinquency in the payment of
2 drain taxes after the lands on which the ~~said~~ taxes ~~shall have~~
3 ~~become~~ ARE delinquent have been offered for sale ~~, in any such~~
4 ~~case where~~ AND payment is made by the county treasurer out of
5 the general fund, ~~and all~~ delinquent drain taxes SUBSEQUENTLY
6 received by ~~said~~ THE treasurer ~~thereafter~~ shall be credited
7 to the general fund until the ~~same~~ GENERAL FUND is reimbursed.
8 ~~In all cases where~~ IF bonds are issued and sold ~~as herein~~
9 ~~provided~~ and the proceeds ~~thereof~~ are deposited in the county
10 treasury to the credit of the fund of the ~~particular~~ drain,
11 orders presented on ~~such~~ THE fund shall be paid out of the pro-
12 ceeds ~~aforsaid,~~ or out of the first annual installment of the
13 taxes. ~~In no case where~~ IF there are outstanding bonds,
14 ~~shall~~ an order SHALL NOT be paid out of ~~any~~ AN installment of
15 taxes collected other than the first.

16 Sec. 245. (1) ~~All drain~~ DRAIN orders OR VOUCHERS made by
17 the commissioner OR DRAINAGE BOARD shall state the services
18 rendered in brief form ~~, AND~~ shall be numbered and recorded and
19 signed by the commissioner OR DRAINAGE BOARD. ~~Such~~ AN order,
20 when due, shall be presented to the county ~~clerk and he~~
21 TREASURER. THE COUNTY TREASURER shall immediately ascertain
22 ~~from the county treasurer~~ if the particular fund on which
23 ~~said~~ THE order is drawn is sufficient to pay ~~said~~ THE order.
24 If ~~such~~ THE fund is sufficient, the county treasurer shall so
25 certify on the back of ~~said~~ THE drain order and the county
26 clerk shall thereupon issue the usual county warrant upon the
27 county treasurer for the payment of ~~said~~ THE order, taking

1 ~~said~~ THE order so certified as his OR HER voucher. If ~~such~~
2 THE particular fund is insufficient when ~~such~~ THE order is
3 presented for payment, the county treasurer shall so certify upon
4 ~~such~~ THE order and ~~such~~ THE order shall then draw interest at
5 the rate of 6% per annum from the date of presentation until
6 ~~such~~ THE particular fund is sufficient to pay the ~~same, said~~
7 ~~interest to~~ ORDER. THE INTEREST SHALL be computed and paid with
8 the principal out of the proper fund on which it was drawn, when
9 there are sufficient funds to pay the ~~same~~ PRINCIPAL AND
10 INTEREST.

11 (2) The county treasurer shall keep a record in which he OR
12 SHE shall note each drain order presented for payment on a drain
13 account ~~which~~ THAT was insufficient to pay ~~such~~ THE order on
14 the date of presentation. He OR SHE shall note in such record
15 the amount, number, drain account, and the date of original pre-
16 sentation for payment. ~~When~~ IF there ~~are~~ IS sufficient
17 ~~moneys~~ MONEY in the particular drain account to pay the order,
18 plus interest, the county treasurer shall note the date of ~~such~~
19 THE sufficiency on ~~such~~ THE record and shall transfer suffi-
20 cient ~~moneys~~ MONEY to pay ~~such~~ THE order and interest then
21 due from the particular drain account and drain fund to a drain
22 order redemption fund and the drain order shall cease to earn
23 interest as of that date. Transfers to the drain order redemp-
24 tion fund shall be made in the order of priority in which the
25 drain orders were originally presented for payment. Payment of
26 ~~such~~ THE orders, including interest, ~~earned as provided~~
27 ~~herein,~~ shall thereafter be made by the county treasurer from

1 the drain order redemption fund. Drain orders at any time during
2 the year in which such drain order becomes due and payable and
3 for a period of 30 days prior to such year shall be accepted for
4 the payment of drainage taxes.

5 (3) The county treasurer shall report to the commissioner OR
6 DRAINAGE BOARD the amount paid as interest on ~~any and all such~~
7 drain orders. The county treasurer shall at the first of each
8 month furnish the drain commissioner OR DRAINAGE BOARD with a
9 report of ~~all~~ drain orders cashed during the preceding month,
10 including the name of the drain upon which the order was drawn,
11 the amount, the number of the order, and the date of payment.

12 Sec. 247. The county drain commissioner OR DRAINAGE BOARD
13 acting under the provisions of this act may employ an attorney
14 when ~~he deems the same~~ CONSIDERED necessary and any legal
15 expense shall be charged to the several drain districts in behalf
16 of which ~~he shall be~~ THE ATTORNEY IS employed. ~~All such~~
17 ~~expenses~~ THE EXPENSE shall be paid out of the revolving drain
18 fund which shall be reimbursed out of the first ~~moneys~~ MONEY
19 available. ~~∴ Provided, That~~ HOWEVER, the board of
20 ~~supervisors~~ COMMISSIONERS by resolution may ~~cause~~ REQUEST the
21 prosecuting attorney to give such legal assistance as part of
22 ~~his~~ THE duties OF THE PROSECUTING ATTORNEY.

23 Sec. 248. The state director of agriculture, or any deputy
24 designated by him OR HER, shall be paid ~~all his necessary~~ trav-
25 eling and subsistence expenses actually and necessarily incurred
26 BY HIM OR HER in the discharge of any duties required by this
27 act.

1 Sec. 261. Within 10 days after the letting of contracts, or
2 in case of an appeal, ~~then forthwith~~ IMMEDIATELY after ~~such~~
3 THE appeal ~~shall have been~~ IS decided, the commissioner OR
4 DRAINAGE BOARD shall make a computation of the entire cost of
5 ~~such~~ THE drain, ~~which shall include (1) all the~~ INCLUDING,
6 BUT NOT LIMITED TO, ALL OF THE FOLLOWING:

7 (A) THE expense of laying out and designating the drainage
8 district, ~~which item of expense shall include the entire~~
9 INCLUDING, BUT NOT LIMITED TO, THE cost of the survey. ~~;(2)~~
10 ~~the~~

11 (B) THE expense of locating, establishing, ~~and~~
12 constructing, MAINTAINING, OR IMPROVING the drain. ~~;(3) the~~
13 ~~fees and expenses of special commissioners; (4) the~~

14 (C) THE COSTS OF CONDEMNATION PROCEEDINGS.

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

17 (E) THE cost of construction of bridges and culverts. ~~;(6)~~
18 ~~the~~

19 (F) THE contracts for the construction of the drain, or
20 other work to be done on ~~said~~ THE drain. ~~;(7) the~~

21 (G) THE estimated cost of an appeal in case the apportion-
22 ment made by the commissioner ~~shall not be~~ OR DRAINAGE BOARD IS
23 NOT sustained. ~~;(8) the~~

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

25 (I) THE cost of publishing all notices required. ~~;(10)~~
26 ~~all fees~~

1 (J) FEES of the probate judge. ~~;(11) attorney~~

2 (K) ATTORNEY fees for legal services in connection with the
3 drain. ~~;(12) interest~~

4 (l) INTEREST on bonds OR NOTES for the first year, if bonds
5 OR NOTES are to be issued. ~~, and he shall add the whole into a
6 gross sum and add thereto not~~

7 (M) NOT less than 10% ~~nor~~ OR more than 15%, at the discre-
8 tion of the drain commissioner OR DRAINAGE BOARD, of ~~said gross
9 sum~~ THE SUM OF THE COSTS UNDER SUBDIVISIONS (A) TO (l), to cover
10 contingent expenses. ~~, and the entire sum so ascertained shall
11 be deemed to be the cost of construction of such drain.~~

12 Sec. 262. (1) ~~The~~ AFTER THE COST OF THE DRAIN IS COMPUTED
13 UNDER SECTION 261, THE commissioner shall ~~thereupon~~ make a spe-
14 cial assessment roll for the drain for each county, township,
15 city, or village and each state trunk line highway affected
16 thereby, which roll shall be designated, giving name or number,
17 "drain special assessment roll". The commissioner shall enter on
18 the roll a correct description of the tracts, parcels, or subdi-
19 visions of land benefited by the drain WHICH DESCRIPTION MAY BE
20 MADE BY TAX PARCEL IDENTIFICATION NUMBER IN COMPLIANCE WITH SEC-
21 TION 152 and place opposite each description the amount of the
22 percent heretofore determined upon by ~~him~~ THE COMMISSIONER or
23 by the board of review. The commissioner shall also enter on the
24 roll the amount of the percent apportioned to the county, for
25 benefits to any county road, and to the township, city, or vil-
26 lage and the state ~~highway~~ TRANSPORTATION commission, for
27 benefits to any state trunk line highway, and ~~in case~~ IF the

1 amount ~~be~~ IS payable in installments, ~~he shall also enter~~
2 ~~thereon~~ a memorandum of the installments and of the year or
3 years when the installments shall be spread. The commissioner
4 shall add a certificate in writing of the determination whether
5 the taxes assessed for benefits shall be paid in 1 or more
6 years. The rolls shall be dated and signed by the commissioner
7 and filed on or before the last Wednesday in September in each
8 year, in the office of the county clerk.

9 (2) The commissioner shall prepare a tax assessment roll in
10 each year for the collection of taxes for the current year, and
11 shall certify the ~~same~~ ROLL to the county clerk on or before
12 the first day of the annual meeting of the county board of
13 commissioners. In each roll, the commissioner shall add to the
14 amount to be collected ~~—~~ interest on all unpaid installments to
15 the date of tax collection, and shall deduct from the amount to
16 be collected by the county, village, city, or township all
17 amounts received from the proceeds or income of property or an
18 interest in property located in the county, village, city, or
19 township and acquired through condemnation or the payment of dam-
20 ages under this act. To the roll for the last year, the commis-
21 sioner shall add a further amount, if any, as may be necessary
22 together with outstanding uncollected taxes, to pay all outstand-
23 ing bonds and interest thereon to maturity. If the roll is made
24 payable in more than 1 installment, a permanent assessment roll
25 may be maintained in the office of the county treasurer, subject
26 to the direction of the board of county auditors, in counties
27 having such a board, and of the county board of commissioners in

1 other counties, showing the total cost, the number of
2 installments, and the amount of each annual assessment, together
3 with interest charges thereon, which shall be carried in a sepa-
4 rate column.

5 (3) If the roll is made payable in more than 1 installment,
6 and the total amount of any assessment is \$10.00 or less, exclu-
7 sive of interest, then that assessment shall be payable in 1
8 installment; but if the assessment exceeds the sum of \$10.00 and
9 is made payable in more than 1 installment, then that install-
10 ment, exclusive of interest, shall not be less than the sum of
11 \$10.00, excepting the final installment, which shall be payable
12 in the amount of the actual balance.

13 Sec. 265. ~~All drain~~ DRAIN taxes assessed under ~~the pro-~~
14 ~~visions of~~ this act ~~shall be~~ ARE subject to the same interest
15 and charges, and shall be collected in the same manner as state
16 and other general taxes are collected, and collecting officers
17 are hereby vested with the same power and authority in the col-
18 lection of such taxes as are or may be conferred by law for col-
19 lecting general taxes. Drain taxes, when collected, shall be
20 returned to the county treasurer to be disbursed ~~by him.~~ In all
21 ~~cases where~~ WITHIN 10 DAYS OF RECEIPT UNLESS WAIVED BY THE DRAIN
22 COMMISSIONER TO SOME OTHER SPECIFIED TIME. ANY INTEREST EARNED
23 FROM THE TIME OF COLLECTION AND ACCOUNTING TO THE DAY OF DELIVERY
24 SHALL BE RETURNED TO EACH DRAIN FUND ON A PRO RATA BASIS. IF
25 suit is brought against the collector arising out of the collec-
26 tion of ~~any~~ A drain tax, the county shall defend ~~such~~ THE
27 officer in the same manner ~~that he has now the right to be~~

~~1 defended in~~ AS IF THE SUIT AROSE OUT OF the collection of
~~2 general taxes. No~~ A suit shall NOT be instituted to recover
~~3 any drain tax or money paid or property sold therefor~~ FOR A
~~4 DRAIN TAX, or for damages on account thereof~~ OF A DRAIN TAX,
~~5 unless brought within 30 days from the time of payment of such~~
~~6 THE money to, or sale of such property by, the collecting~~
~~7 officer. ; and if such~~ IF THE tax shall be paid under protest
~~8 the reasons therefor~~ FOR THE PROTEST shall be specified, and
~~9 the same procedure observed as is or may be required by the gen-~~
~~10 eral tax law. All taxes~~ PROPERTY TAX ACT, 1893 PA 206, MCL
~~11 211.1 TO 211.157. TAXES levied under the provisions of this~~
~~12 act, with all lawful costs, interest, and charges, shall be and~~
~~13 remain a perpetual~~ ARE A lien upon the lands upon which they are
~~14 assessed, and a personal claim against the owner or owners of~~
~~15 such lands until they are paid.~~

~~16~~ Sec. 266. If the taxes levied for the construction,
~~17 cleaning out, widening, deepening, straightening or extending~~
~~18 MAINTENANCE, OR IMPROVEMENT of any~~ A drain are not collected by
~~19 the township, city, or village treasurer, they shall by him~~ be
~~20 returned BY THAT TREASURER, together with the lands upon which~~
~~21 they were levied, to the county treasurer in the same return, at~~
~~22 the same time, and in the same manner, in every respect (naming~~
~~23 in each case the particular drain), as lands are returned for~~
~~24 state, county, and township taxes. , and such~~ DRAIN taxes
~~25 shall follow such~~ THE lands, the same as ~~all such other~~ DO
~~26 PROPERTY taxes, and all~~ MAY BE COLLECTED IN THE SAME MANNER AS
~~27 PROVIDED BY the general provisions of law now existing, or that~~

1 ~~may be hereafter enacted~~ for enforcing the payment of township,
2 county, and state taxes. ~~, shall apply to such drain taxes, and~~
3 ~~to the lands returned delinquent therefor, in the same manner and~~
4 ~~with like effect.~~ HOWEVER, THE TREASURER SHALL NOTIFY THE DRAIN
5 COMMISSIONER OF ALL LAND IN THE COUNTY THAT HAS BEEN RETURNED
6 DELINQUENT AND SUBJECT TO SALE SO THAT THE DRAIN COMMISSIONER OR
7 DRAINAGE BOARD MAY FILE AN AFFIDAVIT OF SPECIAL ASSESSMENT PEND-
8 ING AND SUBJECT TO COLLECTION BEFORE THE SALE OR REVERSION.

9 Sec. 269. (1) THE COLLECTION OF A TAX LEVIED OR ORDERED TO
10 BE LEVIED FOR THE PAYMENT OF THE LOCATION OR CONSTRUCTION, MAIN-
11 TENANCE, OR IMPROVEMENT OF A DRAIN UNDER THIS ACT SHALL NOT BE
12 PERPETUALLY ENJOINED OR DECLARED ABSOLUTELY VOID FOR ANY REASON.
13 THE COURT IN WHICH AN ACTION MAY BE BROUGHT TO RECOVER ANY TAX OR
14 ASSESSMENT PAID, OR TO DECLARE VOID THE PROCEEDINGS TO LOCATE AND
15 ESTABLISH ANY DRAIN, OR TO ENJOIN ANY TAX OR ASSESSMENT LEVIED OR
16 ORDERED TO BE LEVIED FOR THE PAYMENT OF THE LABOR AND EXPENSE
17 THEREOF, MAY, IF THERE BE MANIFEST ERROR IN THE PROCEEDINGS,
18 ALLOW THE PLAINTIFF IN ACTION TO SHOW THAT HE OR SHE HAS BEEN
19 INJURED THEREBY. ANY SUCH ACTION IS SUBJECT TO SECTION 161.

20 (2) The court in which such proceedings are begun shall
21 allow proof that the drain was necessary and conducive to the
22 public health, convenience, or welfare, and that all the steps
23 required by law have been substantially complied with, notwith-
24 standing the record required to be kept by the commissioner OR
25 DRAINAGE BOARD. ~~In case~~ IF substantial error is found AFTER
26 HEARING PROOF OF BOTH SIDES, the court may correct any gross
27 injustice in the award of damages, or assessment of benefits.

1 ~~as may appear after hearing the proofs and allegations of both~~
2 ~~sides and~~ THE COURT shall make such AN order ~~in the premises as~~
3 ~~shall be~~ just and equitable, and may order ~~that such~~ ANY OF
4 THE FOLLOWING:

5 (A) THAT THE tax or assessment remain on the tax roll for
6 collection. ~~, or order~~

7 (B) THAT the ~~same to~~ TAX OR ASSESSMENT be releived. ~~, or~~
8 ~~may perpetually enjoin the same or any part thereof, or if the~~
9 ~~same~~

10 (C) IF THE TAX OR ASSESSMENT has been paid under protest,
11 ~~may order the whole~~ THAT THE TAX OR ASSESSMENT, or such part
12 thereof as is just and equitable, ~~to~~ be refunded. ~~In all~~
13 ~~cases where assessments shall be set aside~~

14 (3) IF THE COURT SETS ASIDE ASSESSMENTS after contracts have
15 been let or bonds OR NOTES sold, the decree shall make full pro-
16 vision for payment of work done and materials furnished under
17 ~~said~~ THE contracts before the commencement of suit, and for
18 payment of ~~such~~ THE bonds OR NOTES and interest thereon, by
19 reassessment according to benefits, or otherwise as equity may
20 require. ~~The cost of such proceedings, if error or injustice be~~
21 ~~shown, shall be apportioned among the parties, or if~~

22 (4) IF no manifest error or injustice ~~be~~ IS shown, ~~such~~
23 costs OF THE PROCEEDINGS shall be collected of the party bringing
24 the action.

25 Sec. 270. ~~Whenever any~~ IF A drain ~~has been~~ IS located
26 and established, and contracts let for its construction,
27 MAINTENANCE, OR IMPROVEMENT and the work ~~of construction has~~

1 ~~been~~ IS completed, or partly completed, and the commissioner OR
2 DRAINAGE BOARD has made ~~his~~ AN order establishing the drain,
3 ~~his~~ THE apportionment of benefits, and special assessment roll
4 and filed the ~~same~~ ORDER in the office of the county drain com-
5 missioner, as provided by this act, ~~and such~~ THE taxes ~~remain~~
6 ~~a perpetual~~ ARE A lien upon the lands assessed. ~~, and filed~~
7 ~~all of said papers in the office of the county drain commission-~~
8 ~~er, and no person or municipality affected by the proceedings has~~
9 ~~taken any action by virtue of section 161 of this act to test the~~
10 ~~validity of the proceedings, or to set the same aside, and it~~
11 ~~shall further appear that~~ IF the tax has not been spread on the
12 tax roll of the municipalities affected and the lien of ~~said~~
13 THE tax still remains against ~~such~~ THE lands, on the applica-
14 tion in writing of any person or corporation who is ~~now or were~~
15 ~~owners~~ AN OWNER of the land assessed at the time of the appor-
16 tionment of benefits ~~by the commissioner~~ or any person or cor-
17 poration who were the owners of land at ~~said~~ THE time OF APPOR-
18 TIONMENT OF BENEFITS and who were assessed therefor, and who sold
19 such land with covenants of warranty, may make an application in
20 writing to the county drain commissioner AND DRAINAGE BOARD set-
21 ting forth such facts. ~~, and upon~~ UPON the filing of ~~such~~
22 THE application, ~~it shall be the duty of~~ the county drain com-
23 missioner ~~to~~ OR DRAINAGE BOARD SHALL make a certified copy of
24 the assessment roll filed in ~~his~~ THE office by the commissioner
25 and present ~~to and lay~~ it ~~before~~ TO the COUNTY board of
26 ~~supervisors~~ COMMISSIONERS at ~~the~~ ITS first October session.
27 ~~, thereafter of said board, and thereupon it shall be the duty~~

1 ~~of said board at said~~ AT THAT session, ~~to~~ THE COUNTY BOARD OF
2 COMMISSIONERS SHALL order and direct ~~such~~ THE taxes TO BE
3 spread upon the tax roll of the municipalities affected thereby,
4 according to the ~~said~~ assessment filed ~~as aforesaid, and as~~
5 ~~appears by such special assessment roll, so certified to said~~
6 ~~board~~ AND CERTIFIED. ~~The provisions of this section shall also~~
7 ~~apply to drains laid out and established and wholly or partly~~
8 ~~constructed under the provisions of all drain laws in force prior~~
9 ~~to the passage of this act, where such laws have made such drain~~
10 ~~tax a perpetual lien upon the lands upon which they are~~
11 ~~assessed.~~

12 Sec. 273. ~~In case any~~ IF A drain tax ~~heretofore or to be~~
13 ~~hereafter assessed shall be~~ IS set aside, except for causes that
14 would deprive the commissioner of jurisdiction to construct the
15 drain, the commissioner may begin proceedings anew at the stage
16 where THE DEFECT OCCURRED. ~~they shall be correct.~~ In case IF a
17 drain tax can or may be set aside for error in description or
18 other defect in the commissioner's or township treasurer's roll,
19 UPON DISCOVERY OF THE DEFECT, the commissioner shall report the
20 ~~same~~ DEFECT to the COUNTY board of ~~supervisors at their~~
21 ~~October session, who~~ COMMISSIONERS, WHICH shall order the ~~same~~
22 TAX TO BE reassessed upon the proper description. ~~Such~~ THE
23 report may be made at any time before the sale of the land for
24 ~~such~~ THE tax.

25 Sec. 275. (1) ~~In cases where the issuing of bonds shall~~
26 ~~have been determined upon, as herein provided, and subject to the~~
27 ~~provisions of~~ SUBJECT TO section 221, ~~of this act,~~ the

1 commissioner OR DRAINAGE BOARD may borrow money in anticipation
2 of the collection of ~~such~~ TAX installments and may issue as
3 evidence thereof the bonds of the drainage district. ~~as herein~~
4 ~~defined. Such obligations~~ THE BONDS shall specify on their face
5 that they are payable out of the installments of drain taxes to
6 be ~~thereafter~~ collected, and the amount ~~thereof~~ OF THE BONDS
7 shall not exceed the aggregate of the installments levied. Bonds
8 ~~issued hereunder~~ shall be signed by the commissioner OR CHAIR-
9 PERSON OF THE DRAINAGE BOARD on behalf of the drainage district,
10 shall be countersigned by the county clerk ~~and~~ OF EACH COUNTY
11 IN THE DRAINAGE DISTRICT, shall be payable in annual installments
12 equal in number to the installments of taxes, AND shall mature
13 not earlier than March first nor later than June first of the
14 year following the due dates of the respective installments of
15 taxes. The number of installments shall not exceed 30. ~~20+~~
16 ~~Provided, however, That in any drainage district containing a~~
17 ~~closed drain, any part of whose cross-section has an area exceed-~~
18 ~~ing 60 square feet, the number of installments may be, but shall~~
19 ~~not exceed, 30, and the~~ THE amount of each installment shall be
20 fixed to correspond as near as may be to the drain commissioner's
21 OR DRAINAGE BOARD'S estimate of the amount of taxes actually col-
22 lectible each year. ~~, and in no case shall bonds mature~~ BONDS
23 SHALL MATURE NOT more than 2-1/2 years after the corresponding
24 installment of taxes. ~~The~~ IN THE BONDS, THE commissioner OR
25 DRAINAGE BOARD shall ~~therein~~ pledge the credit of the drainage
26 district, including the lands embraced within ~~such~~ THE district
27 and the townships, cities, villages, counties, and state trunk

1 line highways assessed at large, in the proportion that they are
2 taxed for the benefits received thereby. ~~Such~~

3 (2) THE bonds shall be advertised and sold by the drain com-
4 missioner ~~after~~ OR DRAINAGE BOARD IN the manner provided for
5 the advertisement and sale of municipal bonds by ~~Act No. 202 of~~
6 ~~the Public Acts of 1943, as amended, being sections 131.1 to~~
7 ~~138.2, inclusive, of the Compiled Laws of 1948~~ THE MUNICIPAL
8 FINANCE ACT, 1943 PA 202, MCL 131.1 TO 139.3. If any premium is
9 received thereon, such premium shall belong to the fund of the
10 drain. The proceeds derived from the sale of such bonds shall be
11 deposited with the county treasurer to the credit of the drain
12 fund. The county treasurer shall safely keep all ~~such~~ bonds
13 until sold. ~~as above provided: Provided, however, That this~~
14 ~~act shall not be considered to~~ THIS ACT DOES NOT affect any
15 bonds or refunding bonds issued ~~prior to the effective date~~
16 ~~hereof and subsequent to the effective date of Act No. 331 of the~~
17 ~~Public Acts of 1927~~ ISSUED ON OR AFTER SEPTEMBER 5, 1927, AND
18 BEFORE MARCH 28, 1956, or any refunding bonds ~~hereafter~~ issued
19 ON OR AFTER MARCH 28, 1956 to replace ~~the same: Provided fur-~~
20 ~~ther, That no~~ SUCH BONDS. A county shall NOT advance or pay out
21 of its general funds any ~~moneys~~ MONEY for or on account of
22 principal or interest of any drain bonds issued ~~prior to the~~
23 ~~effective date of Act No. 331 of the Public Acts of~~ BEFORE
24 SEPTEMBER 5, 1927, or any refunding bonds issued to replace ~~the~~
25 ~~same~~ SUCH BONDS.

26 SEC. 275A. (1) A DRAINAGE DISTRICT MAY BORROW MONEY OR
27 ACCEPT THE ADVANCE OF WORK, MATERIAL, OR MONEY FROM A PUBLIC OR

1 PRIVATE CORPORATION, PARTNERSHIP, ASSOCIATION, INDIVIDUAL, OR THE
2 FEDERAL OR STATE GOVERNMENT OR ANY AGENCY OF THE FEDERAL OR STATE
3 GOVERNMENT FOR ANY OF THE FOLLOWING:

4 (A) THE PAYMENT OF, OR IN CONNECTION WITH THE CONSTRUCTION,
5 MAINTENANCE, OR IMPROVEMENT OF, ANY PART OF A DRAIN PROJECT.

6 (B) THE FINANCING AND ENGINEERING OR FEASIBILITY, PRACTICA-
7 BILITY, ENVIRONMENTAL ASSESSMENT, OR IMPACT STUDY OF A DRAIN
8 PROJECT.

9 (C) PAYMENT FOR EASEMENTS OR LAND ACQUISITION.

10 (D) ENGINEERING AND LEGAL FEES.

11 (2) THE BORROWING BY THE DRAINAGE DISTRICT MAY BE WITH OR
12 WITHOUT INTEREST AS MAY BE AGREED AND REIMBURSED, WHEN FUNDS ARE
13 AVAILABLE. THE OBLIGATION OF THE DRAINAGE DISTRICT TO MAKE THE
14 REPAYMENT OR REIMBURSEMENT MAY BE EVIDENCED BY A CONTRACT OR
15 NOTE, WHICH CONTRACT OR NOTE MAY PLEDGE THE FULL FAITH AND CREDIT
16 OF THE DRAINAGE DISTRICT AND MAY BE MADE PAYABLE OUT OF THE DRAIN
17 ASSESSMENTS MADE AGAINST PUBLIC CORPORATIONS AT LARGE, OR AGAINST
18 LANDS IN THE DRAINAGE DISTRICT, OR OUT OF THE PROCEEDS OF DRAIN
19 ORDERS, NOTES, OR BONDS ISSUED BY THE DRAINAGE DISTRICT PURSUANT
20 TO THIS ACT OR OUT OF ANY OTHER AVAILABLE FUNDS, AND THE CONTRACT
21 OR NOTE SHALL NOT BE CONSIDERED TO BE AN OBLIGATION WITH THE
22 MEANING OF THE MUNICIPAL FINANCE ACT, 1943 PA 202, MCL 131.1 TO
23 139.3, UNLESS THE PRINCIPAL AGGREGATE AMOUNT OF THE NOTES OR
24 NOTES OF THE DISTRICT EXCEED \$600,000.00.

25 (3) HOWEVER, ANY PROJECTS IN WHICH ADVANCES OR LOANS ARE
26 MADE BY ANY PUBLIC CORPORATION, THE FEDERAL GOVERNMENT, OR ANY
27 AGENCY OF THE FEDERAL GOVERNMENT SHALL NOT BE LIMITED BY THIS

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1 SECTION. THIS SECTION APPLIES TO A DRAIN OR OTHER PROJECT
2 INSTITUTED PURSUANT TO THIS ACT INCLUDING A FEASIBILITY, PRACTI-
3 CABILITY, ENVIRONMENTAL ASSESSMENT, OR IMPACT STUDY.

4 (4) A COUNTY BOARD OF COMMISSIONERS BY A VOTE OF 2/3 OF ITS
5 TOTAL MEMBERSHIP MAY PLEDGE THE FULL FAITH AND CREDIT OF A COUNTY
6 FOR THE PAYMENT OF A NOTE OF THE DRAINAGE DISTRICT.

7 Sec. 276. If bonds or notes are to be issued ~~in respect~~
8 ~~to~~ FOR an intracounty drain, the county board of commissioners
9 may, by resolution adopted by a majority of its total membership,
10 pledge the full faith and credit of the county for the prompt
11 payment of the principal of and interest on any bonds or notes
12 hereafter issued pursuant to this act. This shall not validate
13 any bonds or notes ~~heretofore~~ issued BEFORE MAY 14, 1957. ~~In~~
14 ~~the event~~ IF the county ~~shall be~~ IS required to advance any
15 money by reason of such pledge, and if the collections from spe-
16 cial assessments shall not be sufficient to reimburse the county
17 therefor, the drain commissioner of such county shall, within a
18 2-year period from the date of advancement, reassess the drainage
19 district as in the first instance in order to provide for the
20 repayment to the county of the sums so advanced. ~~The provisions~~
21 ~~of this section shall not permit the advancement or any moneys~~
22 ~~out of the general funds of any county to meet any deficiency in~~
23 ~~the collection of drain assessments confirmed prior to May 1,~~
24 ~~1953.~~

25 Sec. 277. ~~Whenever lands in any city, village or township~~
26 ~~or combination thereof shall be assessed for all or any part of~~
27 ~~the cost of a drain, the~~ THE governing body of each ~~such~~

1 ~~cities, villages or townships~~ CITY, VILLAGE, OR TOWNSHIP IN
2 WHICH ARE LOCATED LANDS ASSESSED FOR ALL OR PART OF THE COST OF A
3 DRAIN, by resolution adopted prior to the issuance of drain
4 orders and/or bonds in anticipation of the payment of the assess-
5 ments for ~~such~~ THE drain, may agree that in the event of any
6 delinquency in the collection of the assessments against lands in
7 ~~such~~ THE cities, villages, or townships, the cities, villages,
8 or townships shall advance the amount of ~~such~~ THE delinquency
9 from unobligated funds in the general fund to the extent neces-
10 sary to pay principal and interest on ~~such~~ THE drain orders
11 ~~and/or~~ OR bonds as ~~the same~~ THEY mature. ~~In the event that~~
12 ~~moneys are~~ IF MONEY IS so advanced, then the cities, villages,
13 or townships shall be reimbursed from the collection of the said
14 delinquent assessments against lands within its boundaries. If
15 the collections from special assessments ~~shall~~ ARE not ~~be~~
16 sufficient to reimburse the cities, villages, or townships, the
17 drain commissioner of ~~such~~ THE county OR DRAINAGE BOARD shall,
18 within a 5-year period from the date of advancement, reassess the
19 drainage district as in the first instance in order to provide
20 for the repayment of the sums so advanced. ~~∴ Provided, That~~
21 ~~this~~ THIS act shall not validate any drain orders or bonds
22 issued ~~prior to the effective date of this act~~ BEFORE MARCH 28,
23 1956.

24 SEC. 277A. THE MERGING OF A DRAINAGE DISTRICT INTO A CON-
25 SOLIDATED DISTRICT DOES NOT AFFECT THE OBLIGATION OF ANY BONDS
26 ISSUED OR CONTRACTS ENTERED INTO BY THE DISTRICT OR INVALIDATE
27 THE LEVY, EXTENSION, OR COLLECTION OF ANY TAXES OR SPECIAL

1 ASSESSMENTS UPON PROPERTY IN THE DEBTOR DISTRICT. THE BONDS AND
2 CONTRACTS SHALL BE TAKEN OVER AND ASSUMED BY THE CONSOLIDATED
3 DISTRICT, AND ALL OUTSTANDING SPECIAL ASSESSMENTS SHALL BE COL-
4 LECTED AND PAID OVER TO THE CONSOLIDATED DISTRICT FOR THE PAYMENT
5 OF THE OBLIGATIONS PREVIOUSLY ISSUED OR CONTRACTS PREVIOUSLY
6 ENTERED INTO BY THE DEBTOR DISTRICT.

7 Sec. 278. If bonds or notes are issued and sold by the com-
8 missioner OR DRAINAGE BOARD, installments of the drain taxes
9 shall bear interest not to exceed a rate which is not greater
10 than 1% per annum more than the average rate of interest on the
11 bonds or notes from the date of the preparation of the assessment
12 roll until due. The bonds or notes may provide, if the commis-
13 sioner OR DRAINAGE BOARD so determines, for the payment of inter-
14 est semiannually. The installments and the interest thereon
15 shall, as collected, be paid into the county treasury and placed
16 to the credit of the fund of the drain, to be used solely for the
17 payment of bonds or notes as they mature. Money collected in
18 anticipation of the maturity of the bonds or notes shall be
19 deposited by the county treasurer in a bank or banks to be desig-
20 nated by the COUNTY board of commissioners. ~~of the county and~~
21 ~~the~~ THE interest received ~~shall belong~~ BELONGS to the fund.
22 Bonds or notes issued and sold by the commissioner OR DRAINAGE
23 BOARD shall bear interest at not to exceed the rate specified in
24 section 2 of chapter 3 of ~~Act No. 202 of the Public Acts of~~
25 ~~1943, as amended, being section 133.2 of the Michigan Compiled~~
26 ~~Laws~~ THE MUNICIPAL FINANCE ACT, 1943 PA 202, MCL 133.2.

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1 Sec. 279. Any person liable ~~to~~ FOR the payment of special
2 assessments for benefits received from the construction of a
3 drain ~~hereunder~~ may pay the ~~same~~ ASSESSMENT in full with
4 interest to date at any time, subject to the right of reassess-
5 ment in case of A deficiency as ~~herein~~ provided. HOWEVER, A
6 PREPAYMENT MADE FOLLOWING THE ISSUANCE OF BONDS OR NOTES IS
7 SUBJECT TO THE FIRST-YEAR INTEREST ON THE BONDS OR NOTES. The
8 ~~foregoing~~ right of prepayment ~~shall extend to the~~ EXTENDS TO
9 THIS state or any political subdivision thereof, assessed at
10 large for a portion of the cost of ~~a~~ THE drain. Such payment
11 may be made to the ~~township treasurer~~ DRAIN COMMISSIONER, who
12 shall give his OR HER receipt therefor and who shall transmit the
13 ~~same~~ RECEIPT to the county treasurer. The ~~latter official~~
14 ~~shall, on receipt of the same, give notice to the~~ commissioner
15 ~~, who~~ shall make the necessary changes in the rolls covering
16 subsequent installments.

17 Sec. 280. (1) If there is not sufficient money in the fund
18 in a particular drain at the time of the maturity of the bonds
19 last to mature, or any drain orders, to pay all outstanding bonds
20 or drain orders with interest, or to reimburse the county for
21 money which it has been obliged to advance pursuant to section
22 275, whether such insufficiency is due to the anticipation of
23 installments as provided in section 279, or to failure to sell
24 any lands for delinquent taxes, or to any other cause, ~~it shall~~
25 ~~be the duty of~~ the commissioner ~~to~~ OR DRAINAGE BOARD SHALL at
26 once levy an additional assessment. ~~as hereinbefore provided in~~
27 ~~such~~ THE ADDITIONAL ASSESSMENT SHALL BE IN an amount as will

1 make up the deficiency ~~which~~ AND shall be spread in not to
2 exceed 7 annual installments. ~~; and if the commissioner deter-~~
3 ~~mines that the entire amount, if spread in 1 year, would be an~~
4 ~~undue burden or create unnecessary hardship, he or she may order~~
5 ~~it spread over any number of years up to but not exceeding 7.~~ If
6 bonds or other evidences of indebtedness are issued pursuant to
7 the municipal finance act, ~~Act No. 202 of the Public Acts of~~
8 ~~1943, as amended, being sections 131.1 to 139.3 of the Michigan~~
9 ~~Compiled Laws~~ 1943 PA 202, MCL 131.1 TO 139.3, to refund the
10 outstanding indebtedness of a drain district, the governing body
11 of ~~such~~ THE drain district shall provide, subject to the direc-
12 tions of the department of treasury or to the requirements of
13 ~~Act No. 202 of the Public Acts of 1943~~ THE MUNICIPAL FINANCE
14 ACT, 1943 PA 202, MCL 131.1 TO 139.3, for ~~such~~ additional
15 levies of assessments ~~prior to~~ BEFORE the maturity of ~~such~~
16 THE refunding obligations ~~as~~ necessary to prevent default in
17 payment of interest on such obligations, and FOR the maintenance
18 of a ~~sinking~~ fund for ~~their~~ THE retirement OF THE
19 OBLIGATIONS. Every officer charged with the determination of the
20 amount of taxes to be raised, or the levying of ~~such~~ THE taxes,
21 shall make or cause to be made the additional levies as
22 provided. Any surplus remaining after the payment of the bonds
23 and interest shall remain in the DRAIN FUND OF THE county trea-
24 sury and be used for the maintenance of the drain.

25 (2) ~~Such~~ THE additional assessments shall ~~only apply to~~
26 ~~drain orders or bonds issued after March 28, 1956 and shall be~~
27 apportioned, assessed, levied, and collected as provided in the

1 first instance. ~~As to deficiency assessments levied for drain~~
2 ~~orders or bonds issued after March 28, 1956, there shall be no~~
3 ~~lands exempted therefrom, except those which at the time of such~~
4 ~~additional assessments are owned or used as follows:~~

5 ~~(a) Lands owned by the United States.~~

6 ~~(b) Lands owned by the state of Michigan, except licensed~~
7 ~~homestead lands, and except lands held under land contracts~~
8 ~~issued pursuant to Act No. 155 of the Public Acts of 1937, as~~
9 ~~amended, being sections 211.355a to 211.364, of the Michigan~~
10 ~~Compiled Laws.~~

11 ~~(c) Lands owned by any county, city, village, township, or~~
12 ~~school district and used for public purposes.~~

13 ~~(d) Lands used exclusively for burial grounds.~~

14 ~~(e) Lands dedicated to the public and actually used as a~~
15 ~~highway or alley, and not used for gain.~~

16 (3) An additional assessment shall not be levied or col-
17 lected for the purpose of paying the principal or interest upon
18 any bonds or obligations ~~which have heretofore been~~ THAT WERE
19 held to be invalid ~~, and any such~~ BEFORE MARCH 28, 1956. AN
20 additional assessment shall not be apportioned, assessed, levied,
21 or collected for the purpose of paying any bonds, interest, or
22 obligations for the payment of which assessments have heretofore
23 been made.

24 Sec. 282. (1) The drain commissioner or drainage board may
25 direct the treasurer of any drainage district to invest any sur-
26 plus funds belonging to and under the control of the drain
27 commissioner or drainage board as provided in section 1 of ~~Act~~

1 ~~No. 20 of the Public Acts of 1943, being section 129.91 of the~~
2 ~~Michigan Compiled Laws~~ 1943 PA 20, MCL 129.91. OTHERWISE, THE
3 FUNDS SHALL BE INVESTED IN SECURE INTEREST BEARING ACCOUNTS.

4 (2) If 2 or more drainage district funds ~~which are~~ under
5 control of the drain commissioner or drainage board have balances
6 of less than \$1,000.00, those drainage district funds may be con-
7 solidated into 1 account for short-term investment as directed by
8 the drain commissioner. A drainage district fund shall not be
9 consolidated if there is an immediate and apparent need for
10 expending that fund on the specific drain to which the fund
11 belongs.

12 (3) The interest earned by a fund consolidated under subsec-
13 tion (2) may be deposited in a segregated revolving maintenance
14 fund which the drain commissioner or drainage board may use for
15 temporarily financing necessary maintenance expenses on an intra-
16 county or intercounty drain within that drain commissioner's or
17 drainage board's jurisdiction. The revolving maintenance fund
18 shall be a fund separate from the revolving drain fund provided
19 for in chapter 12. The revolving maintenance fund shall be
20 accounted for, administered, and reimbursed in the same manner as
21 the revolving drain fund under section 303.

22 (4) If a drainage district fund has a balance of \$1,000.00
23 or more, the drain commissioner or drainage board may direct that
24 that fund be consolidated with other funds for investment
25 purposes. The interest earned, whether from a consolidated or
26 separate account, shall immediately be deposited in the drainage
27 district fund to which the principal belongs.

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1 (5) The principal balances of each drainage district fund
2 shall be accounted for at all times and may only be spent by
3 order of the drain commissioner or drainage board on expenses
4 necessary for the operation and maintenance of the drain to which
5 the fund belongs.

6 Sec. 283. (1) The drain commissioner or drainage board
7 shall use any surplus construction funds remaining in the con-
8 struction fund after completion of the project for the inspec-
9 tion, repair, and maintenance of the drain as provided in section
10 196 or shall authorize the transfer of the funds to the bond and
11 interest account, if bonds were issued, in the amounts the drain
12 commissioner or drainage board considers proper.

13 (2) The drainage board or drain commissioner ~~shall~~ MAY
14 contract with a public corporation if that public corporation has
15 been assessed for all or part of the cost of the drain or if land
16 in a ~~city, village, township, or combination thereof~~ PUBLIC
17 CORPORATION has been assessed for all or any part of the cost of
18 a drain. The contract shall provide that after all outstanding
19 drain orders or bonds are paid on a drainage district project,
20 the drain commissioner or drainage board ~~shall~~ MAY authorize
21 the ~~respective county treasurers~~ DISTRICT TREASURER to pay over
22 any portion of the surplus THAT THE DRAIN COMMISSIONER OR DRAIN-
23 AGE BOARD CONSIDERS not needed for ~~more than~~ the cost of
24 inspection, repair, and maintenance of the drain as provided in
25 section 196 to ~~the county, township, city, or village in which~~
26 ~~the drain was located or in which assessments for benefits have~~
27 ~~been assessed and collected~~ SUCH PUBLIC CORPORATIONS. The

1 payments shall be on a pro rata basis in direct proportion to the
2 amounts assessed and collected from each ~~county, city, village,~~
3 ~~or township~~ PUBLIC CORPORATION. The contract shall also provide
4 that upon receipt of the surplus funds the ~~county, city, vil-~~
5 ~~lage, or township~~ PUBLIC CORPORATION shall utilize those surplus
6 funds to alleviate drainage problems in ~~their respective~~
7 ~~jurisdictions~~ ITS JURISDICTION.

8 (3) If state highway funds are involved in a project, the
9 drain commissioner or drainage board, upon completion of a
10 ~~construction~~ project, ~~shall~~ AND AFTER PAYMENT OF ALL OUT-
11 STANDING BONDS OR NOTES MAY return TO THE STATE TRANSPORTATION
12 DEPARTMENT, on a pro rata basis, surplus construction funds in
13 excess of the amount CONSIDERED necessary BY THE DRAIN COMMIS-
14 SIONER OR DRAINAGE BOARD to pay for inspection, repair, and main-
15 tenance of the drain as provided in section 196. ~~to the state~~
16 ~~transportation department for the construction, maintenance, and~~
17 ~~administration of state highways.~~

18 (4) ~~As used in this section, "public corporation" includes a~~
19 ~~city, village, township, or county, or the state.~~

20 Sec. 301. At the October session of the COUNTY board of
21 ~~supervisors~~ COMMISSIONERS OF EACH COUNTY, ~~each~~ THE board
22 shall appropriate and collect by general taxation from the tax-
23 able property within ~~their respective counties~~ THE COUNTY for
24 the purpose of creating a revolving drain fund, ~~such sum as said~~
25 ~~board may deem~~ THE SUM THAT THE BOARD CONSIDERS necessary.
26 ~~Said~~ THE revolving fund ~~when so created~~ shall be used and
27 disposed of solely as provided in this chapter.

1 Sec. 302. (1) The revolving fund may be used for paying ANY
2 OF the FOLLOWING:

3 (A) THE engineer or surveyor for ~~his~~ services in laying
4 out a drainage district. ~~, also any~~

5 (B) ANY necessary assistance ~~therefor and to pay any and~~
6 ~~all other~~ FOR THE ENGINEER OR SURVEYOR.

7 (C) OTHER LEGAL, ENGINEERING, OR CONSULTING services to the
8 date of letting the drain contract. ~~for paying members~~

9 (D) MEMBERS of boards of determination for services per-
10 formed under this act. ~~, for necessary~~

11 (E) NECESSARY repairs on old drains. ~~, and also for paying~~
12 ~~drain~~

13 (F) DRAIN orders that are due not in excess of ~~-\$2,000.00-~~
14 \$5,000.00 if authorized by the COUNTY board of ~~supervisors~~
15 COMMISSIONERS.

16 (2) Orders drawn by the DRAIN commissioner on the revolving
17 fund may be made payable upon the performance of services ~~herein~~
18 ~~defined~~ LISTED IN SUBSECTION (1). From ~~said~~ THE revolving
19 fund may be paid the services ~~herein mentioned~~ LISTED IN
20 SUBSECTION (1) on any drain or drainage district affecting more
21 than 1 county. ~~Such~~ THE total expense ~~is~~ SHALL BE prorated
22 among the ~~several~~ counties affected according to the amount
23 apportioned to be paid by and in ~~said counties respectively for~~
24 ~~said~~ EACH COUNTY FOR THE drain. ~~Any and all orders~~ ORDERS for
25 services rendered or expenses incurred after the date of letting
26 the drain contract shall be paid in the manner prescribed in
27 chapter 10. ~~, being sections 241 to 248.~~

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1 Sec. 304. The ~~said~~ revolving fund shall be deposited in
2 the bank of the county offering the highest rate of interest on
3 daily balances ~~, final determination to be made~~ AS DETERMINED
4 by the board of ~~supervisors~~ COMMISSIONERS of the ~~particular~~
5 county. ~~, the~~ THE interest ~~so received to~~ EARNED ON THE FUND
6 SHALL be paid into and become a part of ~~said~~ THE fund.

7 Sec. 306. ~~Whenever~~ IF revolving fund ~~moneys have~~ MONEY
8 HAS been expended or a drainage district has become obligated to
9 pay expenses for engineering, legal, ~~and~~ OR administrative
10 services, by action of the drain commissioner or drainage board
11 and ~~no~~ AN improvement has NOT been completed ~~subsequent to~~
12 AFTER the DRAIN commissioner's order designating a drainage dis-
13 trict or entry of the first order of determination ~~as prescribed~~
14 in UNDER section 72 ~~where~~ FOR an intracounty drain, ~~is~~
15 involved, ~~the~~ the drain commissioner of ~~such~~ THE county which has
16 expended such revolving fund ~~moneys~~ MONEY may report ~~such~~
17 THAT fact to the board of ~~supervisors~~ COMMISSIONERS. If ~~no~~
18 AN improvement ~~has been~~ IS NOT completed within ~~a period of 5~~
19 ~~years subsequent to the~~ 2 YEARS AFTER THE DRAIN commissioner's
20 order designating a drainage district or entry of the first order
21 of determination ~~as prescribed in~~ UNDER section 72, the drain
22 commissioner of such county shall report ~~such~~ THAT fact to the
23 COUNTY board of ~~supervisors~~ COMMISSIONERS. If the sum involved
24 is too small to justify spreading the ~~same~~ SUM over the desig-
25 nated DRAINAGE district, ~~above referred to, such~~ THE COUNTY
26 board of ~~supervisors~~ COMMISSIONERS may order the sum to be
27 spread against the property of the original petitioners according

1 to ~~such percentage as the commissioners shall deem~~ THE
2 PERCENTAGE THAT THE DRAIN COMMISSIONER CONSIDERS just and equita-
3 ble, based on the same benefit theory as if the improvement had
4 been completed. If the sum involved is large enough to, in the
5 opinion of the COUNTY board of ~~supervisors~~ COMMISSIONERS,
6 create undue hardship on the original petitioners, the COUNTY
7 board of ~~supervisors~~ COMMISSIONERS may order the ~~same~~ SUM
8 spread over ~~such~~ THE designated district and the DRAIN commis-
9 sioner shall apportion the ~~cost thereof~~ SUM to the parties ben-
10 efited in the district as provided in chapter 7 for the purpose
11 of permitting a review of the roll as to fairness of the appor-
12 tionment only.

13 Sec. 307. ~~Whenever~~ IF revolving fund ~~moneys have~~ MONEY
14 HAS been expended and ~~no improvement has been completed subse-~~
15 ~~quent to~~ AN IMPROVEMENT IS NOT COMPLETED WITHIN 2 YEARS AFTER
16 the order designating a drainage district as prescribed in sec-
17 tion 105 ~~of this act~~ where an intercounty drain is involved,
18 ~~within a period of 5 years,~~ the drainage board created in sec-
19 tion 102 ~~of this act~~ shall apportion the cost as between
20 counties. Any drain commissioner feeling aggrieved by ~~such~~ THE
21 apportionment may request review by the board of review provided
22 in section 106, ~~of this act,~~ and such board shall proceed to
23 ~~review the same~~ AND THE BOARD OF REVIEW SHALL REVIEW THE
24 APPORTIONMENT as provided in this act. The decisions of the
25 board of review ~~shall be~~ ARE final. Thereafter, the amount
26 apportioned to each county shall be recovered by ~~each~~ THAT
27 county as ~~above outlined~~ PROVIDED for the recovery of revolving

1 fund ~~moneys~~ MONEY expended for an intracounty drain in section
2 306. ~~of this act.~~

3 Sec. 321. Drains may be laid within or across the right of
4 way of any highway ~~, provided it shall be necessary for the~~
5 ~~county~~ IF THE drain commissioner ~~to obtain first~~ OBTAINS a
6 permit from the highway authority having jurisdiction. If title
7 in fee simple ~~be~~ IS not in the highway authority, ~~said~~ THE
8 DRAIN commissioner shall also obtain a release of right of way
9 for the purposes of ~~such~~ THE drain from the owner of the land,
10 as provided in sections 73, 74, and 75. ~~of this act.~~

11 Sec. 322. (1) ~~When any~~ IF A drain crosses a highway, the
12 necessary bridge or culvert shall be constructed on the center
13 line of the highway as located by survey, and in accordance with
14 plans and specifications which shall be approved by the county
15 road commission, ~~having jurisdiction, or by the state highway~~
16 ~~commissioner if such highway is a state trunk line~~ THE STATE
17 TRANSPORTATION COMMISSION, OR THE MUNICIPALITY WHICHEVER HAS
18 JURISDICTION OVER THE HIGHWAY. The cost of constructing the nec-
19 essary bridge or culvert shall be charged in the first instance
20 as part of the cost of construction of ~~such~~ THE drain. The
21 ~~board of county road commissioners or the state highway~~
22 ~~commissioner~~ HIGHWAY AUTHORITY HAVING JURISDICTION shall assume
23 and bear ~~such~~ A portion of the cost of construction, based upon
24 benefits, as may be agreed upon with the drain commissioner. ~~In~~
25 ~~such case, the~~ THE contract for the construction of the bridge
26 shall not be let by the drain commissioner without the written
27 consent of the ~~state highway commissioner or the board of county~~

1 ~~road commissioners~~ HIGHWAY AUTHORITY HAVING JURISDICTION.

2 ~~Thereafter such~~

3 (2) AFTER CONSTRUCTION, THE bridge or culvert ~~constructed~~
4 ~~under the provisions of this act~~ shall be maintained by the
5 ~~county road commission or state highway commissioner~~ HIGHWAY
6 AUTHORITY HAVING JURISDICTION. ~~Any such~~

7 (3) AN expense charged to the state ~~highway commissioner~~
8 TRANSPORTATION COMMISSION UNDER THIS SECTION shall be ~~met~~ PAID
9 out of any funds appropriated for the state ~~highway~~
10 TRANSPORTATION department that may be available therefor. ~~;~~ and
11 ~~any such expense to be borne by~~ AN EXPENSE CHARGED TO the board
12 of county road commissioners UNDER THIS SECTION shall be paid out
13 of ~~moneys~~ MONEY in the county road fund not otherwise
14 appropriated.

15 (4) As part of ~~such~~ THE drain, there shall be constructed
16 at least 1 bridge or culvert across such drain connecting the
17 highway, ~~(except~~ WITH EACH FARM ENTRANCE, UNLESS THE HIGHWAY IS
18 A limited access ~~highways~~ HIGHWAY established under ~~Act~~
19 No. 205 of the Public Acts of 1941, as amended, being sections
20 252.51 to 252.64 of the Compiled Laws of 1948), with each farm
21 entrance, and when 1941 PA 205, MCL 252.51 TO 252.64. IF a
22 drain crosses a ~~farm or any portion thereof there shall be con-~~
23 ~~structed 1 bridge, culvert or ford across the drain connecting~~
24 ~~the portions of the farm disconnected by the drain, which~~ PARCEL
25 OR TRACT OF LAND AND WILL DIMINISH ACCESS TO PORTIONS OF THE
26 PARCEL OR TRACT DISCONNECTED BY THE DRAIN, 1 BRIDGE, CULVERT, OR
27 FORD SHALL BE CONSTRUCTED ACROSS THE DRAIN TO CONNECT THOSE

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1 PORTIONS OF THE PARCEL OR TRACT SO THAT THE DEGREE OF ACCESS IS
2 NOT DIMINISHED. THE COST OF CONSTRUCTION OF THE bridge, culvert,
3 or ford shall also be charged in the first instance as a part of
4 the construction of ~~such~~ THE drain. ~~, after which such~~ AFTER
5 CONSTRUCTION OF THE BRIDGE, CULVERT, OR FORD, THE bridge,
6 culvert, or ford shall be maintained by the owner of the ~~land~~
7 TRACT.

8 (5) If the drain commissioner ~~shall make future~~ OR DRAIN-
9 AGE BOARD MAINTAINS OR MAKES improvements ~~such as widening,~~
10 deepening, straightening or relocating such drain, but not clean
11 out alone, there shall be constructed the TO A DRAIN, necessary
12 bridges, culverts, and fords MAY BE CONSTRUCTED OR MAINTAINED as
13 ~~parts~~ PART of ~~such improvements~~ THE DRAIN MAINTENANCE OR
14 IMPROVEMENT.

15 (6) THE ENGINEER, WHEN NECESSARY, SHALL RECOMMEND THE SIZE
16 AND TYPE OF CONSTRUCTION FOR NECESSARY BRIDGES, CULVERTS, AND
17 FORDS.

18 Sec. 323. Before a drain ~~shall be~~ IS constructed along a
19 public highway, THE DRAIN COMMISSIONER SHALL CONSULT the highway
20 authorities having jurisdiction over the highway ~~shall be con-~~
21 sulted and their consent shall be obtained in writing, as AND
22 OBTAIN THEIR WRITTEN CONSENT to the proposed location OF THE
23 DRAIN and ~~what~~ THE disposition ~~shall~~ TO be made of all mate-
24 rial excavated. ~~Whenever~~ IF an apportionment is made against a
25 state trunk line, ~~highway,~~ the amount of the assessment based
26 on such apportionment shall be paid out of any state ~~trunk line~~
27 ~~highway~~ TRANSPORTATION funds on hand. ~~in the state treasury.~~

1 ~~On or before December 1 of the year when such assessment is made,~~
2 ~~the drain commissioner shall certify to the auditor general the~~
3 ~~amount due from the state to such drainage district by reason of~~
4 ~~the assessment of benefits, and the auditor general shall, if~~
5 ~~satisfied of the correctness of such certificate, cause the same~~
6 ~~to be paid within 30 days thereafter.~~

7 ~~When a ditch or drain has been constructed prior to 1923~~
8 ~~primarily for drainage of private lands, and constructed along a~~
9 ~~public highway, and the records including the original survey of~~
10 ~~such drain are not of public record nor turned over to the county~~
11 ~~drain commissioner, or have not been entered in the records of~~
12 ~~the county drain commissioner as a county drain, then the actual~~
13 ~~location of such drain shall be sufficient to make such drain~~
14 ~~comply with the provisions of this act with respect to the loca-~~
15 ~~tion thereof, and such drain shall be a county drain upon compli-~~
16 ~~ance with the other provisions of this act with respect to county~~
17 ~~drains. No proceedings shall be instituted for the widening of~~
18 ~~such drain or the deepening thereof below its original bottom.~~

19 Sec. 324. (1) ~~Whenever~~ IF it is necessary or more conven-
20 ~~ient for the proper drainage of any~~ A highway in this state
21 that the surplus water be taken onto or across the land adjacent
22 thereto, the county road commission of the county in which ~~said~~
23 THE highway is situated may secure the right of way and may open
24 such drain or outlet for the water, and for these purposes may
25 use ~~any~~ THE highway ~~moneys~~ MONEY of the township in which
26 ~~said~~ THE highway is situated, not otherwise appropriated, and

1 ~~such~~ ANY sums ~~as may be~~ voted for that use by the electors of
2 the townships.

3 (2) The county road commission shall secure the right of way
4 for ~~any such~~ THE drain by gift or purchase from the owners of
5 the land to be crossed by ~~such~~ THE drain. ~~but in case of~~
6 ~~purchase the~~ A purchase price must be approved by the township
7 board whenever township funds are involved, before any ~~money be~~
8 ~~paid thereon~~ PAYMENT IS MADE. ~~Such~~ THE right of way shall be
9 acquired by deed duly executed by the owner or owners of the
10 lands ~~sought~~ to be crossed by the ~~said~~ drain, and shall be
11 taken in the name of the township ~~wherein the same~~ WHERE RIGHT
12 OF WAY is located. ~~, and~~ THE DEED SHALL BE filed in the office
13 of the register of deeds of the county before any highway money
14 shall be expended in opening ~~such~~ THE drain outside the highway
15 limits.

16 ~~Before the township board approves the purchase price of~~
17 ~~any drain right of way under this section, the county road com-~~
18 ~~mission shall submit to the board for its approval details of the~~
19 ~~proposed drain, with specifications that the drain shall be con-~~
20 ~~structed in accordance with good health and sanitation standards~~
21 ~~and in such a manner as not to constitute a hazard to health or~~
22 ~~safety and that in construction of the drain the township board~~
23 ~~shall approve the use of the land upon which the drain is to be~~
24 ~~located.~~

25 Sec. 327. ~~In case it becomes~~ IF IT IS necessary for the
26 construction or maintenance of ~~any~~ A highway OR ROAD to take
27 the surplus water across adjacent lands, the state ~~, county or~~

1 ~~township highway commissioner or county road commissioners may~~
2 ~~make under his or their name of office an application~~
3 TRANSPORTATION COMMISSION OR BOARD OF COUNTY COMMISSIONERS MAY
4 APPLY or petition to the drain commissioner of the county in
5 which ~~such~~ THE highway OR ROAD is situated to lay out and des-
6 ignate a drainage district, locate and establish a drain, ~~clean~~
7 ~~out, widen, deepen, straighten or extend~~ OR MAINTAIN OR IMPROVE
8 an established drain. ~~Such~~ THE application or petition shall
9 conform to the law regulating applications or petitions for the
10 laying out and designating a drainage district, locating and
11 establishing of drains, and ~~cleaning out, widening, deepening,~~
12 ~~straightening and extending~~ MAINTAINING OR IMPROVING established
13 drains, and ~~shall require no other signature than his own as~~
14 ~~highway commissioner or~~ DOES NOT REQUIRE AN APPLICANT OR PETI-
15 TIONER OTHER THAN THE STATE TRANSPORTATION COMMISSION OR THE
16 BOARD OF county road commissioners. ~~Such~~ THE application or
17 petition shall have the same force and effect, and be subject in
18 other respects to the same laws and regulations that govern other
19 such applications or petitions and shall confer the same juris-
20 diction and authority on the county drain commissioner OR, FOR AN
21 INTERCOUNTY DRAIN, THE DRAINAGE BOARD to lay out and designate a
22 drainage district, locate and establish a drain, or ~~clean out,~~
23 ~~widen, deepen, straighten or extend~~ MAINTAIN OR IMPROVE an
24 established drain. ~~∴ Provided, That in cases where the state~~
25 ~~highway commissioner makes such~~ HOWEVER, IF THE STATE TRANSPOR-
26 TATION COMMISSION MAKES THE application or petition, ~~he~~ IT
27 shall serve a copy of ~~such~~ THE application or petition on the

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1 director of agriculture, who shall within 30 days hold a meeting
2 ~~at some place~~ in the drainage district for the purpose of
3 determining the practicability or necessity of ~~such~~ THE drain,
4 and ~~no~~ A board of determination shall ~~be necessary to~~ NOT
5 pass on those questions. ~~Said~~ THE meeting shall be held,
6 notice SHALL BE given, and all persons interested may be heard in
7 the same manner as provided in section 102 or ~~section~~ 122. ~~of~~
8 ~~this act.~~ The determination of the director of agriculture shall
9 be filed with the drain commissioner OR, FOR AN INTERCOUNTY
10 DRAIN, THE DRAINAGE BOARD.

11 Sec. 328. Before ~~the department of state highways may~~
12 ~~commence~~ the construction of a ~~state~~ highway OR ROADWAY OR ANY
13 BRIDGES CROSSING A LEGALLY ESTABLISHED DRAIN, THE HIGHWAY AUTHOR-
14 ITY HAVING JURISDICTION OVER THE PROPOSED HIGHWAY OR ROADWAY
15 SHALL FORWARD the engineering plans of the ~~state~~ highway OR
16 ROADWAY relative to county OR INTERCOUNTY drains ~~shall be~~
17 ~~forwarded~~ to the drain commissioner of each county where the
18 ~~state~~ highway OR ROADWAY is to be constructed, FOR THE REVIEW
19 AND WRITTEN APPROVAL OF THE DRAIN COMMISSIONER OR THE DRAINAGE
20 BOARD HAVING JURISDICTION OVER THE DRAIN.

21 SEC. 329. IF THE HIGHWAY AUTHORITY HAVING JURISDICTION OVER
22 A HIGHWAY OR ROADWAY REQUESTS OR ORDERS THAT AN EXISTING LEGALLY
23 ESTABLISHED DRAIN WITHIN THE RIGHT OF WAY OF THE HIGHWAY OR ROAD-
24 WAY BE RELOCATED OUTSIDE THE ROAD OR HIGHWAY RIGHT OF WAY, THE
25 COST OF RELOCATING THE DRAIN SHALL BE BORNE BY THE HIGHWAY
26 AUTHORITY.

1 Sec. 342. Whenever it is necessary to lay out and
2 establish, deepen, ~~or~~ widen, ~~or both,~~ ~~or~~ extend, or
3 straighten a drain across the right of way or roadbed of any
4 railroad, railway, telephone, telegraph, dam, electric, water,
5 oil, gas or other power company, the same proceedings ~~shall be~~
6 ~~had throughout in all respects~~ as ~~cases~~ provided in this act
7 for obtaining private lands SHALL BE FOLLOWED, except as ~~herein~~
8 provided IN THIS SECTION. The ~~damages and compensation to be~~
9 ~~awarded by the special commissioners shall include the legal dam-~~
10 ~~ages for the making of the opening required in the drain~~
11 ~~proceedings. After damages as aforesaid shall have been deter-~~
12 ~~mined, it shall be the duty of the~~ railroad, railway, telephone,
13 telegraph, dam, electric, water, oil, gas or other power company,
14 when notified by the DRAIN commissioner ~~so to do,~~ to DO SO,
15 SHALL make and maintain the necessary opening through its roadbed
16 or right of way and ~~to~~ build and maintain a suitable culvert or
17 crossing for ~~such~~ THE drain. ~~Notice in writing~~ THE DRAIN
18 COMMISSIONER SHALL GIVE WRITTEN NOTICE to make ~~such~~ THE opening
19 and to construct ~~such~~ THE culvert ~~shall be served upon such~~
20 ~~company by leaving a copy thereof with the ticket or freight~~
21 ~~agent or general officer of such railroad, railway, telephone,~~
22 ~~telegraph, dam, electric, water, oil, gas or other power company~~
23 ~~at least 30 days before such railroad, railway, telephone, tele-~~
24 ~~graph, dam, electric, water, oil, gas or other power company~~
25 ~~shall become liable~~ OR CROSSING BY FIRST-CLASS MAIL TO THE GEN-
26 ERAL OFFICE OF THE COMPANY. ~~In case such railroad, railway,~~
27 ~~telephone, telegraph, dam, electric, water, oil, gas or other~~

1 ~~power~~ IF THE company ~~shall neglect for~~ HAS NOT MADE THE
2 OPENING AND CONSTRUCTED THE CULVERT OR CROSSING BY THE EXPIRATION
3 OF 30 days after ~~service of such notice as aforesaid~~ THE DATE
4 THE NOTICE WAS MAILED, the DRAIN commissioner ~~shall have the~~
5 ~~right to petition the circuit court~~ MAY, in addition to any
6 other remedies which may exist, PETITION THE CIRCUIT COURT of the
7 county in which ~~such~~ THE crossing is located, to ~~compel such~~
8 ORDER THE company to ~~make such opening forthwith; and such~~
9 IMMEDIATELY MAKE THE OPENING AND CONSTRUCT THE CULVERT OR
10 CROSSING. THE circuit court shall, if it finds there is legal
11 right to ~~such~~ THE opening AND CULVERT OR CROSSING, order the
12 ~~same to be forthwith constructed by said~~ company TO MAKE THE
13 OPENING AND CONSTRUCT THE CULVERT OR CROSSING, and issue its writ
14 of mandamus therefor. ~~At~~ THE DRAIN COMMISSIONER SHALL GIVE THE
15 COMPANY AT least 10 days' notice ~~shall be given such company of~~
16 ~~such~~ OF THE application. ~~, and thereafter such~~ THE proceedings
17 shall follow the practice of circuit courts in mandamus
18 proceedings. ~~Said~~ THE matter shall be heard and determined as
19 speedily as practicable, and take precedence over all other cases
20 which may be pending in ~~such~~ THE court. ~~Such costs~~ THE COURT
21 may ~~be awarded~~ AWARD COSTS TO the prevailing party. ~~as are~~
22 ~~awarded in other motions for mandamus.~~

23 Sec. 343. ~~In case such~~ A railroad company ~~shall refuse~~
24 ~~or neglect~~ THAT FAILS to comply with ~~the provisions of~~ section
25 342 ~~, it shall be liable~~ IS SUBJECT to a penalty of ~~\$10.00~~
26 \$1,000.00 for each ~~day's refusal or neglect~~ DAY THAT IT FAILS
27 to make such opening and construct such culvert.

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1 Sec. 351. (1) Established COUNTY OR INTERCOUNTY drains may
2 be improved ~~for the benefit of those whose lands were improved~~
3 ~~by the original construction of such drain,~~ by the construction,
4 operation, and maintenance of A DAM OR dams ~~in drains to control~~
5 ~~flow, water levels and seepage and to provide for the removal of~~
6 ~~the drainage when necessary by the use of pumps and other mechan-~~
7 ~~ical operations.~~ CONSISTENT WITH PART 315 (DAM SAFETY) OF THE
8 NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT, 1994 PA 451,
9 MCL 324.31501 TO 324.31529. A NUMBER OF LANDOWNERS IN THE DRAIN-
10 AGE DISTRICT EQUAL TO 50% OF THE NUMBER OF LANDOWNERS WHOSE LANDS
11 ARE TRAVERSED BY THE DRAIN UPSTREAM FROM THE POINT WHERE A PRO-
12 POSED DAM IS TO BE LOCATED, OR IF THE DAM IS TO BE LOCATED ADJA-
13 CENT TO A DRAIN, MEASURED UPSTREAM THROUGH THE PROPOSED IMPOUND-
14 MENT, MAY PETITION THE DRAIN COMMISSIONER FOR THE COUNTY IN WHICH
15 THE DRAIN IS LOCATED TO CONSTRUCT, OPERATE, AND MAINTAIN A DAM OR
16 DAMS IN OR ADJACENT TO THE DRAIN TO CONTROL THE RATE OF FLOW
17 THROUGH OR INTO THE DRAIN, OR THE LEVEL OF WATER, OR THE AMOUNT
18 OF SEEPAGE, OR TO PROVIDE FOR REMOVAL OF DRAINAGE BY PUMPING AND
19 OTHER MECHANICAL OPERATIONS. THE PETITION SHALL BE ACCOMPANIED
20 BY A DESCRIPTION OF THE LAND OWNED BY EACH SIGNER WITHIN THE
21 DRAINAGE DISTRICT, AND BY A CERTIFICATE FROM THE COUNTY TREASURER
22 AS TO PAYMENT OF TAXES AND SPECIAL ASSESSMENTS AGAINST THE
23 LANDS. THE NAME OF ANY SIGNER AS TO WHOSE LAND THE CERTIFICATE
24 SHOWS TAXES OR ASSESSMENTS UNPAID FOR 3 YEARS SHALL NOT BE
25 COUNTED.

26 (2) INSTEAD OF A PETITION SIGNED BY LANDOWNERS, THE PETITION
27 MAY BE SIGNED SOLELY BY A MUNICIPALITY IF DULY AUTHORIZED BY ITS

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1 GOVERNING BODY, OR ANY COMBINATION OF MUNICIPALITIES, IF EACH
2 PETITIONING MUNICIPALITY WILL BE LIABLE TO ASSESSMENT AT LARGE
3 FOR PUBLIC HEALTH FOR ANY PART OF THE COST OF THE PROPOSED
4 IMPROVEMENT.

5 (3) THE PETITIONER OR PETITIONERS SHALL DEPOSIT WITH THE
6 COMMISSIONER OR DRAINAGE BOARD AN AMOUNT SUFFICIENT TO PAY PRE-
7 LIMINARY EXPENSES IF THE DRAIN IS DETERMINED NOT TO BE
8 PRACTICABLE.

9 (4) THE PETITION SHALL STATE THAT THE IMPROVEMENT IS NECES-
10 SARY TO PROPERLY DRAIN THE LANDS OR TO PROTECT THE LANDS THROUGH
11 WHICH THE DRAIN RUNS, OR TO PROTECT THE RIGHTS OF LANDOWNERS
12 ABOVE THE DAM OR DAMS, OR THE RIGHTS OF LANDOWNERS ADJACENT OR
13 CONTIGUOUS TO THE DRAINAGE DISTRICT, OR FOR THE PURPOSE OF
14 IRRIGATION. THE PETITION SHALL STATE THE DESIRED LOCATION OF THE
15 DAM OR DAMS, THE PROPOSED METHOD OF OPERATION AND OUTLET, AND HOW
16 HISTORICAL DRAINAGE IS TO BE MAINTAINED.

17 (5) IF CONSTRUCTION OF A DAM WILL AFFECT LANDS IN ANOTHER
18 COUNTY, THE COMMISSIONER SHALL NOTIFY THE DIRECTOR OF THE DEPART-
19 MENT OF AGRICULTURE AND THE COMMISSIONER IN EACH AFFECTED COUNTY
20 BY FIRST-CLASS MAIL. THE DRAIN COMMISSIONERS FROM EACH COUNTY
21 AND THE DIRECTOR OF THE DEPARTMENT OF AGRICULTURE OR A DEPUTY
22 DESIGNATED BY THE DIRECTOR CONSTITUTE THE DRAINAGE BOARD.

23 Sec. 352. (1) ~~When it appears upon the written petition of~~
24 ~~a number of freeholders in the drainage district equal to 50% of~~
25 ~~the number of freeholders whose lands are traversed by said drain~~
26 ~~from the point where said dam or dams are located to the upper~~
27 ~~terminus, that such improvement is desired to be made by damming~~

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1 ~~such drain and maintaining and operating such dam or dams to~~
2 ~~control flow, water levels and seepage or to provide for pumping~~
3 ~~the drainage where necessary from said drain or watercourse, and~~
4 ~~that such improvement and the maintenance and operation of such~~
5 ~~dam or dams is necessary to properly drain said lands and to pro-~~
6 ~~tect the lands through which said drain runs, or to protect the~~
7 ~~rights of freeholders above such dam or dams, or the rights of~~
8 ~~freeholders of land adjacent or contiguous to the drainage dis-~~
9 ~~trict, or for the purpose of irrigation, said petition stating~~
10 ~~where it is desired to construct said dam or dams and the pro-~~
11 ~~posed method of operation of such dam or dams to control flow,~~
12 ~~water levels or seepage, or how the drainage is to be removed and~~
13 ~~where it is to be emptied, the~~ THE commissioner OR DRAINAGE
14 BOARD shall, ~~as soon as practicable~~ NOT LESS THAN 15 DAYS OR
15 MORE THAN 60 DAYS after receipt of ~~such~~ THE petition, proceed
16 to examine ~~said~~ THE drain and ~~pass upon the necessity of such~~
17 ~~improvement and whether such~~ AT A HEARING CONDUCTED PURSUANT TO
18 SECTION 8 SHALL DETERMINE IF THE improvement is practicable and
19 conducive to the public health, convenience, or welfare. ~~, or an~~
20 ~~improvement or necessity to preserve the adjoining lands thereto,~~
21 ~~or to protect rights in lands, or for the purpose of irrigation.~~
22 THE COMMISSIONER OR DRAINAGE BOARD SHALL SERVE AS THE BOARD OF
23 DETERMINATION IN THESE PROCEEDINGS.

24 (2) IF THE COMMISSIONER OR DRAINAGE BOARD DETERMINES THAT
25 THE IMPROVEMENT IS NOT PRACTICABLE, THE COMMISSIONER OR DRAINAGE
26 BOARD SHALL ENTER ITS ORDER AND NO FURTHER ACTION SHALL BE
27 TAKEN. EXPENSES INCURRED SHALL BE PAID FROM THE DEPOSIT PROVIDED

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1 BY THE PETITIONER. ANY FUNDS REMAINING AFTER ALL EXPENSES HAVE
2 BEEN PAID SHALL BE RETURNED TO THE PETITIONER. IF THE COMMIS-
3 SIONER OR DRAINAGE BOARD DETERMINES THAT THE IMPROVEMENT IS PRAC-
4 TICABLE, THE COMMISSIONER OR DRAINAGE BOARD SHALL ISSUE AN ORDER
5 OF PRACTICABILITY AND SHALL FIX A TIME, DATE, AND PLACE TO HEAR
6 OBJECTIONS TO THE PROPOSED IMPROVEMENT. A QUALIFIED ENGINEER
7 SHALL BE APPOINTED TO EVALUATE THE IMPACT OF CONSTRUCTING THE DAM
8 OR DAMS.

9 (3) NOT MORE THAN 10 DAYS AFTER FILING AN ORDER OF PRACTICA-
10 BILITY, THE COMMISSIONER OR DRAINAGE BOARD SHALL NOTIFY BY
11 FIRST-CLASS MAIL THE GOVERNING BODY OF ANY MUNICIPALITY LIABLE TO
12 PAY A PERCENT OF THE COST OF THE IMPROVEMENT.

13 (4) AT A HEARING OF NECESSITY CALLED AS PROVIDED IN SECTION
14 122, THE COMMISSIONER OR DRAINAGE BOARD SHALL TAKE PUBLIC TESTI-
15 MONY AND SHALL, AFTER CONSIDERING THE FINDINGS OF THE ENGINEER,
16 ISSUE A FIRST ORDER OF DETERMINATION. IF THE DRAIN IS AN INTER-
17 COUNTY DRAIN, THE ORDER SHALL BE SIGNED BY THE CHAIRPERSON, WHO
18 SHALL ALSO PREPARE AND SIGN AN ORDER OF APPORTIONMENT BETWEEN
19 COUNTIES. IF THE DRAINAGE BOARD CANNOT AGREE UNANIMOUSLY ON THE
20 APPORTIONMENT BETWEEN COUNTIES, THE MATTER SHALL BE SUBMITTED TO
21 THE BOARD OF REVIEW IN THE MANNER PRESCRIBED IN SECTION 106 AND
22 THAT BOARD'S DECISION SHALL BE FINAL.

23 (5) IF THE DRAIN COMMISSIONER, OR A MAJORITY OF THE MEMBERS
24 OF THE DRAINAGE BOARD IN THE CASE OF AN INTERCOUNTY DRAIN, FINDS
25 THAT THE IMPROVEMENT IS OR IS NOT NECESSARY, A PERSON FEELING
26 AGGRIEVED BY THE DETERMINATION MAY INSTITUTE AN ACTION IN THE
27 CIRCUIT COURT FOR THE COUNTY IN WHICH THE DRAIN IS LOCATED. THE

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1 ACTION SHALL BE FILED BY THE AGGRIEVED PARTY WITHIN 10 DAYS AFTER
2 THE DETERMINATION OF NECESSITY OR NO NECESSITY.

3 (6) THE GOVERNING BODY OF A MUNICIPALITY AFFECTED BY THE
4 IMPROVEMENT MAY, WITHIN 20 DAYS AFTER THE HEARING AT WHICH A
5 DETERMINATION WAS MADE, APPEAL THE ORDER TO THE PROBATE COURT
6 HAVING JURISDICTION IN THE COUNTY IN WHICH THE MUNICIPALITY IS
7 LOCATED.

8 (7) IF A PROJECT IS DETERMINED NOT TO BE PRACTICABLE OR NEC-
9 ESSARY, EXPENSES INCURRED BY THE COMMISSIONER OR DRAINAGE BOARD
10 SHALL FIRST BE REIMBURSED FROM THE DEPOSIT PROVIDED FOR IN SEC-
11 TION 351. ANY REMAINING UNPAID EXPENSES SHALL BE PAID FROM THE
12 GENERAL FUND OF THE COUNTY.

13 Sec. 354. (1) THE COMMISSIONER OR DRAINAGE BOARD SHALL
14 SECURE PLANS, SPECIFICATIONS, AND AN ESTIMATE OF COST FROM AN
15 ENGINEER, AND SHALL ATTEMPT TO SECURE EASEMENTS FROM THE OWNER OF
16 EACH PARCEL AFFECTED BY THE IMPROVEMENT AS PROVIDED BY THIS ACT.
17 UPON THE COMMISSIONER'S ACQUISITION OF RELEASES OF THE RIGHT OF
18 WAY OR EASEMENTS, OR UPON THE DETERMINATION OF THE VESTING OF
19 TITLE PURSUANT TO THE UNIFORM CONDEMNATION PROCEDURES ACT, 1980
20 PA 87, MCL 213.51 TO 213.77, THE COMMISSIONER OR DRAINAGE BOARD
21 SHALL MAKE A FINAL ORDER OF DETERMINATION. THE ORDER SHALL
22 DESCRIBE THE PROJECT AND SHALL CONTAIN A DESCRIPTION OF LANDS
23 BENEFITED BY THE IMPROVEMENT.

24 (2) A DAY OF REVIEW OF APPORTIONMENTS SHALL BE CONDUCTED IN
25 THE MANNER PROVIDED IN SECTION 154. CONTRACTS SHALL BE LET AND
26 CONSTRUCTION UNDERTAKEN IN THE MANNER PROVIDED IN SECTION 221.

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1 (3) If ~~at any time~~ after the commissioner ~~has issued his~~
2 OR DRAINAGE BOARD ISSUES A first order of determination declaring
3 ~~such~~ THE improvement to be necessary, and before ~~the letting~~
4 ~~of any contract for constructing the same~~ A CONTRACT IS LET FOR
5 CONSTRUCTION OF THE IMPROVEMENTS, all of the owners of the land
6 through which or for the benefit of which ~~such~~ THE drain is
7 located ~~shall by themselves, their agents or attorneys,~~ MAY pay
8 ~~to the commissioner~~ all ~~the~~ costs and expenses thus far
9 incurred, ~~by him,~~ and shall severally or jointly enter into a
10 contract WITH THE COMMISSIONER OR DRAINAGE BOARD, with good and
11 sufficient sureties and in such sum as the commissioner ~~may~~ OR
12 DRAINAGE BOARD SHALL require, to construct ~~such improvements on~~
13 ~~such drain~~ THE IMPROVEMENT and pay all expenses necessary to be
14 incurred in the construction, maintenance, and operation of the
15 ~~same, then the commissioner may contract with such owner or~~
16 ~~owners, and such~~ IMPROVEMENT.

17 (4) THE CONTRACT PROVIDED FOR IN SUBSECTION (3) SHALL SPEC-
18 IFY DATES OF OPERATION AND LIMITATIONS, INCLUDING PROVISIONS FOR
19 EMERGENCY CONDITIONS, AND SHALL PROVIDE FOR TRIENNIAL INSPECTIONS
20 BY THE COMMISSIONER OR DRAINAGE BOARD. THE improvements when
21 accepted shall be certified by the commissioner OR DRAINAGE BOARD
22 as a drain constructed ~~in pursuance of the provisions of~~ UNDER
23 this act, and shall be recorded in the same manner as other
24 drains. If ~~such~~ THE contract is not fulfilled in the time
25 ~~limited therein~~ SPECIFIED IN THE CONTRACT, the commissioner OR
26 DRAINAGE BOARD shall contract with other parties for the
27 completion of the work and the parties so in default and their

1 sureties shall be liable for all costs and expenses attending
2 ~~such~~ THE default.

3 (5) ALL WORK DONE UNDER A CONTRACTUAL AGREEMENT PROVIDED FOR
4 IN THIS SECTION SHALL BE DONE UNDER THE SUPERVISION OF THE COM-
5 MISSIONER OR DRAINAGE BOARD.

6 Sec. 355. All ~~work done under the provisions of this act~~
7 ~~shall be under the supervision of the commissioner. All the~~
8 provisions of this act relative to proceedings, ~~after the filing~~
9 ~~of petition for the determination of the necessity, institution~~
10 ~~of condemnation proceedings and proceedings had thereon and the~~
11 ACQUISITION OF RIGHT OF WAY OR EASEMENT, construction, operation,
12 and maintenance of the improvements, ~~mentioned in such petition,~~
13 ~~and the~~ assessment and review, ~~and~~ levy and collection of
14 taxes, and all other provisions of ~~said~~ THIS act not inconsis-
15 tent with the provisions ~~of this act shall be applicable in the~~
16 construction, operation and maintenance of dams and the better
17 maintenance of such drainage work by embanking, pumping or other
18 mechanical operation or other work under the provisions of this
19 ~~act~~ GOVERNING A PETITION FILED UNDER SECTION 351, SHALL APPLY TO
20 IMPROVEMENTS UNDER THIS CHAPTER.

21 Sec. 381. ~~Whenever the~~ IF A DRAIN commissioner ~~of any~~
22 ~~county shall receive~~ RECEIVES a petition asking for the laying
23 out, construction, ~~cleaning out, deepening or widening of any~~
24 MAINTENANCE, OR IMPROVEMENT OF A drain, or a petition asking pro-
25 ceedings by virtue of which any assessment upon lands for bene-
26 fits received would result, ~~wherein such commissioner shall be~~
27 ~~interested by reason of himself, wife or child, owning~~ AND THE

1 COMMISSIONER OR THE SPOUSE OR CHILD OF THE COMMISSIONER OWNS
2 lands that would be liable to an assessment for benefits ~~upon~~
3 FROM the PROPOSED work or proceeding, ~~proposed to be done or~~
4 ~~had, and in cases where such commissioner may be~~ OR IF THE COM-
5 MISSIONER IS otherwise disqualified to act in the making of AN
6 apportionment of benefits, ~~such~~ THE commissioner shall file a
7 copy of ~~such~~ THE petition with the judge of probate of the
8 county, together with a SIGNED statement ~~signed by him,~~ showing
9 that he OR SHE is disqualified to act in making ~~such~~ THE appor-
10 tionment of benefits.

11 Sec. 382. ~~Upon~~ WHEN 15 DAYS AFTER receiving ~~such~~ THE
12 petition and ~~certificate aforesaid~~ SIGNED STATEMENT UNDER SEC-
13 TION 381, the judge of probate shall ~~, within not less than 15~~
14 ~~days,~~ appoint a disinterested DRAIN commissioner of an adjoining
15 or nearby county to make the apportionment of benefits on ~~said~~
16 THE drain. ~~It shall be the duty of said~~ THE disinterested com-
17 missioner ~~, so~~ appointed ~~, to~~ SHALL make and complete within
18 a period of 30 days, or within such reasonable time thereafter as
19 may be necessary, an apportionment of the benefits of ~~said~~ THE
20 drain and file the ~~same~~ APPORTIONMENT with the ~~said~~ disquali-
21 fied commissioner. ~~, and said~~ THE apportionment shall be
22 adopted for ~~said~~ THE drain, subject to the same rights of
23 appeal as provided in this act. ~~Said~~ THE disqualified commis-
24 sioner shall furnish the DISINTERESTED commissioner ~~so~~
25 ~~appointed~~ with a copy of ~~his~~ THE final order of determination
26 on ~~said~~ THE drain.

1 Sec. 384. The salary of the commissioner ~~so~~ appointed ~~by~~
2 ~~which~~ UNDER SECTION 382 shall be the same as that received ~~by~~
3 ~~him~~ from the county ~~of which he is~~ WHERE THE commissioner
4 SERVES. THE SALARY, together with all expenses actually and nec-
5 essarily incurred by ~~him~~ THE COMMISSIONER, shall be assessed
6 against the drain in connection with which ~~said~~ THE services
7 were performed and shall be paid in the same manner as other
8 expenses are paid.

9 Sec. 391. (1) Any drain or part thereof ~~which has ceased~~
10 ~~to be of public utility and~~ THAT is no longer necessary or con-
11 ducive to the public health, convenience, ~~and~~ OR welfare may be
12 declared to be abandoned and vacated in the manner ~~herein~~ pro-
13 vided IN THIS SECTION.

14 (2) Any ~~5 freeholders of lands~~ OWNERS OF LAND in a drain-
15 age district or the governing body of any public corporation in
16 whose limits a drain or part thereof is located may petition for
17 the abandonment and vacation of ~~a~~ THE drain or part thereof.
18 The petition shall be addressed to and filed with the DRAIN com-
19 missioner or drainage board having jurisdiction of ~~such~~ THE
20 drain. The commissioner or drainage board shall hold a meeting
21 to hear objections to the petition and to the abandonment and
22 vacation of ~~a~~ THE drain or part thereof ~~therein~~ requested IN
23 THE PETITION, and shall give notice of ~~such~~ THE meeting by
24 ~~posting in 5 public places in the drainage district and by~~ pub-
25 lication in a newspaper of general circulation in the drainage
26 district ~~which posting and publication shall occur~~ at least 10
27 days before the date of ~~such~~ THE meeting.

1 (3) Private rights of persons acquired by reason of the
2 establishment and construction of ~~such~~ THE drain or part
3 thereof shall not be interfered with ~~,~~ or ~~in any way be~~
4 impaired by ~~such~~ THE abandonment and vacation. If ~~it is~~
5 ~~determined at such~~ THE COMMISSIONER OR DRAINAGE BOARD DETERMINES
6 AT THE meeting that the drain or part thereof should be abandoned
7 and vacated, the commissioner or drainage board shall issue an
8 order to that effect. ~~and file the same with the commissioner of~~
9 ~~the county or counties involved. Easements~~ AN ORDER OF ABANDON-
10 MENT SHALL NOT BE MADE UNDER THIS SECTION OR MONEY DISBURSED
11 UNDER SECTION 392 UNLESS ALL DEBTS OF THE DRAIN ARE SATISFIED.
12 THE DRAIN COMMISSIONER OR DRAINAGE BOARD MAY LEVY A SPECIAL
13 ASSESSMENT TO SATISFY ANY SUCH DEBT, INCLUDING REIMBURSEMENT TO
14 THE DRAIN REVOLVING FUND, BEFORE AN ORDER IS ENTERED OR DISBURSE-
15 MENTS ARE MADE. SUBJECT TO SUBSECTION (4), EASEMENTS or
16 ~~rights-of-way~~ RIGHTS OF WAY for the drain or part thereof aban-
17 doned and vacated or easements or portions thereof no longer nec-
18 essary for drainage purposes shall be conveyed or released by the
19 commissioner or drainage board on behalf of the drainage
20 district. ~~If it be contemplated to construct a new drain or~~
21 ~~part thereof on or near the line of an existing drain or part~~
22 ~~thereof this may be accomplished without abandonment and vacation~~
23 ~~of the~~

24 (4) THE existing drain or part thereof ~~and the~~ NEED NOT BE
25 ABANDONED OR VACATED IF IT IS ANTICIPATED THAT A DRAIN OR PART
26 THEREOF WILL BE CONSTRUCTED OR RELOCATED ON OR NEAR THE LINE OF
27 THE EXISTING DRAIN. THE easements or ~~rights-of-way~~ RIGHTS OF

1 WAY of the existing drain or part thereof may be used for this
2 purpose. ~~: Provided, however, That~~ HOWEVER, if the contem-
3 plated project materially damages the property owner beyond the
4 existing easement, or if it materially burdens the existing ease-
5 ment, then the commissioner or drainage board shall secure an
6 additional easement for the contemplated project. ~~It shall not~~
7 ~~be necessary to abandon and vacate an~~ AN existing drain or part
8 thereof made unnecessary by a new drain or part thereof NEED NOT
9 BE ABANDONED OR VACATED until the new drain is constructed and
10 ready for service.

11 Sec. 392. (1) ~~Whenever any~~ IF A drain ~~shall have been~~
12 IS declared vacated and abandoned IN ITS ENTIRETY, as provided in
13 section 391, ~~it shall be the duty of~~ the DRAIN commissioner
14 ~~to~~ SHALL serve notice thereof forthwith upon the county trea-
15 surer of the county or counties in which the drainage district,
16 or any portion thereof, is situated. If there be any money cred-
17 ited to or belonging to the fund of such vacated and abandoned
18 drain, ~~it shall be the duty of~~ THE DRAIN COMMISSIONER OR DRAIN-
19 AGE BOARD MAY IN ITS DISCRETION PREPARE A REVISED ROLL TO ALLO-
20 CATE A PROPORTIONATE REFUND AMOUNT OF ANY SUCH FUND TO ALL THE
21 LANDS THAT WERE ASSESSED FOR THE COSTS OF THE VACATED AND ABAN-
22 DONED DRAIN. IF THE DRAIN COMMISSIONER OR DRAINAGE BOARD PRE-
23 PARES SUCH A REVISED ROLL, the county treasurer or treasurers ~~to~~
24 ~~transfer and pay over the same~~ SHALL PAY THE REFUND AMOUNT to
25 the treasurer or treasurers of the township or townships in which
26 the drain was located or in which assessments for benefits to be

1 received from such drain have been assessed and collected. ~~→~~

2 ~~Provided, That in all cases where~~

3 (2) IF the amount of ~~such~~ THE money ~~belonging to~~ IN the
 4 drain fund of ~~such~~ THE drain ~~, in the hands of the county~~
 5 ~~treasurer, shall be~~ IS insufficient to permit the refunding and
 6 paying over to such township treasurers all of the ~~moneys~~ MONEY
 7 assessed and collected in such townships, the county treasurer
 8 shall prorate the amounts so paid, ~~and each~~ LESS ALL COSTS
 9 ASSOCIATED WITH THE ABANDONMENT OF THE DRAIN. EACH township
 10 treasurer ~~shall be~~ IS entitled to receive such proportion of
 11 the ~~moneys~~ MONEY remaining in the fund of the vacated or aban-
 12 doned drain as the total amount of the assessments levied and
 13 collected in his OR HER township ~~and becoming a part of such~~
 14 FOR THE drain fund ~~shall~~ bear to all of the ~~moneys~~ MONEY
 15 assessed and collected and making up ~~such~~ THE fund. ~~In case~~
 16 IF it is necessary to prorate in ~~the~~ THIS manner, ~~provided,~~
 17 the county treasurer shall furnish to each township treasurer a
 18 statement showing the amount of money in the fund ~~at the time~~
 19 ~~such~~ WHEN THE drain was declared vacated and abandoned, and the
 20 various amounts assessed and collected for ~~such~~ THE DRAIN fund
 21 from the different townships entitled to share in the disburse-
 22 ment thereof.

23 Sec. 395. (1) The county drain commissioner may relinquish
 24 jurisdiction and control to a township, city, or village of any
 25 county drainage district upon which there is no outstanding
 26 indebtedness or contract liability and which is wholly located
 27 within the boundaries of a township, city, or village. ~~, and~~

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1 ~~thereafter~~ SUBSEQUENTLY, the county drain commissioner shall be
 2 relieved of, and the township, city, or village shall assume, the
 3 maintenance, jurisdiction, control, and operation ~~thereof~~ OF
 4 THE DRAIN and its ~~future~~ operation shall be financed in the
 5 same manner as is provided for special assessment districts
 6 within ~~such~~ THE township, city, or village. ~~∴ Provided, That~~
 7 ~~such proceeding shall have first been~~ HOWEVER, THE RELINQUISH-
 8 MENT MUST FIRST BE approved by a majority of the members elect of
 9 the county board of supervisors and by the resolution of the gov-
 10 erning body of the township, city, or village in which ~~such~~ THE
 11 drain is located. IF DRAIN JURISDICTION IS RELINQUISHED TO A
 12 TOWNSHIP, CITY, OR VILLAGE, ALL EASEMENTS AND RIGHTS OF WAY ARE
 13 TRANSFERRED FOR PURPOSES OF OPERATION AND MAINTENANCE OF THE
 14 DRAIN, AND THE DRAINAGE DISTRICT IS DISSOLVED AND NO LONGER
 15 WITHIN THE JURISDICTION AND CONTROL OF THE DRAIN COMMISSIONER.

16 (2) Any money ~~which shall be~~ in the drain fund of any
 17 ~~such~~ drainage district at the time jurisdiction ~~over it~~ is
 18 ~~transferred~~ RELINQUISHED as provided in this section shall be
 19 distributed in the ~~same~~ manner ~~as is~~ provided in sections
 20 ~~391~~ 392 to 394 ~~, inclusive, of this act~~ in the case of aban-
 21 doned or vacated drains.

22 Sec. 421. (1) ~~Whenever any person shall obstruct any~~ IF A
 23 PERSON OBSTRUCTS OR PERMITS THE OBSTRUCTION OF AN established
 24 drain, ~~it shall be the duty of~~ the DRAIN commissioner ~~to cause~~
 25 ~~such~~ OR DRAINAGE BOARD SHALL CAUSE THE obstruction to be
 26 removed. Any lessening of the CROSS-SECTION area of a drain ~~,~~

1 ~~which area shall be a cross section of the drain, shall be~~
2 ~~deemed~~ IS CONSIDERED to be an obstruction.

3 (2) The person causing ~~such~~ OR PERMITTING THE obstruction
4 ~~shall be~~ IS liable for the expense ~~attendant upon the~~ OF
5 removal ~~thereof~~ OF THE OBSTRUCTION, together with the charges
6 of the DRAIN commissioner OR DRAINAGE BOARD, and the ~~same~~ TOTAL
7 EXPENSE shall be a lien upon ~~the~~ THAT PERSON'S lands. ~~of the~~
8 party causing or permitting such obstruction, and all of the ANY
9 UNPAID PORTION OF THE TOTAL expense shall ~~by the commissioner~~
10 be reported BY THE COMMISSIONER OR DRAINAGE BOARD to the COUNTY
11 board of ~~supervisors~~ COMMISSIONERS, together with the report of
12 ~~his doings in the premises, and by said board ordered~~ THE WORK
13 PERFORMED. THE COUNTY BOARD OF COMMISSIONERS SHALL ORDER THAT
14 THE TOTAL EXPENSES BE spread upon the land of the ~~offending~~
15 party, should the same remain unpaid: ~~Provided, That the offend-~~
16 ~~ing party causing such~~ PERSON CAUSING OR PERMITTING THE
17 OBSTRUCTION. HOWEVER, THE PERSON CAUSING OR PERMITTING THE
18 obstruction shall be given a notice in writing of at least 5
19 CALENDAR days to remove ~~such~~ THE obstruction.

20 (3) This ~~provision as to obstruction of any drain shall~~
21 SECTION DOES not apply ~~where~~ IF the obstruction was caused by
22 natural causes. ~~, but~~ HOWEVER, the owner of ~~the stock who~~
23 shall permit his horses, cattle, pigs and other stock LIVESTOCK
24 PERMITTED to obstruct any drain ~~by tramping in it shall be~~
25 ~~deemed~~ IS CONSIDERED to be the party causing such obstruction.
26 ~~Nothing contained in this section shall in any way impede or bar~~

~~1 the right of any person to make criminal complaint under any
2 existing law for any obstruction of a drain.~~

3 (4) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, THE
4 DRAIN COMMISSIONER OR DRAINAGE BOARD MAY, BY A WRITTEN ORDER, TO
5 BE PERSONALLY SERVED OR DELIVERED BY FIRST-CLASS MAIL, REQUIRE
6 THE LAND OWNER OR PERSON DEEMED TO BE CAUSING OR PERMITTING AN
7 OBSTRUCTION TO REMOVE THE OBSTRUCTION AT THAT TIME OR WITHIN 5
8 CALENDAR DAYS IF, IN THE OPINION OF THE DRAIN COMMISSIONER OR
9 DRAINAGE BOARD, THE OBSTRUCTION CREATES AN EMERGENCY CONDITION
10 THAT ENDANGERS THE PUBLIC HEALTH, SAFETY, CONVENIENCE, OR WELFARE
11 OR CROPS OR OTHER PROPERTY, SAID NOTICE TO SPECIFY THE REASONS
12 FOR FURTHER ACTION.

13 (5) THE DRAIN COMMISSIONER OR DRAINAGE BOARD, INCLUDING AN
14 AGENT OR EMPLOYEE OF THE DRAIN COMMISSIONER OR DRAINAGE BOARD,
15 MAY ENTER UPON PROPERTY NOT WITHIN A DRAINAGE DISTRICT TO REMOVE
16 AN OBSTRUCTION IN A NATURAL WATERCOURSE THAT SERVES AS AN OUTLET
17 FOR A COUNTY OR INTERCOUNTY DRAIN. THE ENTRY MAY BE MADE UPON
18 REASONABLE NOTICE TO THE OWNER AND AT REASONABLE HOURS. AN ENTRY
19 MADE PURSUANT TO THIS SUBSECTION IS NOT A TAKING. THE OWNER OR
20 HIS OR HER REPRESENTATIVE SHALL BE GIVEN A REASONABLE OPPORTUNITY
21 TO ACCOMPANY THE DRAIN COMMISSIONER OR DRAINAGE BOARD DURING THE
22 ENTRY UPON THE PROPERTY. THE DRAIN COMMISSIONER OR DRAINAGE
23 BOARD SHALL BEAR THE COSTS OF REMOVAL OF THE OBSTRUCTION AND
24 SHALL MAKE RESTITUTION FOR ACTUAL DAMAGE RESULTING FROM THE
25 ENTRY.

26 (6) IF REASONABLE EFFORTS TO ACCOMPLISH ENTRY UNDER
27 SUBSECTION (5) HAVE BEEN OBSTRUCTED OR DENIED, THE DRAIN

1 COMMISSIONER OR DRAINAGE BOARD MAY COMMENCE A CIVIL ACTION IN THE
2 CIRCUIT COURT IN THE COUNTY IN WHICH THE PROPERTY OR ANY PART OF
3 THE PROPERTY IS LOCATED FOR AN ORDER PERMITTING ENTRY. THE COM-
4 PLAIN'T SHALL STATE THE FACTS MAKING THE ENTRY NECESSARY, THE DATE
5 ON WHICH ENTRY IS SOUGHT, AND THE DURATION AND THE METHOD PRO-
6 POSED FOR PROTECTING THE DEFENDANT AGAINST DAMAGE. THE COURT MAY
7 GRANT A LIMITED LICENSE FOR ENTRY UPON SUCH TERMS AS JUSTICE AND
8 EQUITY REQUIRE, INCLUDING THE FOLLOWING:

9 (A) A DESCRIPTION OF THE PURPOSE OF THE ENTRY.

10 (B) THE SCOPE OF ACTIVITIES THAT ARE PERMITTED.

11 (C) THE TERMS AND CONDITIONS OF THE ENTRY WITH RESPECT TO
12 THE TIME, PLACE, AND MANNER OF THE ENTRY.

13 (7) AN ENTRY MADE PURSUANT TO SUBSECTION (6) SHALL BE MADE
14 IN A MANNER THAT MINIMIZES ANY DAMAGE TO THE PROPERTY AND ANY
15 HARDSHIP, BURDEN, OR DAMAGE TO A PERSON IN LAWFUL POSSESSION OF
16 THE PROPERTY.

17 (8) THIS SECTION DOES NOT IMPEDE OR BAR THE RIGHT OF THE
18 DRAIN COMMISSIONER, DRAINAGE BOARD, OR ANY OTHER PERSON TO SEEK
19 RELIEF UNDER ANY OTHER PERTINENT PROVISIONS OF THIS ACT INCLUDING
20 BUT NOT LIMITED TO CIVIL OR CRIMINAL REMEDIES.

21 Sec. 422. (1) ~~Railroad~~ THE HIGHWAY AUTHORITY HAVING
22 JURISDICTION OVER ANY HIGHWAY, A RAILROAD or railway ~~companies~~
23 COMPANY, OR A telephone, telegraph, or pipeline ~~companies and~~
24 ~~other utilities~~ OR OTHER UTILITY shall not obstruct established
25 drains ~~, nor shall they lessen the area of any~~ OR DECREASE THE
26 DESIGN CAPACITY OF A drain through ~~their~~ ITS track bed or right
27 of way. ~~The area herein referred to is a cross section of the~~

~~1 drain. In case any~~ IF such A company or utility, without legal
~~2 right, has constructed or shall construct any~~ CONSTRUCTS A
~~3 bridge, culvert, pipeline, or conduit over any established drain~~
~~4 whereby the area aforesaid~~ DESIGN CAPACITY OF THE DRAIN is
~~5 decreased, the removal of such~~ THE bridge, culvert, pipeline,
~~6 or conduit shall not be deemed~~ CONSIDERED an element of damage
~~7 in proceedings to deepen and widen such~~ THE drain through
~~8 such~~ THE track bed or right of way. ~~In case it is proposed to~~
~~9 construct a~~ A pipeline, sewer, or conduit ~~within, over or~~
~~10 across any county, such construction shall be of a nature~~ SHALL
~~11 BE SO CONSTRUCTED and laid at such a depth at the point of cross-~~
~~12 ing of any~~ AN established public drain ~~as~~ THAT IT will not
~~13 interfere with said~~ THE established public drain. The consent
~~14 of the county drain commissioner or board of public works of any~~
~~15 municipality shall be obtained before the work of such~~ con-
~~16 struction is commenced. and such~~ THE drain commissioner ~~is~~
~~17 hereby authorized to~~ MAY grant ~~such~~ consent upon such terms
~~18 and conditions as may be reasonable and proper under the~~
~~19 circumstances. then existing. In case any~~

~~20 (2) IF A railroad or railway company —, OR A telephone,~~
~~21 telegraph, or pipeline company or other utilities shall obstruct~~
~~22 any~~ UTILITY OBSTRUCTS AN established drain, or ~~has constructed~~
~~23 or shall construct~~ any bridge, culvert, pipeline, ~~or~~ conduit,
~~24 sewer, or other structure over, under, or through any established~~
~~25 drain, leaving less capacity to the drain than such drain is~~
~~26 legally entitled to~~ THE DRAIN WITH LESS THAN ITS DESIGN
~~27 CAPACITY, in accordance with the rights for such drain as~~

1 established by proper drain proceedings or as established by
2 other legal methods prior to the date of construction of ~~any~~
3 ~~such~~ THE obstruction, the county drain commissioner or the board
4 of public works, as the case may be, may, by mandamus proceedings
5 in the circuit court of the county in which ~~such~~ THE obstruc-
6 tion ~~shall occur~~ IS LOCATED, compel the removal of ~~such~~ THE
7 obstruction. If necessary, issues of fact may be framed in such
8 proceedings. ~~In case the court shall find such drain to have~~
9 IF THE COURT FINDS THAT THE DRAIN HAS been obstructed, it shall
10 issue a preemptory mandamus compelling ~~such~~ THE company to
11 remove ~~such~~ THE obstruction. ~~The court may award costs in its~~
12 discretion as in other mandamus proceedings. ~~The practice herein~~
13 ~~shall be the same as in other motions for mandamus.~~

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

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1 (2) Disposal plants, filtration beds, and other mechanical
2 devices to properly purify the flow of ~~any~~ A drain may be con-
3 structed as a part of ~~any established~~ THE drain. ~~, and the~~
4 THE cost of construction OF SUCH PURIFICATION FACILITIES shall be
5 paid for in the same manner as provided for in this act for other
6 drainage costs. ~~Plants, beds, or devices~~ THE PURIFICATION
7 FACILITIES may be described in the petition for the location,
8 establishment, and construction of drains or in the petition for
9 the ~~cleaning, widening, deepening, straightening, or extending~~
10 MAINTENANCE OR IMPROVEMENT of drains, or in the application for
11 the laying out of a drainage district. Petitions for the con-
12 struction of ~~plants, beds, and devices~~ THE PURIFICATION
13 FACILITIES for use on any established drain may be filed by the
14 same persons and shall be received and all proceedings on the
15 petitions SHALL BE HELD in the same manner as ~~other petitions~~
16 for any drainage construction under this act.

17 (3) If the department of environmental quality determines
18 that sewage or wastes carried by any county or intercounty drain
19 constitutes unlawful discharge as prescribed by section 3109 or
20 3112 of part 31 of ~~Act No. 451 of the Public Acts of 1994, being~~
21 ~~sections 324.3109 and 324.3112 of the Michigan Compiled Laws~~ THE
22 NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT, 1994 PA 451,
23 MCL 324.3109 AND 324.3112, that 1 or more users of the drain are
24 responsible for the discharge of sewage or other wastes into the
25 drain, and that the cleaning out of the drain or the construction
26 of disposal plants, filtration beds, or other mechanical devices
27 to purify the flow of the drain is necessary, the department of

1 environmental quality may issue to the drain commissioner an
2 order of determination identifying such users and pollutants,
3 under section 3112 of ~~Act No. 451 of the Public Acts of 1994,~~
4 ~~being section 324.3112 of the Michigan Compiled Laws~~ PART 31
5 (WATER RESOURCES PROTECTION) OF THE NATURAL RESOURCES AND ENVI-
6 RONMENTAL PROTECTION ACT, 1994 PA 451, MCL 324.3112. The order
7 of determination constitutes a petition ~~calling~~ for the con-
8 struction of ~~disposal~~ PURIFICATION facilities or other appro-
9 priate measures by which the unlawful discharge may be abated or
10 purified. The order of determination serving as a petition is in
11 lieu of the determination of necessity by a drainage board pursu-
12 ant to chapter 20 or 21 or section 122 or 192 or a determination
13 of necessity by a board of determination pursuant to section 72
14 or 191, whichever is applicable. A copy of the findings of the
15 department shall be attached to the order of determination.
16 ~~which~~ THE ORDER OF DETERMINATION shall require no other signa-
17 ture than that of the director of the department of environmental
18 quality.

19 (4) Upon receipt of the order of determination, the drain
20 commissioner or the drainage board shall proceed as provided in
21 this act to locate, establish, and construct a drain. If the
22 responsible users of the drain are determined to be public corpo-
23 rations in the drainage district, the drain commissioner or the
24 drainage board shall proceed as provided in chapters 20 and 21,
25 as may be appropriate, using the order of determination as the
26 final order of determination of the drainage board. If the
27 responsible users are determined to be private persons, the drain

1 commissioner shall proceed as provided in chapters 8 and 9, using
2 the order of determination as the first order of determination.

3 (5) ~~-(4)-~~ Plans and specifications for the construction as
4 part of a drain of ~~any disposal plant, filtration bed, or other~~
5 ~~mechanical device to properly purify the flow of the drain~~
6 PURIFICATION FACILITIES shall be prepared by the drain commis-
7 sioner or the drainage board. Contracts for construction shall
8 be let in the manner provided in this act. To meet the cost of
9 any preliminary engineering studies for the construction of
10 ~~abatement or~~ purification facilities, the drain commissioner or
11 the drainage board shall apportion the cost among the several
12 parcels of land, highways, and municipalities benefited thereby
13 in the same manner as provided in chapter 7 or against the public
14 corporations affected by the order of determination in the same
15 manner as provided in chapters 20 and 21. The costs and charges
16 for maintenance shall be apportioned and assessed each year. If
17 the apportionment is the same as the last recorded apportionment,
18 a day of review or a hearing on apportionments is not necessary,
19 but if the apportionment is changed, notice of a day of review or
20 a hearing on apportionments shall be given to each person whose
21 percentage is raised.

22 (6) ~~-(5)-~~ Land may be acquired as a site for the construc-
23 tion of such ~~plants, beds, and devices~~ PURIFICATION FACILITIES,
24 and releases of land may be obtained in the same manner as pro-
25 vided in this act for other lands acquired for right of way.

26 (7) ~~-(6)-~~ A person shall not connect sewage or other waste
27 to a county or intercounty drain except with the written approval

1 of the appropriate commissioner or the drainage board indorsed
2 upon a written application for such service and the payment of a
3 service fee of not to exceed \$50.00 for each connection to a cov-
4 ered drain. The application shall include information showing
5 that all other local, state, and federal approvals related to the
6 sewage or waste have been obtained.

7 (8) ~~-(7)-~~ The fee provided for in subsection (6) shall be
8 set and collected by the drain commissioner, as approved by the
9 county board of commissioners or the drainage board, and depos-
10 ited with the county treasurer, to be credited to the drain fund
11 set up for the maintenance or construction of the drain. The
12 commissioner or the drainage board shall keep a record of appli-
13 cations made and the action on the applications. The commis-
14 sioner or the drainage board may reject applications for or
15 require such modification in requested applications for sewer
16 connections to county drains as necessary to attain the objec-
17 tives set forth in this section.

18 (9) ~~-(8)-~~ Subject to the review and approval of the depart-
19 ment of environmental quality, the drain commissioner or drainage
20 board may study the requirements of persons for flood control or
21 ~~drainage~~ POLLUTION CONTROL projects ~~including~~ FOR THE PROTEC-
22 TION OF THE PUBLIC HEALTH, SAFETY, AND WELFARE. SUCH PROJECTS
23 MAY INCLUDE sewage disposal systems, storm sewers, sanitary
24 sewers, combined sanitary and storm sewers, sewage treatment
25 plants, ~~and all~~ OR other plants, works, instrumentalities, and
26 properties useful ~~in connection with~~ FOR the collection,
27 treatment, ~~and~~ OR disposal of sewage and industrial wastes or

1 agricultural wastes or run-off. ~~, to abate pollution or decrease~~
2 ~~the danger of flooding. The objective of such studies shall be~~
3 ~~that sewers, drains, and sewage disposal facilities are made~~
4 ~~available to persons situated within the territorial limits of~~
5 ~~any drainage district or proposed drainage district as necessary~~
6 ~~for the protection of public health and the promotion of the gen-~~
7 ~~eral welfare.~~

8 (10) ~~(9)~~ The drainage board or drain commissioner may
9 cooperate, negotiate, and enter into contracts with other govern-
10 mental units and agencies or with any public or private corpora-
11 tion including the United States of America, and ~~to take such~~
12 ~~steps and perform such acts and execute such documents as may be~~
13 ~~necessary to take advantage of any act of the congress of the~~
14 ~~United States which may make available funds~~ MAY DO WHAT IS NEC-
15 ESSARY TO OBTAIN FUNDS AVAILABLE UNDER FEDERAL LAW for any of the
16 purposes described in this section.

17 (11) ~~(10)~~ Failure to comply with any of the provisions of
18 this section subjects the offender to the penalties described in
19 section ~~602~~ 616. However, for each offense, a person who vio-
20 lates subsection (6) is guilty of a misdemeanor punishable by a
21 fine of not more than \$25,000.00 or imprisonment for not more
22 than 90 days, or both. In addition, the person may be required
23 to pay the costs of prosecution and the costs of any emergency
24 abatement measures taken to protect public health or the
25 environment. Payment of a fine or costs under this subsection
26 does not relieve a person of liability for damage to natural
27 resources or for response activity costs under the natural

1 resources and environmental protection act, ~~Act No. 451 of the~~
2 ~~Public Acts of 1994, being sections 324.101 to 324.90106 of the~~
3 ~~Michigan Compiled Laws~~ 1994 PA 451, MCL 324.101 TO 324.90106.

4 (12) ~~(11)~~ As used in this section, "person" means an indi-
5 vidual, partnership, public or private corporation, association,
6 governmental entity, or other legal entity.

7 Sec. 425. (1) A landowner in the drainage district whose
8 land requires additional drainage may petition the DRAIN commis-
9 sioner OR DRAINAGE BOARD for permission to construct an open or
10 closed drain, or a combination thereof, to a regularly estab-
11 lished drain, and permission shall be granted by the commissioner
12 or drainage board ~~when~~ IF, in ~~their opinion~~ THE OPINION OF
13 THE COMMISSIONER OR THE DRAINAGE BOARD, ~~the nature of~~ the
14 ground to be crossed ~~will admit thereof~~ IS SUITABLE FOR A DRAIN
15 and the surface of the land can be restored. ~~and for~~ FOR that
16 purpose the drain may traverse the lands of other ~~freeholders~~
17 LANDOWNERS in the district. Before permission may be granted by
18 the DRAIN commissioner OR DRAINAGE BOARD, consent in writing by
19 the owner or owners of the lands to be traversed by the proposed
20 drain shall be obtained. If permission TO CONSTRUCT THE DRAIN
21 ACROSS ADJOINING PROPERTIES is refused by the owner or owners,
22 ~~of the lands to be traversed by the proposed drain,~~ the drain
23 may be established by following the provisions of this act gov-
24 erning the location, establishment, and construction of county or
25 intercounty drainage districts and drains therein. AN APPLICA-
26 TION TO LAY OUT AND DESIGNATE A DRAINAGE DISTRICT OR A PETITION

1 TO LOCATE, ESTABLISH, AND CONSTRUCT A DRAIN UNDER THIS SECTION
2 NEED ONLY BE SIGNED BY THE PETITIONING LANDOWNER OR OWNERS.

3 (2) The entire expense ~~thereof~~ TO DESIGN AND CONSTRUCT A
4 DRAIN UNDER THIS SECTION shall be borne by the petitioner, and
5 the DRAIN construction ~~of an open or closed drain or combination~~
6 ~~thereof~~ shall be done at ~~a~~ THE time and in ~~a~~ THE manner ~~as~~
7 ~~the~~ PRESCRIBED BY THE DRAIN commissioner or drainage board.
8 ~~shall prescribe. When drains are constructed, the drain~~
9 ~~entrance shall be substantially protected from driftwood and~~
10 ~~debris. An application to lay out and designate a drainage dis-~~
11 ~~trict or petition to locate, establish, and construct a drain~~
12 ~~under the foregoing provisions of this section shall only require~~
13 ~~the signature of the petitioning landowner or owners, other pro-~~
14 ~~visions of this act notwithstanding. If permission is granted to~~
15 ~~tile the source of a drain, the DRAIN commissioner OR DRAINAGE~~
16 ~~BOARD shall further prescribe the amount and part of the drain to~~
17 ~~be tiled and the manner of tiling.~~

18 (3) A person through whose land an open drain has been
19 established and constructed UNDER THIS ACT may make a written
20 request to the county drain commissioner OR DRAINAGE BOARD to be
21 permitted, at ~~his own expense, to tile and cover with earth the~~
22 ~~whole or a part thereof that may traverse his land, and the NO~~
23 ~~EXPENSE TO THE DISTRICT, TO ENCLOSE THAT PART OF THE DRAIN THAT~~
24 ~~TRAVERSES HIS OR HER LAND. THE commissioner may grant the~~
25 ~~request SUBJECT TO RECEIPT OF A NEW EASEMENT, but in doing so~~
26 ~~he~~ shall prescribe the size of ~~the~~ tile AND TYPE OF
27 CONSTRUCTION to be used. A DEPOSIT OR BOND TO GUARANTEE

1 CONSTRUCTION MAY BE REQUIRED AND ADMINISTERED AS PROVIDED IN
2 SECTION 433. A permit shall not be issued to ~~tile or crock an~~
3 ~~established drain that~~ ENCLOSE ANY PORTION OF A COUNTY OR INTER-
4 COUNTY DRAIN IF THE ENCLOSURE will decrease the ~~area~~ DESIGN
5 CAPACITY of the drain as LAST established.

6 Sec. 429. ~~Subject~~ A COUNTY DRAIN COMMISSIONER, SUBJECT to
7 the ~~consent and~~ approval of the ~~several boards of supervisors~~
8 ~~of this state and the~~ COUNTY BOARD OF COMMISSIONERS, OR THE
9 DRAINAGE BOARD OF AN INTERCOUNTY DRAINAGE DISTRICT, SUBJECT TO
10 THE APPROVAL OF THE COUNTY boards of ~~supervisors~~ COMMISSIONERS
11 of the counties comprising THE intercounty drainage ~~districts,~~
12 ~~the several county drain commissioners and the drainage boards of~~
13 ~~intercounty drainage districts are hereby authorized to grant~~
14 ~~unto~~ DISTRICT MAY GRANT TO the United States ~~of America~~ the
15 right to use all the easements and rights of way conveyed to
16 ~~their respective drainage districts~~ THE DRAIN COMMISSIONER'S
17 DRAINAGE BOARD'S DRAINAGE DISTRICT or to any county or counties
18 lying wholly or in part in ~~such districts~~ THE DRAINAGE
19 DISTRICT, for the construction and maintenance of ~~any~~ A county
20 or intercounty drain by the United States in connection with any
21 flood control project undertaken by the United States, ~~acting~~
22 ~~through its war department or any other federal department or~~
23 ~~agency~~ INCLUDING ANY AGENCY OF THE UNITED STATES. ~~In such~~
24 ~~cases in which~~ IF the work is to be performed at the expense of
25 the United States, it ~~shall not be~~ IS NOT necessary for the
26 drain commissioner or drainage board to advertise for bids or to

1 let contracts for the construction or maintenance of ~~any such~~
2 THE flood control project.

3 Sec. 430. (1) ~~Whenever any~~ IF A county or intercounty
4 drain is used for the transportation of sanitary sewage, the
5 county or counties within whose boundaries the drainage district
6 lies may contract under ~~the provisions of Act No. 129 of the~~
7 ~~Public Acts of 1943, as amended, being sections 123.231 to~~
8 ~~123.235 of the Compiled Laws of 1948,~~ 1943 PA 129, MCL 123.231
9 TO 123.236, or any other applicable act, for the disposal of
10 sewage therefrom, including any storm water necessarily mixed
11 therewith. ~~In such case~~ IF SUCH A CONTRACT IS ENTERED INTO,
12 the drain commissioner or the drainage board may fix and collect
13 charges to cover the cost of the treatment and disposal of sani-
14 tary sewage. ~~Such~~ THE charges shall be approved by the major-
15 ity vote of the members-elect of the COUNTY board of
16 ~~supervisors~~ COMMISSIONERS. The charges may be made to each
17 user of the services or may be made to public corporations.
18 Contracts for periods not exceeding 50 years may be made between
19 the county and public corporations to be so served, in respect to
20 sewage disposal services, when approved by the governing bodies
21 of the several parties thereto.

22 (2) Charges for sewage disposal services furnished to ~~any~~
23 A premises shall be a lien ~~thereon~~ ON THE PREMISES from the
24 date ~~such~~ THE charges are due. ~~and any charges~~ CHARGES delin-
25 quent for 6 months or more shall be certified annually to the
26 proper tax assessing officer or agency who shall enter the ~~same~~
27 CHARGES upon the next tax roll against the premises to which

1 ~~such~~ THE services ~~shall have been rendered, and the~~ WERE
2 RENDERED. THE charges shall be collected and the lien shall be
3 enforced in the same manner as provided for the collection of
4 taxes assessed upon ~~such~~ THE roll and the enforcement of the
5 TAX lien. ~~therefor.~~ The time and manner of certification and
6 the other details in respect to the collection of ~~such~~ THE
7 charges and the enforcement of ~~such~~ THE lien shall be pre-
8 scribed by the governing body of the public corporation in which
9 the lands are located. The payment of charges for sewage dis-
10 posal services to any premises may be enforced by discontinuing
11 either the water service or the sewage disposal service to ~~such~~
12 THE premises, or both.

13 (3) The charges for sewage disposal services may also
14 include the cost of the operation and maintenance of any physical
15 structures and any administrative expenses in connection with the
16 transportation, treatment, and disposal of sanitary sewage.

17 Sec. 431. (1) The drain commissioner or drainage board may
18 contract or make agreements with the federal government, includ-
19 ing any agency ~~thereof~~ OF THE FEDERAL GOVERNMENT, whereby the
20 federal government will pay the whole or any part of the cost of
21 the project or will perform the whole or any part of the work
22 connected ~~therewith, which~~ WITH THE PROJECT. THE contract or
23 agreement may include any specific terms required by act of con-
24 gress or federal regulation, not in conflict with state law, as a
25 condition for participation on the part of the federal
26 government.

1 (2) The drain commissioner or drainage board may contract or
2 make agreements with any private corporation or with any public
3 corporation, including any agency thereof, in respect to any
4 matter connected with the construction, operation or maintenance
5 of any flood control or drainage project or combination thereof.
6 The contract or agreement may provide that any payments made or
7 work done by the public corporation shall relieve it in whole or
8 in part from assessment for the cost of the project.

9 (3) ~~No construction~~ CONSTRUCTION work shall NOT be under-
10 taken by the drain commissioner or drainage board until bids have
11 been advertised for and received for the performance of ~~such~~
12 THE work, but this ~~provision shall~~ REQUIREMENT DOES not apply
13 to work to be performed solely by the federal government or a
14 public corporation at its expense.

15 (4) The drain commissioner or drainage board may contract or
16 make agreements with private and public corporations and with the
17 federal government including any agency thereof for the purpose
18 of expanding any flood control or drainage project or combination
19 thereof to include the conservation and utilization of soil and
20 water for recreation and other beneficial purposes. The con-
21 tracts or agreements shall provide for an equitable sharing of
22 the costs of the expanded flood control or drainage project or
23 combination thereof and the cost borne by a drainage district
24 shall not be in excess of the amount which can be attributed
25 solely to drainage and flood control. The drain commissioner or
26 drainage board, may acquire by gift or purchase the necessary
27 lands, and rights of way for the purposes of any expanded flood

1 control or drainage project or combination thereof. The drain
2 commissioner or drainage board may acquire by condemnation pro-
3 ceedings ~~similar to those provided in chapter 4 and chapter 6 of~~
4 ~~this act~~ UNDER SECTION 75, the necessary lands and rights of way
5 for any expanded flood control or drainage project or combination
6 thereof ~~which shall~~ THAT WILL be undertaken jointly with a
7 public corporation or the federal government. The drain commis-
8 sioner or drainage board may pay for the costs of lands taken by
9 condemnation for an expanded flood control or drainage project or
10 combination thereof, undertaken jointly with a public corporation
11 or the federal government, but the public corporation or federal
12 government shall promptly reimburse the drainage district for all
13 costs of acquisition in excess of those costs directly attribut-
14 able to drainage and flood control.

15 ~~The term "public corporation" includes the state, counties,~~
16 ~~cities, villages, townships, metropolitan districts and authori-~~
17 ~~ties created by or pursuant to state statutes.~~

18 Sec. 433. (1) An existing intracounty or intercounty drain-
19 age district may be enlarged and ~~the~~ AN ESTABLISHED drain
20 ~~located in the district~~ may be extended or have branches added
21 to provide ~~drainage~~ service to ~~lands not originally~~ LAND
22 within the EXISTING boundaries of ~~the~~ A drainage district OR TO
23 PROVIDE SERVICE TO LAND CONTIGUOUS TO A DRAINAGE DISTRICT, by
24 agreement between the drain commissioner or the drainage board
25 and the owner of the ~~lands; or if there is a developer of the~~
26 ~~lands who is not the owner, between the drain commissioner or the~~
27 ~~intercounty drainage board and the owner and the developer of the~~

1 ~~lands~~ LAND. The agreement shall obligate the owner ~~and the~~
2 ~~developer, if any, of the lands to be added to the drainage~~
3 ~~district~~ OF THE LAND to construct, in accordance with plans and
4 specifications prepared by or approved by the drain commissioner
5 or drainage board, the necessary and adequate drainage facilities
6 ~~on the lands to be added and in the existing drainage district~~
7 ~~to connect the lands to the existing drain in the drainage~~
8 ~~district~~ and to pay the cost ~~of~~ TO CONSTRUCT the drainage
9 facilities, including right of way, EASEMENTS, engineering,
10 inspection, administration, and legal expenses incurred by the
11 drain commissioner or the drainage board. ~~, or to deposit with~~
12 ~~the drain commissioner or drainage board, upon execution of the~~
13 ~~agreement,~~ THE DRAIN COMMISSIONER OR DRAINAGE BOARD MAY REQUIRE
14 A GOOD FAITH DEPOSIT OR BOND EQUAL TO the estimated cost of the
15 construction and expenses. THE AMOUNT OF THE DEPOSIT OR BOND
16 SHALL BE REFUNDED TO THE OWNER, OR THE BOND RETURNED, UPON FINAL
17 ACCEPTANCE OF THE WORK BY THE DRAIN COMMISSIONER OR DRAINAGE
18 BOARD.

19 (2) Before ~~any~~ AN agreement is approved and executed on
20 behalf of a drainage district by the drain commissioner or drain-
21 age board, there shall be obtained, at the expense of the owner
22 ~~or developer of the lands to be added~~ OF THE LAND, a certifi-
23 cate ~~,~~ from a ~~registered~~ LICENSED professional engineer AND
24 satisfactory to the drain commissioner or ~~the~~ drainage board.
25 ~~, to the effect that~~ THE CERTIFICATE SHALL CERTIFY BOTH OF THE
26 FOLLOWING:

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1 (A) THAT the lands to be added naturally drain into the area
2 served by the existing drain or that the existing drain is the
3 only reasonably available outlet for the drainage from the lands
4 to be added. ~~and that~~

5 (B) THAT there is ~~existing~~ capacity in the existing drain
6 to serve the ~~lands to be~~ added LANDS OR TO ACCOMMODATE ADDI-
7 TIONAL DRAINAGE PROVIDED without detriment to or diminution of
8 the drainage service provided or to be provided ~~,~~ in the fore-
9 seeable future, to the area in the existing drainage district.

10 (3) If the ~~existing~~ drain in the existing drainage dis-
11 trict has been financed by the levy of drain special assessments
12 on the lands in the ~~drainage~~ district and if the basis of spe-
13 cial assessment as applied to the lands to be added to the drain-
14 age district would result in a drain special assessment on the
15 ADDED lands ~~to be added~~ in an aggregate principal amount
16 greater than the costs and expenses to be paid or incurred by the
17 owner ~~and developer, if any, of the lands for the new~~ OF THE
18 LAND TO CONSTRUCT ADEQUATE drain facilities at the time of enter-
19 ing into the agreement, then the owner ~~or developer~~ OF THE LAND
20 shall also pay the amount of the excess to the drainage district
21 at the time of execution of the agreement. In addition, the
22 ~~developer or~~ owner of the added ~~lands~~ LAND shall pay a pro
23 rata equitable share of the cost of the original construction of
24 the drain, if any.

25 (4) ~~(3) Lands~~ LAND added to ~~any~~ A drainage district by
26 agreement shall be liable from and after the date of THE
27 agreement for all assessments levied ~~after the date of the~~

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1 ~~agreement~~ for operation and maintenance of the drain, including
2 the extension of the drain pursuant to the agreement, and the
3 ~~lands~~ LAND shall THEREAFTER be a part of the drainage district
4 for all other purposes and procedures set forth in this act. All
5 drain facilities, ~~and all~~ rights of way, easements, or property
6 in which the facilities are located, acquired, or constructed
7 pursuant to the agreement ~~to add lands~~ shall be dedicated to
8 public use or conveyed or transferred to the drainage district.
9 ~~and the~~ THE drain facilities shall be a part of the drain the
10 same as if originally located, established, and constructed ~~by~~
11 ~~procedures set forth in~~ UNDER this act. ~~as a part of the origi-~~
12 ~~nal drain.~~

13 (5) ~~(4) An existing intracounty or intercounty drain may be~~
14 ~~extended or have branches added to provide additional service to~~
15 ~~lands within the drainage district by agreement between the drain~~
16 ~~commissioner or the drainage board and the owner of the lands; or~~
17 ~~if there is a developer of the lands who is not the owner,~~
18 ~~between the drain commissioner or the drainage board and the~~
19 ~~owner and the developer of the lands, pursuant to the procedures~~
20 ~~and conditions set forth in this section. The affected public-~~
21 ~~PUBLIC corporations or municipalities in which the proposed~~
22 ~~lands are to be added will~~ AFFECTED BY AN AGREEMENT PROVIDED FOR
23 IN THIS SECTION SHALL be apprised of the agreement by the drain
24 commissioner or drainage board ~~and who shall also publish~~
25 ~~notice~~ BY FIRST-CLASS MAIL OR PERSONAL SERVICE. NOTICE of the
26 agreement SHALL ALSO BE PUBLISHED in a newspaper of general
27 circulation in the drainage district. ~~in question.~~

1 (6) ~~-(5)-~~ By agreement with a landowner, ~~and the developer,~~
2 ~~if any,~~ the drain commissioner or ~~intercounty~~ drainage board
3 may establish an existing private drain ~~which~~ THAT IS WITHIN A
4 DRAINAGE DISTRICT AND THAT was constructed by the landowner ~~or~~
5 ~~developer~~ to service an area on his or her own land. ~~as a~~
6 ~~county or intercounty drain.~~ THE LANDOWNER SHALL PROVIDE PLANS
7 AND EASEMENTS IN FORM ACCEPTABLE TO THE DRAIN COMMISSIONER OR
8 DRAINAGE BOARD.

9 (7) ~~-(6)-~~ If a drain established pursuant to subsection
10 ~~-(5)-~~ (6) adds lands to an existing drainage district, ~~the pro-~~
11 ~~visions of subsections (2) and (3) shall~~ SUBSECTIONS (3) AND (4)
12 apply.

13 (8) ~~-(7)-~~ If a drain established pursuant to subsection
14 ~~-(5)-~~ (6) is independent from an existing drainage district, a
15 certificate shall be obtained ~~,~~ AS PROVIDED IN SUBSECTION (2)
16 AND at the expense of the landowner. ~~or developer of the lands~~
17 ~~served by the proposed drain, from a registered professional~~
18 ~~engineer satisfactory to the drain commissioner or the inter-~~
19 ~~county drainage board to the effect that the outlet for the~~
20 ~~existing drain is the only reasonably available outlet for the~~
21 ~~drain and that there is sufficient capacity in the existing~~
22 ~~outlet for the proposed drain to serve as an adequate outlet~~
23 ~~without detriment to or diminution of the drainage service which~~
24 ~~the outlet presently provides.~~ All drain facilities, ~~and all~~
25 rights of way, easements, or property in which the facilities are
26 located, acquired, or constructed pursuant to the agreement to
27 establish the drain shall be dedicated to public use or conveyed

1 or transferred to the drainage district. ~~and the~~ THE drain
2 facilities and drainage district shall be an established drain
3 and drainage district the same as if originally laid out and des-
4 igned, located, established, and constructed ~~by procedures set~~
5 ~~forth in~~ UNDER this act. ~~All plans~~ PLANS and specifications,
6 including a map and a description of the drainage district,
7 ~~pertaining to the private drain as may be required by the drain~~
8 ~~commissioner or intercounty drainage board~~ shall be furnished to
9 the drain commissioner or ~~intercounty~~ drainage board.

10 (9) ~~(8)~~ The landowner ~~or developer~~ who transfers a drain
11 pursuant to ~~subsection (5)~~ THIS SECTION shall deposit with the
12 drain commissioner or drainage board FUNDS IN THE AMOUNT OF 5% of
13 the cost of the drain but not more than \$2,500.00. The money
14 received by the drain commissioner or intercounty drainage board
15 pursuant to this subsection shall be deposited in ~~a special~~ THE
16 drain fund ~~which shall be used for the future maintenance of the~~
17 ~~transferred drain~~ FOR THE DRAIN AND USED AS PROVIDED IN SECTION
18 196.

19 Sec. 441. (1) Two or more drainage districts located in the
20 same county and in the same drainage basin or in adjoining
21 basins, may consolidate and organize as a single drainage dis-
22 trict upon the filing of a petition for consolidation with the
23 drain commissioner of the county setting forth the reason for the
24 proposed consolidation. The consolidation may include land not
25 within an existing drainage district if requested in the
26 petition. The petition shall be signed by ~~at least 50 property~~
27 ~~owners within the proposed consolidated drainage district. If in~~

1 ~~the proposed consolidated drainage district there are less than~~
2 ~~100 property owners, the petition shall be signed by at least 50%~~
3 ~~of the property owners in the proposed consolidated drainage~~
4 ~~district~~ THE SAME NUMBER OF LANDOWNERS AS REQUIRED BY SECTION 51
5 FOR AN APPLICATION TO LOCATE, ESTABLISH, AND CONSTRUCT A DRAIN.
6 In place of a petition signed by property owners, a petition may
7 be signed solely by a city or township a portion of which is
8 located within the proposed consolidated drainage district, when
9 authorized by its governing body, or by a combination of
10 municipalities. As soon as practicable after the filing of a
11 petition, the drain commissioner, if not disqualified under sec-
12 tion 381, ~~may~~ SHALL appoint a board of determination composed
13 of 3 disinterested property owners to determine the necessity of
14 the consolidation. If the commissioner is disqualified or
15 chooses not to appoint the board of determination, the commis-
16 sioner shall immediately file a copy of the petition with the
17 chairperson of the county board of commissioners, together with a
18 SIGNED statement ~~signed by the commissioner~~ showing ~~that he or~~
19 ~~she is disqualified~~ THE REASONS FOR DISQUALIFICATION or WHY THE
20 COMMISSIONER chooses not to act in appointing a board of
21 determination. Upon receiving a copy of the petition and certif-
22 icate, the chairperson of the county board of commissioners, if
23 not privately interested, shall appoint as soon as practicable a
24 board of determination and shall immediately notify the drain
25 commissioner of the names and addresses of those appointed. If
26 the chairperson of the county board of commissioners has a
27 private interest in the proceedings, the ~~drain~~ FINANCE

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1 committee of the county board of commissioners shall appoint the
2 board of determination. Members of a board of determination
3 shall be residents of the county but not of the proposed consoli-
4 dated drainage district or of a drainage district a part of which
5 is to be included in the proposed consolidation. A meeting of
6 the board of determination shall be called within the proposed
7 consolidated drainage district at some convenient place to be
8 designated by the drain commissioner. If a person appointed to
9 the board of determination fails or refuses to serve, a successor
10 shall be appointed by the official or committee making the
11 appointment in the first instance. ~~The compensation of a~~ A
12 member of the board of determination shall ~~be \$8.00 per day with~~
13 ~~no additional allowance for mileage.~~ The RECEIVE COMPENSATION,
14 MILEAGE, AND EXPENSES, WHICH SHALL BE DETERMINED AS PROVIDED IN
15 SECTION 72, UNLESS THE county board of commissioners of a county
16 ~~may increase~~ INCREASES the per diem compensation of members of
17 the board of determination UNDER THIS SECTION.

18 (2) The drain commissioner shall give notice of the time,
19 date, and place of the meeting in the manner prescribed by ~~Act~~
20 ~~No. 267 of the Public Acts of 1976 and by publication twice in a~~
21 ~~newspaper of general circulation in the county or a newspaper of~~
22 ~~general circulation in the proposed consolidated drainage dis-~~
23 ~~trict, the first publication of which shall be at least 10 days~~
24 ~~before the meeting. Notices shall also be served on the county~~
25 ~~clerk and the clerk of each township or city in the proposed con-~~
26 ~~solidated drainage district, personally or by registered mail at~~
27 ~~least 10 days before the meeting. The drain commissioner shall~~

1 ~~also send notice by first-class mail of the time, date, and place~~
2 ~~of the meeting at least 10 days before the date of the meeting to~~
3 ~~each person whose name appears on the last city or township tax~~
4 ~~assessment roll as owning land within the existing drainage dis-~~
5 ~~tricts, a portion of which is proposed to be consolidated, or~~
6 ~~owning lands within the proposed consolidated drainage district~~
7 ~~whose land is not within an existing drainage district, at the~~
8 ~~address shown on the roll. If an address does not appear on the~~
9 ~~roll, then a notice need not be mailed to those persons. The~~
10 ~~drain commissioner shall make an affidavit of the mailing and~~
11 ~~shall recite in the affidavit that the persons to whom the notice~~
12 ~~was mailed constitute all of the persons to whom notice must be~~
13 ~~sent. The affidavit shall be conclusive proof that notice was~~
14 ~~mailed to each person to whom notice is required to be mailed by~~
15 ~~this section. The failure to receive a notice by mail shall not~~
16 ~~constitute a jurisdictional defect invalidating a drain proceed-~~
17 ~~ing if notice has been sent by first-class mail as provided in~~
18 ~~this section. All THE OPEN MEETINGS ACT, 1976 PA 267, MCL~~
19 ~~15.261 TO 15.275. THE expense of notification shall be paid by~~
20 ~~the drainage district when ~~created~~ CONSOLIDATED. IF THE DRAIN-~~
21 ~~AGE DISTRICTS ARE NOT CONSOLIDATED, THE EXPENSE SHALL BE PAID~~
22 ~~EQUALLY BY THE SEPARATE DISTRICTS.~~

23 (3) ~~At the time and place fixed in the notice the~~ THE
24 board shall meet ~~—~~ AND elect a chairperson and a secretary. ~~—~~
25 and proceed to determine whether the proposed consolidation is
26 conducive to public health, convenience, or welfare. After
27 hearing the evidence, the board shall ~~make its determination as~~

1 ~~to~~ DETERMINE WHETHER THE PROPOSED CONSOLIDATION IS ADVISABLE
2 BASED ON whether the proposed consolidation is conducive to
3 public health, convenience, or welfare AND IS PRACTICAL IN THE
4 ADMINISTRATION OF THE DRAINS IN THE RESPECTIVE DISTRICTS. If the
5 board finds by a majority vote of the members that the proposed
6 consolidation is not ~~conducive to public health, convenience, or~~
7 ~~welfare~~ ADVISABLE, it shall file with the commissioner an order
8 dismissing the petition, and a further petition for the drain
9 shall not be entertained within 1 year after the determination.
10 If the board by a majority vote finds that the proposed consoli-
11 dation is ~~conducive to the public health, convenience, or~~
12 ~~welfare~~ ADVISABLE, it shall make its order to that effect and
13 file the order with the commissioner. Upon receipt of the order
14 of consolidation, the commissioner shall enter an order giving
15 the consolidated drainage district a name or number.

16 Sec. 441a. (1) Two or more drainage districts may be con-
17 solidated and organized as a single drainage district under this
18 section ~~where~~ IF the proposed consolidated district lies within
19 more than 1 county, by filing a petition in writing with the
20 DRAIN commissioner of a county having jurisdiction of land in the
21 proposed consolidated drainage district, setting forth the reason
22 for the proposed consolidation. The consolidation may include
23 land not within an existing drainage district if requested in the
24 petition. The petition shall be signed by ~~at least 50 property~~
25 ~~owners within the proposed consolidated drainage district. If in~~
26 ~~the proposed consolidated drainage district there are less than~~
27 ~~100 property owners, then the petition shall be signed by at~~

~~1 least 50% of the property owners in the proposed consolidated~~
~~2 drainage district~~ THE SAME NUMBER OF LANDOWNERS REQUIRED UNDER
3 SECTION 51 FOR AN APPLICATION TO LOCATE, ESTABLISH, AND CONSTRUCT
4 A DRAIN. In place of a petition signed by ~~property owners~~
5 LANDOWNERS, a petition may be signed solely by a city or township
6 a portion of which is located within the proposed consolidated
7 drainage district, ~~when~~ IF authorized by its governing body, or
8 by a combination of municipalities. Upon receipt of the peti-
9 tion, the commissioner shall notify the director of the depart-
10 ment of agriculture and the commissioner of each county embracing
11 land in the proposed consolidated drainage district. The drain
12 commissioners of the counties and the director of the department
13 of agriculture or a deputy designated by the director shall con-
14 stitute the drainage board.

15 (2) The director of the department of agriculture shall call
16 a meeting of the drainage board not less than 15 days or more
17 than 60 days after the receipt of the notice. The meeting shall
18 be held in the immediate locality of the proposed consolidated
19 drainage district. Notice of the ~~meeting shall be served per-~~
20 ~~sonally or by registered mail, at least 10 days before the meet-~~
21 ~~ing on the clerk of each county, township, and city within the~~
22 ~~proposed consolidated drainage district. A notice of the meeting~~
23 ~~shall be given in the manner prescribed by Act No. 267 of the~~
24 ~~Public Acts of 1976, and shall be published twice in each county~~
25 ~~affected in a newspaper of general circulation in the county or~~
26 ~~in a newspaper of general circulation in the proposed~~
27 ~~consolidated drainage district, the first publication of which~~

~~1 shall be at least 10 days before the meeting. The drain
2 commissioner of each county in which land proposed to be consoli-
3 dated into the proposed consolidated district is located shall
4 also send notice of the time, date, and place of the meeting by
5 first-class mail, at least 10 days before the date of the meet-
6 ing, to each person whose name appears upon the last city or
7 township tax assessment roll as owning land within the existing
8 drainage districts to be consolidated, or owning land within the
9 proposed consolidated drainage district which is not within an
10 existing drainage district, at the address shown on the roll. If
11 an address does not appear on the roll, a notice need not be
12 mailed to the persons. Each drain commissioner shall make an
13 affidavit of the mailing and shall recite in the affidavit that
14 the persons to whom the notice was mailed constitute all of the
15 persons to whom notice must be sent. The affidavits shall be
16 conclusive proof that notice was mailed to each person to whom
17 notice is required to be mailed by this section. The failure to
18 receive notice by mail shall not constitute a jurisdictional
19 defect invalidating a drain proceeding, if notice has been sent
20 by first-class mail as provided in this section. TIME, DATE, AND
21 PLACE OF THE MEETING SHALL BE GIVEN IN THE MANNER PROVIDED BY THE
22 OPEN MEETINGS ACT, 1976 PA 267, MCL 15.231 TO 15.246. All expense
23 of notification shall be paid by the drainage district when
24 ~~created or~~ consolidated. IF THE DRAINAGE DISTRICTS ARE NOT
25 CONSOLIDATED, THE EXPENSE SHALL BE PAID EQUALLY BY THE SEPARATE
26 DISTRICTS.~~

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1 (3) Upon convening the meeting, the director of the
2 department of agriculture or a deputy selected by the director
3 shall act as chairperson. The drainage board shall consider the
4 application for the proposed consolidated drainage district, and
5 determine the sufficiency of the signatures to the application.
6 ~~The drainage board shall then proceed to determine whether the~~
7 ~~proposed consolidation is conducive to public health, conve-~~
8 ~~nience, or welfare.~~ After hearing the evidence, the drainage
9 board shall ~~make its determination as to~~ DETERMINE WHETHER THE
10 PROPOSED CONSOLIDATION IS ADVISABLE, BASED ON whether the pro-
11 posed consolidation is conducive to public health, convenience,
12 or welfare AND IS PRACTICAL IN THE ADMINISTRATION OF THE DRAINS
13 IN THE RESPECTIVE DISTRICTS. If the board finds by a majority
14 vote of the members that the proposed consolidation is not
15 ~~conducive to public health, convenience, or welfare~~ ADVISABLE,
16 it shall file with the chairperson an order dismissing the peti-
17 tion, and a further petition for consolidation shall not be
18 entertained within 1 year after the determination. If the board
19 by a majority vote finds that the proposed consolidation is
20 ~~conducive to the public health, convenience, or welfare~~
21 ADVISABLE, it shall make its order to that effect and file the
22 order with the chairperson. Upon receipt of the order of consol-
23 idation, the chairperson shall enter an order giving the consoli-
24 dated drainage district a name or number. A copy of the order
25 shall be filed within 10 days by the director of the department
26 of agriculture in the office of the county drain commissioner of

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1 each county in which land included in the consolidated drainage
2 district is located.

3 Sec. 442. In any proceeding for the consolidation of 2 or
4 more drainage districts, existing surveys shall be used unless
5 the drain commissioner, in the case of a county drain, or the
6 drainage board, in the case of an intercounty drain, ~~shall make~~
7 ~~a determination~~ DETERMINES that the existing surveys are
8 inadequate. IF EXISTING SURVEYS ARE DETERMINED TO BE INADEQUATE,
9 OR IF LANDS ARE ADDED BY THE PETITION, THE COMMISSIONER OR DRAIN-
10 AGE BOARD SHALL APPOINT A SURVEYOR OR ENGINEER TO SURVEY AND
11 DESCRIBE THE CONSOLIDATED DISTRICT. THE EXPENSE SHALL BE BORNE
12 BY THE CONSOLIDATED DISTRICT WHEN CREATED.

13 Sec. 446. ~~Any drain which has been included and merged in~~
14 ~~a consolidated drain and whose outstanding indebtedness has been~~
15 ~~fully paid may be abandoned and vacated in the manner provided~~
16 ~~for the abandonment or vacation of drains. In case any such~~
17 ~~drain has in its fund any money, after all outstanding indebted-~~
18 ~~ness has been paid, such money shall be transferred, paid over or~~
19 ~~prorated in the same manner as is provided for abandoned or~~
20 ~~vacated drains: Provided, That if any person, firm, corporation~~
21 ~~or township entitled to share in the distribution of such money~~
22 ~~shall be liable for any special assessment of the consolidated~~
23 ~~drain, its share of such money, or any part thereof which is nec-~~
24 ~~essary to cover such special assessment, shall be returned to the~~
25 ~~respective county treasurer or treasurers and such treasurer or~~
26 ~~treasurers shall transfer such money to the fund of the~~
27 ~~consolidated drain and such person, firm, corporation or township~~

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1 ~~shall be credited therefor against the special assessment of the~~
2 ~~consolidated drain.~~ IF THERE ARE FUNDS IN THE DRAIN ACCOUNT OF
3 ANY OF THE DISTRICTS TO BE CONSOLIDATED, THE FUNDS SHALL BE
4 PLACED IN A SEPARATE ACCOUNT FOR THE CONSOLIDATED DISTRICT AND
5 SHALL BE USED TO PAY EXPENSES INCURRED BY THE COMMISSIONER OR
6 DRAINAGE BOARD FOR THE CONSOLIDATED DISTRICT, EXCEPT AS FOLLOWS:

7 (A) IF LANDS ARE ADDED WHICH WERE NOT PREVIOUSLY LOCATED IN
8 1 OF THE PETITIONING DISTRICTS, FUNDS FROM EACH ACCOUNT WHERE
9 THERE IS A SURPLUS SHALL BE PAID OUT OR PRORATED IN THE SAME
10 MANNER AS PROVIDED FOR ABANDONED OR VACATED DRAINS AFTER THAT
11 DISTRICT'S INDEBTEDNESS FOR THE COST OF CONSOLIDATION HAS BEEN
12 SATISFIED.

13 (B) IF 1 OF THE DISTRICTS CONSOLIDATED IS SPECIALLY BENE-
14 FITTED BY THE CONTINUED OPERATION AND MAINTENANCE OF PUMPING
15 EQUIPMENT OR OTHER MECHANICAL OPERATIONS, A SEPARATE ACCOUNT
16 SHALL BE MAINTAINED TO PROVIDE FOR PAYMENT FOR THE OPERATION AND
17 MAINTENANCE OF THE PUMPING EQUIPMENT OR OTHER MECHANICAL
18 OPERATION.

19 Sec. 463. ~~-(1) Before filing a petition under this section,~~
20 ~~the legislative body of a public corporation shall first deter-~~
21 ~~mine whether the drain project contemplated may necessitate the~~
22 ~~levy of a special assessment, fee, or charge under section 490.~~
23 ~~If the legislative body determines that a special assessment,~~
24 ~~fee, or charge may be made under section 490, before filing a~~
25 ~~petition under this section, the legislative body shall proceed~~
26 ~~as provided in section 489a.~~

1 (1) ~~-(2)-~~ If it is necessary for the public health to
2 locate, establish, and construct a county drain, a petition for
3 that purpose may be filed with the county drain commissioner
4 signed by ~~-2-~~ 1 or more public corporations which will be subject
5 to assessments to pay the cost of the drain. The petition shall
6 state that it is filed pursuant to this chapter and shall
7 describe the location and route of the proposed drain suffi-
8 ciently to determine with reasonable certainty the areas to be
9 serviced by the drain.

10 (2) ~~-(3)-~~ Not more than ~~-20-~~ 30 days after the petition is
11 filed, the county drain commissioner shall notify each public
12 corporation which may be subject to an assessment or in which is
13 located any of the areas to be drained, as described in the peti-
14 tion, that a petition was filed. LATE NOTIFICATION BY THE COM-
15 MISSIONER DOES NOT NULLIFY THE PETITION.

16 (3) ~~-(4)-~~ A certified copy of the resolution of the govern-
17 ing body of each signer authorizing the affixing of the signature
18 of the governing body to the petition shall be attached to the
19 petition. The petition may be filed in more than 1 counterpart.
20 For a petition filed by a county, the county board of commission-
21 ers shall authorize the execution of the petition, and for a
22 petition filed by the state, the state transportation commission
23 shall authorize the execution of the petition. As provided in
24 section 423, an order of determination of the ~~water resources~~
25 ~~commission~~ DEPARTMENT OF ENVIRONMENTAL QUALITY shall also serve
26 as a petition made pursuant to this chapter.

1 Sec. 464. (1) ~~There~~ A DRAINAGE BOARD is created for each
2 project petitioned for under this chapter. ~~, a drainage board~~
3 ~~that, except~~ EXCEPT as otherwise provided in subsection (2), THE
4 DRAINAGE BOARD shall consist of the drain commissioner of the
5 county, the chairperson of the county board of commissioners OR A
6 MEMBER OF THE COUNTY BOARD OF COMMISSIONERS DESIGNATED BY THAT
7 CHAIRPERSON, and the chairperson ~~of the board of county~~
8 ~~auditors. If there is no board of county auditors in the county,~~
9 ~~then the chairperson~~ of the finance committee of the county
10 board of commissioners ~~shall act as a member of the drainage~~
11 ~~board, and if~~ OR A MEMBER OF THE COUNTY BOARD OF COMMISSIONERS
12 DESIGNATED BY THAT CHAIRPERSON OR HIS OR HER DESIGNEE. IF there
13 is ~~neither a board of county auditors nor~~ NO finance committee,
14 then the chairperson of the county board of commissioners shall
15 select from time to time 1 member of the county board of commis-
16 sioners to act as a member of the drainage board. ~~If a member~~
17 ~~of the drainage board who is a commissioner, as provided in this~~
18 ~~section or section 487, is interested in a project petitioned for~~
19 ~~under this chapter, by reason of his or her holding an elected or~~
20 ~~appointed office in a public corporation to be assessed for the~~
21 ~~cost of the project, he or she is disqualified to act as a member~~
22 ~~of the drainage board with respect to the project. In such case~~
23 ~~the vice-chairperson or chairperson pro tempore of the county~~
24 ~~board of commissioners or of the finance committee of the county~~
25 ~~board of commissioners, if not also disqualified, shall act as~~
26 ~~the member. If the vice-chairperson or chairperson pro tempore~~
27 ~~is disqualified, the drain commissioner of the county shall~~

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1 ~~designate a member of the county board of commissioners who is~~
2 ~~not disqualified to act as a member of the drainage board for the~~
3 ~~project. The chairperson of the county board of commissioners~~
4 ~~and any member of a county board of commissioners serving on~~ A
5 MEMBER OF the drainage board shall receive ~~the~~ compensation,
6 mileage, and expenses ~~as provided by the drainage board.~~
7 ~~However, compensation paid to a member shall not exceed \$25.00~~
8 ~~per diem, exclusive of mileage and expenses, for attendance at~~
9 ~~drainage board meetings~~ WHICH SHALL BE DETERMINED AS PROVIDED IN
10 SECTION 72 FOR MEMBERS OF A BOARD OF DETERMINATION. The county
11 drain commissioner shall be chairperson of the drainage board.
12 The chairperson shall keep minutes of the proceedings of the
13 drainage board and all records and files of the board shall be
14 kept in his or her office. ~~In counties of less than 500,000~~
15 ~~population, the commissioner shall be paid the same compensation~~
16 ~~as other members of the drainage board.~~

17 (2) In a county organized under a charter adopted under ~~Act~~
18 ~~No. 293 of the Public Acts of 1966, being sections 45.501 to~~
19 ~~45.521 of the Michigan Compiled Laws~~ 1966 PA 293, MCL 45.501 TO
20 45.521, that has a population of more than 2,000,000 at the time
21 the charter is adopted and whose charter prescribes an elected
22 county executive, the drainage board shall consist of the follow-
23 ing members:

24 (a) The person designated by the charter to carry out the
25 administrative duties of the drain commissioner or that person's
26 designee, who shall also serve as chairperson of the drainage
27 board.

1 (b) The county commissioner whose district will be assessed
2 for the greatest portion of the cost of the project, or that
3 county commissioner's designee. The determination of which
4 county commissioner is qualified to sit under this subdivision
5 shall initially be made by the chairperson of the drainage board
6 ~~at the time~~ WHEN the petition for the project is filed. After
7 the final order of apportionment is issued under section 469, the
8 county commissioner who qualifies under this section shall become
9 the county commissioner member and serve until another apportion-
10 ment is established requiring the seating of another
11 commissioner.

12 (c) A person appointed by the county executive with the
13 advice and consent of a majority of the members of the county
14 board of commissioners elected or appointed and serving.

15 (3) In a county described in subsection (2), the require-
16 ments in this chapter for substantive actions and determinations
17 shall be followed in administering each project petitioned for
18 under this chapter, subject to and in accordance with any appli-
19 cable provisions of the county charter.

20 Sec. 465. (1) A meeting of the drainage board may be called
21 by the chairperson or 2 members of the board, on notice sent by
22 registered mail to each member, setting forth the time, date, and
23 place of the meeting. The notice shall be mailed not less than 5
24 days before the ~~time~~ DATE of the meeting. The affidavit of the
25 chairman as to such mailing shall be conclusive proof thereof.

26 (2) A majority of the members of the board ~~shall~~
27 constitute a quorum for the transaction of business, but a lesser

1 number may adjourn from time to time. A meeting may be adjourned
2 from time to time. Unless otherwise provided in this act, an
3 action shall not be taken by the board except by a majority vote
4 of A QUORUM OF its members. ~~In the event of the adjournment of~~
5 ~~a hearing, it shall not be necessary to advertise~~ IF A HEARING
6 IS ADJOURNED, IT IS NOT NECESSARY TO GIVE NOTICE OF the adjourn-
7 ment of the hearing.

8 (3) All orders issued by the drainage board shall be signed
9 by the chairperson.

10 Sec. 466. Upon receipt of a petition ~~as hereinbefore~~ pro-
11 vided UNDER SECTION 463, the county drain commissioner shall call
12 the first meeting of the drainage board BY GIVING NOTICE OF THE
13 MEETING AS DESCRIBED IN SECTION 465. ~~In the event there be no~~
14 ~~board of county auditors or~~ HOWEVER, IF THERE IS NO finance com-
15 mittee in the county, then notice to the ~~chairman~~ CHAIRPERSON
16 of the COUNTY board of ~~supervisors~~ COMMISSIONERS of ~~such~~ THE
17 county shall ~~be deemed to be~~ SERVE AS notice to the member of
18 the COUNTY board of ~~supervisors~~ COMMISSIONERS to be selected by
19 ~~him~~ THE CHAIRPERSON UNDER SECTION 464.

20 Sec. 467. (1) The drainage board, at its first meeting,
21 shall consider the petition for the project and make a tentative
22 determination as to the sufficiency of the petition and the prac-
23 ticability of the proposed drain, and shall further make a tenta-
24 tive determination of the public corporations to be assessed.
25 The drainage board shall give a name to the drain and to the
26 drainage district. The district shall be composed of the public
27 corporations to be assessed for the cost of the project.

1 (2) After the drainage board ~~has made~~ MAKES the
2 determination, it shall fix a time, date, and place it will meet
3 to hear objections to the proposed drain and the petition for the
4 drain, and to the matter of assessing the cost of the drain to
5 the designated public corporations. Notice of the hearing shall
6 be published twice in the county by inserting the notice in at
7 least 1 newspaper published in the county, designated by the
8 drainage board, with the first publication to be not less than 20
9 days before the time of the hearing. The notice shall also be
10 sent by ~~registered~~ FIRST-CLASS mail to the clerk or secretary
11 of each public corporation proposed to be assessed, except that a
12 notice to the state shall be sent to the state highway director,
13 and a notice to a county shall be sent to both the county clerk
14 and the county road commission. The mailing shall be made not
15 less than 20 days before the ~~time~~ DATE of the hearing. The
16 notice shall be signed by the chairperson and proof of the publi-
17 cation and mailing of the notice shall be filed in his or her
18 office. The drainage board may provide a form to be substan-
19 tially followed in the giving of the notice.

20 (3) After the hearing, the drainage board shall make a
21 determination as to the sufficiency of the petition, the practi-
22 cability of the drain, whether the drain should be constructed,
23 and if so, the public corporations to be assessed, and shall
24 issue its order accordingly. The order shall be known as the
25 final order of determination. A public corporation shall not be
26 eliminated from, or added to, those tentatively determined to be

1 assessed without a rehearing after notice AS PROVIDED IN
2 SUBSECTION (2).

3 Sec. 468. (1) The drainage board shall secure from a compe-
4 tent engineer, plans, specifications, and an estimate of cost of
5 the proposed drain, which, when approved and adopted by the
6 board, shall be filed with the ~~chairman thereof~~ CHAIRPERSON OF
7 THE BOARD. In approving the plans and specifications, the drain-
8 age board shall not be limited to the route of the drain
9 described in the petition or the final order of determination.

10 (2) The drainage board shall tentatively establish the per-
11 centage of the cost of the drain or of the several sections or
12 parts thereof which is to be borne by each public corporation.
13 In making the apportionments, ~~hereunder, there shall be taken~~
14 ~~into consideration~~ THE DRAINAGE BOARD SHALL CONSIDER the bene-
15 fits to accrue to each public corporation and also the extent to
16 which each public corporation contributes to the conditions which
17 make the drain necessary. Apportionments against the state shall
18 be based upon the benefits ~~and contributions as~~ related
19 ~~solely~~ to the drainage of state highways, and those against the
20 county shall be based ~~as~~ ON BENEFITS related ~~solely~~ to the
21 drainage of its county highways. Before a tentative apportion-
22 ment ~~shall be~~ IS made, the drainage board shall designate the
23 area to be served by the drain project, which may or may not
24 include all of the area in a public corporation to be assessed
25 and may divide the drain into sections or parts for purposes of
26 apportionment or construction. ~~Nothing herein contained shall~~
27 ~~prohibit the county from assuming any~~ THE COUNTY MAY ASSUME AN

1 additional cost of the drain ~~if~~ BY THE VOTE OF 2/3 of the
2 members elect of the county board of commissioners. ~~vote in~~
3 ~~favor thereof.~~

4 (3) The apportionment shall only apply to the proposed drain
5 PROJECT. SEPARATE MAINTENANCE APPORTIONMENTS FOR THE DRAIN MAY
6 BE ESTABLISHED. The apportionments for any extensions or other
7 work subsequently performed under section 482 shall be reestab-
8 lished by the board. ~~When chapter 25 is employed in the appor-~~
9 ~~tionment of costs, the above~~

10 (4) THE proceedings ~~shall~~ IN THIS CHAPTER MAY be altered
11 and supplemented as provided in chapter 25.

12 Sec. 469. (1) After the tentative apportionments of cost
13 have been made, the drainage board shall set a time, date, and
14 place it will meet and hear objections to the apportionments.
15 Notice of the hearing shall be published twice in the county by
16 inserting the notice in at least 1 newspaper published in the
17 county, designated by the drainage board. ~~, the~~ THE first pub-
18 lication ~~to~~ SHALL be not less than 20 days before the ~~time~~
19 DATE of the hearing. The notice shall also be sent by registered
20 mail to the clerk or secretary of each public corporation pro-
21 posed to be assessed. ~~, except that~~ HOWEVER, a notice to the
22 state shall be sent to the state highway director and a notice to
23 the county shall be sent both to the county clerk and the county
24 road commission. The mailing shall be made not less than 20 days
25 before the ~~time~~ DATE of THE hearing. The notice shall be
26 signed by the chairperson and proof of the publication and
27 mailing of the notice shall be filed in his or her office. The

1 drainage board may provide a form to be substantially followed in
2 the giving of the notice. The notice shall include tentative
3 apportionments to the several public corporations.

4 (2) After the hearing, the drainage board may confirm the
5 apportionments as tentatively made, or if it considers the appor-
6 tionments to be inequitable, it shall readjust the
7 apportionments. If the readjustment involves the increasing of
8 an assessment and an increase ~~shall~~ IS not ~~be~~ consented to by
9 resolution of the governing body of the public corporation whose
10 assessment was increased, before any readjusted apportionments
11 are confirmed the drainage board shall set a time, date, and
12 place for a rehearing and shall give notice of the hearing as
13 PROVIDED in ~~the first instance~~ SUBSECTION (1). The notice
14 shall also set forth the apportionments as readjusted. After
15 confirmation, the drainage board shall issue its order setting
16 forth the several apportionments as confirmed. The order shall
17 be known as the final order of apportionment.

18 Sec. 470. The drainage board shall then proceed to secure
19 the necessary lands or rights of way for the proposed drain. If
20 the ~~same~~ LANDS OR RIGHTS OF WAY cannot be secured by negotia-
21 tion, then the drainage board may ~~proceed under the provisions~~
22 ~~of Act No. 149 of the Public Acts of 1911, as amended, being sec-~~
23 ~~tions 213.21 to 213.41 of the Compiled Laws of 1948, or under the~~
24 ~~applicable provisions of sections 75 to 84 of this act, and shall~~
25 ~~be deemed to be a "state agency" as that term is used in said~~
26 ~~act, or if~~ CONDEMN THE PROPERTY IN THE MANNER PROVIDED IN THE
27 UNIFORM CONDEMNATION PROCEDURES ACT, 1980 PA 87, MCL 213.51 TO

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1 213.77. IF the project is one in which the federal government is
2 participating in any manner, then ~~such~~ THE lands or rights of
3 way may be acquired through proceedings brought by the federal
4 government under any appropriate federal act. ~~In~~ IF the
5 ~~event~~ lands or rights of way ~~shall be~~ ARE acquired through
6 proceedings under a federal act, then the amount of the awards in
7 such proceeding shall be ~~deemed~~ CONSIDERED to be a part of the
8 cost of the drain to the same extent as if the condemnation pro-
9 ceedings had been taken under the laws of this state.

10 Sec. 472. The county treasurer shall be the custodian of
11 the funds of the drainage district. ~~He~~ THE COUNTY TREASURER
12 may designate 1 or more of his OR HER deputies ~~who may~~ TO act
13 for ~~him~~ THE COUNTY TREASURER in the performance of any of his
14 OR HER duties under this section. The drainage board may require
15 the county treasurer and any deputy county treasurer so desig-
16 nated to furnish a bond payable to the drainage district, in
17 addition to any bond payable to the county, conditioned upon the
18 faithful discharge of his OR HER duties in respect to ~~moneys~~
19 MONEY belonging to the drainage district. ~~, the~~ THE premium
20 ~~thereon to~~ ON THE BOND SHALL be paid by the drainage district.
21 ~~Moneys~~ MONEY held by ~~said~~ THE treasurer shall be paid out
22 only upon order of the drainage board, except that no such order
23 ~~shall be~~ IS required for the payment of principal and interest
24 on bonds.

25 Sec. 473. (1) After the confirmation of the apportionments
26 by the drainage board, the chairman of the board shall prepare a
27 special assessment roll assessing the estimated cost of the

1 drain, or if the actual cost has been ascertained, then the
2 actual cost, against the several public corporations in accord-
3 ance with the confirmed apportionments. The drainage board may
4 provide for the payment of the special assessments in any number
5 of annual installments, not exceeding 30, but an installment
6 shall not be less than 1/4 of any subsequent installment. The
7 drainage board shall fix the commencement date of interest to be
8 paid upon unpaid installments, not to exceed an amount sufficient
9 to pay interest on bonds or other evidences of indebtedness
10 issued or to be issued by the drainage district, which interest
11 shall become due annually on the day and month upon which the
12 annual installments become due but may become due in years before
13 the due date of the first installment. The drainage board may
14 provide for the payment of installments in advance of their
15 respective due dates and may prescribe the terms and conditions
16 ~~thereof~~ FOR ADVANCE PAYMENTS. The drainage board shall fix the
17 date, not later than 4 years after confirmation on which the
18 first installment of special assessments ~~shall become~~ IS due
19 and payable so that each public corporation can make a tax levy
20 for the payment, and subsequent installments ~~shall become~~ ARE
21 due annually on the same day and month of subsequent years.
22 ~~When~~ IF chapter 25 is employed in the apportionment of costs,
23 the above proceedings shall be altered and supplemented as pro-
24 vided in chapter 25.

25 (2) THE COST OF ANY DRAIN PROJECT SHALL INCLUDE ALL OF THE
26 FOLLOWING:

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1 (A) THE COST OF CONSTRUCTING OR ACQUIRING THE FACILITIES,
2 STRUCTURES, DEVICES, AND EQUIPMENT REQUIRED TO LOCATE, ESTABLISH,
3 AND CONSTRUCT THE DRAIN OR TO IMPROVE OR SUPPLEMENT THE SAME,
4 INCLUDING BRIDGES AND CULVERTS AND ANY LANDS OR RIGHTS-OF-WAY
5 NECESSARY THERETO.

6 (B) THE ADMINISTRATIVE AND OTHER EXPENSES OF THE DRAINAGE
7 BOARD INCLUDING THE COST OF SERVICE AND PUBLICATION OF ALL
8 NOTICES.

9 (C) ALL ENGINEERING, LEGAL, AND OTHER PROFESSIONAL FEES.

10 (D) INTEREST ON BONDS FOR THE FIRST YEAR, IF BONDS ARE TO BE
11 ISSUED, AND INTEREST ON MONEY ADVANCED PURSUANT TO SECTION 479.

12 (E) AN AMOUNT NOT EXCEEDING 15% OF THE GROSS SUM TO COVER
13 CONTINGENT EXPENSES.

14 Sec. 474. (1) The special assessment roll shall contain ALL
15 OF the FOLLOWING:

16 (A) THE name of each public corporation assessed. ~~, the~~

17 (B) THE total estimated cost of the project, or THE actual
18 cost if the same ACTUAL COST has been ascertained ~~at~~ BY the
19 time of the preparation of the roll. ~~, the~~

20 (C) THE percentage apportioned to each public corporation.
21 ~~, the~~

22 (D) THE PRINCIPAL amount of the assessment against each
23 public corporation BASED ON THE PERCENTAGE OF APPORTIONMENT.

24 (E) THE INTEREST PORTION OF THE ASSESSMENT SUFFICIENT TO PAY
25 THE INTEREST ON BONDS OR OTHER EVIDENCE OF INDEBTEDNESS based
26 upon the percentage of apportionment. ~~, and the~~

1 (F) THE amount of each installment if the assessment is
2 divided into annual installments.

3 (G) THE DUE DATE OF EACH INSTALLMENT.

4 (2) After the special assessment roll has been prepared, it
5 shall be presented to the drainage board for approval. When the
6 roll has been approved, then a statement to that effect, signed
7 by the ~~chairman~~ CHAIRPERSON of the drainage board, shall be
8 affixed to the roll setting forth the date of approval. The
9 ~~chairman~~ CHAIRPERSON of the drainage board shall then certify
10 to each public corporation assessed the amount of the total
11 assessment against it, the amount of the various installments if
12 the assessment is divided into installments, the due date of each
13 installment, and the rate of interest upon installments from time
14 to time unpaid. ~~The chairman each~~ EACH year, at least 30 days
15 before the time of the levying of taxes by each public corpora-
16 tion, THE CHAIRPERSON OF THE DRAINAGE BOARD shall notify ~~it~~ THE
17 PUBLIC CORPORATION of the amount of the installment and interest
18 next becoming due, but the failure to notify a public corporation
19 shall not excuse it from making payment of the installment and
20 interest.

21 (3) On or before the due date of an installment, each public
22 corporation shall pay to the county treasurer the full amount
23 thereof, together with interest accruing to the due date.

24 (4) If a public corporation fails or neglects to account to
25 the county treasurer for the amount of an installment and inter-
26 est, then the county treasurer shall advance the amount thereof
27 from county funds if bonds or other evidences of indebtedness

1 have been issued to finance the project ~~—~~ in anticipation of
2 the collection of the installment and interest pursuant to this
3 chapter and IF the county board of commissioners has previously
4 acted, by a resolution adopted by a 2/3 vote of its members
5 elect, to pledge the full faith and credit of the county for the
6 prompt payment of the principal of and interest on the bonds or
7 evidences of indebtedness.

8 (5) The county treasurer shall immediately notify the public
9 corporation of the amount advanced by the county on account of
10 the default by the public corporation in paying the installment
11 and interest assessed against it. The county treasurer shall
12 also notify the state treasurer, or other appropriate disbursing
13 official, who shall deduct the amount from ~~moneys~~ MONEY in his
14 OR HER possession belonging to the public corporation ~~which are~~
15 THAT IS not pledged to the payment of debts, but the state trea-
16 surer or other official shall not withhold in any 1 year a sum
17 greater than 25% of the total amount owed by the delinquent
18 public corporation as stated in the notice from the county
19 treasurer. ~~Nothing in this~~ THIS section ~~shall~~ DOES NOT
20 permit the deduction of ~~moneys~~ MONEY in contravention of the
21 state constitution of 1963.

22 (6) The county board of commissioners of a county which has
23 advanced money for a public corporation and which has not been
24 reimbursed therefor, may order the public corporation and its
25 officers to levy upon its next tax roll an amount sufficient to
26 make the reimbursement on or before the date when its taxes
27 become delinquent. ~~and the~~ THE public corporation and its tax

1 levying and collecting officials shall levy and collect those
2 taxes and reimburse the county. ~~The foregoing shall~~ THIS SUB-
3 SECTION DOES not ~~prevent~~ PROHIBIT the county from obtaining
4 reimbursement by any other legal method.

5 (7) Assessments against the state shall be certified to the
6 state highway commission and paid from state highway funds. The
7 tax levying officials of each of the other public corporations
8 assessed shall levy sufficient taxes to pay assessment install-
9 ments and interest as the same become due unless there has been
10 set aside ~~moneys~~ MONEY sufficient therefor. A city or village
11 may elect to spread the tax levy upon the county tax roll instead
12 of the city or village tax roll. If a special assessment roll is
13 prepared upon the basis of the estimated cost of the project,
14 then after the actual cost has been ascertained and determined by
15 the drainage board, the special assessments and the installments
16 thereof shall be corrected by adding any deficiency or deducting
17 any excess. The drainage board may order the corrections to be
18 made upon the original roll or may order that a new corrected
19 roll or a supplemental roll be prepared and submitted for
20 approval by the drainage board. ~~When chapter 25 is employed in~~
21 ~~the apportionment of costs, the above~~ THE proceedings ~~shall~~ IN
22 THIS SECTION MAY be altered and supplemented as provided in
23 chapter 25.

24 Sec. 478. (1) The drainage board for each project shall
25 continue in existence with such changes in personnel as shall
26 result from changes in the officers constituting the board
27 membership. It shall be responsible for the operation and

1 maintenance of the drain. Any necessary expenses incurred in
2 administration and in the operation and maintenance of the drain
3 and not covered by contract shall be paid by the several public
4 corporations assessed for the cost of the drain. The assessments
5 shall be in the same proportion as the cost of the drain was
6 assessed unless the drainage board establishes a different pro-
7 portion for the assessments after notice and hearing as provided
8 in section 469.

9 (2) The drainage board, by resolution duly adopted by it,
10 may relinquish jurisdiction and control over all or any part of a
11 drain or drain project ~~at any time when~~ IF there is no out-
12 standing indebtedness or contract liability of its drainage dis-
13 trict, to the county, township, city, or village in which all or
14 the part of the drain or drain project is wholly located, if the
15 county, township, city, or village requests or consents to the
16 relinquishment of jurisdiction and control by resolution duly
17 adopted by its governing body. Indebtedness or contract liabil-
18 ity of any drainage district which will be paid in full at the
19 time of consummation of relinquishment of jurisdiction and con-
20 trol shall not be ~~deemed~~ CONSIDERED to be outstanding. If
21 relinquishment of jurisdiction and control is to a county, the
22 resolution of the governing body of the county shall specify the
23 county agency, such as board of public works, drain commissioner,
24 board of county road commissioners, or parks and recreation com-
25 mission, which shall be thereafter responsible for exercise of
26 such jurisdiction and control. Any ~~moneys~~ MONEY in the drain
27 fund of any drain, over all or any part of which jurisdiction and

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1 control is relinquished, shall be used to pay any indebtedness or
2 contract liability of its drainage district, and the balance
3 shall be turned over to the county, township, city, or village to
4 be used solely with respect to the drain, ~~all~~ or part ~~thereof~~
5 OF THE DRAIN, over which jurisdiction and control is assumed.

6 (3) If the relinquishment of jurisdiction and control and
7 the turnover of drain fund relates to a part of a drain or drain
8 project, ~~such~~ THE relinquishment and turnover shall not become
9 effective until consented to by resolution of the governing body
10 of each public corporation which has paid a part of the cost of
11 the drain or drain project. ~~, and for~~ FOR this purpose, the
12 board of county road commissioners and the state ~~highway~~
13 TRANSPORTATION commission shall be ~~deemed~~ CONSIDERED to be the
14 governing ~~body~~ BODIES for the county and the state.

15 Sec. 482. Any 1 or more county drains or any portion there-
16 of, now or hereafter existing, may be cleaned out, relocated,
17 widened, deepened, straightened, extended, tiled, CONSOLIDATED,
18 interconnected, or otherwise improved, or branches added or con-
19 nected thereto, ~~when~~ IF necessary for the public health, in the
20 same manner as a county drain may be located, established, and
21 constructed under this chapter, with such variations in the pro-
22 ceedings as may be necessary to make the ~~same~~ PROCEEDINGS
23 applicable. ~~, and also the~~ THE cost ~~thereof~~ OF THE PROJECT
24 may be financed in like manner. A project to improve county
25 drains may include backfilling and leveling any portion thereof
26 no longer needed after the improvements.

1 Sec. 491. (1) A petition meeting the requirements of this
2 chapter as to petitioners, execution, and filing may request, for
3 reasons of public health, that jurisdiction be assumed over all
4 or a specified part of the bed, tributaries, banks, and ~~flood~~
5 ~~plains~~ FLOODPLAINS of a river, creek, or watercourse, not part
6 of an established drain. The petition shall describe the exist-
7 ing or threatened conditions which cause or increase the danger
8 of flooding, pollution, ~~desecration~~ DAMAGE, or obstruction of
9 ~~such~~ THE river, creek, or watercourse, and shall specify, in
10 general terms, the works, property acquisition, actions, or
11 procedures, ~~deemed~~ STRUCTURAL OR NONSTRUCTURAL, CONSIDERED nec-
12 essary to remove or lessen such danger.

13 (2) THE PETITIONERS NAMED IN A PETITION UNDER SUBSECTION (1)
14 SHALL INCLUDE IN THE PETITION AN AGREEMENT TO PAY, OR ACCOMPANY
15 THE PETITION WITH A DEPOSIT IN THE AMOUNT OF, THE ESTIMATED COST
16 OF THE PLANNING AND ENGINEERING REQUIRED TO DESCRIBE ALL OF THE
17 FOLLOWING:

18 (A) IN RECORDABLE FORM, THE BED, TRIBUTARIES, BANKS, AND
19 FLOODPLAINS OF THE RIVER, CREEK, OR WATERCOURSE OVER WHICH JURIS-
20 DICTION IS NECESSARY AND IS TO BE ASSUMED UNDER THE PETITION.

21 (B) THE WORK TO BE DONE UNDER THE PETITION.

22 (C) THE PROPERTY TO BE ACQUIRED UNDER THE PETITION.

23 (3) UPON THE FILING OF THE PETITION WITH THE AGREEMENT OR
24 DEPOSIT TO PAY COSTS, THE DRAINAGE BOARD SHALL PROCEED AS
25 DESCRIBED IN SECTIONS 466 AND 467. THE DESCRIPTION SHALL BE
26 OBTAINED AND APPROVED AND ADOPTED BY THE DRAINAGE BOARD. THE
27 DRAINAGE BOARD SHALL HOLD A HEARING TO HEAR OBJECTIONS TO THE

1 ASSUMPTION OF SUCH JURISDICTION, TO THE PETITION THEREFOR AND TO
2 THE PROPOSED WORK OR PROPERTY ACQUISITION SHALL BE HELD AS PRO-
3 VIDED FOR OTHER DRAIN PROJECTS PURSUANT TO THIS CHAPTER. NOTICE
4 OF THE HEARING SHALL CONTAIN THE DESCRIPTION AS APPROVED AND
5 ADOPTED BY THE DRAINAGE BOARD.

6 (4) AFTER THE HEARING, THE DRAINAGE BOARD SHALL DETERMINE
7 WHETHER OR NOT IT WILL ASSUME JURISDICTION AND PERFORM THE WORK
8 PROPOSED, IF ANY, AND SHALL ISSUE ITS ORDER ACCORDINGLY. THE
9 ORDER SHALL BE KNOWN AS THE "FINAL ORDER OF DETERMINATION". THE
10 FINAL ORDER OF DETERMINATION SHALL CONTAIN THE DESCRIPTION OF THE
11 BED, TRIBUTARIES, BANKS, AND FLOODPLAINS OF THE RIVER, CREEK, OR
12 WATERCOURSE OVER WHICH JURISDICTION HAS BEEN ASSUMED AND SHALL BE
13 RECORDED IN THE COUNTY RECORDS IN THE COUNTY IN WHICH ANY PART
14 THEREOF IS LOCATED. AFTER THE FINAL ORDER OF DETERMINATION IS
15 RECORDED, NO CONSTRUCTING, EXCAVATING, LAND FILLING, REMOVING OF
16 STRUCTURES OR VEGETATION, DUMPING, OR DISCHARGING OF SEWERS OR
17 DRAINS SHALL BE PERMITTED OR CONTINUED IN THE BED, TRIBUTARIES,
18 BANKS, OR FLOODPLAINS OF THE RIVER, CREEK, OR WATERCOURSE WITHIN
19 THE RECORDED DESCRIPTION THEREOF, EXCEPT UPON WRITTEN ORDER OR
20 PERMIT ISSUED BY THE DRAINAGE BOARD.

21 (5) THE RECORDING OF THE DESCRIPTION DOES NOT APPROPRIATE,
22 TERMINATE, OR LESSEN ANY PRIVATE RIGHTS IN PROPERTY, REAL OR PER-
23 SONAL, EXCEPT SUCH AS SHALL BE VOLUNTARILY RELEASED BY WRITTEN
24 AGREEMENT OR CONVEYANCE OR AS SHALL BE CONDEMNED AS PROVIDED IN
25 THIS CHAPTER, OR PURSUANT TO APPLICABLE LAW. THE RECORDING OF
26 THE DESCRIPTION CONSTITUTES A REGULATION AND LIMITATION, FOR
27 REASONS OF PUBLIC HEALTH, OF THE USE OF THE PUBLIC AND PRIVATE

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1 PROPERTY THEREIN DESCRIBED TO REMOVE OR LESSEN THE DANGER OF
2 FLOODING, POLLUTION, DAMAGE, OR OBSTRUCTION OF THE RIVER, CREEK,
3 OR WATERCOURSE, OR PART THEREOF, INVOLVED.

4 (6) BEFORE ANY WORK, OTHER THAN PREPARATION OF THE DESCRIP-
5 TION AND THE APPROVAL, ADOPTION, AND RECORDING OF THE DESCRIP-
6 TION, IS DONE OR RIGHTS IN OR OWNERSHIP OF PROPERTY IS ACQUIRED
7 BY THE DRAINAGE BOARD, PURSUANT TO A PETITION UNDER SUBSECTION
8 (1), THE DRAINAGE BOARD SHALL MAKE A DETERMINATION, FOLLOWING
9 NOTICE AND A HEARING AS PROVIDED IN THIS CHAPTER, AS TO THE
10 PUBLIC CORPORATIONS TO BE ASSESSED FOR THE COST OF THE WORK OR
11 ACQUISITION. THE HEARING MAY BE THE SAME HEARING PROVIDED FOR IN
12 SUBSECTION (2). AFTER THE HEARING AND THE DETERMINATION TO PRO-
13 CEED WITH THE WORK, THE DRAINAGE BOARD SHALL PROCEED IN THE SAME
14 MANNER AND HAVE THE SAME POWERS AND DUTIES AS ARE PROVIDED FOR
15 OTHER DRAIN PROJECTS IN THIS CHAPTER.

16 Sec. 513. ~~(1) Before filing a petition under this section,~~
17 ~~the legislative body of a public corporation shall first deter-~~
18 ~~mine whether the drain project contemplated may necessitate the~~
19 ~~levy of a special assessment, fee, or charge under section 539.~~
20 ~~If the legislative body determines that a special assessment,~~
21 ~~fee, or charge may be made under section 539, before filing a~~
22 ~~petition under this section, the legislative body shall proceed~~
23 ~~as prescribed in section 538a.~~

24 (1) ~~(2)~~ If it is necessary for the public health to
25 locate, establish, and construct an intercounty drain, a petition
26 for that purpose may be filed with the director of the department
27 of agriculture signed by ~~2~~ 1 or more public corporations which

1 will be subject to assessments to pay the cost of the drain. The
2 petition shall state that it is filed pursuant to this chapter
3 and shall describe the location and route of the proposed drain
4 sufficiently to determine with reasonable certainty the areas to
5 be serviced by the drain.

6 (2) ~~(3)~~ Not more than 20 days after the petition is filed,
7 the director of the department of agriculture shall notify all
8 public corporations in which any of the areas to be drained are
9 located, as described in the petition, that a petition has been
10 filed which may affect drainage in the public corporation.

11 (3) ~~(4)~~ A certified copy of the resolution of the govern-
12 ing body of each signer authorizing the affixing of the signature
13 of the governing body to the petition shall be attached to the
14 petition. The petition may be filed in more than 1 counterpart.
15 For a petition filed by a county, the county board of commission-
16 ers shall authorize the execution, and for a petition filed by
17 the state, the state transportation commission shall authorize
18 the execution of the petition. As provided in section 423, an
19 order of determination of the ~~water resources commission~~
20 DEPARTMENT OF ENVIRONMENTAL QUALITY shall also serve as a peti-
21 tion made pursuant to this chapter.

22 Sec. 515. There is created for each project petitioned for
23 under ~~the provisions of~~ this chapter, an augmented drainage
24 board to consist of the members of the drainage board together
25 with the ~~chairman~~ CHAIRPERSON of the COUNTY board of
26 ~~supervisors~~ COMMISSIONERS OR A MEMBER OF THE COUNTY BOARD OF
27 COMMISSIONERS APPOINTED BY THAT CHAIRPERSON and the ~~chairman of~~

1 ~~the board of county auditors of each county involved. If there~~
2 ~~is no board of county auditors in any county, then the chairman~~
3 CHAIRPERSON of the finance committee of the COUNTY board of
4 ~~supervisors shall act as a member of the augmented drainage~~
5 ~~board, and if~~ COMMISSIONERS OR A MEMBER OF THE COUNTY BOARD OF
6 COMMISSIONERS APPOINTED BY THAT CHAIRPERSON IF there is ~~neither~~
7 ~~a board of county auditors nor~~ NO finance committee, then the
8 ~~chairman~~ CHAIRPERSON of the COUNTY board of ~~supervisors~~
9 COMMISSIONERS shall select 1 member of the COUNTY board of
10 ~~supervisors~~ COMMISSIONERS of his OR HER county to act as a
11 member of the augmented drainage board. ~~The chairman~~ FOR
12 ATTENDANCE AT AUGMENTED DRAINAGE BOARD MEETINGS, THE CHAIRPERSON
13 and secretary of the drainage board shall act as ~~chairman~~
14 CHAIRPERSON and secretary, respectively, of the augmented drain-
15 age board. The ~~chairman~~ CHAIRPERSON of the COUNTY board of
16 ~~supervisors~~ COMMISSIONERS and any member of ~~a~~ THE COUNTY
17 board of ~~supervisors~~ COMMISSIONERS, serving on the augmented
18 drainage board, shall receive ~~such~~ compensation, mileage, and
19 expenses as ~~shall be~~ provided, ~~by the augmented drainage board~~
20 ~~except that such compensation shall not exceed \$25.00 per diem~~
21 ~~exclusive of mileage and expenses for attendance at augmented~~
22 ~~drainage board meetings~~ WHICH SHALL BE DETERMINED AS PROVIDED IN
23 SECTION 72 FOR MEMBERS OF A BOARD OF DETERMINATION.

24 Sec. 517. Upon receipt of a petition ~~as hereinbefore~~
25 ~~provided~~ UNDER SECTION 513, the director of agriculture shall
26 make a preliminary finding of the counties which, in his OR HER
27 opinion, include public corporations that should be assessed

1 under ~~the provisions of~~ this chapter for the cost of the
2 proposed drain. ~~Upon the making of such preliminary finding,~~
3 ~~the~~ THE director of agriculture shall THEN give notice of the
4 time and place of the first meeting of the drainage board and of
5 the first meeting of the augmented drainage board, by sending a
6 copy of ~~such~~ THE notice and of ~~such~~ THE preliminary finding
7 by ~~registered~~ FIRST-CLASS mail to each member thereof, and to
8 each highway agency having jurisdiction over any highway, road,
9 and street in ~~said~~ THE district. ~~, which~~ THE notice and find-
10 ing shall be mailed not less than 10 days ~~prior to~~ BEFORE the
11 ~~time~~ DATE of the meeting. ~~In the event~~ IF there ~~be~~ IS no
12 board of county auditors or finance committee in ~~any~~ THE
13 county, ~~involved,~~ then notice to the ~~chairman~~ CHAIRPERSON of
14 the COUNTY board of ~~supervisors~~ COMMISSIONERS of ~~such~~ THE
15 county shall ~~be deemed to be~~ SERVE AS notice to the member of
16 the COUNTY board of ~~supervisors~~ COMMISSIONERS to be selected by
17 ~~him~~ THE CHAIRPERSON UNDER SECTION 515. The drainage board
18 shall meet first ~~, for the purpose of selecting~~ TO SELECT a
19 secretary. Upon the selection of a secretary, the director of
20 agriculture shall turn over to ~~such~~ THE secretary the original
21 petition and any other records in his OR HER office pertaining to
22 the proposed drain.

23 Sec. 518. (1) Meetings of the drainage board, or of the
24 augmented drainage board, may be called by the chairperson or 2
25 members of the board, on notice sent by ~~registered~~ FIRST-CLASS
26 mail to each member. The notice shall be mailed not less than 10
27 days before the ~~time~~ DATE of the meeting.

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1 (2) A majority of the members of the board ~~shall~~
2 constitute a quorum for the transaction of business, but a lesser
3 number may adjourn from time to time. A meeting may be adjourned
4 from time to time. Unless otherwise provided herein, an action
5 shall not be taken by either of the boards except by a majority
6 vote of A QUORUM OF its members.

7 (3) All orders issued by either the drainage board, or the
8 augmented drainage board, shall be signed by the chairperson and
9 secretary.

10 Sec. 520. (1) The drainage board shall ~~proceed to~~ secure
11 from a competent engineer, plans, specifications, and an estimate
12 of cost of the proposed drain, which when approved and adopted by
13 the board shall be filed with the secretary ~~thereof~~ OF THE
14 BOARD. In approving the plans and specifications, the drainage
15 board shall not be limited to the route of the drain described in
16 the petition or the final order of determination.

17 (2) The drainage board shall tentatively establish the per-
18 centage of the cost of the drain or of the several sections or
19 parts thereof which is to be borne by public corporations in each
20 county affected and by the state on account of any state highway,
21 and by the county on account of any county highway. The percen-
22 tage of the cost apportioned to public corporations in each
23 county shall then be apportioned by the drain commissioner among
24 public corporations to be assessed in the county, which determi-
25 nation shall be filed with the secretary of the drainage board.
26 In making the apportionments, ~~hereunder,~~ there shall be taken
27 into consideration the benefits to accrue to each public

1 corporation and also the extent to which each public corporation
2 contributes to the conditions which make the drain necessary.
3 Apportionments against the state shall be based upon the benefits
4 and contributions as related ~~solely~~ to the drainage of state
5 highways, and those against the county shall be based as related
6 ~~solely~~ to the drainage of its county highways. Before a tenta-
7 tive apportionment ~~shall be~~ IS made, the drainage board shall
8 designate the area to be served by the drain project, which may
9 or may not include all of the area in a public corporation to be
10 assessed, and may divide the drain into sections or parts for
11 purposes of apportionment or construction. ~~Nothing herein con-~~
12 ~~tained shall prohibit a~~ THE county ~~from assuming any~~ MAY
13 ASSUME AN additional cost of the drain ~~if~~ BY THE VOTE OF 2/3 of
14 the members elect of the county board of commissioners. ~~vote in~~
15 ~~favor thereof.~~

16 (3) The apportionment shall apply only to the proposed drain
17 PROJECT, AND SEPARATE MAINTENANCE APPORTIONMENTS FOR THE DRAIN
18 MAY BE ESTABLISHED. The apportionments for extensions or other
19 work subsequently performed under section 535 shall be reestab-
20 lished by the board. ~~When chapter 25 is employed in the appor-~~
21 ~~tionment of costs, the above~~

22 (4) THE proceedings ~~shall~~ IN THIS SECTION MAY be altered
23 and supplemented as provided in chapter 25.

24 Sec. 521. (1) After the tentative apportionments of cost
25 have been made, the drainage board shall set a time, date, and
26 place it will meet and hear objections to the apportionments.
27 Notice of the hearing shall be published twice in each county

1 involved by inserting the notice in at least 1 newspaper
2 published in the county, designated by the drainage board. The
3 first publication ~~is to~~ SHALL be not less than 20 days before
4 the ~~time~~ DATE of THE hearing. The notice shall also be sent by
5 registered mail to the clerk or secretary of each public corpora-
6 tion proposed to be assessed. ~~, except that~~ HOWEVER, a notice
7 to the state shall be sent to the state ~~highway director~~
8 TRANSPORTATION COMMISSION and a notice to a county shall be sent
9 both to the county clerk and the county road commission. The
10 mailing shall be made not less than 20 days before the ~~time~~
11 DATE of THE hearing. The notice shall be signed by the secretary
12 and proof of the publication and mailing of the notice shall be
13 filed with the secretary. The drainage board may provide a form
14 to be substantially followed in the giving of the notice. The
15 notice shall include tentative apportionments to the several
16 public corporations.

17 (2) After the hearing, the drainage board may confirm the
18 apportionments as tentatively made, or, if it considers the
19 apportionments to be inequitable, it shall readjust the
20 apportionments. Before readjusted apportionments are confirmed,
21 the drainage board shall set a time, date, and place for a
22 rehearing and shall give notice of the hearing AS PROVIDED IN
23 SUBSECTION (1). The notice shall also set forth the apportion-
24 ments as readjusted. It shall then issue its order setting forth
25 the several apportionments as confirmed. The order shall be
26 known as the final order of apportionment.

1 Sec. 522. The drainage board shall then proceed to secure
2 the necessary lands or rights of way for the proposed drain. If
3 the ~~same~~ LANDS OR RIGHTS OF WAY cannot be secured by negotia-
4 tion, then the drainage board may ~~proceed under the provisions~~
5 ~~of Act No. 149 of the Public Acts of 1911, as amended, being sec-~~
6 ~~tions 213.21 to 213.41 of the Compiled Laws of 1948, or under the~~
7 ~~applicable provisions of sections 75 to 84 of this act, and shall~~
8 ~~be deemed to be a "state agency" as that term is used in said~~
9 ~~act, or if~~ CONDEMN THE PROPERTY IN THE MANNER PROVIDED IN THE
10 UNIFORM CONDEMNATION PROCEDURES ACT, 1980 PA 87, MCL 213.51 TO
11 213.77. IF the project is one in which the federal government is
12 participating in any manner, then ~~such~~ THE lands or rights of
13 way may be acquired through proceedings brought by the federal
14 government under any appropriate federal act. No such condemna-
15 tion proceedings involving highways shall be effective to take
16 title thereto without a prior agreement with the highway agency
17 involved. ~~In the event that~~ IF lands or rights of way ~~shall~~
18 ~~be~~ ARE acquired through proceedings under a federal act, then
19 the amount of the awards in such proceedings shall be ~~deemed~~
20 CONSIDERED to be a part of the cost of the drain to the same
21 extent as if the condemnation proceedings had been taken under
22 the laws of this state.

23 SEC. 524A. (1) AFTER THE CONFIRMATION OF THE APPORTIONMENTS
24 BY THE DRAINAGE BOARD, THE CHAIRPERSON OF THE BOARD SHALL PREPARE
25 THE ESTIMATED COST OF ALL OF THE EXPENSES OF THE DRAIN PROJECT,
26 OR IF THE ACTUAL COST HAS BEEN ASCERTAINED, THEN THE ACTUAL
27 COST.

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1 (2) THE COST OF A DRAIN PROJECT SHALL INCLUDE ALL OF THE
2 FOLLOWING:

3 (A) THE COST OF CONSTRUCTING OR ACQUIRING THE FACILITIES,
4 STRUCTURES, DEVICES, AND EQUIPMENT REQUIRED TO LOCATE, ESTABLISH,
5 AND CONSTRUCT THE DRAIN OR TO IMPROVE OR SUPPLEMENT THE SAME,
6 INCLUDING BRIDGES AND CULVERTS AND ANY LANDS OR RIGHTS OF WAY
7 NECESSARY FOR BRIDGES OR CULVERTS.

8 (B) THE ADMINISTRATIVE AND OTHER EXPENSES OF THE DRAINAGE
9 BOARD AND AUGMENTED DRAINAGE BOARD INCLUDING THE COST OF SERVICE
10 AND PUBLICATION OF ALL NOTICES.

11 (C) ENGINEERING, LEGAL, AND OTHER PROFESSIONAL FEES.

12 (D) INTEREST ON BONDS FOR THE FIRST YEAR, IF BONDS ARE TO BE
13 ISSUED, AND INTEREST ON MONEY ADVANCED PURSUANT TO SECTION 531.

14 (E) AN AMOUNT NOT EXCEEDING 10% OF THE GROSS SUM TO COVER
15 CONTINGENT EXPENSES.

16 Sec. 525. (1) After the confirmation of the apportionments
17 by the drainage board AND THE PREPARATION OF THE COMPUTATION OF
18 COSTS BY THE CHAIRPERSON OF THE DRAINAGE BOARD, the secretary of
19 the board shall prepare a special assessment ~~roll~~ SCHEDULE
20 assessing the estimated cost of the drain, or if the actual cost
21 has been ascertained, then the actual cost, AND ANY INTEREST ON
22 BONDS OR OTHER EVIDENCE OF INDEBTEDNESS against the several
23 public corporations in accordance with the confirmed
24 apportionments. THE DRAINAGE BOARD SHALL FIX A DATE, NOT LATER
25 THAN 4 YEARS AFTER CONFIRMATION, FOR THE PAYMENT OF THE FIRST
26 INSTALLMENT SO THAT EACH PUBLIC CORPORATION CAN MAKE A TAX LEVY
27 FOR THE PAYMENT OF THE INSTALLMENT. SUBSEQUENT INSTALLMENTS

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1 SHALL BECOME DUE ANNUALLY ON THE SAME DAY AND MONTH OF SUBSEQUENT
2 YEARS. A CITY OR VILLAGE MAY ELECT TO SPREAD THE TAX LEVY UPON
3 THE COUNTY TAX ROLL INSTEAD OF THE CITY OR VILLAGE TAX ROLL.

4 (2) The drainage board may provide for the payment of the
5 special assessments in any number of annual installments, not
6 exceeding 30, but an installment shall not be less than 1/4 of
7 any subsequent installment. Installments of assessments against
8 the state and against public corporations which collect their
9 taxes beginning approximately December 1 in each year shall
10 become due and payable on or before April 1 of each year.
11 Installments of assessments against other public corporations
12 shall become due and payable on or before the dates ~~as shall be~~
13 fixed by the drainage board, depending upon the times of the col-
14 lection of taxes by the public corporations. The drainage board
15 shall fix the commencement date of interest to be paid upon
16 unpaid installments, not to exceed an amount sufficient to pay
17 interest on bonds or other evidences of indebtedness issued or to
18 be issued by the drainage district. ~~, which~~ THE interest shall
19 become due annually on the day and month upon which the annual
20 installments become due but may become due in years before the
21 due date of the first installment. The drainage board may pro-
22 vide for the payment of installments in advance of their respec-
23 tive due dates and may prescribe the terms and conditions of
24 payment. ~~The drainage board shall fix the date, not later than~~
25 ~~4 years after confirmation for the payment of the first install-~~
26 ~~ment so that each public corporation can make a tax levy for the~~
27 ~~payment thereof and subsequent installments shall become due~~

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1 ~~annually on the same day and month of subsequent years. A city~~
2 ~~or village may elect to spread the tax levy upon the county tax~~
3 ~~roll instead of the city or village tax roll. When chapter 25 is~~
4 ~~employed in the apportionment of costs, the above proceedings~~
5 ~~shall~~

6 (3) THE PROCEEDINGS IN THIS CHAPTER MAY be altered and sup-
7 plemented as provided in chapter 25.

8 Sec. 526. (1) The special assessment ~~roll~~ SCHEDULE shall
9 contain ALL OF the FOLLOWING:

10 (A) THE name of each public corporation assessed. ~~, the~~

11 (B) THE total estimated cost of the project, or THE actual
12 cost if the ~~same~~ ACTUAL COST has been ascertained ~~at~~ BY the
13 time of the preparation of the roll. ~~, the~~

14 (C) THE percentage apportioned to each public corporation.
15 ~~, the~~

16 (D) THE PRINCIPAL amount of the assessment against each
17 public corporation based upon the percentage of apportionment. ~~,~~
18 ~~and the~~

19 (E) THE INTEREST PORTION OF THE ASSESSMENT SUFFICIENT TO PAY
20 THE INTEREST ON BONDS OR OTHER EVIDENCES OF INDEBTEDNESS BASED ON
21 THE PERCENTAGE OF APPORTIONMENT.

22 (F) THE amount of each installment if the assessment is
23 divided into annual installments.

24 (G) THE DUE DATE OF EACH INSTALLMENT.

25 (2) After the special assessment ~~roll~~ SCHEDULE has been
26 prepared, it shall be presented to the drainage board for
27 approval. When the ~~roll~~ SCHEDULE has been approved, then a

1 statement to that effect signed by the ~~chairman~~ CHAIRPERSON and
2 secretary of the drainage board shall be affixed to the ~~roll~~
3 SCHEDULE setting forth the date of approval. The ~~chairman~~
4 CHAIRPERSON of the drainage board shall then certify to each
5 public corporation assessed, the ~~amount of the total assessment~~
6 ~~against it, the amount of the various installments if the assess-~~
7 ~~ment is divided into installments, the due date of each install-~~
8 ~~ment, and the rate of interest upon installments from time to~~
9 ~~time unpaid~~ ASSESSMENT INFORMATION DESIGNATED IN THE ASSESSMENT
10 SCHEDULE. ~~The chairman each~~ EACH year, at least 30 days before
11 the time of the levying of taxes by each public corporation, THE
12 SECRETARY OF THE DRAINAGE BOARD shall notify ~~it~~ THE PUBLIC
13 CORPORATION of the amount of the installment and interest next
14 becoming due, but the failure to notify a public corporation
15 shall not excuse it from making payment of the installment and
16 interest. ~~On or~~

17 (3) A MINIMUM OF 2 DAYS before the due date of an install-
18 ment, each public corporation shall pay to its county treasurer
19 the full amount together with interest accruing to the due date,
20 and within ~~15~~ 5 days thereafter the county treasurer shall for-
21 ward the amount paid to the county treasurer acting as treasurer
22 for the drainage board.

23 (4) If a public corporation fails or neglects to account to
24 the county treasurer for the amount of an installment and inter-
25 est, then the county treasurer shall advance the amount thereof
26 from county funds. If bonds or other evidences of indebtedness
27 have been issued to finance the project in anticipation of the

1 collection of the installment and interest pursuant to this
2 chapter and the county board of commissioners has previously
3 acted, by a resolution adopted by a 2/3 vote of its members elect
4 to pledge the full faith and credit of the county for the prompt
5 payment of the principal of and interest on the bonds or evi-
6 dences of indebtedness, the county treasurer shall immediately
7 notify the public corporation of the amount advanced by the
8 county on account of the default by the public corporation in
9 paying the installment and interest assessed against it. The
10 county treasurer shall also notify the state treasurer, or other
11 appropriate disbursing official, who shall deduct the amount from
12 ~~moneys~~ MONEY in his OR HER possession belonging to the public
13 corporation ~~which are~~ THAT IS not pledged to the payment of
14 debts, but the state treasurer or other official shall not with-
15 hold in any 1 year a sum greater than 25% of the total amount
16 owed by the delinquent public corporation as stated in the notice
17 from the county treasurer. ~~Nothing in this~~ THIS section
18 ~~shall~~ DOES NOT permit the deduction of ~~moneys~~ MONEY in
19 contravention of the state constitution of 1963.

20 (5) The county board of commissioners of a county which has
21 advanced money for a public corporation, and which has not been
22 reimbursed therefor, may order the public corporation and its
23 officers to levy upon its next roll an amount sufficient to make
24 the reimbursement on or before the date when its taxes become
25 delinquent. ~~and the~~ THE public corporation and its tax levy-
26 ing and collecting officials shall levy and collect those taxes
27 and reimburse the county. ~~The foregoing shall~~ THIS SUBSECTION

1 DOES not ~~prevent~~ PROHIBIT the county from obtaining
2 reimbursement by any other legal method. Assessments against the
3 state shall be certified to the state ~~highway~~ TRANSPORTATION
4 commission and paid from state highway funds. The tax levying
5 officials of each of the other public corporations assessed shall
6 levy sufficient taxes to pay assessment installments and interest
7 as the same become due unless there has been set aside money suf-
8 ficient therefor. If a special assessment ~~roll~~ SCHEDULE is
9 prepared upon the basis of the estimated cost of the project,
10 then after the actual cost has been ascertained and determined by
11 the drainage board, the special assessments and the installments
12 thereof shall be corrected by adding any deficiency or deducting
13 any excess. The drainage board may order the corrections to be
14 made upon the original ~~roll~~ SCHEDULE or may order that a new
15 corrected ~~roll~~ SCHEDULE be prepared and submitted for approval
16 by the drainage board. ~~When chapter 25 is employed in the~~
17 ~~apportionment of costs, the above~~ THE proceedings ~~shall~~ IN
18 THIS CHAPTER MAY be altered and supplemented as provided in chap-
19 ter 25.

20 Sec. 530. (1) The drainage board for each project shall
21 continue in existence with such changes in personnel as shall
22 result from changes in the offices of director of agriculture and
23 drain commissioners. It shall be responsible for the operation
24 and maintenance of the drain. Any necessary expenses incurred in
25 administration and in the operation and maintenance of the drain
26 and not covered by contract shall be paid by the several public
27 corporations assessed for the cost of the drain. The assessments

1 shall be in the same proportion as the cost of the drain was
2 assessed unless the drainage board establishes a different pro-
3 portion for the assessments after notice and hearing as provided
4 in section 521.

5 (2) The drainage board, by resolution duly adopted by it,
6 may relinquish jurisdiction and control over any part of a drain
7 or drain project ~~at any time when~~ IF there is no outstanding
8 indebtedness or contract liability of its drainage district, to
9 the county, township, city, or village in which the part of the
10 drain or drain project is wholly located, if the county, town-
11 ship, city, or village requests or consents to the relinquishment
12 of jurisdiction and control by resolution duly adopted by its
13 governing body. Indebtedness or contract liability of any drain-
14 age district which will be paid in full at the time of consumma-
15 tion of relinquishment of jurisdiction and control shall not be
16 ~~deemed~~ CONSIDERED to be outstanding. If relinquishment of
17 jurisdiction and control is to a county, the resolution of the
18 governing body of the county shall specify the county agency,
19 such as board of public works, drain commissioner, board of
20 county road commissioners, or parks and recreation commission,
21 which shall be thereafter responsible for exercise of such juris-
22 diction and control. Any ~~moneys~~ MONEY in the drain fund of any
23 drain, over any part of which jurisdiction and control is relin-
24 quished, shall be used to pay any indebtedness or contract
25 liability of its drainage district, and the balance shall be
26 turned over to the county, township, city, or village to be used

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1 solely with respect to the drain, ~~all~~ or part ~~thereof~~ OF THE
2 DRAIN, over which jurisdiction and control is assumed.

3 (3) If the relinquishment of jurisdiction and control and
4 the turnover of drain fund relates to a part of a drain or drain
5 project, ~~such~~ THE relinquishment and turnover shall not become
6 effective until consented to by resolution of the governing body
7 of each public corporation which has paid a part of the cost of
8 the drain or drain project. ~~, and for~~ FOR this purpose, the
9 board of county road commissioners and the state ~~highway~~
10 TRANSPORTATION commission shall be ~~deemed~~ CONSIDERED to be the
11 governing ~~body~~ BODIES for the ~~county and the~~ state.

12 Sec. 534. The director of agriculture may designate a
13 deputy or an assistant to act in his OR HER stead in respect to
14 the performance of his OR HER duties under this act. ~~Where~~ IF
15 any deputy or assistant so acts, it shall be conclusively pre-
16 sumed that he OR SHE was properly designated by the director of
17 agriculture. Any official proceedings may be signed by ~~such~~
18 THE deputy or assistant in his OR HER own name. The signature of
19 ~~such~~ THE deputy or assistant shall be followed by his OR HER
20 official title. ~~Where~~ IF a deputy or assistant has been desig-
21 nated by the director of agriculture to act in his OR HER stead
22 in connection with all the proceedings as to any project, then
23 any notice required to be served upon or mailed to the director
24 of agriculture may be served upon or mailed to such deputy or
25 assistant. The director of agriculture ~~is hereby empowered to~~
26 MAY appoint a deputy ~~who shall have power~~ to act in his OR HER
27 place ~~under any and all circumstances~~ in respect to matters

1 within the scope of this act, irrespective of whether or not he
2 OR SHE is authorized to appoint a general deputy. ALL EXPENSES
3 FOR THE DIRECTOR OR DEPUTY ACTING IN HIS OR HER STEAD SHALL BE
4 PAID BY THE MICHIGAN DEPARTMENT OF AGRICULTURE.

5 Sec. 540. ~~When~~ IF 2 or more public corporations, consti-
6 tuting as a whole contiguous territory, are served by 1 or more
7 intercounty drains or by a combination of 1 or more intercounty
8 drains and 1 or more county drains, and it is necessary for the
9 public health to supplement such existing drain or drains by con-
10 structing 1 or more relief drains, which may consist of new
11 drains and branches and connections thereto or extensions,
12 enlargements, CONSOLIDATIONS, branches, connections, or improve-
13 ments described in section 535 to existing drains, or any combi-
14 nation thereof, then the entire project may be constructed and
15 financed as a whole under the provisions of this chapter and the
16 word "drain" ~~shall be deemed to include~~ INCLUDES such a
17 project.

18 Sec. 541. (1) A petition meeting the requirements of this
19 chapter as to petitioners, execution, and filing may request, for
20 reasons of public health, that jurisdiction be assumed over all
21 or a specified part of the bed, tributaries, banks, and ~~flood~~
22 ~~plains~~ FLOODPLAINS of a river, creek, or watercourse, not part
23 of an established drain. The petition shall describe the exist-
24 ing or threatened conditions which cause or increase the danger
25 of flooding, pollution, ~~desecration~~ DAMAGE, or obstruction of
26 such river, creek, or watercourse, and shall specify, in general
27 terms, the works, property acquisition, actions, or procedures,

1 ~~deemed~~ STRUCTURAL OR NONSTRUCTURAL, CONSIDERED necessary to
2 remove or lessen such danger.

3 (2) THE PETITIONERS NAMED IN A PETITION UNDER SUBSECTION (1)
4 SHALL INCLUDE IN THE PETITION AN AGREEMENT TO PAY, OR ACCOMPANY
5 THE PETITION WITH A DEPOSIT IN THE AMOUNT OF, THE ESTIMATED COST
6 OF THE PLANNING AND ENGINEERING REQUIRED TO DESCRIBE ALL OF THE
7 FOLLOWING:

8 (A) IN RECORDABLE FORM THE BED, TRIBUTARIES, BANKS, AND
9 FLOODPLAINS OF THE RIVER, CREEK, OR WATERCOURSE OVER WHICH JURIS-
10 DICTION IS NECESSARY AND IS TO BE ASSUMED UNDER THE PETITION.

11 (B) THE WORK TO BE DONE UNDER THE PETITION.

12 (C) THE PROPERTY TO BE ACQUIRED UNDER THE PETITION.

13 (3) UPON THE FILING OF THE PETITION WITH THE AGREEMENT OR
14 DEPOSIT TO PAY COSTS, THE DRAINAGE BOARD SHALL PROCEED AS
15 DESCRIBED IN SECTIONS 517 AND 519. THE DESCRIPTION SHALL BE
16 OBTAINED AND APPROVED AND ADOPTED BY THE DRAINAGE BOARD. THE
17 DRAINAGE BOARD SHALL HOLD A HEARING TO HEAR OBJECTIONS TO THE
18 ASSUMPTION OF SUCH JURISDICTION, TO THE PETITION THEREFOR AND TO
19 THE PROPOSED WORK OR PROPERTY ACQUISITION SHALL BE HELD AS PRO-
20 VIDED FOR OTHER DRAIN PROJECTS PURSUANT TO THIS CHAPTER. NOTICE
21 OF THE HEARING SHALL CONTAIN THE DESCRIPTION AS APPROVED AND
22 ADOPTED BY THE DRAINAGE BOARD.

23 (4) AFTER THE HEARING, THE DRAINAGE BOARD SHALL DETERMINE
24 WHETHER OR NOT IT WILL ASSUME SUCH JURISDICTION AND PERFORM THE
25 WORK PROPOSED, IF ANY, AND SHALL ISSUE ITS ORDER ACCORDINGLY.
26 THE ORDER SHALL BE KNOWN AS THE "FINAL ORDER OF DETERMINATION".
27 THE FINAL ORDER OF DETERMINATION SHALL CONTAIN THE DESCRIPTION OF

1 THE BED, TRIBUTARIES, BANKS, AND FLOODPLAINS OF THE RIVER, CREEK,
2 OR WATERCOURSE OVER WHICH JURISDICTION HAS BEEN ASSUMED AND SHALL
3 BE RECORDED IN THE COUNTY RECORDS IN THE COUNTY IN WHICH ANY PART
4 THEREOF IS LOCATED. AFTER THE FINAL ORDER OF DETERMINATION IS
5 RECORDED, NO CONSTRUCTING, EXCAVATING, LAND FILLING, REMOVING OF
6 STRUCTURES OR VEGETATION, DUMPING, OR DISCHARGING OF SEWERS OR
7 DRAINS SHALL BE PERMITTED OR CONTINUED IN THE BED, TRIBUTARIES,
8 BANKS, OR FLOODPLAINS OF THE RIVER, CREEK, OR WATERCOURSE WITHIN
9 THE RECORDED DESCRIPTION THEREOF, EXCEPT UPON WRITTEN ORDER OR
10 PERMIT ISSUED BY THE DRAINAGE BOARD.

11 (5) THE RECORDING OF THE DESCRIPTION DOES NOT APPROPRIATE,
12 TERMINATE, OR LESSEN ANY PRIVATE RIGHTS IN PROPERTY, REAL OR PER-
13 SONAL, EXCEPT SUCH AS SHALL BE VOLUNTARILY RELEASED BY WRITTEN
14 AGREEMENT OR CONVEYANCE OR AS SHALL BE CONDEMNED AS PROVIDED IN
15 THIS CHAPTER, OR PURSUANT TO APPLICABLE LAW. THE RECORDING OF
16 THE DESCRIPTION CONSTITUTES A REGULATION AND LIMITATION, FOR REA-
17 SONS OF PUBLIC HEALTH, OF THE USE OF THE PUBLIC AND PRIVATE PROP-
18 ERTY THEREIN DESCRIBED TO REMOVE OR LESSEN THE DANGER OF FLOOD-
19 ING, POLLUTION, DAMAGE, OR OBSTRUCTION OF THE RIVER, CREEK, OR
20 WATERCOURSE, OR PART THEREOF, INVOLVED.

21 (6) BEFORE ANY WORK, OTHER THAN PREPARATION OF THE DESCRIP-
22 TION AND THE APPROVAL, ADOPTION, AND RECORDING OF THE DESCRIP-
23 TION, IS DONE OR RIGHTS IN OR OWNERSHIP OF PROPERTY IS ACQUIRED
24 BY THE DRAINAGE BOARD, PURSUANT TO A PETITION FILED UNDER
25 SUBSECTION (1), THE DRAINAGE BOARD SHALL MAKE A DETERMINATION,
26 FOLLOWING NOTICE AND A HEARING AS PROVIDED IN THIS CHAPTER, AS TO
27 THE PUBLIC CORPORATIONS TO BE ASSESSED FOR THE COST OF THE WORK

1 OR ACQUISITION. THE HEARING MAY BE THE HEARING PROVIDED FOR IN
2 SUBSECTION (2). AFTER THE HEARING AND THE DETERMINATION TO PRO-
3 CEED WITH THE WORK, THE DRAINAGE BOARD SHALL PROCEED IN THE SAME
4 MANNER AND HAVE THE SAME POWERS AND DUTIES AS ARE PROVIDED FOR
5 OTHER DRAIN PROJECTS IN THIS CHAPTER.

6 Sec. 548. ~~Whenever the water resources commission or suc-~~
7 ~~cessor agency~~ IF THE DIRECTOR OF THE DEPARTMENT OF ENVIRONMENTAL
8 QUALITY has determined that pollution exists in an inter-county
9 drain which services any city, village, or township or any combi-
10 nation thereof and has issued an order of determination or permit
11 to ~~such~~ THE public corporation for abatement ~~thereof~~ OF THE
12 POLLUTION, then a petition under this chapter may be filed ~~in~~
13 ~~accordance with~~ UNDER section 513 by any ~~one~~ 1 such city
14 having greater than 500,000 population.

15 SEC. 585. AS USED IN THIS CHAPTER, UNLESS THE CONTEXT INDI-
16 CATES OTHERWISE:

17 (A) "ADVISORY BOARD" MEANS THE WATERSHED ADVISORY BOARD OF A
18 DISTRICT ESTABLISHED UNDER SECTION 592.

19 (B) "BENEFIT" OR "BENEFITS" MEANS THE ADVANTAGES RESULTING
20 FROM A PLAN OR PROJECT TO PUBLIC CORPORATIONS, THE RESIDENTS OF
21 PUBLIC CORPORATIONS, AND PROPERTY WITHIN PUBLIC CORPORATIONS.
22 BENEFITS INCLUDE BUT ARE NOT LIMITED TO BENEFITS THAT RESULT FROM
23 THE MANAGEMENT AND CONTROL OF WATER, SUCH AS ELIMINATION OR
24 REDUCTION OF FLOOD DAMAGE, ELIMINATION OR REDUCTION OF WATER
25 QUALITY CONDITIONS THAT JEOPARDIZE THE PUBLIC HEALTH, SAFETY, OR
26 WELFARE, INCREASE OF THE VALUE OR USE OF LANDS AND PROPERTY
27 ARISING FROM IMPROVED DRAINAGE, ELIMINATION OF FLOODING

1 CONDITIONS AND IMPROVEMENT OF WATER QUALITY, AND INCREASED
2 USEFULNESS OF THE WATER FOR AGRICULTURAL CONSERVATION, DEVELOP-
3 MENT, AND RECREATIONAL USES.

4 (C) "COMMISSION" MEANS THE WATERSHED MANAGEMENT COMMISSION
5 OF A DISTRICT.

6 (D) "DISTRICT", UNLESS THE CONTEXT CLEARLY INDICATES OTHER-
7 WISE, MEANS A WATERSHED MANAGEMENT DISTRICT.

8 (E) "EXECUTIVE COMMITTEE" MEANS THE WATERSHED MANAGEMENT
9 DISTRICT EXECUTIVE COMMITTEE ESTABLISHED UNDER SECTION 591.

10 (F) "PETITION FILER" MEANS THE PERSON WHO FILED A PETITION
11 UNDER SECTION 586 TO INITIATE PROCEDURES TO ESTABLISH A
12 DISTRICT.

13 (G) "PLAN" MEANS A WATERSHED MANAGEMENT PLAN ADOPTED UNDER
14 SECTION 595.

15 (H) "PROJECT" MEANS THE ACTIVITIES IN THE PLAN OTHER THAN
16 ACTIVITIES SPECIFICALLY RESERVED FOR IMPLEMENTATION THROUGH THE
17 PROVISIONS OF THIS ACT.

18 (I) "PUBLIC CORPORATION" MEANS A COUNTY, CITY, VILLAGE,
19 TOWNSHIP, METROPOLITAN DISTRICT, OR AUTHORITY CREATED BY OR PUR-
20 SUANT TO STATE LAW.

21 (J) "WATERSHED" MEANS A GEOGRAPHIC AREA OF ANY SIZE FROM
22 WHICH WATER SEEKS A COMMON OUTLET, INCLUDING, BUT NOT LIMITED TO,
23 A CREEKSHED, CATCHMENT AREA, DRAINAGE BASIN, DRAINAGE DISTRICT,
24 OR RIVER BASIN.

25 SEC. 586. (1) TO INITIATE PROCEDURES TO ESTABLISH A WATER-
26 SHED MANAGEMENT DISTRICT AND DEVELOP A WATERSHED MANAGEMENT PLAN,
27 A PETITION SHALL BE FILED WITH THE DRAIN COMMISSIONER IN A COUNTY

1 WHERE ALL OR A PORTION OF THE PROPOSED WATERSHED MANAGEMENT
2 DISTRICT IS TO BE LOCATED AND ESTABLISHED.

3 (2) THE PETITION SHALL STATE THAT IT IS FILED UNDER THIS
4 CHAPTER, REQUEST THE ESTABLISHMENT OF A DISTRICT, SET FORTH THE
5 PROPOSED NAME OF THE DISTRICT, AND BRIEFLY RECITE FACTS AND CIR-
6 CUMSTANCES SHOWING THAT THE DISTRICT WOULD BE CONDUCIVE TO THE
7 PUBLIC HEALTH, CONVENIENCE, OR WELFARE OR TO THE PROTECTION AND
8 REHABILITATION OF WATERS OF THE DISTRICT. THE PETITION SHALL
9 IDENTIFY THE COMMON OUTLET FOR THE PROPOSED DISTRICT. THE PETI-
10 TION SHALL INCLUDE A GENERAL DESCRIPTION OF THE LOCATION OF THE
11 PROPOSED DISTRICT WHICH MAY CONSIST OF A MAP GENERALLY OUTLINING
12 THE BOUNDARIES OF THE PROPOSED DISTRICT. THE PETITION SHALL ALSO
13 REQUEST THE DEVELOPMENT OF A WATERSHED MANAGEMENT PLAN AND
14 BRIEFLY DESCRIBE THE OBJECTIVES TO BE ACCOMPLISHED BY THE PLAN OR
15 COMPONENTS OF A PLAN FOR WHICH THE PETITIONER SEEKS
16 CONSIDERATION. THE PETITION MAY SPECIFY PERSONS OR ENTITIES THAT
17 SHOULD BE CONSIDERED FOR MEMBERSHIP ON ANY APPOINTED WATERSHED
18 ADVISORY BOARD.

19 (3) A PETITION FOR THE ESTABLISHMENT OF A DISTRICT SHALL BE
20 SIGNED BY 1 OF THE FOLLOWING:

21 (A) BY AT LEAST 50 LANDOWNERS WITHIN THE PROPOSED DISTRICT.

22 (B) FOR A DISTRICT WITH LESS THAN 100 LANDOWNERS, BY LAND-
23 OWNERS REPRESENTING AT LEAST 25% OF THE LANDS WITHIN THE PROPOSED
24 DISTRICT.

25 (C) FOR A DISTRICT LYING WHOLLY WITHIN THE BOUNDS OF 1
26 COUNTY, BY AN AUTHORIZED OFFICIAL OF THAT COUNTY OR OF AT LEAST 1
27 PUBLIC CORPORATION LYING WHOLLY OR PARTLY WITHIN THAT COUNTY.

1 (D) FOR A DISTRICT LYING WHOLLY OR PARTLY WITHIN 2 OR MORE
2 BUT LESS THAN 7 COUNTIES, BY AN AUTHORIZED OFFICIAL OF EACH OF AT
3 LEAST 2 COUNTIES OR PUBLIC CORPORATIONS LYING WHOLLY OR PARTLY
4 WITHIN THOSE COUNTIES.

5 (E) FOR A DISTRICT LYING WHOLLY OR PARTLY WITHIN 7 OR MORE
6 COUNTIES, BY AN AUTHORIZED OFFICIAL OF AT LEAST 2 OF THOSE COUN-
7 TIES OR, FOR EACH COUNTY, BY AN AUTHORIZED OFFICIAL OF AT LEAST 1
8 PUBLIC CORPORATION LYING WHOLLY OR PARTLY WITHIN THAT COUNTY.

9 SEC. 587. THE PETITION FILER SHALL ALSO FILE WITH THE DRAIN
10 COMMISSIONER A CASH DEPOSIT SUFFICIENT TO PAY THE COSTS, AS
11 DETERMINED BY THE DRAIN COMMISSIONER, OF NOTICE UPON EACH
12 AFFECTED PUBLIC CORPORATION, PUBLICATION OF NOTICE FOR THE FIRST
13 MEETING OF THE COMMISSION, AND PUBLICATION OF THE FIRST HEARING.
14 ANY UNUSED FUNDS FROM THE DEPOSIT SHALL BE RETURNED TO THE PERSON
15 FILING THE PETITION. IF A DISTRICT IS ESTABLISHED, THE BALANCE
16 OF THE DEPOSIT SHALL BE CONSIDERED A COST OF THE WATERSHED MAN-
17 AGEMENT DISTRICT, SHALL BE COLLECTED IN THE FIRST ASSESSMENT, AND
18 SHALL BE RETURNED TO THE PETITIONER UPON COLLECTION OF THE FIRST
19 ASSESSMENT.

20 SEC. 588. (1) WITHIN 45 DAYS FOLLOWING RECEIPT OF THE PETI-
21 TION, THE DRAIN COMMISSIONER SHALL REVIEW THE PETITION FOR
22 SUFFICIENCY.

23 (2) IF THE DRAIN COMMISSIONER FINDS THAT THE PETITION IS
24 SUFFICIENT, A WATERSHED MANAGEMENT COMMISSION IS ESTABLISHED FOR
25 THE DISTRICT. THE COMMISSION CONSISTS OF THE FOLLOWING MEMBERS:

26 (A) THE DRAIN COMMISSIONER OF EACH COUNTY WITHIN THE
27 DISTRICT.

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1 (B) THE CHIEF ELECTED OFFICIAL OR AN ELECTED OFFICIAL
2 DESIGNATED BY THE CHIEF ELECTED OFFICIAL OF EACH PUBLIC CORPORA-
3 TION WITH LANDS WITHIN THE DISTRICT.

4 (C) THE DIRECTOR OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY
5 OR A PERSON AS APPOINTED BY THE DIRECTOR AS A NONVOTING MEMBER.

6 (D) THE DIRECTOR OF THE DEPARTMENT OF NATURAL RESOURCES OR A
7 PERSON DESIGNATED BY THE DIRECTOR AS A NONVOTING MEMBER.

8 (E) UNLESS THE DISTRICT LIES WHOLLY WITHIN THE BOUNDARIES OF
9 1 COUNTY, THE DIRECTOR OF THE DEPARTMENT OF AGRICULTURE OR A
10 PERSON DESIGNATED BY THE DIRECTOR OF THE DEPARTMENT OF
11 AGRICULTURE.

12 (3) PROMPTLY AFTER DETERMINING THAT THE PETITION IS SUFFI-
13 CIENT, THE DRAIN COMMISSIONER SHALL MAKE A PRELIMINARY FINDING OF
14 THE COUNTIES THAT ARE SUBJECT TO ASSESSMENT UNDER THIS CHAPTER OR
15 INCLUDE PUBLIC CORPORATIONS SUBJECT TO ASSESSMENT UNDER THIS
16 CHAPTER. THE DRAIN COMMISSIONER SHALL PROMPTLY BY FIRST-CLASS
17 MAIL PROVIDE NOTICE OF THE FIRST MEETING OF THE COMMISSION TO ALL
18 OF THE FOLLOWING:

19 (A) THE COUNTY CLERK, DRAIN COMMISSIONER, AND CHAIRPERSON OF
20 EACH COUNTY ROAD COMMISSION OF EACH COUNTY SUBJECT TO ASSESSMENT
21 UNDER THIS CHAPTER OR THAT INCLUDES A PUBLIC CORPORATION SUBJECT
22 TO ASSESSMENT UNDER THIS CHAPTER.

23 (B) THE CHAIRPERSON OF EACH SOIL CONSERVATION DISTRICT
24 WITHIN THE PROPOSED WATERSHED MANAGEMENT DISTRICT.

25 (C) THE CLERK OF EACH CITY, VILLAGE, AND TOWNSHIP HAVING
26 LANDS WITHIN THE PROPOSED DISTRICT.

1 (D) THE DIRECTOR OF THE DEPARTMENT OF ENVIRONMENTAL
2 QUALITY.

3 (E) THE DIRECTOR OF THE DEPARTMENT OF NATURAL RESOURCES.

4 (F) THE DIRECTOR OF THE STATE TRANSPORTATION DEPARTMENT.

5 (G) THE CHAIRPERSON OF ANY OTHER WATERSHED MANAGEMENT DIS-
6 TRICT THAT HAS LANDS THAT MAY OVERLAP WITH THE PROPOSED
7 DISTRICT.

8 (H) THE CHAIRPERSON OF ANY WATERSHED COUNCIL ESTABLISHED
9 UNDER PART 311 (LOCAL RIVER MANAGEMENT) OF THE NATURAL RESOURCES
10 AND ENVIRONMENTAL PROTECTION ACT, 1994 PA 451, MCL 324.31101 TO
11 324.31119, WHOSE WATERSHED LIES WHOLLY OR PARTLY WITHIN THE
12 DISTRICT.

13 (I) UNLESS THE DISTRICT LIES WHOLLY WITHIN THE BOUNDARIES OF
14 1 COUNTY, THE DIRECTOR OF THE DEPARTMENT OF AGRICULTURE.

15 (4) THE NOTICE SHALL INCLUDE A COPY OF THE PETITION AND
16 SHALL REQUEST EACH NOTIFIED PUBLIC CORPORATION TO APPOINT A REP-
17 RESENTATIVE TO THE COMMISSION AND STATE THE TIME AND PLACE OF THE
18 FIRST MEETING WHICH SHALL BE NOT LESS THAN 45 AND NOT MORE THAN
19 60 DAYS FOLLOWING THE MAILING OF THE NOTICE. FAILURE OF THE GOV-
20 ERNING BODY OF ANY PUBLIC CORPORATION ENTITLED REPRESENTATION TO
21 APPOINT A MEMBER TO THE COMMISSION DOES NOT PREVENT THE INCLUSION
22 OF THE PUBLIC CORPORATION IN THE WATERSHED MANAGEMENT DISTRICT OR
23 EXEMPT IT FROM ASSESSMENT OR OTHER OBLIGATIONS UNDER THIS
24 CHAPTER.

25 (5) THE DRAIN COMMISSIONER WITH WHOM THE PETITION WAS FILED
26 SHALL ALSO PUBLISH A NOTICE OF THE FIRST MEETING OF THE

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1 COMMISSION IN A NEWSPAPER OF GENERAL CIRCULATION IN THE PROPOSED
2 DISTRICT.

3 (6) EACH DRAIN COMMISSIONER WHOSE COUNTY LIES WHOLLY OR
4 PARTLY WITHIN THE BOUNDARIES OF THE DISTRICT SHALL BY FIRST-CLASS
5 MAIL DELIVER A COPY OF THE NOTICE UNDER SUBSECTION (4) TO ANY
6 INTERESTED PARTY THAT HAS MADE A WRITTEN REQUEST TO BE NOTIFIED
7 REGARDING WATERSHED MANAGEMENT DISTRICT PETITIONS.

8 SEC. 589. (1) IF A DISTRICT LIES WHOLLY WITHIN THE BOUNDA-
9 RIES OF 1 COUNTY, THE COUNTY DRAIN COMMISSIONER SHALL BE THE
10 CHAIRPERSON OF THE COMMISSION. IF A DISTRICT LIES IN MORE THAN 1
11 COUNTY, THE DIRECTOR OF THE DEPARTMENT OF AGRICULTURE OR HIS OR
12 HER DESIGNEE SERVING ON THE COMMISSION SHALL BE THE CHAIRPERSON
13 OF THE COMMISSION. THE CHAIRPERSON OF THE COMMISSION MAY VOTE
14 ONLY IF NECESSARY TO CAST THE DECIDING VOTE IN CASE OF A TIE.

15 (2) AT THE FIRST MEETING OF THE COMMISSION, THE COMMISSION
16 SHALL ELECT A SECRETARY AND MAY ELECT A VICE-CHAIRPERSON FROM
17 AMONG ITS MEMBERS.

18 (3) THE COMMISSION SHALL DESIGNATE THE TREASURER OF 1 OF THE
19 COUNTIES IN THE DISTRICT TO SERVE AS TREASURER OF THE DISTRICT.
20 MONEY HELD BY THE TREASURER SHALL ONLY BE PAID OUT UPON ORDER THE
21 COMMISSION EXCEPT FOR THE PAYMENT OF PRINCIPAL AND INTEREST ON
22 BONDS. THE COMMISSION SHALL CAUSE THE ACCOUNTS OF THE TREASURER
23 TO BE AUDITED ANNUALLY BY A CERTIFIED PUBLIC ACCOUNTANT. THE
24 EXPENSE OF THE AUDIT SHALL BE PAID BY THE WATERSHED MANAGEMENT
25 DISTRICT. THE TREASURER SHALL INVEST THE FUNDS AS DIRECTED BY
26 THE COMMISSION. UNLESS THE COMMISSION DIRECTS OTHERWISE, THE
27 FUNDS SHALL BE INVESTED IN INTEREST BEARING ACCOUNTS.

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1 (4) THE COMMISSION SHALL ADOPT RULES OF PROCEDURES OR BYLAWS
2 NOT INCONSISTENT WITH THIS CHAPTER.

3 (5) THE BUSINESS THAT THE COMMISSION, THE EXECUTIVE COMMIT-
4 TEE, IF ANY, OR THE ADVISORY BOARD MAY PERFORM SHALL BE CONDUCTED
5 AT A PUBLIC MEETING OF THE COMMISSION, THE EXECUTIVE COMMITTEE,
6 IF ANY, OR THE ADVISORY BOARD HELD IN COMPLIANCE WITH THE OPEN
7 MEETINGS ACT, 1976 PA 267, MCL 15.261 TO 15.275.

8 (6) A MEETING OF THE COMMISSION SHALL BE CALLED BY THE
9 CHAIRPERSON OR 2 OR MORE MEMBERS OF THE COMMISSION BY SENDING
10 NOTICE OF THE MEETING BY FIRST-CLASS MAIL TO EACH MEMBER NOT LESS
11 THAN 20 DAYS BEFORE THE DATE OF THE MEETING. THE MAJORITY OF THE
12 MEMBERS SHALL CONSTITUTE A QUORUM FOR THE TRANSACTION OF BUSI-
13 NESS, BUT A LESSER NUMBER MAY ADJOURN FROM TIME TO TIME. UNLESS
14 OTHERWISE PROVIDED IN THIS ACT, AN ACTION SHALL NOT BE TAKEN
15 EXCEPT BY A MAJORITY VOTE OF THE MEMBERS PRESENT AND VOTING.

16 (7) THE COMMISSION SHALL MEET AT LEAST ONCE ANNUALLY BEFORE
17 APRIL 1. THE FIRST MEETING OF THE COMMISSION EACH YEAR SHALL BE
18 CONSIDERED ITS ANNUAL MEETING. AT ITS ANNUAL MEETING, THE COM-
19 MISSION SHALL APPOINT MEMBERS OF THE ADVISORY BOARD AND EXECUTIVE
20 COMMITTEE AND SUCH OTHER COMMITTEES AS IT CONSIDERS APPROPRIATE,
21 APPROVE ASSESSMENTS FOR OPERATION AND PLAN IMPLEMENTATION, AND
22 APPROVE A WORK PLAN AND ANNUAL BUDGET FOR THE DISTRICT FOR THE
23 ENSUING YEAR, AND CONDUCT OTHER BUSINESS. THE COMMISSION SHALL
24 ALSO ISSUE AN ANNUAL REPORT STATING PROGRESS TOWARD THE GOALS OF
25 THE PETITION. A COPY OF THE ANNUAL REPORT AND BUDGET SHALL BE
26 PREPARED, PUBLISHED, AND PROVIDED TO ALL PUBLIC CORPORATIONS IN

1 THE DISTRICT, THE DEPARTMENT OF NATURAL RESOURCES, THE DEPARTMENT
2 OF ENVIRONMENTAL QUALITY, AND THE DEPARTMENT OF AGRICULTURE.

3 (8) ORDERS ISSUED BY THE COMMISSION SHALL BE SIGNED BY THE
4 CHAIRPERSON AND THE SECRETARY.

5 (9) THE SECRETARY SHALL PREPARE AND SIGN 3 DUPLICATE ORIGI-
6 NALS OF THE MINUTES OF THE PROCEEDINGS OF THE BODY. THE SECRE-
7 TARY SHALL RETAIN 1 DUPLICATE ORIGINAL, FILE 1 DUPLICATE ORIGINAL
8 WITH THE CHAIRPERSON, AND FILE 1 DUPLICATE ORIGINAL WITH THE
9 DIRECTOR OF THE DEPARTMENT OF AGRICULTURE. THE ORIGINALS OF ALL
10 PROCEEDINGS AND RECORDS SHALL BE KEPT ON FILE WITH THE
11 SECRETARY.

12 (10) A WRITING PREPARED, OWNED, USED, IN POSSESSION OF, OR
13 RETAINED BY THE COMMISSION IN THE PERFORMANCE OF AN OFFICIAL
14 FUNCTION IS SUBJECT TO THE FREEDOM OF INFORMATION ACT, 1976 PA
15 442, MCL 15.231 TO 15.246.

16 SEC. 590. (1) AT THE FIRST MEETING, THE COMMISSION SHALL
17 TENTATIVELY DETERMINE THE SUFFICIENCY OF THE PETITION AND WHETHER
18 A DISTRICT WOULD BE CONDUCIVE TO THE PUBLIC HEALTH, CONVENIENCE,
19 OR WELFARE OR TO THE PROTECTION AND REHABILITATION OF WATERS OF
20 THE DISTRICT. IF THE COMMISSION DETERMINES THAT THE PETITION IS
21 NOT SUFFICIENT, THE COMMISSION MAY RETURN THE PETITION TO THE
22 PETITION FILER FOR SUPPLEMENTATION AND REFINEMENT. IF SUCH
23 REFINEMENT RESULTS IN THE INCLUSION OF ADDITIONAL PUBLIC CORPORA-
24 TIONS WHICH ARE ENTITLED TO DESIGNATE A MEMBER OF THE COMMISSION,
25 THE COMMISSION SHALL ADJOURN THE MEETING AND SHALL NOTIFY THE
26 CLERK OF SUCH PUBLIC CORPORATION OF THE TIME AND PLACE OF THE
27 PROPOSED MEETING. IF THE COMMISSION AT ANY TIME DETERMINES THAT

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1 THE DISTRICT WOULD NOT BE CONDUCIVE TO THE PUBLIC HEALTH,
2 CONVENIENCE, OR WELFARE OR TO THE PROTECTION AND REHABILITATION
3 OF WATERS OF THE DISTRICT, IT SHALL ORDER THE PETITION DISMISSED
4 AND PROCEEDINGS UNDER THE PETITION SHALL BE TERMINATED. IF A
5 PETITION IS SO DISMISSED, A PETITION THAT IS THE SAME OR SUBSTAN-
6 Tially THE SAME SHALL BE FILED UNDER THIS CHAPTER FOR 1 YEAR
7 AFTER THE DATE OF DISMISSAL.

8 (2) IF THE COMMISSION TENTATIVELY FINDS THAT THE PETITION IS
9 SUFFICIENT AND THAT THE WATERSHED MANAGEMENT DISTRICT WOULD BE
10 CONDUCIVE TO THE PUBLIC HEALTH, CONVENIENCE, OR WELFARE OR TO THE
11 PROTECTION AND REHABILITATION OF WATERS OF THE DISTRICT, IT SHALL
12 PROMPTLY AND TENTATIVELY SELECT A NAME FOR THE DISTRICT; AND MAKE
13 A TENTATIVE DETERMINATION OF THE PUBLIC CORPORATIONS TO BE
14 ASSESSED FOR THE COST, AND FIX A TIME, DATE, AND PLACE TO HEAR
15 OBJECTIONS TO THE ESTABLISHMENT OF THE DISTRICT AND PUBLIC CORPO-
16 RATIONS SUBJECT TO ASSESSMENT. NOTICE OF THE HEARING SHALL BE
17 PUBLISHED TWICE BY INSERTING THE NOTICE IN A NEWSPAPER OF GENERAL
18 CIRCULATION IN THE DISTRICT. THE PUBLICATION SHALL BE NOT LESS
19 THAN 20 DAYS BEFORE THE DATE OF THE HEARING. THE NOTICE SHALL
20 ALSO BE SENT BY FIRST-CLASS MAIL TO THE CLERK OF EACH PUBLIC COR-
21 PORATION PROPOSED TO BE ASSESSED NOT LESS THAN 20 DAYS BEFORE THE
22 DATE OF THE HEARING. THE NOTICE SHALL BE SIGNED BY THE CHAIR-
23 PERSON AND PROOF OF THE PUBLICATION AND MAILING OF THE NOTICE
24 SHALL BE FILED IN HIS OR HER OFFICE. THE PROOF WILL BE CONCLU-
25 SIVE OF THE PUBLICATION AND MAILING. THE COMMISSION MAY PROVIDE
26 A FORM TO BE SUBSTANTIALLY FOLLOWED IN GIVING OF NOTICE.

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1 (3) AFTER THE HEARING, THE COMMISSION SHALL DETERMINE
2 WHETHER THE PETITION IS SUFFICIENT AND THE DISTRICT WOULD BE
3 CONDUCIVE TO THE PUBLIC HEALTH, CONVENIENCE, OR WELFARE OR TO THE
4 PROTECTION AND REHABILITATION OF WATERS OF THE DISTRICT AND, IF
5 SO, THE PUBLIC CORPORATIONS TO BE ASSESSED. THE COMMISSION SHALL
6 ISSUE ITS ORDER ACCORDINGLY. THE ORDER SHALL BE KNOWN AS THE
7 ORDER DESIGNATING THE WATERSHED MANAGEMENT DISTRICT. A PUBLIC
8 CORPORATION SHALL NOT BE ELIMINATED FROM OR ADDED TO THOSE TENTA-
9 TIVELY DETERMINED TO BE ASSESSED WITHOUT A REHEARING AFTER
10 NOTICE. THE COMMISSION SHALL PUBLISH NOTICE OF THE ORDER DESIG-
11 NATING THE DISTRICT BY PUBLISHING IN A NEWSPAPER OF GENERAL CIR-
12 CULATION IN THE DISTRICT. THE NOTICE SHALL GIVE A GENERAL
13 DESCRIPTION OF THE COMMON OUTLET AND THE LOCATION OF THE DISTRICT
14 AS SHOWN BY THE ORDER. IN ADDITION, THE COMMISSION SHALL SERVE A
15 COPY OF THE ORDER BY FIRST-CLASS MAIL ON THE CLERKS OF EACH
16 PUBLIC CORPORATION WITHIN THE DISTRICT, THE DIRECTOR OF THE
17 DEPARTMENT OF ENVIRONMENTAL QUALITY, THE DIRECTOR OF THE DEPART-
18 MENT OF NATURAL RESOURCES, THE DIRECTOR OF THE DEPARTMENT OF
19 AGRICULTURE, AND THE SECRETARY OF EACH SOIL CONSERVATION DISTRICT
20 WITHIN THE PROPOSED WATERSHED MANAGEMENT DISTRICT.

21 SEC. 591. (1) THE COMMISSION SHALL FUNCTION AS THE GOVERN-
22 ING BODY OF THE DISTRICT. ACTIONS TAKEN BY THE COMMISSION SHALL
23 BE TAKEN IN THE NAME OF THE DISTRICT.

24 (2) AFTER THE COMMISSION ISSUES ITS ORDER DESIGNATING THE
25 DISTRICT, IT MAY APPOINT A WATERSHED MANAGEMENT DISTRICT EXECU-
26 TIVE COMMITTEE. ONLY MEMBERS OF THE COMMISSION ARE ELIGIBLE TO
27 BE MEMBERS OF THE EXECUTIVE COMMITTEE. THE MEMBERS OF THE

1 EXECUTIVE COMMITTEE SHALL BE ELECTED BY A VOTE OF THE MAJORITY OF
2 THE MEMBERS OF THE COMMISSION. HOWEVER, ANY DRAIN COMMISSIONER
3 SERVING ON THE COMMISSION SHALL BE A MEMBER OF THE EXECUTIVE
4 COMMITTEE.

5 (3) THE EXECUTIVE COMMITTEE SHALL PERFORM ADMINISTRATIVE AND
6 MINISTERIAL DUTIES AS DIRECTED BY THE COMMISSION AND OUTLINED IN
7 ITS BYLAWS. THE EXECUTIVE COMMITTEE DUTIES MAY INCLUDE CONDUCT
8 OF MEETINGS AND PUBLIC HEARINGS FOR PURPOSES OF RECOMMENDING A
9 WATERSHED MANAGEMENT PLAN AND RECOMMENDING IMPLEMENTATION OF THE
10 PLAN. THE EXECUTIVE COMMITTEE MAY PREPARE AND MAKE RECOMMENDA-
11 TIONS AS TO THE APPORTIONMENT OF COSTS AND THE REVIEW OF
12 EXPENDITURES. HOWEVER, THE ADOPTION OF THE FINAL PLAN, FINAL
13 IMPLEMENTATION OF THE PLAN, AND FINAL APPORTIONMENT OF COSTS,
14 ADOPTION OF AN ANNUAL BUDGET, AND AUTHORIZATION OF ASSESSMENTS
15 SHALL BE APPROVED BY THE MAJORITY OF THE COMMISSION.

16 SEC. 592. (1) AFTER THE ISSUANCE OF THE ORDER DESIGNATING
17 THE DISTRICT, THE COMMISSION SHALL TENTATIVELY DEFINE THE SCOPE
18 OF THE PLAN. AFTER TENTATIVELY DEFINING THE SCOPE OF THE PLAN,
19 THE COMMISSION SHALL APPOINT A WATERSHED MANAGEMENT DISTRICT
20 ADVISORY BOARD. THE COMMISSION MAY CONSIDER, AS MEMBERS OF THE
21 ADVISORY BOARD, THOSE PERSONS OR ENTITIES WHICH WERE SPECIFIED AS
22 PART OF THE PETITION, AND MAY INCLUDE ANY PERSON OR ENTITY WITH
23 AN INTEREST IN THE DISTRICT INCLUDING BUT NOT LIMITED TO STATE,
24 FEDERAL, AND MUNICIPAL AGENCIES, REGIONAL AND PLANNING AGENCIES,
25 AND PROPERTY OWNERS AND INTEREST GROUPS. THE COMMISSION SHALL
26 INVITE THE DEPARTMENT OF NATURAL RESOURCES, THE DEPARTMENT OF
27 ENVIRONMENTAL QUALITY, THE STATE TRANSPORTATION DEPARTMENT, AND

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1 ANY WATERSHED COUNCIL ESTABLISHED UNDER PART 311 (LOCAL RIVER
2 MANAGEMENT) OF THE NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION
3 ACT, 1994 PA 451, MCL 324.31101 TO 324.31119, SOIL AND WATER CON-
4 SERVATION DISTRICT, OR BOARD OF COUNTY ROAD COMMISSIONERS WHOSE
5 WATERSHED, CONSERVATION DISTRICT, OR COUNTY LIES WHOLLY OR PARTLY
6 WITHIN THE WATERSHED MANAGEMENT DISTRICT TO APPOINT REPRESENTA-
7 TIVES TO THE ADVISORY BOARD. THE ADVISORY BOARD IS INTENDED TO
8 INCLUDE MEMBERS WHO WILL REPRESENT A BALANCE OF INTERESTS EXIST-
9 ING IN THE DISTRICT.

10 (2) AT ITS FIRST MEETING, THE ADVISORY BOARD SHALL ELECT A
11 CHAIRPERSON AND SECRETARY. MINUTES SHALL BE KEPT AT ALL MEET-
12 INGS, AND RECORDS OF ALL PROCEEDINGS AND RECOMMENDATIONS OF THE
13 ADVISORY BOARD SHALL BE FILED IN THE OFFICE OF THE CHAIRPERSON OF
14 THE COMMISSION.

15 (3) THE WATERSHED MANAGEMENT COMMISSION SHALL APPOINT AT
16 LEAST 1 OR MORE MEMBERS OF THE COMMISSION, AS IT DEEMS NECESSARY,
17 TO THE ADVISORY BOARD. ONCE THE ADVISORY BOARD HAS BEEN ESTAB-
18 LISHED, THE COMMISSION SHALL PERIODICALLY REVIEW THE MEMBERSHIP
19 BASED UPON DEMOGRAPHIC INFORMATION OF THE WATERSHED MANAGEMENT
20 DISTRICT AND REVISE THE MEMBERSHIP AS NECESSARY TO ENSURE A BAL-
21 ANCE OF ALL INTERESTS IN THE DISTRICT.

22 (4) THE ADVISORY BOARD, IN CONJUNCTION WITH THE COMMISSION
23 OR ITS EXECUTIVE COMMITTEE, OR BOTH, SHALL MAKE THE INITIAL REC-
24 OMMENDATIONS FOR THE SCOPE OF A WATERSHED MANAGEMENT PLAN. THE
25 SCOPE OF THE PLAN MAY INCLUDE 1 OR MORE OF THE FOLLOWING:

26 (A) PREPARATION OF PLANS.

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- 1 (B) PROBLEM ASSESSMENT.
- 2 (C) SPECIAL STUDIES.
- 3 (D) WATER QUALITY, WATER QUANTITY MONITORING, OR BIOLOGICAL
4 MONITORING.
- 5 (E) MODELING.
- 6 (F) DATA GATHERING.
- 7 (G) EDUCATION AND EDUCATION PROGRAMS.
- 8 (H) PURCHASE OF LANDS, ACQUISITION OF CONSERVATION OR OTHER
9 EASEMENTS OR RIGHTS-OF-WAY, OR PURCHASE OF DEVELOPMENT RIGHTS.
- 10 (I) DEVELOPMENT AND RECOMMENDATION OF ORDINANCES AND REGULA-
11 TORY PROGRAMS TO BE IMPLEMENTED BY THE PUBLIC CORPORATION.
- 12 (J) MAPPING.
- 13 (K) PUBLICATIONS.
- 14 (L) TESTING.
- 15 (M) HYDROLOGICAL ENGINEERING, ANALYSIS, AND MODELING.
- 16 (N) DEVELOPMENT AND DRAFTING OF RECOMMENDED MANAGEMENT
17 PRACTICES.
- 18 (O) ANY OTHER NONPERMANENT, NONSTRUCTURAL COMPONENT DEEMED
19 APPROPRIATE BY THE COMMISSION TO ACCOMPLISH THE PURPOSE OF THIS
20 CHAPTER, OTHER THAN CONSTRUCTION ACTIVITIES WHICH CONSTITUTE
21 MAINTENANCE, IMPROVEMENT, OR CONSTRUCTION OF A DRAIN OR CONSTRUC-
22 TION ACTIVITIES WITHIN BOUNDARIES OF THE WATERCOURSE.
- 23 (5) UPON RECEIPT OF RECOMMENDATIONS OF THE SCOPE OF THE PRO-
24 POSED PLAN, THE COMMISSION SHALL ADOPT THE TENTATIVE SCOPE OF THE
25 PLAN.
- 26 SEC. 593. (1) AT A MEETING SUBSEQUENT TO THE MEETING AT
27 WHICH THE TENTATIVE SCOPE OF THE PLAN IS ADOPTED, THE COMMISSION

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1 SHALL FINALIZE THE SCOPE OF THE PLAN AND TENTATIVELY APPORTION
2 BENEFITS IN A FIRST ORDER OF DETERMINATION.

3 (2) INTERESTED PARTIES MAY APPEAL THE SCOPE OF THE PLAN OR
4 THE APPORTIONMENT OF BENEFITS.

5 (3) AFTER ANY APPEALS, THE COMMISSION SHALL REFER TO THE
6 WATERSHED BOARD TO MAKE RECOMMENDATIONS OF THE PROPOSED PLAN.
7 THE ADVISORY BOARD MAY CONDUCT PUBLIC HEARINGS ON THE PLAN AND
8 GIVE NOTICE OF THE HEARINGS TO THOSE PARTIES THAT HAVE EXPRESSED
9 AN INTEREST IN THE WATERSHED MANAGEMENT PLAN FOR PURPOSES OF
10 RECEIVING PUBLIC INPUT WITH REGARDS TO THE PLAN. THE ADVISORY
11 BOARD SHALL PREPARE A REPORT OF ITS RECOMMENDATIONS TOGETHER WITH
12 A PROPOSED PLAN TO THE COMMISSION FOR ITS CONSIDERATION.

13 (4) THE COMMISSION MAY CONTRACT WITH PERSONS TO ASSIST IN
14 DEFINING THE SCOPE OF THE PLAN AND ASSIST THE ADVISORY BOARD AS
15 DIRECTED BY THE COMMISSION IN PREPARATION OF A TENTATIVE OR FINAL
16 PLAN. AFTER THE FINAL ORDER OF DETERMINATION, THE COMMISSION MAY
17 ALSO HIRE EMPLOYEES AND DETERMINE THEIR COMPENSATION. AN
18 EMPLOYEE SHALL NOT BE A MEMBER OF THE COMMISSION OR ANY ADVISORY
19 BOARD.

20 SEC. 594. (1) THE COMMISSION SHALL DEVELOP OPERATING PROCE-
21 DURES AND A GENERAL CHARGE OF SCOPE OF WORK FOR THE ADVISORY
22 BOARD THAT REFLECTS THE ISSUES CONTAINED IN THE PETITION. THE
23 ADVISORY BOARD SHALL WORK WITH THE CONSULTANTS, STAFF, AND
24 RESOURCES PROVIDED BY THE COMMISSION IN PREPARATION OF PLAN
25 RECOMMENDATIONS.

26 (2) AFTER ENTRY OF THE FIRST ORDER OF DETERMINATION, THE
27 COMMISSION IN CONJUNCTION WITH THE ADVISORY BOARD SHALL PREPARE

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1 THE WATERSHED MANAGEMENT PLAN. IN PREPARING THE PLAN, THE
2 COMMISSION SHALL CONSIDER RECOMMENDATIONS SUBMITTED BY LANDOWNERS
3 AND PUBLIC CORPORATIONS IN THE DISTRICT AND OTHER INTERESTED
4 PARTIES.

5 (3) WATERSHED MANAGEMENT RECOMMENDATIONS AS OUTLINED IN THE
6 FIRST ORDER OF DETERMINATION SHALL BE REVIEWED BY THE ADVISORY
7 BOARD. THE ADVISORY BOARD MAY INDEPENDENTLY INITIATE RECOMMENDA-
8 TIONS FOR CONSIDERATION BY THE COMMISSION. IN PREPARING THE
9 PLAN, THE COMMISSION SHALL ALSO CONSIDER AND SHALL ACCEPT,
10 REJECT, MODIFY, OR ADD TO RECOMMENDATIONS SUBMITTED BY THE
11 ADVISORY BOARD.

12 SEC. 595. (1) AFTER RECEIPT OF THE WRITTEN REPORT AND REC-
13 OMMENDATIONS FROM THE ADVISORY BOARD, THE CHAIRPERSON OF THE COM-
14 MISSION SHALL FORWARD THE REPORT AND RECOMMENDATIONS TO THE MEM-
15 BERS OF THE COMMISSION AND SET THE TIME, DATE, AND PLACE FOR A
16 MEETING TO TENTATIVELY ADOPT THE PLAN. THE COMMISSION SHALL
17 ADOPT THE TENTATIVE PLAN AFTER MAKING ANY REVISIONS IT CONSIDERS
18 ADVISABLE. AFTER THE COMMISSION ADOPTS THE TENTATIVE PLAN, THE
19 CHAIRPERSON OF THE COMMISSION SHALL GIVE NOTICE OF THE TIME,
20 DATE, AND PLACE OF A PUBLIC HEARING TO HEAR OBJECTIONS TO THE
21 TENTATIVE PLAN AND ASSESSMENT COSTS OF IMPLEMENTATION OF THE PLAN
22 TO THE DESIGNATED PUBLIC CORPORATIONS. NOTICE OF THE HEARING
23 SHALL BE PUBLISHED TWICE IN A NEWSPAPER OF GENERAL CIRCULATION IN
24 THE DISTRICT. THE FIRST PUBLICATION SHALL BE NOT LESS THAN 20
25 DAYS BEFORE THE DATE OF THE HEARING. NOTICE SHALL ALSO BE MAILED
26 BY FIRST-CLASS MAIL TO THE CLERK OF EACH PUBLIC CORPORATION
27 PROPOSED TO BE ASSESSED NOT LESS THAN 20 DAYS BEFORE THE DATE OF

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1 THE HEARING. THE CHAIRPERSON OF THE COMMISSION SHALL SIGN AND
2 FILE IN HIS OR HER OFFICE AN AFFIDAVIT OF THE PUBLISHED AND
3 MAILED NOTICE. THE AFFIDAVIT IS CONCLUSIVE PROOF OF THE PUBLICA-
4 TION OR MAILING OF THE NOTICE.

5 (2) AT THE HEARING, THE COMMISSION SHALL RECEIVE TESTIMONY
6 AND EVIDENCE AS TO THE PRACTICALITY OF THE PROPOSED PLAN. IF THE
7 COMMISSION FEELS THAT ADDITIONAL INFORMATION IS NEEDED BEFORE A
8 PLAN CAN BE ADOPTED, IT MAY ADJOURN AS IT DEEMS NECESSARY, BUT AN
9 ADJOURNMENT SHALL NOT BE FOR LONGER THAN 60 DAYS. AFTER THE
10 HEARING, THE COMMISSION SHALL MAKE A DETERMINATION OF THE PRACTI-
11 CALITY OF THE PROPOSED PLAN, SHALL ESTABLISH THE FINAL APPORTION-
12 MENTS TO THE PUBLIC CORPORATIONS TO BE ASSESSED, AND SHALL ENTER
13 ORDERS THEREOF, WHICH ORDERS SHALL BE KNOWN AS THE FINAL ORDER OF
14 DETERMINATION AND FINAL ORDER OF APPORTIONMENT, RESPECTIVELY.
15 THE ORDERS SHALL BE FILED IN THE OFFICE OF THE SECRETARY OF THE
16 COMMISSION.

17 (3) APPORTIONMENTS OF BENEFITS UNDER THIS CHAPTER SHALL BE
18 BASED UPON BENEFITS TO THE PUBLIC CORPORATION ASSESSED, THE
19 EXTENT TO WHICH THE PUBLIC CORPORATION CONTRIBUTES TO THE CONDI-
20 TIONS THAT MAKE A PLAN NECESSARY AND DERIVES SPECIAL BENEFIT
21 DIRECTLY RELATED TO ACTIONS PROPOSED BY THE PLAN, AND WHETHER A
22 PUBLIC CORPORATION OR OWNERS OF LAND IN THE PUBLIC CORPORATION
23 SPECIFICALLY REQUESTED A PROVISION OF THE PLAN.

24 SEC. 596. IF THE PLAN AS SET FORTH IN THE FINAL ORDER OF
25 DETERMINATION PROPOSES THE MAINTENANCE OR IMPROVEMENT OF AN
26 ESTABLISHED COUNTY OR INTERCOUNTY DRAIN, OR THE LOCATION,
27 ESTABLISHMENT, OR CONSTRUCTION OF A COUNTY OR INTERCOUNTY DRAIN,

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1 THE MAINTENANCE, IMPROVEMENT, LOCATION, ESTABLISHMENT, OR
2 CONSTRUCTION SHALL BE IMPLEMENTED PURSUANT TO THE APPROPRIATE
3 PROVISIONS OF THIS ACT AND BE SUBJECT TO THE JURISDICTION OF THE
4 RESPECTIVE DRAIN COMMISSIONER OR DRAINAGE BOARD. HOWEVER, THE
5 COMMISSION MAY PETITION FOR WORK, BUT ONLY PURSUANT TO CHAPTERS
6 20 AND 21.

7 SEC. 597. THE COMMISSION SHALL AT LEAST EVERY 5 YEARS
8 REVIEW AND REEVALUATE THE PLAN AND ITS IMPLEMENTATION. IN SO
9 DOING, THE COMMISSION SHALL SEEK THE INPUT AND RECOMMENDATIONS OF
10 THE ADVISORY BOARD. THE COMMISSION MAY RECEIVE A PETITION TO
11 SUPPLEMENT, AMEND, OR EXPAND THE PLAN. IF SUCH A PETITION IS
12 RECEIVED, THE COMMISSION SHALL PROCEED CONSISTENT WITH THIS CHAP-
13 TER FROM THE POINT IN PROCEEDINGS IMMEDIATELY FOLLOWING THE ORDER
14 DESIGNATING THE DISTRICT.

15 SEC. 598. PUBLIC CORPORATIONS MAY ADVANCE FUNDS FOR THE
16 PAYMENT OF ANY PART OF THE COSTS INCURRED BY A DISTRICT AND SHALL
17 BE REPAYED BY THE DISTRICT WHEN FUNDS ARE AVAILABLE. BEFORE THE
18 ISSUANCE OF BONDS, THE COMMISSION MAY ASSESS PRELIMINARY COSTS IN
19 AN EQUITABLE MANNER AGAINST PUBLIC CORPORATIONS IN THE DISTRICT
20 AND COLLECT THE ASSESSED COSTS. THE COSTS OF ALL OF THE FOLLOW-
21 ING ARE SUBJECT TO ASSESSMENT:

22 (A) LOCATING AND ESTABLISHING THE DISTRICT.

23 (B) DEVELOPMENT OF THE PLAN.

24 (C) ADMINISTRATIVE STAFF, OFFICE, AND OTHER EXPENSES OF THE
25 COMMISSION AND ADVISORY BOARD.

26 (D) IMPLEMENTATION OF THE PLAN.

1 (E) ACQUIRING INTEREST IN LANDS.

2 (F) ENGINEERING, LEGAL, CONSULTANT, AND OTHER PROFESSIONAL
3 FEES.

4 (G) SERVICE AND PUBLICATION OF ALL NOTICES.

5 (H) INTEREST ON ALL BONDS OR NOTES FOR THE FIRST YEAR THEY
6 ARE TO BE ISSUED AND ALL PAYMENTS AND INTEREST ON BONDS OR NOTES
7 ISSUED BEFORE THE ASSESSMENT.

8 (I) OTHER ITEMS IDENTIFIED AND ALLOCATED IN THE FINALLY
9 APPROVED ANNUAL BUDGET.

10 (J) POSSIBLE CONTINGENT EXPENSES, IN AN AMOUNT NOT EXCEEDING
11 10% OF THE OTHER COSTS WHICH ARE TO BE ASSESSED AGAINST PUBLIC
12 CORPORATIONS.

13 SEC. 599. (1) ANY ACTION ARISING FROM THIS CHAPTER MAY BE
14 BROUGHT IN THE CIRCUIT COURT OF ANY COUNTY IN WHICH ANY PART OF
15 THE DISTRICT INVOLVED IS LOCATED.

16 (2) NEITHER THE FINAL ORDER OF DETERMINATION NOR THE FINAL
17 ORDER OF APPORTIONMENT IS SUBJECT TO ATTACK IN ANY COURT EXCEPT
18 BY PROCEEDINGS AND SUPERINTENDING CONTROL BROUGHT WITHIN 30 DAYS
19 AFTER THE FILING OF SUCH ORDER IN THE OFFICE OF THE SECRETARY OF
20 THE COMMISSION. UNLESS SUCCESSFULLY CHALLENGED IN PROCEEDINGS
21 BROUGHT WITHIN THIS TIME, THE DISTRICT IS LEGALLY ESTABLISHED AND
22 THE LEGALITY OF THE PLAN AND THE ASSESSMENTS SHALL NOT BE QUES-
23 TIONED IN ANY SUIT AT LAW OR EQUITY.

24 (3) SUBSECTION (2) DOES NOT APPLY UNLESS ALL NOTICES GIVEN
25 UNDER THIS CHAPTER CONTAIN A COPY OF SUBSECTION (2).

26 SEC. 600. (1) THE COMMISSION, ITS ADVISORY BOARD, OR AN
27 EXECUTIVE COMMITTEE IS NOT AUTHORIZED TO PERFORM A DUTY,

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1 SPECIFICALLY DELEGATED TO A DRAIN COMMISSIONER OR DRAINAGE BOARD
2 UNDER THIS ACT.

3 (2) THE COMMISSION, ITS ADVISORY BOARD, OR AN EXECUTIVE COM-
4 MITTEE IS NOT GOVERNED BY THE PROCEDURAL OR OTHER PROVISIONS CON-
5 TAINED IN THIS ACT OTHER THAN THIS CHAPTER EXCEPT AS OTHERWISE
6 SPECIFIED. HOWEVER, IF NOT CONTRARY TO THE EXPRESSED PROVISIONS
7 OF THIS CHAPTER, ANY PROVISION OR PROVISIONS IN OTHER CHAPTERS OF
8 THIS ACT MAY BE INCORPORATED BY RECITAL OR BY REFERENCES INTO ANY
9 ORDER OR RESOLUTION OF THE COMMISSION.

10 Sec. 601. ~~If any commissioner is interested directly or~~
11 ~~indirectly in the profits of any contract, job, work or services,~~
12 ~~other than official services, to be performed for the drainage~~
13 ~~district, he is deemed to be guilty of a misdemeanor, and the~~
14 ~~office of such commissioner shall be deemed vacant and the com-~~
15 ~~missioner so convicted shall be incapable of again holding the~~
16 ~~office of county drain commissioner.~~ ANY ASSESSMENTS MADE UNDER
17 THIS CHAPTER DO NOT CONSTITUTE INDEBTEDNESS OF A PUBLIC CORPORA-
18 TION FOR PURPOSES OF ANY CHARTER, STATUTORY, OR CONSTITUTIONAL
19 DEBT LIMITATION. TAXES LEVIED BY A PUBLIC CORPORATION FOR THE
20 PAYMENT OF SUCH ASSESSMENTS ARE NOT WITHIN A STATUTORY OR CHARTER
21 TAX LIMITATION.

22 Sec. 602. ~~If any person shall wilfully or maliciously~~
23 ~~remove any section or grade stake set along the line of any~~
24 ~~drain, or obstruct or injure any drain, he shall be deemed guilty~~
25 ~~of a misdemeanor, and upon conviction thereof shall be punished~~
26 ~~by a fine not exceeding \$100.00 and the costs of prosecution, or~~
27 ~~in default of the payment thereof, by imprisonment in the county~~

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1 ~~jail not exceeding 90 days.~~ THE COMMISSION MAY SECURE THE
2 NECESSARY LANDS OR RIGHTS-OF-WAY AS IDENTIFIED IN THE PLAN. SUCH
3 ACQUISITION SHALL BE BY NEGOTIATED PURCHASE OR RELEASE, OR BY
4 GIFT OR GRANT.

5 SEC. 603. (1) THE COMMISSION MAY ENTER A CONTRACT WITH ANY
6 FEDERAL AGENCY UNDER WHICH THE FEDERAL AGENCY WILL PAY THE WHOLE
7 OR ANY PART OF THE COST OF THE PLAN OR WILL PERFORM THE WHOLE OR
8 ANY PART OF THE WORK CONNECTED WITH THE PLAN.

9 (2) THE COMMISSION MAY ALSO CONTRACT WITH ANY PRIVATE OR
10 PUBLIC CORPORATION IN RESPECT TO ANY MATTER CONNECTED WITH THE
11 PLAN. SUCH A CONTRACT WITH A PUBLIC CORPORATION MAY PROVIDE THAT
12 ANY PAYMENTS MADE OR WORK DONE BY THE PUBLIC CORPORATION SHALL BE
13 IN LIEU OF ALL OR PART OF THE ASSESSMENTS FOR THE COST OF THE
14 PLAN.

15 SEC. 604. AFTER THE CONFIRMATION OF THE APPORTIONMENT, THE
16 COMMISSION SHALL DIRECT THE SECRETARY OF THE COMMISSION TO PRE-
17 PARE A SPECIAL ASSESSMENT ROLL ASSESSING THE ESTIMATED COST OF
18 THE PLAN, OR IF THE ACTUAL COST HAS BEEN ASCERTAINED, THE ACTUAL
19 COST AGAINST THE PUBLIC CORPORATIONS IN ACCORDANCE WITH THE CON-
20 FIRMED APPORTIONMENTS. THE COMMISSION MAY PROVIDE FOR THE PAY-
21 MENT OF THE SPECIAL ASSESSMENTS IN ANY NUMBER OF APPROXIMATELY
22 EQUAL ANNUAL INSTALLMENTS, NOT EXCEEDING 20. INSTALLMENTS OF
23 ASSESSMENTS AGAINST THE STATE AND AGAINST PUBLIC CORPORATIONS
24 WHICH COLLECT THEIR TAXES BEGINNING APPROXIMATELY DECEMBER 1 IN
25 EACH YEAR ARE DUE BY APRIL 1 OF EACH YEAR. INSTALLMENTS OF
26 ASSESSMENTS AGAINST PUBLIC CORPORATIONS ARE DUE BY THE DATE OR
27 DATES FIXED BY THE COMMISSION DEPENDING ON THE TIME OR TIMES FOR

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1 THE COLLECTION OF TAXES BY THE PUBLIC CORPORATIONS. THE
2 COMMISSION SHALL FIX THE RATE OF INTEREST TO BE PAID UPON UNPAID
3 INSTALLMENTS AT NOT MORE THAN 6%. INTEREST IS DUE ANNUALLY ON
4 THE DAY AND MONTH UPON WHICH THE ANNUAL INSTALLMENTS ARE DUE.
5 ANY INSTALLMENT OR INSTALLMENTS MAY BE PAID IN ADVANCE OF THE DUE
6 DATE WITH INTEREST COMPUTED TO THE NEXT INSTALLMENT DUE DATE.
7 THE COMMISSION SHALL FIX THE TIME OR TIMES FOR THE PAYMENT OF THE
8 FIRST INSTALLMENT SO THAT EACH PUBLIC CORPORATION MAY MAKE A TAX
9 LEVY FOR THE PAYMENT OF THE INSTALLMENT.

10 SEC. 605. (1) THE SPECIAL ASSESSMENT ROLL SHALL CONTAIN THE
11 NAME OF EACH PUBLIC CORPORATION ASSESSED; THE TOTAL ESTIMATED
12 COST OF THE PLAN, OR THE ACTUAL COST IF THE ACTUAL COST HAS BEEN
13 ASCERTAINED AT THE TIME OF THE PREPARATION OF THE ROLL; THE PER-
14 CENTAGE APPORTIONED TO EACH PUBLIC CORPORATION; THE AMOUNT OF THE
15 ASSESSMENT FOR EACH PUBLIC CORPORATION BASED UPON THE PERCENTAGE
16 OF APPORTIONMENT; AND THE AMOUNT OF EACH INSTALLMENT IF THE
17 ASSESSMENT IS DIVIDED INTO ANNUAL INSTALLMENTS. AFTER THE SECRE-
18 TARY PREPARES THE SPECIAL ASSESSMENT ROLL, THE SECRETARY SHALL
19 PRESENT THE SPECIAL ASSESSMENT ROLL TO THE COMMISSION FOR
20 APPROVAL. IF THE COMMISSION APPROVES THE ROLL, A STATEMENT TO
21 THAT EFFECT SETTING FORTH THE DATE OF APPROVAL SHALL BE SIGNED BY
22 THE CHAIRPERSON AND SECRETARY OF THE COMMISSION AND AFFIXED TO
23 THE ROLL.

24 (2) THE CHAIRPERSON OF THE COMMISSION SHALL THEN CERTIFY TO
25 EACH PUBLIC CORPORATION ASSESSED THE AMOUNT OF THE TOTAL ASSESS-
26 MENT AGAINST IT, THE AMOUNT OF THE VARIOUS INSTALLMENTS IF THE
27 ASSESSMENT IS DIVIDED INTO INSTALLMENTS, THE DUE DATE OF EACH

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1 INSTALLMENT, AND THE RATE OF INTEREST UPON UNPAID INSTALLMENTS.
2 THE TREASURER SHALL ALSO EACH YEAR, AT LEAST 30 DAYS BEFORE THE
3 TIME OF THE LEVYING OF TAXES BY EACH PUBLIC CORPORATION, NOTIFY
4 THE PUBLIC CORPORATION OF THE AMOUNT OF THE INSTALLMENT AND
5 INTEREST NEXT BECOMING DUE. HOWEVER, THE FAILURE TO SO NOTIFY
6 ANY PUBLIC CORPORATION DOES NOT EXCUSE IT FROM MAKING PAYMENT OF
7 THE INSTALLMENT AND INTEREST.

8 (3) ON OR BEFORE THE DUE DATE OF AN INSTALLMENT, EACH PUBLIC
9 CORPORATION SHALL PAY TO ITS COUNTY TREASURER THE AMOUNT OF THE
10 INSTALLMENT, TOGETHER WITH INTEREST ACCRUING TO THE DUE DATE.
11 WITHIN 15 DAYS AFTER RECEIVING A PAYMENT, THE COUNTY TREASURER
12 SHALL FORWARD THE AMOUNT SO PAID TO THE TREASURER OF THE
13 COMMISSION. IF A PUBLIC CORPORATION FAILS OR NEGLECTS TO PAY THE
14 COUNTY TREASURER THE AMOUNT OF THE INSTALLMENT AND INTEREST, THE
15 COUNTY TREASURER SHALL ADVANCE THE AMOUNT TO THE TREASURER OF THE
16 COMMISSION FROM COUNTY FUNDS AND DEDUCT THE AMOUNT FROM ANY
17 FUNDS, OTHER THAN THOSE PLEDGED FOR THE PAYMENT OF DEBTS, OF THE
18 PUBLIC CORPORATION. IF A COUNTY ADVANCED FUNDS FOR A PUBLIC COR-
19 PORATION UNDER THIS SECTION BUT HAD NOT BEEN REIMBURSED, THE
20 COUNTY BOARD OF COMMISSIONERS MAY ORDER THE PUBLIC CORPORATION
21 AND ITS OFFICERS TO LEVY UPON ITS NEXT TAX ROLL AN AMOUNT SUFFI-
22 CIENT TO MAKE SUCH REIMBURSEMENT ON OR BEFORE THE DATE WHEN ITS
23 TAXES BECOME DELINQUENT. THE PUBLIC CORPORATION AND ITS TAX
24 LEVYING AND COLLECTING OFFICIALS SHALL LEVY AND COLLECT SUCH
25 TAXES AND REIMBURSE THE COUNTY. NOTHING IN THIS SECTION PREVENTS
26 THE COUNTY FROM OBTAINING REIMBURSEMENT FROM ANY OTHER LEGAL
27 METHOD. THE TAX LEVYING OFFICIALS OF EACH OF THE PUBLIC

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1 CORPORATIONS ASSESSED SHALL LEVY SUFFICIENT TAXES TO PAY
2 ASSESSMENT INSTALLMENTS AND INTEREST AS THEY BECOME DUE UNLESS
3 SUFFICIENT MONEY HAS BEEN SET ASIDE.

4 (4) IF A SPECIAL ASSESSMENT ROLL IS PREPARED UPON THE BASIS
5 OF THE ESTIMATED COST OF THE PLAN, THEN AFTER THE ACTUAL COST HAS
6 BEEN ASCERTAINED AND DETERMINED BY THE COMMISSION, THE SPECIAL
7 ASSESSMENTS AND THE INSTALLMENTS SHALL BE CORRECTED BY ADDING ANY
8 DEFICIENCY OR DEDUCTING ANY EXCESS, OR REFUNDING THE AMOUNT OF
9 ANY PREPAID ASSESSMENTS IN EXCESS OF THE ASSESSMENT BASED UPON
10 ACTUAL COSTS. THE COMMISSION MAY ORDER SUCH CORRECTIONS TO BE
11 MADE UPON THE ORIGINAL ROLL OR MAY ORDER THAT A NEW CORRECTED
12 ROLL BE PREPARED AND SUBMITTED FOR APPROVAL BY THE COMMISSION.

13 SEC. 606. (1) NOT MORE THAN 30 DAYS AFTER THE ISSUANCE OF
14 THE FIRST ORDER OF DETERMINATION, THE LEGISLATIVE BODY OF A
15 PUBLIC CORPORATION MAY DETERMINE THAT A PART OF THE LAND IN THE
16 PUBLIC CORPORATION WILL BE ESPECIALLY BENEFITED BY A PROPOSED
17 DRAIN PROJECT AND THAT A SPECIAL ASSESSMENT, FEE, OR CHARGE
18 SHOULD BE LEVIED BY THE PUBLIC CORPORATION. IF THE LEGISLATIVE
19 BODY MAKES SUCH A DETERMINATION, IT SHALL FORWARD BY FIRST-CLASS
20 MAIL TO EACH PERSON WHOSE NAME AND ADDRESS APPEARS ON THE TAX
21 ROLLS AS OWNING LAND WITHIN THE PROPOSED DISTRICT, AT THE ADDRESS
22 SHOWN ON THE LAST TAX ASSESSMENT ROLL OF THE PUBLIC CORPORATION,
23 A NOTICE THAT CONTAINS ALL OF THE FOLLOWING:

24 (A) A GENERAL DESCRIPTION OF THE PLAN.

25 (B) EXPECTED BENEFITS OF THE PLAN.

1 (C) NOTICE THAT THE PLAN IS TO BE FULLY OR PARTLY FINANCED
2 BY SPECIAL ASSESSMENT AGAINST PROPERTY OWNERS WITHIN THE PROPOSED
3 SPECIAL ASSESSMENT DISTRICT.

4 (D) A STATEMENT THAT ALTERNATIVE PLANS OF FINANCING THE PRO-
5 POSED PROJECT WILL BE ON THE MEETING AGENDA.

6 (E) NOTICE OF THE TIME, DATE, AND PLACE OF A MEETING TO BE
7 HELD BY THE LEGISLATIVE BODY OF THE PUBLIC CORPORATION TO HEAR
8 OBJECTIONS TO THE PROPOSED PLAN OR SPECIAL ASSESSMENT TO BE
9 LEVIED UNDER THIS SECTION. NOTICE PRESCRIBED IN THIS SUBPARA-
10 GRAPH SHALL BE MAILED NOT LESS THAN 10 DAYS BEFORE THE MEETING,
11 AND, IN ADDITION, SHALL BE GIVEN IN THE MANNER PRESCRIBED BY THE
12 OPEN MEETINGS ACT, 1976 PA 267, MCL 15.261 TO 15.275, AND SHALL
13 BE PUBLISHED IN A NEWSPAPER OF GENERAL CIRCULATION IN THE PUBLIC
14 CORPORATION.

15 (2) THE LEGISLATIVE BODY SHALL MAKE AN AFFIDAVIT OF THE
16 MAILING AND SHALL RECITE IN THE AFFIDAVIT THAT THE PERSONS TO
17 WHOM THE NOTICE WAS MAILED CONSTITUTE ALL OF THE PERSONS WHOSE
18 NAMES AND ADDRESSES APPEAR UPON THE TAX ROLLS AS OWNING LAND
19 WITHIN THE PROPOSED SPECIAL ASSESSMENT DISTRICT. THE AFFIDAVIT
20 IS CONCLUSIVE PROOF THAT NOTICE WAS MAILED TO EACH PERSON TO WHOM
21 NOTICE IS REQUIRED TO BE MAILED BY THIS SECTION. THE FAILURE TO
22 RECEIVE A NOTICE BY MAIL DOES NOT CONSTITUTE A JURISDICTIONAL
23 DEFECT INVALIDATING A WATERSHED MANAGEMENT DISTRICT OR SPECIAL
24 ASSESSMENT, IF NOTICE HAS BEEN SENT BY FIRST-CLASS MAIL AS PRO-
25 VIDED IN THIS SECTION.

26 (3) THE LEGISLATIVE BODY SHALL HOLD A MEETING AS DESCRIBED
27 IN SUBSECTION (1)(E) TO RECEIVE INFORMATION FROM THE PUBLIC ON

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1 THE ADVISABILITY OF PROCEEDING WITH THE PROPOSED SPECIAL
2 ASSESSMENT. THE MEETING SHALL BE HELD IN THE MANNER PRESCRIBED
3 BY THE OPEN MEETINGS ACT, 1976 PA 267, MCL 15.261 TO 15.275.

4 (4) AFTER DETERMINING BY RESOLUTION TO PROCEED WITH THE SPE-
5 CIAL ASSESSMENT, THE SPECIAL ASSESSMENT SHALL BE MADE UNDER THE
6 STATUTORY OR CHARTER PROVISIONS GOVERNING SPECIAL ASSESSMENTS IN
7 THE PUBLIC CORPORATION TO THE EXTENT APPLICABLE. THE LEGISLATIVE
8 BODY SHALL CAUSE A SPECIAL ASSESSMENT ROLL TO BE PREPARED. AFTER
9 THE SPECIAL ASSESSMENT ROLL IS PREPARED, THE PROCEEDINGS WITH
10 RESPECT TO THE SPECIAL ASSESSMENT ROLL AND THE MAKING AND COLLEC-
11 TION OF THE SPECIAL ASSESSMENTS SHALL BE CONDUCTED PURSUANT TO
12 THE STATUTE OR CHARTER GOVERNING SPECIAL ASSESSMENTS IN THE
13 PUBLIC CORPORATION. HOWEVER, THE TOTAL ASSESSMENT MAY BE DIVIDED
14 INTO NOT MORE THAN 30 INSTALLMENTS, AND A PERSON ASSESSED, AT THE
15 HEARING UPON THE SPECIAL ASSESSMENT ROLL PREPARED BY THE PUBLIC
16 CORPORATION, MAY OBJECT TO THE SPECIAL ASSESSMENT DISTRICT PREVI-
17 OUSLY ESTABLISHED BY THE PUBLIC CORPORATION. DUE CONSIDERATION
18 SHALL BE GIVEN TO THE OBJECTIONS. A HEARING HELD UNDER THIS SEC-
19 TION SHALL NOT TAKE THE PLACE OF A MEETING REQUIRED UNDER SUBSEC-
20 TION (3), UNLESS NOTICE IS PREPARED AND MAILED IN THE MANNER PRE-
21 SCRIBED BY SUBSECTION (1)(E).

22 (5) IF A SPECIAL ASSESSMENT IS LEVIED UNDER THIS SECTION,
23 ALL COLLECTIONS FROM THE SPECIAL ASSESSMENT SHALL BE USED TOWARDS
24 THE PAYMENT OF THE ASSESSMENT AGAINST THE PUBLIC CORPORATION.
25 EACH ANNUAL LEVY MADE FOR THE PAYMENT OF THE ASSESSMENT AGAINST
26 THE PUBLIC CORPORATION SHALL BE REDUCED BY THE AMOUNT OF MONEY

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1 THEN ON HAND FROM SPECIAL ASSESSMENT COLLECTIONS AVAILABLE FOR
2 THIS USE.

3 (6) THIS SECTION DOES NOT PREVENT THE ASSESSMENT OF PUBLIC
4 CORPORATIONS AT LARGE UNDER THIS CHAPTER. INSTEAD OF OR IN ADDI-
5 TION TO LEVYING SPECIAL ASSESSMENTS, THE PUBLIC CORPORATION,
6 UNDER THE SAME CONDITIONS AND FOR THE SAME PURPOSE, MAY EXACT
7 CONNECTION, READINESS TO SERVE, AVAILABILITY, OR SERVICE CHARGES
8 TO BE PAID BY OWNERS OF LAND DIRECTLY OR INDIRECTLY CONNECTED
9 WITH THE PLAN SUBJECT TO THE PROCEDURES IN SUBSECTIONS (1) TO
10 (3).

11 SEC. 607. (1) THE COMMISSION MAY ISSUE BONDS OR NOTES FOR
12 AND ON BEHALF OF THE WATERSHED MANAGEMENT DISTRICT, IN ANTICIPA-
13 TION OF THE COLLECTION OF ANY OR ALL INSTALLMENTS OF ASSESSMENTS,
14 AND PLEDGE THE FULL FAITH AND CREDIT OF THE DISTRICT FOR THE
15 PROMPT PAYMENT OF THE PRINCIPAL AND INTEREST.

16 (2) A DISTRICT MAY BORROW MONEY OR ACCEPT THE ADVANCE OF
17 WORK, MATERIAL, OR MONEY FROM A PUBLIC OR PRIVATE CORPORATION,
18 PARTNERSHIP, ASSOCIATION, INDIVIDUAL, OR ANY AGENCY OF THE FED-
19 ERAL GOVERNMENT FOR PAYMENT FOR THE PREPARATION OR IMPLEMENTATION
20 OF THE PLAN AND BE REIMBURSED BY THE DISTRICT, WITH OR WITHOUT
21 INTEREST AS MAY BE AGREED, WHEN FUNDS ARE AVAILABLE. THE OBLIGA-
22 TION OF THE DISTRICT TO MAKE THE REPAYMENT OR REIMBURSEMENT MAY
23 BE EVIDENCED BY A CONTRACT OR NOTE. THE CONTRACT OR NOTE MAY
24 PLEDGE THE FULL FAITH AND CREDIT OF THE DRAINAGE DISTRICT AND MAY
25 BE MADE PAYABLE OUT OF THE ASSESSMENTS MADE AGAINST PUBLIC CORPO-
26 RATIONS OR OUT OF ANY OTHER AVAILABLE FUNDS, AND THE CONTRACT OR
27 NOTE SHALL NOT BE CONSIDERED TO BE AN OBLIGATION WITHIN THE

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1 MEANING OF THE MUNICIPAL FINANCE ACT, 1943 PA 202, MCL 131.1 TO
2 139.3. THE TOTAL AMOUNT OF PRINCIPAL OWED FOR OBLIGATIONS UNDER
3 THIS SECTION SHALL NOT EXCEED \$600,000.00.

4 (3) THIS SECTION DOES NOT APPLY TO ADVANCES OR LOANS MADE BY
5 ANY PUBLIC CORPORATION, THE FEDERAL GOVERNMENT, OR ANY AGENCY OF
6 THE FEDERAL GOVERNMENT.

7 (4) A COUNTY BOARD OF COMMISSIONERS BY A MAJORITY VOTE OF
8 2/3 OF ITS MEMBERS MAY PLEDGE THE FULL FAITH AND CREDIT OF A
9 COUNTY FOR THE PAYMENT OF A NOTE OF THE DISTRICT.

10 SEC. 608. IF THE ORIGINAL ASSESSMENT IS INSUFFICIENT TO PAY
11 THE PRINCIPAL AND INTEREST ON BONDS AND NOTES ISSUED IN ANTICIPA-
12 TION OF THE COLLECTION, THEN THE COMMISSION SHALL MAKE SUCH ADDI-
13 TIONAL ASSESSMENTS, AS NECESSARY. THE ADDITIONAL ASSESSMENTS
14 SHALL BE APPORTIONED TO THE SAME PUBLIC CORPORATIONS IN THE SAME
15 RELATIVE AMOUNTS AS THE ORIGINAL ASSESSMENTS.

16 SEC. 615. IF A COMMISSIONER IS INTERESTED DIRECTLY OR INDI-
17 RECTLY IN THE PROFITS OF A CONTRACT, JOB, WORK, OR SERVICES,
18 OTHER THAN OFFICIAL SERVICES, TO BE PERFORMED FOR THE DISTRICT,
19 HE OR SHE IS GUILTY OF A MISDEMEANOR. UPON CONVICTION, HIS OR
20 HER OFFICE IS VACATED AND HE OR SHE IS INELIGIBLE TO AGAIN HOLD
21 THE OFFICE OF COMMISSIONER.

22 SEC. 616. IF ANY PERSON WILLFULLY OR MALICIOUSLY REMOVES
23 ANY SECTION OR GRADE STAKE SET ALONG THE LINE OF ANY DRAIN, OR
24 OBSTRUCTS OR DAMAGES A DRAIN, HE OR SHE IS GUILTY OF A MISDEMEAN-
25 OR, PUNISHABLE BY A FINE OF NOT MORE THAN \$100.00 AND THE COSTS
26 OF PROSECUTION, OR IN DEFAULT OF THE PAYMENT OF THE FINE, BY
27 IMPRISONMENT FOR NOT MORE THAN 90 DAYS.

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1 Enacting section 1. Sections 4, 5, 78 to 88, 129, 246, 271,
2 272, 281, 325, 353, 356, 427, 428, 434, 443, 445, 448, 461, 480,
3 492 to 495, 498, 511, 533, 542, 543, 544, 545, and 551 to 583 of
4 the drain code of 1956, 1956 PA 40, MCL 280.4, 280.5, 280.78 to
5 280.88, 280.129, 280.246, 280.271, 280.272, 280.281, 280.325,
6 280.353, 280.356, 280.427, 280.428, 280.434, 280.443, 280.445,
7 280.448, 280.461, 280.480, 280.492 to 280.495, 280.498, 280.511,
8 280.533, 280.542, 280.543, 280.544, 280.545, and 280.551 to
9 280.583, are repealed.