

Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536



Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

House Bill 4803 (Substitute H-2 as passed by the House)
Sponsor: Representative Mike Green
House Committee: Agriculture and Resource Management
Senate Committee: Farming, Agribusiness and Food Systems

Date Completed: 5-23-00

CONTENT

The bill would amend the Drain Code to revise and consolidate certain provisions currently in the Code and to do the following: replace references to "drain taxes" with language referring to "special assessments"; permit a drain commissioner to increase an assessment in order to pay for the education and training of the commissioner and staff; require a municipality to give a drain commissioner an opportunity to review construction activities that affected storm water runoff as well as requests to discharge into, connect, or construct a crossing of an established drain; permit a public corporation to petition for a drainage district and construction of a drain; authorize a drain commissioner to determine whether a project was feasible; specify procedures for notifying landowners and public corporations of public hearings of a board of determination, board of review, and drainage board; permit a public corporation or person aggrieved by an order of necessity to appeal to the circuit court; permit a drain commissioner to assess a public corporation for a drain project; increase from \$5,000 to \$10,000 the cost of a project that requires sealed bids; require a drain commissioner to obtain any permits required under the Natural Resources and Environmental Protection Act (NREPA); require an inspection of a drain constructed, restored, or improved at least every three years; and, repeal specific sections and chapters of the Code.

To the extent authorized by the drain commissioner, a deputy could execute the powers and duties of a drain commissioner under the Code. Currently, as determined by the county board of commissioners, a deputy must be covered by a blanket bond or file a bond with and approved by the commissioner in a sum of up to \$5,000 conditioned on the faithful discharge of a deputy's duties. The bill would

Drain Commissioners

With the approval of the county board of commissioners, a drain commissioner could add to the assessments of land in each drainage district up to 1% per year for education and training for the drain commissioner and his or her staff with regard to one or more of the following: best management practices, environmental protection and enhancement, watershed management and planning, assessing for drain projects, financing for drain projects, drain construction methods and techniques, alternatives for on-site management of storm water, and other matters related to the operation of the Office of Drain Commissioner or the construction, operation, maintenance, or improvement of drains.

If a municipality determined that construction or other activity could have a significant effect on the quantity of water entering a drain or on the hydrology of a drain, the municipality would be required to provide the commissioner with prior notice and opportunity to review the activity before the municipality issued its approval. The commissioner's review would be limited to the ability of the drain to transport storm water runoff from the proposed activities, and not a determination of the propriety of the proposed land use or zoning issues. The drain commissioner or drainage board could review and approve all requests to discharge into, make a connection to, or construct a crossing of any established county or intercounty drains.

increase the amount of the bond to \$100,000. The commissioner would be liable on the blanket bond or his or her individual bond for gross neglect of duty or a misapplication of money coming under his or her control as commissioner.

A drain commissioner's fringe benefits could not be decreased during the term of office to a greater

extent than the fringe benefits of elected county officials in general were decreased.

County Drainage Districts

To initiate the establishment of a drainage district and the establishment and construction of a county drain, a petition would have to be filed with the drain commissioner of that county. The petition would have to be signed by 10 landowners in the proposed drainage district whose lands would be liable for assessment for benefits or at least 50% of the landowners if there were fewer than 10 landowners whose land would be liable for assessment or could be signed landowners representing 25% of the land area liable for assessment. ("Landowner" would mean a person holding the most recent fee title or a land contract vendee's interest in land as shown by the records of the county register of deeds. If there were more than one person with a fee interest or land contract vendee's interest in land, each person would be a separate landowner, but only one such person could sign a petition under the Act. "Benefit" or "benefits" would mean advantages resulting from a project to public corporations, the residents of the State, and property within the State. "Benefit" could include advantages that would result from elimination of pollution and elimination of flood damage, or elimination of water conditions that jeopardized the public health or safety; increase or decrease of the value of use of lands and property resulting from the project; and the positive or negative consequences of the project for individual parcels of land, which could include one or more of the following: increase or decrease in natural resource values; increase or decrease in flooding; and, the amount and quality of runoff from land entering a drain as determined by applicable factors described in the bill.)

Instead of landowners, a public corporation could petition for the establishment of a drainage district and the establishment and construction of a drain if it were necessary for the public health, safety, or welfare for agriculture. A petition could be signed solely by any public corporation when authorized by its governing body. A petition could request that measures be undertaken to enhance or improve the natural resource values of the proposed drain and which provide direct benefit to the designed function, longevity, or hydraulic capacity of the proposed drain. ("Public corporation" would mean a State department or agency, including a college or university; an authority created by or pursuant to State law; a junior college or community college established pursuant to the State Constitution; a school district; or a municipality. However, in Chapters 20 (Intracounty Drains; Public Corporations) and 21 (Intercounty Drains; Public Corporations), "public corporation" would mean a city, village, or township; with respect to a State trunk line highway, this State, or with respect to a county

road, the county.)

The bill would establish procedures for notifying landowners and public corporations of public hearings for the board of determination, day of review, or board of review; hearings of practicability and necessity of the drainage board; the receipt of bids; and the review of apportionments.

Currently, when an application for a new drainage district is filed, the drain commissioner must immediately cause a survey to be made by a surveyor to determine the areas that will be drained by the proposed drain and the route and type of construction of the drain most serviceable for that purpose. Under the bill, if the drain commissioner determined that a petition met the bill's petition requirements, the commissioner would have to arrange promptly for the preparation of a preliminary analysis, which would have to include information specified in the bill. After the preliminary analysis was filed, the commissioner could appoint a board of determination composed of three disinterested persons and an alternate.

After a board of determination determined the drain practical and established a tentative drainage district, it would have to recess to allow the drain commissioner to gather additional information and enter an order of practicality, as specified in the bill. A board of determination would have to determine whether a proposed drain was necessary and conducive to public health, safety, or welfare or for agriculture. If it determined that the drain was not necessary, the board would have to enter an order to that effect and order that the costs be paid by the petitioners.

If the board of determination found that the drain was necessary and conducive to the public health, safety, or welfare or for agriculture, it would have to enter an order of necessity and file the order with county board of commissioners. An order of necessity would have to specify the finding of necessity, the boundaries of the drainage district, and the public corporations determined liable for assessment at-large for a portion of the costs of the drain for public health, safety, or welfare. A public corporation or other person feeling aggrieved by the order could institute an action in the circuit court for the county in which the drainage district was located for a review of the order.

After an order of necessity was filed, a drain commissioner would have to execute a first order of determination. After the first order was filed, the drain commissioner would have to secure the services of an engineer and arrange for the preparation of an engineering analysis. The commissioner would have to secure from the engineer or a surveyor a description of the land or rights-of-way needed for the proposed drain. The drain commissioner would have to obtain any permits required under the NREPA. All costs associated with evaluating natural resource impacts and implementing the measures to minimize these impacts would be the responsibility of the drainage district. If, after receiving the plans, cost estimates, and descriptions of the lands or rights-of-way needed for the proposed drain, the commissioner determined that the project was not feasible, he or she would have to notify the landowners and public corporations in the district by first-class mail of the intent to reject the petition.

The bill also includes similar provisions that would apply to intercounty drains and intercounty drainage districts.

Apportionment and Review

The drain commissioner, for a county drain, or drainage board, for an intercounty drain, could amend a final order of determination by changing the name or number of the drain or the boundaries of the district if there were filed with the drain commissioner

or drainage board a petition signed by at least five landowners whose land was traversed by the drain.

For a county drain, the drain commissioner would have to apportion the percentage of benefits to accrue to any parcel of land including lands owned by any public corporation.

If the act or omission of a person increased or reduced the need for maintenance or improvement of the drain, the drain commissioner could consider the act or omission in making the apportionment.

The Director of the Department of Transportation (DOT) would have to notify the drain commissioner in writing whether the DOT would pay any assessment against the State trunk line highways in a single payment or in installments. If the Director did not specify this before the advertisement of the sale of bonds or notes, the DOT would be liable for the interest charges incurred as a result of the sale of bonds or notes. Assessments related to drainage of State trunk line highways would have to be paid from funds appropriated to the DOT.

Upon the appointment of a board of review, the circuit court would have to set the time and place for a meeting of the board of review. The appeal hearing date would have to be at least 14 but not more than 21 days from the date of filing. (Currently, the hearing must be from 10 to 15 days after the filing.) The court would be required to notify each landowner and public corporation liable for an assessment.

If the board of review found that a land liable to be assessed for the construction of the drain or project was not included in the commissioner's drainage district, the board of review would have to prepare a proposed decision making the changes in the apportionment that the board considered just and equitable and would have to adjourn the review for up to 21 days from the date of the meeting specified in the first notice. The board of review would have to give notice as specified in the bill, but would have to provide notice only to persons whom the board believed could be affected by its final decision.

The board would have to make its final decision, which could not affect any person to whom notice had not been provided. If the board made changes in the apportionment, the changes would have to be made by the drain commissioner without the need for a new day of review or notice to the district of the changes made by the board, and a person aggrieved by the changes would not be entitled to additional judicial review. Following the board's decision, the circuit court could award costs, including engineering expenses, attorney fees, and witness fees, allowed under Michigan court rules. If costs were awarded to the drainage district and there were multiple appellants, the circuit court would have to award from each appellant a pro rata share of the costs

based on the number of appellants. If an appellant's bond were not sufficient to cover the compensation, mileage, and expenses for which the appellant was liable, the drain commissioner could recover the excess amount by any means authorized by law. The bill specifies that this provision would not limit the authority of the drain commissioner to collect a rate or charge by any other means authorized by law for the collection of a debt.

Currently, the proceedings in establishing any drain and levying taxes are subject to review on certiorari (the name of a writ of review or inquiry). Under the bill, the proceedings would be subject to review on superintending control.

Maintaining, Improving, and Consolidating Drains

The bill would delete current provisions on the maintenance and improvement of county drains and intercounty drains, and would establish similar provisions on petitioning for the maintenance and improvement of a county drain and for measures to enhance and improve the natural resource values of the drain and to provide benefit to the designed function, longevity, or hydraulic capacity of the drain. Consistent with Part 315 (Dam Safety) of the NREPA, a dam or structure in or adjacent to a drain could be constructed, operated, and maintained to control the rate of flow through or into the drain, the level of water, or the amount of seepage, or to provide for the removal of drainage by pumping and other mechanical operations. A drainage district could be consolidated with any established drainage district or have lands added or deleted. Only one petition and proceeding would be necessary for any of the maintenance and improvement measures.

A drain established under the Code could be inspected annually. Inspection would have to be made upon the request of the governing body of a public corporation served in whole or in part by the drain. For a drain constructed, improved, or restored to the last established depth bottom width and grade after the effective date of the bill, an inspection and report would have to be made at least every three years from the date of the completion of the construction. If a drain commissioner, for county drains, or a drainage board, for intercounty drains, determined that maintenance on the drain was necessary, the maintenance would have to be performed in a timely manner. If it were determined that deteriorated structures could have diminished the drain's capacity or it became unstable or unsafe, a competent engineer would have to be retained to evaluate the deterioration and make recommendations concerning maintenance and replacement of the structures.

If at any time the drain fund of a drainage district contained less than \$5,000 per mile or fraction of a

mile of a drain, the drain commissioner or drainage board could assess the drainage district for an amount of up to \$2,500 per mile or fraction of a mile in any one year based on apportionments as described in the bill. The amount collected under an assessment would have to be deposited in the drain fund for inspection, repair, and maintenance. If an inspection disclosed the need to spend money for the maintenance and repair of a drain to keep it in working order, the drain commissioner or drainage board could without petition spend in any one year up to \$5,000 per mile or fraction of a mile for maintenance or repair of a drain. The determination of the maximum expenditure allowed without petition or resolution would have to be based on the number of miles or location of the maintenance or repair. The monetary amounts established under this provision would have to be adjusted each January 1 beginning January 1, 2002, pursuant to the annual average percentage increase or decrease in the Detroit Consumer Price Index-all items. If the drain commission or drainage board found it necessary to spend funds in excess of this amount, the additional amounts could not be spent until the governing board of each public corporation that was affected by more than 20% of the maintenance cost approved the expenditure; the commissioner or board gave notice of the maintenance to be performed and the estimated cost to the persons liable for the assessment; or, if the maintenance or repair were requested by and the entire additional cost were paid for by a public corporation, private corporation, or other person. If the drain fund did not contain sufficient funds, or the drainage district were obligated to repay outstanding indebtedness to pay for inspection, repair, and maintenance, the drain commissioner or drainage board would have to assess the drainage district according to benefits received. A reassessment would have to be made and spread on the city or township tax assessment rolls within three years after the inspection, repair, and maintenance were completed. If the total estimated expenditure exceeded \$5,000 per mile or fraction of a mile, all landowners and public corporations within the district or abutting the drain would have to be notified of the nature and type of maintenance to be conducted before the work commenced.

If a new district were laid out and included added lands, including lands in a county that were not a part of an original intercounty drainage district, the drain commissioner or drainage board would have to notify the board of determination that the land should be added to the district. If the board of determination or drainage board by a majority vote of members found that proposed addition to the drainage district necessary or conducive to the public health, safety, or welfare or for agriculture, the board of determination would have to make an order to that effect and file it with the drain commissioner or

drainage board. All apportionments made under these provisions would have to be made according to the benefits derived and would be subject to appeal.

Letting of Contracts

The drain commissioner or drainage board would have to give notice for the receipt of bids for the construction, maintenance, or improvement of a drain. The notice would have to contain information specified in the bill, including a brief description of the project. Currently, the commissioner may in any case, and must for a drains having an estimated cost exceeding \$5,000, to advertise for sealed proposals. The bill would increase the amount required for sealed bids to \$10,000.

If the commissioner or drainage board did not advertise for proposals, the commissioner or board would have to solicit two or more estimates for the cost of construction, maintenance, or improvement from qualified contractors. If the landowner or developer were paying the entire costs and the contractor chosen by the landowner or developer were acceptable to the drain commissioner or drainage board, the commissioner or board would not be required to advertise for sealed proposals or to solicit estimates. If the drain commissioner's office had the available equipment and manpower to perform the necessary maintenance, the commissioner could perform maintenance without advertising for sealed bids.

The drain commissioner or drainage board, in consultation with an engineer, could establish prequalifications for a contractor to submit a bid for the construction of a drain. The bill specifies that it would not prohibit a drain commissioner or drainage board from contracting with an engineer or contractor to perform both the design and construction of a drain project if this contracting were in the best interest of the drainage district.

Currently, if a contract is not let within five years after the date that a petition was filed to locate, establish and construct, or deepen, widen, straighten, title, extend or clean out a drain, the drain commissioner may determine that the petition is abandoned and no further action will be taken to construct the drain. The bill would reduce this period to two years.

Currently, a board of county road commissioners may bid for the construction, cleaning, deepening, and widening of drains within the county. The bill would delete the current requirement that a bid from the board of road commissioners not be accepted unless it is at least 15% lower than any other bid. The bill would extend from 40 to 91 days the length of time to adjourn the bid letting and would require that notice be given.

A bid bond of the successful bidder, other than a bid bond from a surety, would have to be deposited with the treasurer of the drainage district. If the bid bonds were held more than 63 days, the treasurer of the drainage district would have to pay to the bidder interest actually earned from the date of deposit on a bid bond, other than a bid from a surety.

The commissioner or drainage board would have to require the successful bidder to furnish workers' compensation insurance.

Construction Approval and Payment

Currently, no warrant or drain order for the payment of a drain contract may be drawn until the work has been inspected and approved. The commissioner may inspect any title or open drain or designate a surveyor or engineer to make the inspection. If the cost of construction exceeds \$3,000, the commissioner must designate a competent surveyor or engineer to make the inspection. The bill would add that a voucher could not be drawn unless the work was inspected, and would require a surveyor or engineer to make the inspection if the construction cost exceeded \$10,000.

Levy of Special Assessments

Currently, a drain commissioner must prepare a special assessment roll for the drain for each county, township, city, village, and State trunk line highway affected. The commissioner must enter on the roll a correct description of the tracts, parcels, or subdivisions of land benefitted by the drain, and the amount of the percentage apportioned to these entities. The commissioner must add a certificate of the determination whether the taxes assessed for benefits must be paid in one or more years. In addition, the commissioner must prepare a special assessment roll for the collection of taxes for the current year. The bill would delete references to "taxes" in these provisions and substitute references to "special assessments".

The bill specifies that the collection of a special assessment levied or ordered to be levied for the payment of the establishment, construction, maintenance, or improvement of a drain under the Code could not be perpetually enjoined or declared absolutely void for any reason. The court in which an action which was brought to recover a special assessment paid, or to declare void the proceeding to establish and construct any drain, or to enjoin any special assessment levied or order to be levied for the payment of the labor and expense could, if there were manifest error in the proceedings, allow the plaintiff in action to show that he or she had been injured.

Borrowing Money

A drainage district could borrow money or accept the advance of work, material, or money from a public or private corporation, partnership, association, individual, or the Federal or State government or any agency of the Federal or State government for the payment of, or in connection with the construction, maintenance, or improvement of, any part of a drain project; the financing and engineering or feasibility, practicability, environmental assessment, or impact study of a drain project; the costs of acquiring property; and, engineering and legal fees.

Consolidated Districts

The bill would provide for the consolidation of drainage districts. The bill specifies that a consolidated district would have all the rights and powers and be subject to all laws applicable to county or intercounty drainage districts, as applicable.

Construction across a Drain

Before a person constructed or laid a cable, pipeline, sewer, conduit, roadway, culvert, bridge, or other structure across a county or intercounty drain, the person would have to forward relevant engineering plans to the county drain commissioner or drainage board for review and approval, which would have to be made within 42 days of the drain commissioner's receipt of the construction plans. If the roadway authority requested or ordered that an existing legally established drain within the right-of-way of the roadway be relocated outside the right-of-way, the authority would have to bear the cost of relocating the drain.

If it were necessary to establish, construct, maintain, or improve a drain across the right-of-way or roadbed of any railroad or railway company, telephone, or telegraph company, or dam, electric, cable, water, oil, gas, pipeline, or other utility company, the drain commissioner or drainage board would have to give notice of the need to cross the right-of-way or roadbed. The bill specifies how the notice would have to be given. If a company approved or failed to object to the crossing, the drain commissioner or board could proceed with the crossing. If the company objected, the drain commissioner or drainage board could give a revised notice, or could petition the circuit court of the county in which the crossing was proposed to be located to order the company to allow the crossing to be constructed. The drain commissioner or drainage board could agree to an alternative form of dispute resolution, in lieu of a circuit court proceeding.

Relinquishment of Jurisdiction

The bill would delete current provisions on the relinquishment of jurisdiction. Under the bill, a

county drain commissioner or a drainage board could relinquish jurisdiction over all or part of a drain to a county, township, city, or village, if certain requirements were met. Among other things, the county, township, city, or village would have to request or consent to the relinquishment by resolution of its governing body; the drain or part of the drain would have to be located within the boundaries of the local governmental unit to which it was relinquished; and, the drainage district could not have any outstanding indebtedness or contract liability.

Obstructions in Drains

Currently, if a person obstructs a drain, the drain commissioner must have the obstruction removed. The offending party must be given written notice that he or she has five days to remove the obstruction. The bill would extend that to 14 days. The drain commissioner or drainage board could bring an action in the circuit court of the county in which the obstruction was located to compel the person to remove or modify the obstruction. The person causing or permitting the obstruction would be liable to the drain commissioner or drainage board for the expense of removal or modification of the obstruction. The bill would provide for a drain commissioner to collect the amount of the expense for removing the obstruction. The bill would permit a county board of commissioners to certify the unpaid amount of the removal cost to the proper tax collecting officer to be entered in a separate column on the tax roll against those parcels of land of the person causing or permitting the obstruction that were located in the drainage district or were traversed by the drain. A county board of commissioners also could place a lien upon those parcels for the total unpaid amount of the expense.

The drain commissioner or drainage board could enter upon property not within a drainage district to remove or modify an obstruction in a natural water course that served as an outlet for a county or intercounty drain but that itself was not a drain. The entry would have to be made pursuant to a written agreement with the landowner. If entry were denied, the drain commissioner or drainage board could begin a civil action in the circuit court in the county in which the property or any part of the property was located for an order permitting entry.

The bill specifies that removal or modification of an obstruction would be subject to the expenditure limits and other procedures required for necessary maintenance or repair of a drain.

Additional Drains

Currently, a landowner in a drainage district whose land requires additional drainage may petition the

drain commissioner for permission to construct an open or closed drain to a regularly established drain, and permission must be granted if the commissioner or drainage board believes the ground to be crossed is suitable for a drain and the surface of the land can be restored. Under the bill, a landowner granted permission to construct a drain would have to obtain any permits required under the NREPA. The bill specifies procedures to establish a drain and a district, and would require the drain commissioner or drainage board to prescribe the nature and type of construction of the drain and the time at which the petitioner would have to construct the drain.

County Drains, Public Corporations

Currently, a public corporation may petition the drain commissioner for the construction of a county drain. Twenty days after the petition is filed, the commissioner must notify each public corporation that may be subject to an assessment or that contains any of the areas to be drained. The bill would extend the notification to 28 days after the petition was filed. Under the Code, after a hearing, the drainage board is required to determine the sufficiency of the petition, the practicability of the drain, whether the drain should be constructed and if so, the public corporations to be assessed. Under the bill, after the drainage board entered the final order of determination, it would have to secure the service of an engineer to prepare plans, specifications, and an estimate of the costs of the proposed drain. The drainage board would be required to obtain any permits required under the NREPA. If the drain commissioner or drainage board did not advertise for proposals, the commissioner or board would have to solicit two or more estimates for the cost of the drain's construction, maintenance, or improvement from qualified contractors. The bill would require a drainage board to notify public corporations in the district, if the board determined that the project was not practical.

In making apportionments to cities, villages, and townships, the drainage board would have to consider the benefits accrued to each. Apportionments against the State or a county would have to relate solely to State trunk line highways or county roads, respectively.

Assumption of Jurisdiction

The Code permits a petition to request, for reasons of public health, that jurisdiction be assumed over all of a specified part of the bed, tributaries, banks, and floodplains of a river, creek, or watercourse, not part of an established drain. Under the bill, the petitioners would have to include in the petition an agreement to pay, or accompany the petition with a deposit in the amount of the estimated cost of planning and engineering required to describe the

bed, tributaries, banks, and floodplains of the river, creek, or watercourse over which jurisdiction was necessary; the work to be done; and the property to be acquired. The bill would provide for a hearing and the process for the drainage board to issue its final order whether or not the board would assume jurisdiction and perform the proposed work, if any. Before any work was done or rights in property were acquired by the drainage board, it would have to make a determination, following notice and a hearing, as to the public corporations to be assessed for the cost of the work or acquisition.

Township Assessments

Assessments against a township would have to be against the township as a whole, including any village unless the drainage board or the drain commissioner determined to assess a village separately. In that case, the assessment against the village would be the responsibility of the village; the assessment against the township would have to exclude the village; and a tax or special assessment levied by the township to pay the assessment against the township could not be levied against property assessable in the village.

Intercounty Drains, Public Corporations

Currently, if it is necessary for the public health to locate, establish, and construct an intercounty drain, a petition may be filed with the Director of the Michigan Department of Agriculture (MDA). The bill would revise these provisions and permit a one or more cities, villages, or townships that would be subject to the assessment to pay the cost of the drain, to file a petition with the Director of the MDA and the drain commissioner of the counties where the local governments were located. Currently, not more than 20 days after a petition is filed, the MDA Director must notify all public corporations in which the areas to be drained are located that a petition has been filed. The bill would extend the notification period to 28 days after the petition had been filed.

The bill would delete current provisions on a hearing to be held on the apportionment of costs. The bill specifies that the intercounty drainage board or a public corporation would have the same powers and duties with respect to an intercounty drain as the county drainage board or a public corporation under the Code.

Sanctions

Currently, if any person willfully or maliciously removes any section or grade stake set along the line of any drain, or obstructs or injures any drain, he or she is guilty of a misdemeanor, punishable by a fine of up to \$100 and prosecution costs, or in default of the payment, by imprisonment in the county jail for

up to 90 days. Under the bill, imprisonment could be for not more than 93 days.

Under the bill, a person would be guilty of a misdemeanor if he or she willfully prohibited, prevented, or obstructed a drain commissioner or drainage board or the commissioner's or board's agents, employees, or contractors from either going upon land to examine the land or make surveys in connection with the work of the drain commissioner or drainage board; or, going upon a right-of-way of the district with their employees, tools, machinery, instruments, and other equipment for constructing, reconstructing, repairing, or maintaining the work of the drain commissioner or the drainage board. The bill specifies that this provision would not apply unless the drain commissioner had given notice by first-class mail to the landowner whose name appeared on the last city or township tax roll that the drain commissioner or drainage board or the agents, employees, or contractors would go on the land or on the right-of-way to which the land was subject. The bill specifies that this would not apply if the landowner's address did not appear on the tax roll.

Savings Clause

The bill specifies that if a petition were filed before the bill's effective date, steps taken on or after the bill's effective date in proceedings under that petition would be governed by the law in effect on the date before the effective date of the bill.

Repealers

The bill would repeal sections of the Code pertaining to the following: definition of county drain commissioner (MCL 280.4); drainage district; body corporate (MCL 280.5); easements and rights-of-way (MCL 280.11); powers and duties of drain commissioner in charter counties with populations over 2 million (MCL 280.21a); drain commissioner; election, term, bond; abolition of office (MCL 280.22); apportionment for cleaning, widening, deepening, straightening, and extending drains (MCL 280.193); petitions and proceedings (MCL 280.194); further right-of-way (MCL: 280.195); inspection of drains (MCL 280.196); survey of drain district (MCL 280.197); drain taxes; subsequent assessment (MCL 280.198); advertising rates; fees of probate judges and other officers (MCL 280.246); expenses of the State Director of Agriculture (MCL 280.248); perpetual injunction not allowed for informalities; plaintiff allowed to show injury (MCL 280.268); tax collection suits; tax reassessment (MCL 280.271); assumpsit, prima facie evidence, judgment based on benefits; authority to sue (MCL 280.272); special drain assessment; definition of municipal corporation (MCL 280.281); drains in public highways, permit; release of right-of-way (MCL 280.321); cost to township for highway drainage (MCL 280.325);

inadequate disposal or filtration plant (MCL 280.424); drain orders received for drain taxes (MCL 280.426); corporation or land contract vendee as freeholder (MCL 280.427); drainage district including State lands (MCL 280.428); obstruction of drain commissioner, drainage board, or agents, misdemeanor (MCL 280.432); financing drain projects; repayment, reimbursement (MCL 280.434); definitions under Chapter 20 on intracounty drains (MCL 280.461); drainage board; lands and rights-of-way; condemnation; procedure; Federal government participation; costs (MCL 280.470); drainage board; contracts with Federal government or corporations (MCL 280.471); costs, items (MCL 280.480); improvements for public health; procedure; backfilling (MCL 280.482); relief drains (MCL 280.485); petitions; content; filing; initial actions and tentative determinations (MCL 280.492); pollution abatement, petition (MCL 280.498); definitions under Chapter 21 on intercounty drains (MCL 280.511); lands and rights-of-way (MCL 280.522); contracts with Federal government or corporations; bids (MCL 280.523); special assessment roll (MCL 280.526); taxes levied by public corporation for payment of assessments (MCL 280.527); bonds, issuance, maturity (MCL 280.528); additional assessment, apportionment (MCL 280.529); drainage board, continuation, responsibility (MCL 280.530); advancements by corporations, reimbursement (MCL 280.531); cost; items (MCL 280.533); deputy for Director of Agriculture (MCL 280.534); cleaning out and other improvements for public health (MCL 280.535); certiorari, time (MCL 280.536); procedures; incorporation of other chapters in drainage board orders (MCL 280.537); new cities, service of notice on township clerk or de factor city officer (MCL 280.538); special assessments (MCL 280.539); petition for assumption of jurisdiction (MCL 280.542); final order of determination (MCL 280.543); river, creek, or watercourse; recording of description (MCL 280.544); river, creek, or watercourse; determination as to public corporations to be assessed (MCL 280.545) surplus funds; investment (MCL 280.546); construction fund surplus for drains financed through special assessments (MCL 280.547); construction fund surplus for drains not financed through special assessments (MCL 280.547a); pollution abatement, petition (MCL 280.548); township assessments (MCL 280.549); and, provisions of Chapter 24 on repealers and saving clauses (MCL 280.621).

The bill also would repeal the following chapters of the Code: Chapter 4 (County Drains); Chapter 6 (Intercounty Drains); Chapter 14 (Railroads); Chapter 15 (Dams in Drains); Chapter 16 (Special County Commissioner); and, Chapter 19 (Consolidated Districts).

MCL 280.1 et al.

Legislative Analyst: L. Arasim

FISCAL IMPACT

An estimate of the fiscal impact of this bill is not yet available. The Senate Fiscal Agency is in the process of studying this bill and gathering the information and data needed to provide a reasonable estimate of its fiscal impact.

Fiscal Analyst: J. Wortley

S9900\4803sa

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.